



**Minutes of Ordinary Meeting
Held Wednesday, 9 February 2022**

*Held in the Simeon Lord Room
Library / Museum Building
Redbank Street, Esk*

Present

Cr Graeme Lehmann	(Mayor)
Cr Helen Brieschke	(Deputy Mayor)
Cr Sean Choat	(Councillor)
Cr Cheryl Gaedtke	(Councillor)
Cr Kylee Isidro	(Councillor)
Cr Jason Wendt	(Councillor)
Mr A Johnson	(Chief Executive Officer)
Mr M McGoldrick	(Director Corporate and Community Services)
Mr C Young	(Director Operations)
Mr L Hannan	(Director Planning and Development)
Mr G Smith	(Director Finance)
Mrs H Golinski	(Minute Secretary / Executive Assistant)
Mrs K Cope	(Acting Communications Officer)

Absent

Cr Bob Whalley	(Councillor)
Mrs K Jones	(Director HR and Customer Service)

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Opening of Meeting

The Mayor, Cr Graeme Lehmann, opened the meeting at 9.00 am.

Leave of Absence

Cr Whalley has sought a leave of absence from attending today's Council meeting.

Resolution:

Moved –Cr Isidro

Seconded – Cr Wendt

"THAT Cr Whalley be granted leave of absence from attending today's Council meeting."

Carried

Vote - Unanimous

Confirmation of Minutes**Resolution**

Moved – Cr Brieschke

Seconded – Cr Gaedtke

"THAT the Minutes of the Ordinary Meeting held 19 January 2022 as circulated to all Members of Council be confirmed".

Carried

Vote - Unanimous

Business arising out of minutes of previous meeting

Nil

Matters of Public Interest**Matters of public interest - Deputy Mayor Brieschke**

This week Queensland reached the 90% mark for double vaccination against Covid-19, with the urgency turning now to follow up with a booster and vaccinations for 5 – 11 year old children.

I would like to promote the availability in the Somerset Region as we are fortunate to have numerous pharmacies, doctors and services offering vaccinations. Esk Hospital is delivering a fortnightly clinic and West Moreton Health is planning further pop-up clinics at the Somerset Civic Centre in Esk in March and April. West Moreton Health's 'Vax Convoy' has started this week visiting Lowood Showgrounds today, Atkinsons Dam tomorrow, 10 February, Coominya and Fernvale Friday, 11 February. Please visit Somerset Regional Councils Facebook page to view the posters for more information or visit the Covid-19 Centre online.

Matters of public interest - Cr Gaedtke

Huge congratulations to the Yowie parkrun group of volunteers, in celebrating their third birthday. There were tourists from Warner Lakes, Logan, Stanthorpe, Wondai, North Lakes and members from Kilcoy Indoor Sports Centre who joined in the brightly coloured fun. Everyone was encouraged to dress in the loudest and brightest attire they owned.

I am somewhat relieved to learn that a former Facebook data scientist welcomes Australian's efforts to regulate Facebook's standard of operation. The Australian Senate inquiry was told of the widespread harassment and violent threats on Facebook, Instagram and Twitter and calls for changes, including greater powers to identify online trolls.

I wish to thank staff who took the time to investigate the possibility of providing sign language lessons in our region. After being approached by residents who were interested in learning Auslan, I advise that the Kilcoy Indoor Sports Centre is providing a basic introductory course. The course will be held on Saturday 26 February from 9:30am – 12pm and will cost \$25 per person.

The meeting adjourned for broadcast reasons at 9.05am.

The meeting resumed at 9.12am

Matters of public interest - Cr Choat

I would like to offer congratulations to Cr Gaedtke on supporting the sign language course. We need to understand as a community that there are some greater needs for inclusivity and this is one of them. Deaf people don't like being called deaf rather hearing impaired. This course is a small step in the right direction for our community, being able to say hello and include the hearing impaired into our community is a wonderful thing!

Conflict of Interest

Cr Isidro stated that she will be declaring a conflict of interest in the following agenda items -

Agenda Item Number 10 - Development Application No. 5739
Agenda Item Number 11 - Development Application No. 6120
Agenda Item Number 12 - Development Application No. 6121
Agenda Item Number 13 - Development Application No. 2026

Subject:	Application for Temporary Entertainment Event – Rabbits Eat Lettuce Music and Arts Festival
File:	Environmental Management/Reports/Environmental Health Reports
Action Officer:	EHO-DB

Background/Summary

Council has received advice from REL Entertainment Pty Ltd that the temporary entertainment event named Bohemian Beatfreaks, previously approved by Council to be operated from 20 to 24 January 2022 (Ref: 1333951), has been postponed due to government restrictions/advice relating to Covid19.

REL Entertainment Pty Ltd has requested a change of dates to operate a similar event named Rabbits Eat Lettuce Music and Arts Festival (Ref: 1358135). The request is to conduct a music festival located at Landcruiser Mountain Park on Lots 35 C313642 and 42 C31439, Diaper Road, Jimna. The proposed event will involve live music, dance, arts and market stalls. Camping will be provided onsite.

The event is proposed to be operated for four days from 12 noon on Thursday 14 April 2022 until 12noon Sunday 17 April 2022. The applicant has advised that the expected attendance rate at the event is 4,000 people, including 500 staff.

Council regulates this activity through *Local Law No.1 (Administration) 2011*, and *Subordinate Local Law 1.12 (Operation of Temporary Entertainment Events) 2011*.

Assessment of Application

Under section 9 of *Local Law No. 1 (Administration) 2011*, Council may grant an approval for an application for a temporary entertainment event only if it is satisfied that:

Criteria – LL, Section 9(1)(a)	If the prescribed activity requires a separate approval under an Act, a law of the Commonwealth or the local government's planning scheme—the separate approval has been granted; and
Officer comment	<p>The applicant has advised that BYO will be allowed at the event.</p> <p>No permit will be required from the Office of Liquor and Gaming Regulation.</p> <p>Council's Planning Section has advised that under Council's planning scheme, a temporary entertainment facility can be operated for up to 7 days per year without triggering a planning approval on this site. This 4-day event will be the first approval for the 2022 calendar year.</p> <p>The applicant must comply with the public health directions of the Queensland Chief Health Officer. This will require the applicant to complete a COVID Safe Event Checklist.</p>
Criteria – LL, Section 9(1)(b)	The proposed operation and management of the prescribed activity is adequate to protect public health, safety and amenity and prevent environmental harm; and
Officer comment	<p><i>Medical</i></p> <p>Council requested comment from the Queensland Ambulance Service (QAS) about the proposed event. QAS has recommended that all lifestyle or music festivals within the area of Jimna and Land Cruiser Mountain Park require a paramedical transport capability during peak activity times of between 1600-0200 hours daily, while also engaging on-site private medical coverage to have twenty-four hour coverage.</p> <p><i>Security</i></p> <p>Council received a response from QPS (Queensland Police Service), that stated, "It is the organisers/ management of the events (and the landowner) who need to be aware of the current restrictions, directions and what it means in terms of operating a business of this nature as per the Queensland Chief Health Officer direction." QPS have also advised that they will monitor compliance with the Chief Health Officer's directions.</p> <p><i>Post Event Report</i></p> <p>A condition of approval will require the approval holder to submit to Council, within 14 days of the event, a Post Event Report detailing:</p>

	<ul style="list-style-type: none"> • Total number of paying attendees, artists and staff; • Any incidents during the event relating to public health and safety and the outcomes of those incidents; • Any incidents during or associated with the event where the Queensland Police Service, Queensland Ambulance Service or Queensland Fire and Emergency Services assistance was required, and the outcomes of those incidents.
Criteria – LL, Section 9(1)(c)	If the prescribed activity is the commercial use of a local government controlled area or road—the grant of the approval is consistent with the objective of the local government of restriction of the commercial use of local government controlled areas and roads, where such activities are permitted, in recognition of the fact that the activities may otherwise enjoy an unfair commercial advantage over competitive activities conducted from fixed premises in the local government area for which rates and other charges are paid, and to which planning and other regulatory legislation applies;
Officer comment	Not applicable.
Criteria – LL, Section 9(1)(d)	The proposed operation and management of the prescribed activity would be consistent with any additional criteria prescribed for the activity under a subordinate local law for this paragraph; and
Officer comment	Subordinate Local Law No.1.12 (Operation of Temporary Entertainment Events) 2011 prescribes criteria for the proposed activity. An assessment against that criterion is provided below.
Criteria – LL, Section 9(1)(e)	The grant of the approval would be consistent with the purpose of any relevant local law; and
Officer comment	The proposed activity is generally consistent with Council's local laws.
Criteria – LL, Section 9(1)(f)	If the application relates to trust land—the grant of the approval would be consistent with the terms and conditions of the trust; and
Officer comment	The subject land is not trust land.
Criteria – LL, Section 9(1)(g)	If the application relates to a prescribed activity mentioned in section 5(b)—the grant of the approval would be consistent with any requirements or criteria specified in the relevant Local Government Act in relation to the approval.
Officer comment	Not applicable.
Criteria – SLL, Section 4(1)	The design and construction of the place of the temporary entertainment event must be safe and appropriate to the nature of the entertainment proposed and the number of people expected to attend the place.
Officer comment	The expected attendance rate for the event is 4,000 people (3,500 patrons and 500 staff). Other similar events have been hosted by Landcruiser Mountain Park. Adequate space exists onsite for the activity to be held.

	Conditions of approval will require the operator to ensure appropriate electrical safety standards are complied with, and that any scaffolding or temporary shade structures are installed by appropriately qualified persons.
Criteria – SLL, Section 4(2)	Entertainment provided at the place must not unreasonably detract from the amenity of the area in which the entertainment is, or is proposed to be, situated.
Officer comment	Due to the location of the proposed event, it is not anticipated that the amenity of the surrounding area will be adversely impacted.
Criteria – SLL, Section 4(3)	Entertainment provided at the place must not generate significant noise, dust or light pollution or other significantly adverse effects on the surrounding neighbourhood.
Officer comment	<p>The proposed event is likely to generate loud music as part of the entertainment that is provided. Dust and light emissions are expected to be minimal.</p> <p>Due to the location of the proposed event it is not anticipated that the amenity of the surrounding area will be adversely impacted.</p>
Criteria – SLL, Section 4(4)	There must be enough toilets and sanitary conveniences provided for the event.
Officer comment	<p>The applicant has advised that the following permanent amenities are provided onsite:</p> <ul style="list-style-type: none"> • 20 permanent showers; • 50 permanent toilets; and • 2 permanent urinals. <p>In addition to the permanent amenities above, the applicant will also provide 130 portable toilets and 40 portable showers.</p> <p>Toilet and shower numbers will be conditioned as part of any approval that is issued.</p>
Criteria – SLL, Section 4(5)	Adequate provision must exist for the disposal of waste generated by the use of the place for the temporary entertainment event.
Officer comment	The applicant has advised that over 100 wheelie bins are available at the venue which will be placed at strategic points throughout the entertainment area, markets area and campgrounds. Additionally, 2 large skips will be hired for the event.
Criteria – SLL, Section 4(6)	Adequate provision must exist for people and (if relevant) vehicles to enter and leave the place of the temporary entertainment event.
Officer comment	Council's Operations Department has provided the following advice in relation to this event, which will be incorporated into any conditions of approval:

	<ul style="list-style-type: none"> • If event directional signage is to be displayed by the operator, then signage should not be erected any sooner than the morning of the event and must be taken down the night after the event is finished. • Any signage displayed on Department of Transport and Main Roads (DTMR) controlled roads will need approval from DTMR.
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Attachments

1. Site Plans

Recommendation

It is recommended that the Council approve the application subject to the conditions listed below:

No.	CONDITION
1.0	ENVIRONMENTAL/ LOCAL LAW
1.1	The approval holder must: <ul style="list-style-type: none"> • Display the approval in the manner, and at the locations, specified by the local government; and • Produce the approval for inspection by an authorised person on demand.
1.2	The approval holder must provide Somerset Regional Council with a copy of a COVID Safe Event Checklist.
1.3	The operation of the temporary entertainment event must not unreasonably detract from the amenity of the area in which the place is located.
1.4	The temporary entertainment event is limited to the operation of a music festival with a maximum attendance of 4,000 people (3,500 patrons and 500 staff) at Landcruiser Mountain Park on Lots 35 C313642 and 42 C31439, Diaper Road, Jimna, from 12 noon on Thursday 14 April 2022 until 12noon Sunday 17 April 2022.
1.5	<p>The approval holder must provide the following number of toilets, sanitary conveniences and showers for the event:</p> <p>Males: 80 toilets; 40urinals; 53hand basins; 40 showers</p> <p>Females: 160 toilets;53 hand basins; 1 sanitary convenience bin per female toilet; 40 showers</p> <p>Unisex: at least 1 unisex toilet for patrons with a disability at each group of toilet facilities</p> <p>The approval holder must also provide separate toilet and hand washing facilities for food handlers.</p>
1.6	The approval holder must provide an appropriate number of waste bins that are to be serviced by an appropriately licensed waste contractor. The number of waste bins provided must be sufficient to accept all waste generated by the event, including waste from attendees, event staff, and food vendors. Waste must be disposed of at an appropriately licenced waste facility.
1.7	The approval holder must maintain insurance that is applicable to the activity including without limitation, a public liability insurance policy which provides indemnity for each individual occurrence in an amount not less than \$20 million dollars. The insurance certificate must cover the permit holder and the Somerset Regional Council against any claims whatsoever arising from the operation of the event. Provide a copy to Council by Friday 25 March 2022.

1.8	<p>The approval holder must indemnify and keep indemnified, the Somerset Regional Council, their officers, employees and agents (the indemnified) against any or all losses suffered or incurred (except to the extent that any losses are caused through the negligent act or omission of the indemnified) in connection with the erection, existence or operation of the works or activities, the subject of this approval.</p> <p>“Losses” include liabilities, losses, damages, expenses and costs (including legal costs on a full indemnity basis and whether incurred or awarded) of any kind or nature, whether arising in contract or tort (including, but not limited to, negligence) or under a statute; and also include loss or profits, loss of revenue, loss of anticipated saving, loss of opportunity, pure economic loss and loss of data any other consequential special or indirect loss or damage.</p>
1.9	The approval holder must provide Somerset Regional Council with a copy of a public liability insurance certificate of currency for a minimum of \$20 million dollars and must note Somerset Regional Council as an interested party. The insurance certificate must cover all relevant aspects of the event.
1.10	The temporary entertainment event must not cause an environmental nuisance as defined by the <i>Environmental Protection Act 1994</i> .
1.11	<p>Noise associated with the event must not exceed the following levels at a sensitive receptor:</p> <p>(a) before 7am, if the use causes audible noise; or</p> <p>(b) from 7am to 10pm, if the use causes noise of more than 70dB(A); or</p> <p>(c) from 10pm to midnight, if the use causes noise of more than the lesser of the following—</p> <p>(i) 50dB(A);</p> <p>(ii) 10dB(A) above the background level.</p>
1.12	The operation of the temporary entertainment event must not create a traffic nuisance or increase an existing traffic nuisance or detrimentally affect the efficiency of the road network in which the activity is undertaken.
1.13	The approval holder must provide appropriate lighting to all areas of the temporary entertainment event to ensure the safety of the public.
1.14	<p>All buildings, structures, vehicles, facilities or equipment used in the operation of the temporary entertainment event must be maintained at all times:</p> <ul style="list-style-type: none"> • In good working order. • In good state of repair. • In a clean and sanitary condition.
1.15	The approval holder must ensure that a food licence issued under the <i>Food Act 2006</i> is obtained (to the extent that it is required) by any entities selling food at the event.
1.16	The approval holder must ensure that the temporary entertainment event is run generally in accordance with the application material submitted to Council.
1.17	The approval holder must submit a final version of the Event Management Plan for approval by the Chief Executive Officer by Friday 25 March 2022.
1.18	The approval holder must ensure that the temporary entertainment event is run in accordance with the approved Event Management Plan.
1.19	The approval holder is to provide a contact number for any complaints received during the event.
1.20	The approval holder must ensure that all electrical installations or distribution to be utilised for the event is installed and signed off by a licenced electrician.
1.21	The approval holder must ensure that the construction of any structures onsite, including temporary stages and shade sails, are installed by appropriately qualified persons holding riggers licences with Workplace Health and Safety Queensland.
1.22	The approval holder must have a minimum of 15 licensed security staff to be available on site at all times for the duration of the event.

1.23	The approval holder must engage the Queensland Ambulance Service to provide paramedical transport capability during peak activity times between 1600-0200 hours daily while the event is operating, while also engaging registered paramedics for on-site private medical coverage in order to have twenty-four hour medical coverage during the event.
1.24	The approval holder must submit to Council, within 14 days of the event, a Post Event Report detailing: <ul style="list-style-type: none"> • Total number of paying attendees, artists and staff. • Any incidents during the event relating to public health and safety and the outcomes of those incidents. • Any incidents during or associated with the event where the Queensland Police Service, Queensland Ambulance Service or Queensland Fire Emergency Services assistance was required and the outcomes of those incidents.
2.0	OPERATIONS
2.1	Any event directional signage that is displayed should not be erected any sooner than the morning of the event and must be taken down the night after the event is finished.
2.2	Any signage displayed on Department of Transport and Main Roads (DTMR) controlled roads will need approval from DTMR.

Resolution

Moved – Cr Gaedtke

Seconded – Cr Brieschke

THAT Council approve the application subject to the conditions listed below:

No.	CONDITION
1.0	ENVIRONMENTAL/ LOCAL LAW
1.1	The approval holder must: <ul style="list-style-type: none"> • Display the approval in the manner, and at the locations, specified by the local government; and • Produce the approval for inspection by an authorised person on demand.
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1.3	The operation of the temporary entertainment event must not unreasonably detract from the amenity of the area in which the place is located.
1.4	The temporary entertainment event is limited to the operation of a music festival with a maximum attendance of 4,000 people (3,500 patrons and 500 staff) at Landcruiser Mountain Park on Lots 35 C313642 and 42 C31439, Diaper Road, Jimna, from 12 noon on Thursday 14 April 2022 until 12noon Sunday 17 April 2022.
1.5	The approval holder must provide the following number of toilets, sanitary conveniences and showers for the event: Males: 80 toilets; 40 urinals; 53 hand basins; 40 showers Females: 160 toilets; 53 hand basins; 1 sanitary convenience bin per female toilet; 40 showers Unisex: at least 1 unisex toilet for patrons with a disability at each group of toilet facilities The approval holder must also provide separate toilet and hand washing facilities for food handlers.
1.6	The approval holder must provide an appropriate number of waste bins that are to be serviced by an appropriately licensed waste contractor. The number of waste bins provided must be sufficient to accept all waste generated by the event, including

	waste from attendees, event staff, and food vendors. Waste must be disposed of at an appropriately licenced waste facility.
1.7	The approval holder must maintain insurance that is applicable to the activity including without limitation, a public liability insurance policy which provides indemnity for each individual occurrence in an amount not less than \$20 million dollars. The insurance certificate must cover the permit holder and the Somerset Regional Council against any claims whatsoever arising from the operation of the event. Provide a copy to Council by Friday 25 March 2022.
1.8	<p>The approval holder must indemnify and keep indemnified, the Somerset Regional Council, their officers, employees and agents (the indemnified) against any or all losses suffered or incurred (except to the extent that any losses are caused through the negligent act or omission of the indemnified) in connection with the erection, existence or operation of the works or activities, the subject of this approval.</p> <p>“Losses” include liabilities, losses, damages, expenses and costs (including legal costs on a full indemnity basis and whether incurred or awarded) of any kind or nature, whether arising in contract or tort (including, but not limited to, negligence) or under a statute; and also include loss or profits, loss of revenue, loss of anticipated saving, loss of opportunity, pure economic loss and loss of data any other consequential special or indirect loss or damage.</p>
1.9	The approval holder must provide Somerset Regional Council with a copy of a public liability insurance certificate of currency for a minimum of \$20 million dollars and must note Somerset Regional Council as an interested party. The insurance certificate must cover all relevant aspects of the event.
1.10	The temporary entertainment event must not cause an environmental nuisance as defined by the <i>Environmental Protection Act 1994</i> .
1.11	<p>Noise associated with the event must not exceed the following levels at a sensitive receptor:</p> <p>(a) before 7am, if the use causes audible noise; or</p> <p>(b) from 7am to 10pm, if the use causes noise of more than 70dB(A); or</p> <p>(c) from 10pm to midnight, if the use causes noise of more than the lesser of the following—</p> <p>(i) 50dB(A);</p> <p>(ii) 10dB(A) above the background level.</p>
1.12	The operation of the temporary entertainment event must not create a traffic nuisance or increase an existing traffic nuisance or detrimentally affect the efficiency of the road network in which the activity is undertaken.
1.13	The approval holder must provide appropriate lighting to all areas of the temporary entertainment event to ensure the safety of the public.
1.14	<p>All buildings, structures, vehicles, facilities or equipment used in the operation of the temporary entertainment event must be maintained at all times:</p> <ul style="list-style-type: none"> • In good working order. • In good state of repair. • In a clean and sanitary condition.
1.15	The approval holder must ensure that a food licence issued under the <i>Food Act 2006</i> is obtained (to the extent that it is required) by any entities selling food at the event.
1.16	The approval holder must ensure that the temporary entertainment event is run generally in accordance with the application material submitted to Council.
1.17	The approval holder must submit a final version of the Event Management Plan for approval by the Chief Executive Officer by Friday 25 March 2022.
1.18	The approval holder must ensure that the temporary entertainment event is run in accordance with the approved Event Management Plan.

1.19	The approval holder is to provide a contact number for any complaints received during the event.
1.20	The approval holder must ensure that all electrical installations or distribution to be utilised for the event is installed and signed off by a licenced electrician.
1.21	The approval holder must ensure that the construction of any structures onsite, including temporary stages and shade sails, are installed by appropriately qualified persons holding riggers licences with Workplace Health and Safety Queensland.
1.22	The approval holder must have a minimum of 15 licensed security staff to be available on site at all times for the duration of the event.
1.23	The approval holder must engage the Queensland Ambulance Service to provide paramedical transport capability during peak activity times between 1600-0200 hours daily while the event is operating, while also engaging registered paramedics for on-site private medical coverage in order to have twenty-four hour medical coverage during the event.
1.24	<p>The approval holder must submit to Council, within 14 days of the event, a Post Event Report detailing:</p> <ul style="list-style-type: none"> • Total number of paying attendees, artists and staff. • Any incidents during the event relating to public health and safety and the outcomes of those incidents. • Any incidents during or associated with the event where the Queensland Police Service, Queensland Ambulance Service or Queensland Fire Emergency Services assistance was required and the outcomes of those incidents.
2.0	OPERATIONS
2.1	Any event directional signage that is displayed should not be erected any sooner than the morning of the event and must be taken down the night after the event is finished.
2.2	<p>Any signage displayed on Department of Transport and Main Roads (DTMR) controlled roads will need approval from DTMR.</p> <p style="text-align: right;"><u>Carried</u></p> <p><i>Vote - Unanimous</i></p>

Subject:	Fernvale Growth Planning Study
File Ref:	Planning and Development\Planning and Strategic Documents
Action Officer:	DPAD

Background/Summary

Somerset Regional Council engaged Ethos Urban and Byrne Consultants in February 2021 to undertake a Fernvale growth planning and transport study. The Final Report was submitted to Council on 16 December 2021 (**Attachment 1**). The objectives of the Study are to:

1. Develop a road masterplan to inform future versions of the Somerset Regional Council Planning Scheme. The masterplan is to consider the implications of two land use scenarios (Business-as-usual and Alternative land use scenarios) and the necessary trunk infrastructure upgrades required to achieve an efficient and cost-effective road network. The purpose of the road masterplan is to guide Council's investment and advocacy efforts.
2. Undertake a review of road related elements of the Local Government Infrastructure Plan (LGIP). The purpose of this review is to ensure alignment between key elements e.g. schedule of works, priority future transport infrastructure maps and schedule of works, and the adoption of current and best practices.

The Project Approach included:

- Inception meeting and site visit
- Planning review of local and State characteristics
- Market analysis of the study area
- Identification of developable land, development projections and likely sequencing
- Calculation of traffic demand and trip generation
- Review of current LGIP road network Desired Standards of Service
- Preparation of a high-level master planning exercise of the trunk road network
- Technical notes and cost estimates.

The Study is largely a technical review and given the commercial sensitivities of the land use planning scenarios, is marked confidential.

Notwithstanding, the outcomes and technical outputs of the study will inform the review of Council's planning scheme and LGIP, which will be subject to statutory State Interest Reviews and public consultation.

Attachments

CONFIDENTIAL – Attachment 1 – Fernvale Growth Planning Study, 15 December 2021, by Ethos Urban and Byrne Consultants.

Recommendation

THAT Council receive the Fernvale Growth Planning Study, dated 15 December 2021.

Resolution

Moved – Cr Wendt

Seconded – Cr Brieschke

“THAT Council receive the Fernvale Growth Planning Study, dated 15 December 2021”.

Carried

Vote - Unanimous

Declaration of Conflict of Interest - Cr Kylee Isidro - Agenda Items Number 10 - 13

I inform this meeting that I have a declarable conflict of interest in the following matters as defined by section 150EN of the *Local Government Act 2009*.

Agenda Item Number 10 - Development Application No. 5739

Agenda Item Number 11 - Development Application No. 6120

Agenda Item Number 12 - Development Application No. 6121

Agenda Item Number 13 - Development Application No. 2026

The nature of my interest is as follows -

This declarable conflict of interest arises because a person who is a related party of mine has an interest in this matter.

Particulars -

- (i) Name of related parties: Tony Lukritz
- (ii) The nature of my relationship with this related party is that Tony Lukritz is my brother
- (iii) The nature of the related party's interest in this matter is that my brother is the Manager at Zanows Quarries

I wish to participate in the decision in relation to this matter for the following reason:

The interest is considered to be sufficiently remote so as not to unduly influence my impartiality.

I acknowledge that eligible Councillors must now determine, pursuant to section 150ES of the Local Government Act 2009 whether I:

- May participate in the decision about the matter, including by voting on the matter; or
- Must leave the meeting, including any area set aside for the public, and stay away from the meeting while the eligible Councillors discuss and vote on the matter

Resolution	Moved – Cr Choat	Seconded – Cr Gaedtke
	<p>“THAT Cr Isidro is not required to leave the meeting and may remain and participate and vote on this matter by reason of the interest is considered to be sufficiently remote as to unduly influence her impartiality allowing her to exercise her vote in the public interest.”</p>	
	<p style="text-align: right;"><u>Carried</u></p>	
	<p>Vote - Unanimous</p>	

Subject:	Development Application No. 5739
	Change Application to Development Approval – Minor Change under section 81 of the <i>Planning Act 2016</i>
File No:	DA5739 Assessment No:03823-8900-000
Action Officer:	SP-MW

1.0 APPLICATION SUMMARY

Subject Land

Location	826 Coominya Connection Road and Foxs Road, Coominya
Real Property Description	Lots 227 and 228 CA31637
Area	64.75ha and 40.469ha

Former Esk Shire Planning Scheme 2005 (as amended)

Zone	Rural
Precinct	Arable Agricultural Precinct

ShapingSEQ

Land Use Category	Regional Landscape and Rural Production Area
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Application

Original Category of Assessment	Impact assessment
Original Date of Approval	17 December 2007
Applicants contact details	Diane Kerr and Associates 19 Frobisher Street SPRINGWOOD QLD 4127

Land Owner	Kevin and Louise Utz and Pocket View Pty Ltd 826 Coominya Connection Road COOMINYA QLD 4311
Date application received	13 January 2022
State Agency Referrals	
Concurrence	Department of State Development, Infrastructure, Local Government and Planning - State Assessment and Referral Agency

RECOMMENDED DECISION

Approve the request to change the development approval for Development Application No. 5739 subject to the amended conditions and requirements contained in the Schedules.



**Locality plan Lot 228 CA31637 and part Lot 227 CA31637
Foxs Road and 826 Coominya Connection Road, Coominya**

2.0 BACKGROUND TO APPROVAL

Zanow Sand and Gravel operate an extractive industry at Fernvale. The extracted materials from the Coominya site are transported to the Fernvale site for processing. Requests to 'Change an Existing Approval' have already been made for all three of the existing Fernvale approvals.

Council granted a Decision Notice for DA5739 dated 17 December 2007, for:

- A Development Permit for a Material Change of Use for Extractive Industry;

- A Development Permit for a Material Change of Use for the following Environmentally Relevant Activities:
 - ERA 20(c) - Extraction of rock or other materials from a quarry using plant or equipment having a design capacity of 100,000 tonnes or more a year (Level 1);
 - ERA 22(c) - Screening etc materials using plant or equipment having a design capacity of 100,000 tonnes or more a year (Level 1); and
- A Development Permit for Operational Works.

The approval is for the off-stream extraction of soil, sand, gravel and associated materials. The extraction operation involves the progressive and staged removal of topsoil and overburden, the extraction of sand and gravel, and the transportation of the material from the site. The extracted materials are transported externally for processing at the existing extractive industry and processing site at Fernvale. Both the Coominya and Fernvale operations have been undertaken and managed by Zanow Earthmovers.

No value adding processes such as screening, blending or crushing occur at the Coominya site.

A change application was approved on 27 May 2016 to reduce the bond or bank guarantee in condition 3.3 from \$200,000 to \$75,000.

3.0 REQUESTED CHANGE

The applicant on behalf of their client wishes to change the applications so that the bond listed in Condition 3.3 and 3.4 no longer applies.

Condition 3.3

3.3	Zanow Earthmovers Pty Ltd must provide to Council a bond or bank guarantee to the value of \$75,000 to secure the undertaking of rehabilitation works.	Prior to commencement of use.
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Condition 3.4

3.4	On termination of extractive operations and completion of restoration of the site in accordance with Council approval, 80% of the bond or bank guarantee will be returned, and 20% returned after the restoration of the site has been effectively and successfully maintained for a period of five years.	On termination of extractive operations and completion of restoration areas. Restoration successfully maintained for a period of five years.
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3.1 Applicant's Comments

The applicant provided the following comments as part of their change request.

"The applicable (updated) bank guarantee was provided to Council in June 2017.

It is requested that Council delete conditions 3.3 and 3.4, which require a bank guarantee to secure the rehabilitation works associated with the extractive industry operations, on the following grounds:

1. The rehabilitation works are conditioned on the State Governments Environmental Authority. This includes a condition that requires *“rehabilitation of disturbed areas must take place progressively as works are completed and new areas of extraction are commenced”*. The State does not require financial assurances for extractive industry operations.
2. Hy-tec / Adelaide Brighton Ltd have provided a letter to the Chief Executive Officer of Somerset Regional Council, dated 7 December 2021 (refer to Attachment A). Extracts from this letter advise that *“Hy-Tec is a wholly owned subsidiary of Adbri Limited (Adbri). Adbri is listed on the ASX with market capitalisation of approximately \$1.88 billion (as at 10 December 2021). ... Adbri and Hy-Tec are each party to a Deed of Cross Guarantee (the Deed), under which each Company guarantees the debt of the other. This Deed is registered with ASIC and noted in the Annual Report for Adbri Limited.... Somerset Regional Council can be assured that Hy-Tec and its parent, Adbri, hold the necessary financial capacity to complete rehabilitation of the sites and there is no longer any need for the bank guarantees”*.
3. Hy-Tec are also purchasing the Zanow approved extractive industry at Rocky Gully Road / Banffs Lane, Coominya. This Somerset Regional Council approval (issued more recently in May 2020) does not require a bank guarantee as security for rehabilitation works
4. As advised in a letter from the Chief Executive Officer of Somerset Regional Council, dated 7 December 2021, Zanows may apply *“for a change of development approval to remove the requirement for bonds or bank guarantees to secure the requirement for rehabilitation given that the purchaser (Hy-tec/ Adelaide Brighton Ltd) is a listed company and that the total of the bank guarantee is not significant relative to the purchase value of the sites”*.

No other conditions of development will be affected by this change. In addition, this request will not result in any changes to the Referral Agency conditions of approval. The removal of the condition requiring security for the rehabilitation works will not result in a “substantially different development” for the Extractive Industry approval.”

Schedule 1 of the *Development Assessment Rules* (‘DA Rules’ – Version 1.3) provides guidance on what constitutes ‘Substantially Difference Development’ when determining whether a change to the development application or development approval is considered a minor change. To confirm the proposed minor change does not result in substantially different development, assessment against Schedule 1 of the DA Rules has been provided below.

A change may be considered to result in a ‘substantially different development’ if any of the following apply to the proposed change:

- (a) Involves a new use; or
Comment: No new use is being proposed as part of the proposed minor change application to the approved Extractive Industry.
- (b) Results in the application applying to a new parcel of land; or
Comment: The application applies to the same parcels of land.
- (c) Dramatically changes the built form in terms of scale, bulk and appearance; or
Comment: There is no change to the approved development. The approved quarry footprint does not change. As such, the built form in terms of scale, bulk and appearance does not change.

- (d) Changes the ability of the proposed development to operate as intended (For example, reducing the size of a retail complex may reduce the capacity of the complex to service the intended catchment); or
Comment: The rehabilitation works are conditioned under the State Government's Environmental Authority. This includes a condition that requires the progressive rehabilitation of disturbed areas as works are completed and new areas of extraction are commenced. The State does not require financial assurances for extractive industry operations. The bank guarantee requirement is a Council imposed matter. It is an administrative security which, as justified under Section B, is not required to ensure that the necessary rehabilitation works will be undertaken by the new purchaser (Adbri).
- (e) Removes a component that is integral to the operation of the development; or
Comment: No component of the approved quarry, which is integral to its operation, is to be removed. There are no changes proposed to the quarry footprint. In addition, as mentioned above, progressive rehabilitation works are required under the Environmental Authority and security is no longer required (as justified under Section B).
- (f) Significantly impacts on traffic flow and the transport network, such as increasing traffic to the site; or
Comment: As there is no change to the approved quarry there will be no change to the impacts on the traffic flows and transport networks.
- (g) Introduces new impacts or increase the severity of known impacts; or
Comment: As there is no change to the approved quarry there will be no new impacts or increased severity of known impacts.
- (h) Removes an incentive or offset component that would have balanced a negative impact of the development; or
Comment: The proposed change does not remove any incentives or offset components for the existing development approval. As mentioned above, the Council requirement for securities for rehabilitation works is an administrative security which, as justified under Section B, is not required to ensure that the necessary rehabilitation works will be undertaken by the new purchaser.
- (i) Impacts on infrastructure provisions.
Comment: The proposed amendment does not impact on the provision, location or demand of infrastructure.

The original development application was assessed against the relevant local planning instrument at the time, being the Esk Shire (IPA) Planning Scheme, which is now superseded. The Somerset Region Planning Scheme (Version 4) is the relevant local planning instrument for the site. It is submitted that the proposed change does not need to be re-assessed against the current Planning Scheme to ensure the approved operations remain compliant with the relevant Council provisions. This is on the basis that the required security (i.e. bank guarantee) for rehabilitation works is an administrative requirement by Council. It is not a requirement under the planning scheme and/or associated assessment benchmarks.

3.2 Officer's Comments

Section 66 of the *Planning Act 2016* references prohibited development conditions.

The applicant has not specifically referenced the provisions of the *Planning Act 2016*, however in point 1 and point e above, the applicant has referenced the State's role in managing rehabilitation of the site through the Environmental Authority, and that Council's condition as a result is in effect unnecessary.

A review of the Environmental Authority EPPR00528213 for this development (and the other Zanows extractive industry sites) include the following conditions with respect to rehabilitation.

Condition number	Condition								
L1	Rehabilitation of disturbed areas required under Schedule 1 Condition L1, must take place progressively as works are completed and new areas of extraction are commenced.								
L2	Treatment and management of acid sulfate soils must comply with the current edition of the <i>Queensland Acid Sulfate Soil Technical Manual</i> .								
L3	Rehabilitation of Lot 1 on Plan RP884225 must be completed in accordance with the “ <i>Rehabilitation Plan</i> ” contained in Section 7.0 of document described as the <i>Environmental Management Plan (EMP)</i> contained in Appendix C of a document described as <i>Assessment Report in support of a Development Application for Extractive Industry and Environmentally Relevant Activities, Lot 1 Brisbane Valley Highway, Fernvale, dated April 2007</i> to the satisfaction of the administering authority.								
L4	Rehabilitation of Lot 227 Plan CA31637 and Lot 228 CA31637 must be completed in accordance with the “ <i>Rehabilitation Plan</i> ” contained in Section 7.0 of document described as the “ <i>Environmental Management Plan – Extractive Industry – Coominya Connection Road, Coominya, dated November 2006</i> ” to the satisfaction of the administering authority.								
L5	<p>Each site (including all disturbed areas such as slopes, borrow pits, stockpile and screening areas) must be rehabilitated to a stable landform and in accordance with the plans listed in <i>Table 3 – Rehabilitation Plans</i>.</p> <table border="1"> <caption>Table 3 – Rehabilitation Plans</caption> <thead> <tr> <th>Site</th><th>Relevant Drawings</th></tr> </thead> <tbody> <tr> <td>Lot 1 on Plan RP884225</td><td> <ul style="list-style-type: none"> 07001.SK.10 Issue B entitled “Operational Extraction Plan for Lot 1 and 3”, dated 01.02.2015; 07001.SK.07 Issue A entitled “Cross Sections of Rehabilitated Site, Lot 1 Brisbane Valley Highway, Fernvale” dated 16.04.2007; 07001.SK.08 Issue A entitled “Cross Section of Rehabilitated Site, Lot 1 Brisbane Valley Highway, Fernvale” dated 15.11.2006; 07001.SK.09 Issue A entitled “Post Extraction Rehabilitation Plan, Lot 1 Brisbane Valley Highway, Fernvale” dated 09.09.2007. </td></tr> <tr> <td>Lot 3 on Plan RP884225</td><td> <ul style="list-style-type: none"> 07001.SK.10 Issue B entitled “Operational Extraction Plan for Lot 1 and 3”, dated 01.02.2015; 07001.SK.07 Issue A entitled “Cross Sections of Rehabilitated Site, Lot 3 Brisbane Valley Highway, Fernvale” dated 16.04.2007; 07003.SK.04 Issue A entitled “Post Extraction Rehabilitation Plan, Lot 3 Brisbane Valley Highway, Fernvale” dated 16.04.2007. </td></tr> <tr> <td>Lot 227 Plan CA31637, and Lot 228 Plan CA31637</td><td> <ul style="list-style-type: none"> 05648.SK.02 Issue E entitled “Progressive Staging Plan, Coominya Connection Rd, Coominya” dated 01.08.2015; 05648.SK.03 Issue E entitled “Post Extraction Rehabilitation Plan, Coominya Connection Rd, Coominya dated 31.08.2007; </td></tr> </tbody> </table>	Site	Relevant Drawings	Lot 1 on Plan RP884225	<ul style="list-style-type: none"> 07001.SK.10 Issue B entitled “Operational Extraction Plan for Lot 1 and 3”, dated 01.02.2015; 07001.SK.07 Issue A entitled “Cross Sections of Rehabilitated Site, Lot 1 Brisbane Valley Highway, Fernvale” dated 16.04.2007; 07001.SK.08 Issue A entitled “Cross Section of Rehabilitated Site, Lot 1 Brisbane Valley Highway, Fernvale” dated 15.11.2006; 07001.SK.09 Issue A entitled “Post Extraction Rehabilitation Plan, Lot 1 Brisbane Valley Highway, Fernvale” dated 09.09.2007. 	Lot 3 on Plan RP884225	<ul style="list-style-type: none"> 07001.SK.10 Issue B entitled “Operational Extraction Plan for Lot 1 and 3”, dated 01.02.2015; 07001.SK.07 Issue A entitled “Cross Sections of Rehabilitated Site, Lot 3 Brisbane Valley Highway, Fernvale” dated 16.04.2007; 07003.SK.04 Issue A entitled “Post Extraction Rehabilitation Plan, Lot 3 Brisbane Valley Highway, Fernvale” dated 16.04.2007. 	Lot 227 Plan CA31637, and Lot 228 Plan CA31637	<ul style="list-style-type: none"> 05648.SK.02 Issue E entitled “Progressive Staging Plan, Coominya Connection Rd, Coominya” dated 01.08.2015; 05648.SK.03 Issue E entitled “Post Extraction Rehabilitation Plan, Coominya Connection Rd, Coominya dated 31.08.2007;
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It is therefore considered conditions 3.3 and 3.4 should be deleted.

4.0 PLANNING CONSIDERATIONS

The applicant has made a Change Application in accordance with s78 and s79 of the *Planning Act 2016*.

It is considered the proposed development satisfies the requirements and represents a minor change that can be assessed under the provisions of s81 of the *Planning Act 2016*.

5.0 OTHER PLANNING CONSIDERATIONS

5.1 Referral Agencies

In accordance with section 80 of the *Planning Act 2016*, the State Assessment and Referral Agency is not considered an affected entity of the minor change, and as such no comments or conditions have been sought from the Department of State Development, Infrastructure, Local Government and Planning. The Department will, however, be provided with a copy of the Decision Notice.

5.2 Public awareness of the proposed development

Should the application be submitted with the proposed design, the Category of Assessment would remain as impact assessment, requiring public notification.

The proposed change has no implication upon the operation of the extractive industry with respect to impact upon the public. The application was originally approved in 2007 and has been operational for almost 15 years.

Council received six submissions and a petition of 136 signatures when the development was originally publicly notified.

The use has commenced, and the proposed change has no material impact upon the operation of the use. The change only relates to a financial transaction between Council and the operator.

6.0 CONCLUSION

The proposed minor change will facilitate the ongoing operation of the existing extractive industry, noting the change only involves a bond.

7.0 ATTACHMENT

- Plan of Extraction Area and Internal Haul Road Coominya Connection Rd, Coominya Drawing Number 05648.01 Issue B dated 10.10.2006; and
- Amended Progressive Staging Plan Drawing Number 05648.SK.02 Issue E, dated 1 August 2015, prepared by David Brett and Associates Pty Ltd;

RECOMMENDED DECISION

That Council approves the Change Application under section 81 of the *Planning Act 2016* for DA5739 for a Development Permit for Extractive industry on land described as Lots 227 and 228 CA31637, situated at Foxs Road and 826 Coominya Connection Road, Coominya subject to the conditions contained in the Schedules and Attachments.

SCHEDULES

SCHEDULE 1 – Planning		
No	Condition	Timing
1.1	<p>Carry out the development in accordance with the material contained in the development application, supporting documentation and the plan listed below, except where amended by these conditions of approval:</p> <ul style="list-style-type: none"> • Plan of Extraction Area and Internal Haul Road Coominya Connection Rd, Coominya Drawing Number 05648.01 Issue B dated 10.10.2006; and • Amended Progressive Staging Plan Drawing Number 05648.SK.02 Issue E, dated 1 August 2015, prepared by David Brett and Associates Pty Ltd; • Post Extraction Rehabilitation Plan Drawing Number 05648.SK.03 Issue E dated 10.10.2006; • Cross Section of Rehabilitation Site Drawing Number 05648.SK.04 Issue B dated 10.10.2006; • Cross Section of Rehabilitation Site Drawing Number 05648.SK.05 Issue B dated 10.10.2006; • Cross Section of Rehabilitation Site Drawing Number 05648.SK.06 Issue B dated 10.10.2006; • Visual / Amenity Impacts Drawing Number 05648.SK.07 Issue B dated 10.10.2006; and • <i>Amended Environmental Management Plan</i> referenced Appendix B Attachment 4 DA5739; and • <i>Noise Assessment Report No 840-4</i>, dated 18 July 2007, prepared by Noise Measurement Services Pty Ltd; • <i>Traffic Engineering Report</i>, dated 23 April 2007 referenced 23359, prepared by TTM Group Consulting (Qld) Pty Ltd; and • <i>Traffic Engineering Report</i>, dated 1 December 2006, Project No: 568 J6, prepared by Viney Traffic Engineering Pty Ltd; • <i>The Impact of a Proposed Quarry on Good Quality Agricultural Land at Buaraba Creek, Coominya Report</i>, dated November 2006 prepared by Land Resource Assessment and Management Pty Ltd; and • <i>Soil Chemistry Properties Assessment Report</i>, dated November 13, 2006 prepared by D.E. Baker BSc, Environmental Soil Solutions Australia Pty Ltd; • <i>Hydro-Geological Assessment (final) Report</i>, dated 09 November 2006, prepared by Sinclair Knight Merz (SKM); and 	At all times

	<ul style="list-style-type: none"> • The <i>Independent Peer Review undertaken by CARDNO</i>, referenced: 3502/39:mpg dated 20 November 2007; and • The <i>Department of Main Roads Concurrence Agency Response and Conditions of Approval</i> indicated on the attached Statement of Reasons referenced as E49336 830/249 P66605 P66408 Tracker 3542; and • The <i>Department of Natural Resources and Water Concurrence Agency Response and Conditions of Approval</i> referenced IC0107 BEE0005_ESK8573. 	
1.2	Comply with the relevant provisions of the Shire of Esk Planning Scheme 2005, Planning Scheme Policies and Local Laws.	At all times
1.3	A legible copy of this development approval package is to be made available on the premises.	At all times
1.4	Pay to Council any outstanding charges or expenses levied by Council over the subject land.	Prior to commencement of use
1.5	<p>Unless otherwise approved by Council in writing, the 'Hours of Operation' for the Extractive Industry operations shall be: 6am to 6pm Monday to Friday; 6am to 3pm Saturday, with no work on Sundays or Public Holidays.</p> <p>Extractive Industry operations must not occur on the premises outside the above hours.</p>	At all times
1.6	Provide three (3) onsite vehicular parking spaces for employees in accordance with Council's Planning Scheme Policy No: 3 – <i>Standards for Provision and Construction of Parking Areas</i> .	Prior to commencement of use
1.7	The vehicular parking area is to be constructed and maintained to all weather standard.	At all times
1.8	A demountable Staff Amenities Building is to be provided.	Prior to commencement of use
1.9	Provide onsite direction-signage for vehicles entering the site and accessing the Site Office and Amenities Building.	Prior to commencement of use
1.10	Approval of any proposed Building Works will be required under the <i>Integrated Planning Act 1997 (IPA)</i> .	Prior to commencement of building works
1.11	Security and flood lighting shall be designed, constructed, installed and maintained in accordance with Australian Standard AS4282-1997 (Control of the obtrusive effects of outdoor lighting) and so as not to cause nuisance to the	Prior to commencement of use

	occupants of nearby properties.	
1.12	Truck movements originating from the development are to be conducted in accordance with the ' <i>Haul Truck Management Plan</i> ', referenced <i>Extractive Industry – Haul Truck Management Plan Coominya Connection Road, Coominya November 2007</i> .	At all times
SCHEDULE 2 – ENVIRONMENTAL		
2.1	The approved use shall not cause any adverse impact on the amenity of the neighbourhood by reason of the emission of noise, vibration, glare, fumes, smoke, dust, waste water, waste products or otherwise.	At all times
2.2	That all infill material (excluding any material sourced from the Coominya extractive industry site) be tested at a rate of one test per 5,000m ³ (or other agreed quantity) of imported fill to ensure that the material is of a consistent and acceptable standard.	At all times
SCHEDULE 3 – ENGINEERING		
	<i>Repairs</i>	
3.1	Repair any damage to Council infrastructure that occurs during any works carried out in association with the approved development.	At all times
	<i>Dust</i>	
3.2	The 'Operator of the Extractive Industry' shall be responsible for protecting nearby property owners from dust pollution arising from the construction and ongoing maintenance of the development and shall comply with any lawful instruction from Council, if in Council's opinion a dust nuisance exists.	At all times
	<i>Rehabilitation Works</i>	
3.3	Zanow Earthmovers Pty Ltd must provide to Council a bond or bank guarantee to the value of \$75,000 to secure the undertaking of rehabilitation works.	Prior to commencement of the use
3.4	On termination of extractive operations and completion of restoration of the site in accordance with Council approval, 80% of the bond or bank guarantee will be returned, and 20% returned after the restoration of the site has been effectively and successfully maintained for a period of five years.	On termination of extractive operations and completion of restoration areas. Restoration successfully maintained for a period of five years

SCHEDULE 4 – REFERRAL AGENCY ENVIRONMENTAL PROTECTION AGENCY <i>Concurrence Agency Status</i> <i>Agency Response: Recommend Conditions Apply</i>	
4.1	The Environmental Protection Agency is a concurrence agency under the <i>Integrated Planning Regulation 1998</i> for the purposes of the <i>Environmental Protection Act 1994</i> . The EPA has assessed the proposed MCU for Extractive Industry involving ERA 16(2b) and ERA 16(3b) and has prepared 'conditions of approval and approved plans' which are attached to the Schedules of Approval. Refer to DEHP Environmental Authority Permit number EPPR00528213 dated 29 February 2016.
SCHEDULE 5 – REFERRAL AGENCY DEPARTMENT OF MAIN ROADS <i>Concurrence Agency Status</i> <i>Agency Response: Recommend Conditions Apply</i>	
5.1	The Department of Main Roads is a concurrence agency under the <i>Integrated Planning Regulation 1998</i> for the purposes of the <i>Transport Infrastructure Act 1994</i> . The DMR has assessed the impact of the proposed development on the State-controlled road network and requires Council to include the 'conditions of development' in the Schedules of Approval as indicated on the attached Statement of Reasons. Reference: E49336 830/249 P66408 Tracker 3542.
5.2	The Department of Main Roads Agency Response (Conditions and Statement of Reasons) will be attached to Council's Decision Notice for DA5739.
SCHEDULE 6 – REFERRAL AGENCY DEPARTMENT OF NATURAL RESOURCES and WATER <i>Concurrence Agency Status</i> <i>Agency Response: Recommend Conditions Apply</i>	
6.1	The Department of Natural Resources and Water is a concurrence agency under the <i>Integrated Planning Regulation 1998</i> for the purposes of the <i>Vegetation Management Act 1999</i> . NRandW has assessed the proposed MCU for Extractive Industry to ensure that a decision regarding the application is consistent with the purpose of the <i>Vegetation Management Act 1999</i> . NRandW requires Council (as the Assessment Manager) to include the 'conditions of development' in the Schedules of Approval as indicated in the Concurrence Agency Response, referenced IC0107 BEE0005_ESK8573.
6.2	The NRandW Agency response (conditions of approval) will be attached to Council's Decision Notice for DA5739.
SCHEDULE 7 – REFERRAL AGENCY DEPARTMENT OF INFRASTRUCTURE LOCAL GOVERNMENT AND PLANNING	
7.1	The Department of Infrastructure Local Government and Planning, in its capacity as the State Assessment and Referral Agency, has considered the request and has agreed to partially accept the proposed changes to the development approval, but does not accept changes to the concurrence agency conditions 4.1 and 4.2. In order for the concurrence agency conditions 4.1 and 4.2 to be changed, a permissible change application must be made directly to the department under section 369 of the <i>Sustainable Planning Act 2009</i> as the responsible entity. Reference: SDA-0316-025778 dated 7 April 2016.

SCHEDULE 8 – ADVISORY NOTES	
8.1	The Operator of Extractive Industry shall complete required documentation and arrange a pre-start meeting with Council's Technical Officer, Supervising Engineer prior to any works starting at the site.
8.2	The Operator of the Extractive Industry shall implement all relevant sediment and erosion control measures and temporary fencing as identified on the approved Drawings for this development. Initially, those measures, which are applicable prior to the commencement of the proposed development works, shall be implemented. Council's Technical Officer shall access the sediment and erosion control measures and temporary fencing implemented, and any alterations and/or supplementary works required shall be incorporated during the construction process. All sediment control devices and sediment collection points shall be regularly monitored, sediment removed as necessary and devices maintained responsibly during construction and maintenance period of the development works.
8.3	Construction work is to be carried out only between the hours of 7am to 6pm Monday to Saturday, with no work to be undertaken on Sundays or public holidays. Noise levels from construction work shall at all times comply with the requirements of the <i>Environmental Protection Act 1994</i> .
8.4	The <i>Sustainable Planning Act 2009</i> states that any change to the use or the scale or intensity of the approved use requires the submission of a new development application and subsequent development approval.
8.5	All building work is to comply with the provisions contained in the <i>Building Act</i> ; the Building Regulation, the Building Code of Australia, the Queensland Development Code and relevant Australian Standards.
8.6	Separate development approval is required for any building work and plumbing/drainage works necessitated by the conditions contained in this approval.

A copy of the decision will be sent to the State Assessment and Referral Agency.

Resolution

Moved – Cr Brieschke

Seconded – Cr Wendt

“THAT Council approves the Change Application under section 81 of the *Planning Act 2016* for DA5739 for a Development Permit for Extractive industry on land described as Lots 227 and 228 CA31637, situated at Foxs Road and 826 Coominya Connection Road, Coominya subject to the conditions contained in the Schedules and Attachments.

SCHEDULES

SCHEDULE 1 – Planning		
No	Condition	Timing
1.1	Carry out the development in accordance with the material contained in the development application, supporting documentation and the plan listed below, except where amended by these conditions of approval: <ul style="list-style-type: none"> Plan of Extraction Area and Internal Haul Road Coominya 	At all times

	<p>Connection Rd, Coominya Drawing Number 05648.01 Issue B dated 10.10.2006; and</p> <ul style="list-style-type: none"> • Amended Progressive Staging Plan Drawing Number 05648.SK.02 Issue E, dated 1 August 2015, prepared by David Brett and Associates Pty Ltd; • Post Extraction Rehabilitation Plan Drawing Number 05648.SK.03 Issue E dated 10.10.2006; • Cross Section of Rehabilitation Site Drawing Number 05648.SK.04 Issue B dated 10.10.2006; • Cross Section of Rehabilitation Site Drawing Number 05648.SK.05 Issue B dated 10.10.2006; • Cross Section of Rehabilitation Site Drawing Number 05648.SK.06 Issue B dated 10.10.2006; • Visual / Amenity Impacts Drawing Number 05648.SK.07 Issue B dated 10.10.2006; and • <i>Amended Environmental Management Plan</i> referenced Appendix B Attachment 4 DA5739; and • <i>Noise Assessment Report No 840-4</i>, dated 18 July 2007, prepared by Noise Measurement Services Pty Ltd; • <i>Traffic Engineering Report</i>, dated 23 April 2007 referenced 23359, prepared by TTM Group Consulting (Qld) Pty Ltd; and • <i>Traffic Engineering Report</i>, dated 1 December 2006, Project No: 568 J6, prepared by Viney Traffic Engineering Pty Ltd; • <i>The Impact of a Proposed Quarry on Good Quality Agricultural Land at Buaraba Creek, Coominya Report</i>, dated November 2006 prepared by Land Resource Assessment and Management Pty Ltd; and • <i>Soil Chemistry Properties Assessment Report</i>, dated November 13, 2006 prepared by D.E. Baker BSc, Environmental Soil Solutions Australia Pty Ltd; • <i>Hydro-Geological Assessment (final) Report</i>, dated 09 November 2006, prepared by Sinclair Knight Merz (SKM); and • The <i>Independent Peer Review undertaken by CARDNO</i>, referenced: 3502/39:mpg dated 20 November 2007; and • The <i>Department of Main Roads Concurrence Agency Response and Conditions of Approval</i> indicated on the attached Statement of Reasons referenced as E49336 830/249 P66605 P66408 Tracker 3542; and • The <i>Department of Natural Resources and Water Concurrence Agency Response and Conditions of Approval</i> referenced IC0107 BEE0005 ESK8573. 	
1.2	Comply with the relevant provisions of the Shire of Esk Planning Scheme 2005, Planning Scheme Policies and Local Laws.	At all times
1.3	A legible copy of this development approval package is to be made available on the premises.	At all times
1.4	Pay to Council any outstanding charges or expenses levied	Prior to

	by Council over the subject land.	commencement of use
1.5	Unless otherwise approved by Council in writing, the 'Hours of Operation' for the Extractive Industry operations shall be: 6am to 6pm Monday to Friday; 6am to 3pm Saturday, with no work on Sundays or Public Holidays. Extractive Industry operations must not occur on the premises outside the above hours.	At all times
1.6	Provide three (3) onsite vehicular parking spaces for employees in accordance with Council's Planning Scheme Policy No: 3 – <i>Standards for Provision and Construction of Parking Areas</i> .	Prior to commencement of use
1.7	The vehicular parking area is to be constructed and maintained to all weather standard.	At all times
1.8	A demountable Staff Amenities Building is to be provided.	Prior to commencement of use
1.9	Provide onsite direction-signage for vehicles entering the site and accessing the Site Office and Amenities Building.	Prior to commencement of use
1.10	Approval of any proposed Building Works will be required under the <i>Integrated Planning Act 1997 (IPA)</i> .	Prior to commencement of building works
1.11	Security and flood lighting shall be designed, constructed, installed and maintained in accordance with Australian Standard AS4282-1997 (Control of the obtrusive effects of outdoor lighting) and so as not to cause nuisance to the occupants of nearby properties.	Prior to commencement of use
1.12	Truck movements originating from the development are to be conducted in accordance with the ' <i>Haul Truck Management Plan</i> ', referenced <i>Extractive Industry – Haul Truck Management Plan Coominya Connection Road, Coominya November 2007</i> .	At all times
SCHEDULE 2 – ENVIRONMENTAL		
2.1	The approved use shall not cause any adverse impact on the amenity of the neighbourhood by reason of the emission of noise, vibration, glare, fumes, smoke, dust, waste water, waste products or otherwise.	At all times
2.2	That all infill material (excluding any material sourced from the Coominya extractive industry site) be tested at a rate of one test per 5,000m ³ (or other agreed quantity) of imported fill to ensure that the material is of a consistent and	At all times

	acceptable standard.	
SCHEDULE 3 – ENGINEERING		
	<i>Repairs</i>	
3.1	Repair any damage to Council infrastructure that occurs during any works carried out in association with the approved development.	At all times
	<i>Dust</i>	
3.2	The 'Operator of the Extractive Industry' shall be responsible for protecting nearby property owners from dust pollution arising from the construction and ongoing maintenance of the development and shall comply with any lawful instruction from Council, if in Council's opinion a dust nuisance exists.	At all times
	<i>Rehabilitation Works</i>	
3.3	Zanow Earthmovers Pty Ltd must provide to Council a bond or bank guarantee to the value of \$75,000 to secure the undertaking of rehabilitation works.	Prior to commencement of the use
3.4	On termination of extractive operations and completion of restoration of the site in accordance with Council approval, 80% of the bond or bank guarantee will be returned, and 20% returned after the restoration of the site has been effectively and successfully maintained for a period of five years.	On termination of extractive operations and completion of restoration areas. Restoration successfully maintained for a period of five years
SCHEDULE 4 – REFERRAL AGENCY		
ENVIRONMENTAL PROTECTION AGENCY		
<i>Concurrence Agency Status</i>		
<i>Agency Response: Recommend Conditions Apply</i>		
4.1	The Environmental Protection Agency is a concurrence agency under the <i>Integrated Planning Regulation 1998</i> for the purposes of the <i>Environmental Protection Act 1994</i> . The EPA has assessed the proposed MCU for Extractive Industry involving ERA 16(2b) and ERA 16(3b) and has prepared 'conditions of approval and approved plans' which are attached to the Schedules of Approval. Refer to DEHP Environmental Authority Permit number EPPR00528213 dated 29 February 2016.	
SCHEDULE 5 – REFERRAL AGENCY		
DEPARTMENT OF MAIN ROADS		
<i>Concurrence Agency Status</i>		
<i>Agency Response: Recommend Conditions Apply</i>		
5.1	The Department of Main Roads is a concurrence agency under the <i>Integrated Planning Regulation 1998</i> for the purposes of the <i>Transport Infrastructure Act 1994</i> . The DMR has assessed the impact of the proposed development on the State-controlled road network and requires Council to include the 'conditions of development' in the Schedules of Approval as indicated on the attached Statement of Reasons. Reference: E49336 830/249 P66408 Tracker 3542.	

5.2	The Department of Main Roads Agency Response (Conditions and Statement of Reasons) will be attached to Council's Decision Notice for DA5739.
SCHEDULE 6 – REFERRAL AGENCY DEPARTMENT OF NATURAL RESOURCES and WATER <i>Concurrence Agency Status</i> <i>Agency Response: Recommend Conditions Apply</i>	
6.1	The Department of Natural Resources and Water is a concurrence agency under the <i>Integrated Planning Regulation 1998</i> for the purposes of the <i>Vegetation Management Act 1999</i> . NRandW has assessed the proposed MCU for Extractive Industry to ensure that a decision regarding the application is consistent with the purpose of the <i>Vegetation Management Act 1999</i> . NRandW requires Council (as the Assessment Manager) to include the 'conditions of development' in the Schedules of Approval as indicated in the Concurrence Agency Response, referenced IC0107 BEE0005 ESK8573.
6.2	The NRandW Agency response (conditions of approval) will be attached to Council's Decision Notice for DA5739.
SCHEDULE 7 – REFERRAL AGENCY DEPARTMENT OF INFRASTRUCTURE LOCAL GOVERNMENT AND PLANNING	
7.1	<p>The Department of Infrastructure Local Government and Planning, in its capacity as the State Assessment and Referral Agency, has considered the request and has agreed to partially accept the proposed changes to the development approval, but does not accept changes to the concurrence agency conditions 4.1 and 4.2. In order for the concurrence agency conditions 4.1 and 4.2 to be changed, a permissible change application must be made directly to the department under section 369 of the <i>Sustainable Planning Act 2009</i> as the responsible entity.</p> <p>Reference: SDA-0316-025778 dated 7 April 2016.</p>
SCHEDULE 8 – ADVISORY NOTES	
8.1	The Operator of Extractive Industry shall complete required documentation and arrange a pre-start meeting with Council's Technical Officer, Supervising Engineer prior to any works starting at the site.
8.2	The Operator of the Extractive Industry shall implement all relevant sediment and erosion control measures and temporary fencing as identified on the approved Drawings for this development. Initially, those measures, which are applicable prior to the commencement of the proposed development works, shall be implemented. Council's Technical Officer shall access the sediment and erosion control measures and temporary fencing implemented, and any alterations and/or supplementary works required shall be incorporated during the construction process. All sediment control devices and sediment collection points shall be regularly monitored, sediment removed as necessary and devices maintained responsibly during construction and maintenance period of the development works.
8.3	Construction work is to be carried out only between the hours of 7am to 6pm Monday to Saturday, with no work to be undertaken on Sundays or public holidays. Noise levels from construction work shall at all times comply with the requirements of the <i>Environmental Protection Act 1994</i> .

8.4	The <i>Sustainable Planning Act 2009</i> states that any change to the use or the scale or intensity of the approved use requires the submission of a new development application and subsequent development approval.
8.5	All building work is to comply with the provisions contained in the <i>Building Act</i> ; the Building Regulation, the Building Code of Australia, the Queensland Development Code and relevant Australian Standards.
8.6	Separate development approval is required for any building work and plumbing/drainage works necessitated by the conditions contained in this approval. <i>Carried</i> <i>Vote - Unanimous</i>

Subject:	Development Application No. 6120 Change Application to Development Approval – Minor Change under section 81 of the <i>Planning Act 2016</i>
File No:	DA6120
Assessment no:	02312-10000-000, 02352-50000-000
Action Officer:	SP-MW

1.0 APPLICATION SUMMARY

Subject Land

Location	Brisbane Valley Highway, Fernvale
Real Property Description	Lots 1, 3 and 4 RP884225 and Lots 20 and 22 SP203659
Area	43.47ha, 22.06ha, 57.19ha, 45.95ha, 19.68ha – Total 188.35ha

Former Esk Shire Planning Scheme 2005 (as amended)

Zone	Rural
Precinct	Arable Agricultural

ShapingSEQ

Land Use Category	Regional Landscape and Rural Production Area
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Application

Original Category of Assessment	Impact assessment
Original Date of Approval	16 June 2008
Applicants contact details	Diane Kerr and Associates 19 Frobisher Street SPRINGWOOD QLD 4127
Land Owner	Zanow Earthmovers No.5 Pty Ltd PO Box 9 FERNVALE QLD 4306 Noel Schmidt and Rivermead Pty Ltd PO Box 27 FERNVALE QLD 4306
Date application received	13 January 2022

State Agency Referrals

Concurrence	Department of State Development, Infrastructure, Local Government and Planning - State Assessment and Referral Agency
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Third Party Advice

Seqwater

RECOMMENDED DECISION

Approve the request to change the development approval for Development Application No. 6120 subject to the amended conditions and requirements contained in the Schedules.



**Locality plan Lots 1, 3 and 4 RP884225 and Lots 20 and 22 SP203659
Brisbane Valley Highway, Fernvale**

2.0 BACKGROUND TO APPROVAL

Zanow Sand and Gravel operate an extractive industry at Fernvale. This includes both the extraction and processing of materials on site, as well as the processing of materials from the operator's Coominya site. Requests to 'Change an Existing Approval' have already been made for all three of the existing Fernvale approvals as well as the Coominya approval.

Council granted a Negotiated Decision Notice for DA6120 dated 16 June 2008, for:

- A Development Permit for a Material Change of Use for Extractive Industry;
- A Development Permit for a Material Change of Use for the following Environmentally Relevant Activities:
 - ERA 20(c) - Extraction of rock or other materials from a quarry using plant or equipment having a design capacity of 100,000 tonnes or more a year (Level 1);
 - ERA 22(c) - Screening etc materials using plant or equipment having a design capacity of 100,000 tonnes or more a year (Level 1); and
- A Development Permit for Operational Works.

The approval is for the extraction of soil, sand, gravel and associated materials. The extraction operation involves the progressive and staged removal of topsoil and overburden, the extraction and processing of sand and gravel on-site. Both the Coominya and Fernvale operations have been undertaken and managed by Zanow Earthmovers.

A change application was approved on 27 May 2016 to reduce the bond or bank guarantee in condition 3.3 from \$150,000 to \$23,000.

3.0 REQUESTED CHANGE

The applicant on behalf of their client wishes to change the applications so that the bond listed in Condition 3.3 and 3.4 no longer applies.

Condition 3.3

3.3	Zanow Earthmovers Pty Ltd must provide to Council a bond or bank guarantee to the value of \$23,000 to secure the undertaking of rehabilitation works.	Prior to commencement of use.
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Condition 3.4

3.4	80% of the bond or bank guarantee will be returned on termination of extractive operations and completion of restoration of the site in accordance with Council approval. 20% of the bond or bank guarantee will be returned after the restoration of the site has been effectively and successfully maintained for a period of two (2) years.	On termination of extractive operations and completion of restoration of the site; Restoration is to be maintained for a period of 2-years.
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3.1 Applicant's Comments

The applicant provided the following comments as part of their change request.

"The applicable (updated) bank guarantee was provided to Council in June 2017.

It is requested that Council delete conditions 3.3 and 3.4, which require a bank guarantee to secure the rehabilitation works associated with the extractive industry operations, on the following grounds:

1. The rehabilitation works are conditioned on the State Government's Environmental Authority. This includes a condition that requires "*rehabilitation of disturbed areas must take place progressively as works are completed and new areas of extraction are commenced*". The State does not require financial assurances for extractive industry operations.

2. Hy-tec / Adelaide Brighton Ltd have provided a letter to the Chief Executive Officer of Somerset Regional Council, dated 7 December 2021 (refer to Attachment A). Extracts from this letter advise that *“Hy-Tec is a wholly owned subsidiary of Adbri Limited (Adbri). Adbri is listed on the ASX with market capitalisation of approximately \$1.88 billion (as at 10 December 2021). ... Adbri and Hy-Tec are each party to a Deed of Cross Guarantee (the Deed), under which each Company guarantees the debt of the other. This Deed is registered with ASIC and noted in the Annual Report for Adbri Limited.... Somerset Regional Council can be assured that Hy-Tec and its parent, Adbri, hold the necessary financial capacity to complete rehabilitation of the sites and there is no longer any need for the bank guarantees”*.
3. Hy-Tec are also purchasing the Zanow approved extractive industry at Rocky Gully Road / Banffs Lane, Coominya. This Somerset Regional Council approval (issued more recently in May 2020) does not require a bank guarantee as security for rehabilitation works
4. As advised in a letter from the Chief Executive Officer of Somerset Regional Council, dated 7 December 2021, Zanows may apply *“for a change of development approval to remove the requirement for bonds or bank guarantees to secure the requirement for rehabilitation given that the purchaser (Hy-tec/ Adelaide Brighton Ltd) is a listed company and that the total of the bank guarantee is not significant relative to the purchase value of the sites”*.

No other conditions of development will be affected by this change. In addition, this request will not result in any changes to the Referral Agency conditions of approval.

The removal of the condition requiring security for the rehabilitation works will not result in a “substantially different development” for the Extractive Industry approval.”

Schedule 1 of the *Development Assessment Rules* (‘DA Rules’ – Version 1.3) provides guidance on what constitutes ‘Substantially Different Development’ when determining whether a change to the development application or development approval is considered a minor change. To confirm the proposed minor change does not result in substantially different development, assessment against Schedule 1 of the DA Rules has been provided below.

A change may be considered to result in a ‘substantially different development’ if any of the following apply to the proposed change:

- (a) Involves a new use; or
Comment: No new use is being proposed as part of the proposed minor change application to the approved Extractive Industry.
- (b) Results in the application applying to a new parcel of land; or
Comment: The application applies to the same parcels of land.
- (c) Dramatically changes the built form in terms of scale, bulk and appearance; or
Comment: There is no change to the approved development. The approved quarry footprint does not change. As such, the built form in terms of scale, bulk and appearance does not change.
- (d) Changes the ability of the proposed development to operate as intended (For example, reducing the size of a retail complex may reduce the capacity of the complex to service the intended catchment); or

Comment: The rehabilitation works are conditioned under the State Government's Environmental Authority. This includes a condition that requires "rehabilitation of disturbed areas as works are completed and new areas of extraction are commenced". The State does not require financial assurances for extractive industry operations. The bank guarantee requirement is a Council imposed matter. It is an administrative security which, as justified under Section B, is not required to ensure that the necessary rehabilitation works will be undertaken by the new purchaser (Adbri).

- (e) Removes a component that is integral to the operation of the development; or
Comment: No component of the approved quarry, which is integral to its operation, is to be removed. There are no changes proposed to the quarry footprint. In addition, as mentioned above, progressive rehabilitation works are required under the Environmental Authority and security is no longer required (as justified under Section B).
- (f) Significantly impacts on traffic flow and the transport network, such as increasing traffic to the site; or
Comment: As there is no change to the approved quarry there will be no change to the impacts on the traffic flows and transport networks.
- (g) Introduces new impacts or increase the severity of known impacts; or
Comment: As there is no change to the approved quarry there will be no new impacts or increased severity of known impacts.
- (h) Removes an incentive or offset component that would have balanced a negative impact of the development; or
Comment: The proposed change does not remove any incentives or offset components for the existing development approval. As mentioned above, the Council requirement for securities for rehabilitation works is an administrative security which, as justified under Section B, is not required to ensure that the necessary rehabilitation works will be undertaken by the new purchaser.
- (i) Impacts on infrastructure provisions.
Comment: The proposed amendment does not impact on the provision, location or demand of infrastructure.

The original development application was assessed against the relevant local planning instrument at the time, being the Esk Shire (IPA) Planning Scheme, which is now superseded. The Somerset Region Planning Scheme (Version 4) is the relevant local planning instrument for the site.

It is submitted that the proposed change does not need to be re-assessed against the current Planning Scheme to ensure the approved operations remain compliant with the relevant Council provisions. This is on the basis that the required security (i.e. bank guarantee) for rehabilitation works is an administrative requirement by Council. It is not a requirement under the planning scheme and/or associated assessment benchmarks.

3.2 Officer's Comments

Section 66 of the *Planning Act 2016* references prohibited development conditions.

The applicant has not specifically referenced the provisions of the *Planning Act 2016*, however in point 1 and point e above, the applicant has referenced the State's role in managing rehabilitation of the site through the Environmental Authority, and that Council's condition as a result is in effect unnecessary.

A review of the Environmental Authority EPPR00528213 for this development (and the other Zanows extractive industry sites) include the following conditions with respect to rehabilitation.

Condition number	Condition								
L1	Rehabilitation of disturbed areas required under Schedule 1 Condition L1, must take place progressively as works are completed and new areas of extraction are commenced.								
L2	Treatment and management of acid sulfate soils must comply with the current edition of the <i>Queensland Acid Sulfate Soil Technical Manual</i> .								
L3	Rehabilitation of Lot 1 on Plan RP884225 must be completed in accordance with the “ <i>Rehabilitation Plan</i> ” contained in Section 7.0 of document described as the <i>Environmental Management Plan (EMP)</i> contained in Appendix C of a document described as <i>Assessment Report in support of a Development Application for Extractive Industry and Environmentally Relevant Activities, Lot 1 Brisbane Valley Highway, Fernvale, dated April 2007</i> to the satisfaction of the administering authority.								
L4	Rehabilitation of Lot 227 Plan CA31637 and Lot 228 CA31637 must be completed in accordance with the “ <i>Rehabilitation Plan</i> ” contained in Section 7.0 of document described as the “ <i>Environmental Management Plan – Extractive Industry – Coominya Connection Road, Coominya, dated November 2006</i> ” to the satisfaction of the administering authority.								
L5	<p>Each site (including all disturbed areas such as slopes, borrow pits, stockpile and screening areas) must be rehabilitated to a stable landform and in accordance with the plans listed in <i>Table 3 – Rehabilitation Plans</i>.</p> <p>Table 3 – Rehabilitation Plans</p> <table> <tr> <th>Site</th><th>Relevant Drawings</th></tr> <tr> <td>Lot 1 on Plan RP884225</td><td> <ul style="list-style-type: none"> 07001.SK.10 Issue B entitled “Operational Extraction Plan for Lot 1 and 3”, dated 01.02.2015; 07001.SK.07 Issue A entitled “Cross Sections of Rehabilitated Site, Lot 1 Brisbane Valley Highway, Fernvale” dated 16.04.2007; 07001.SK.08 Issue A entitled “Cross Section of Rehabilitated Site, Lot 1 Brisbane Valley Highway, Fernvale” dated 15.11.2006; 07001.SK.09 Issue A entitled “Post Extraction Rehabilitation Plan, Lot 1 Brisbane Valley Highway, Fernvale” dated 09.09.2007. </td></tr> <tr> <td>Lot 3 on Plan RP884225</td><td> <ul style="list-style-type: none"> 07001.SK.10 Issue B entitled “Operational Extraction Plan for Lot 1 and 3”, dated 01.02.2015; 07001.SK.07 Issue A entitled “Cross Sections of Rehabilitated Site, Lot 3 Brisbane Valley Highway, Fernvale” dated 16.04.2007; 07003.SK.04 Issue A entitled “Post Extraction Rehabilitation Plan, Lot 3 Brisbane Valley Highway, Fernvale” dated 16.04.2007. </td></tr> <tr> <td>Lot 227 Plan CA31637, and Lot 228 Plan CA31637</td><td> <ul style="list-style-type: none"> 05648.SK.02 Issue E entitled “Progressive Staging Plan, Coominya Connection Rd, Coominya” dated 01.08.2015; 05648.SK.03 Issue E entitled “Post Extraction Rehabilitation Plan, Coominya Connection Rd, Coominya dated 31.08.2007; </td></tr> </table>	Site	Relevant Drawings	Lot 1 on Plan RP884225	<ul style="list-style-type: none"> 07001.SK.10 Issue B entitled “Operational Extraction Plan for Lot 1 and 3”, dated 01.02.2015; 07001.SK.07 Issue A entitled “Cross Sections of Rehabilitated Site, Lot 1 Brisbane Valley Highway, Fernvale” dated 16.04.2007; 07001.SK.08 Issue A entitled “Cross Section of Rehabilitated Site, Lot 1 Brisbane Valley Highway, Fernvale” dated 15.11.2006; 07001.SK.09 Issue A entitled “Post Extraction Rehabilitation Plan, Lot 1 Brisbane Valley Highway, Fernvale” dated 09.09.2007. 	Lot 3 on Plan RP884225	<ul style="list-style-type: none"> 07001.SK.10 Issue B entitled “Operational Extraction Plan for Lot 1 and 3”, dated 01.02.2015; 07001.SK.07 Issue A entitled “Cross Sections of Rehabilitated Site, Lot 3 Brisbane Valley Highway, Fernvale” dated 16.04.2007; 07003.SK.04 Issue A entitled “Post Extraction Rehabilitation Plan, Lot 3 Brisbane Valley Highway, Fernvale” dated 16.04.2007. 	Lot 227 Plan CA31637, and Lot 228 Plan CA31637	<ul style="list-style-type: none"> 05648.SK.02 Issue E entitled “Progressive Staging Plan, Coominya Connection Rd, Coominya” dated 01.08.2015; 05648.SK.03 Issue E entitled “Post Extraction Rehabilitation Plan, Coominya Connection Rd, Coominya dated 31.08.2007;
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		<ul style="list-style-type: none"> • 05648.SK.04 Issue B entitled :Cross Section of Rehabilitated Site, Coominya Connection Rd, Coominya dated 10.10.2006; • 05648.SK.05 Issue B entitled :Cross Section of Rehabilitated Site, Coominya Connection Rd, Coominya dated 10.10.2006; • 05648.SK.06 Issue B entitled :Cross Section of Rehabilitated Site, Coominya Connection Rd, Coominya dated 10.10.2006;
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It is therefore considered conditions 3.3 and 3.4 should be deleted.

4.0 PLANNING CONSIDERATIONS

The applicant has made a Change Application in accordance with s78 and s79 of the *Planning Act 2016*.

It is considered the proposed development satisfies with the requirements and represents a minor change that can be assessed under the provisions of s81 of the *Planning Act 2016*.

5.0 OTHER PLANNING CONSIDERATIONS

5.1 Referral Agencies

In accordance with section 80 of the *Planning Act 2016*, the State Assessment and Referral Agency is not considered an affected entity of the minor change, and as such no comments or conditions have been sought from the Department of State Development, Infrastructure, Local Government and Planning. The Department will, however, be provided with a copy of the Decision Notice.

5.2 Public awareness of the proposed development

Should the application be submitted with the proposed design, the Category of Assessment would remain as impact assessment, requiring public notification.

The proposed change has no implication upon the operation of the extractive industry with respect to impact upon the public. The application was originally approved in 2007 and has been operational for almost 15 years.

Council received no submissions when the development was originally publicly notified.

The use has commenced, and the proposed change has no material impact upon the operation of the use. The change only relates to a financial transaction between Council and the operator.

6.0 CONCLUSION

The proposed minor change will facilitate the ongoing operation of the existing extractive industry, noting the change only involves a bond.

7.0 ATTACHMENT

- Extraction Area and Internal Haul Routes Drawing Number 07003.SK.02 Issue A, dated 16.04.2007;
- Amended Operational Extraction Plan Lots 1 and 3 Drawing Number 07001.SK.10 Issue B, dated 01.02.2015 prepared by David Brett and Associates Pty Ltd;

RECOMMENDED DECISION

That Council approves the Change Application under section 81 of the *Planning Act 2016* for DA6120 for a Development Permit for Extractive industry on land described as Lots 1, 3 and 4 RP884225 and Lots 20 and 22 SP2036590, situated at Brisbane Valley Highway, Fernvale subject to the conditions contained in the Schedules and Attachments.

SCHEDULES

SCHEDULE 1 – Planning <i>Assessment Manager</i>		
No	Condition	Timing
1.1	<p>Carry out the development in accordance with the material contained in the development application, supporting documentation and the plans listed below, except where amended by these conditions of approval:</p> <ul style="list-style-type: none"> ○ Extraction Area and Internal Haul Routes Drawing Number 07003.SK.02 Issue A, dated 16.04.2007; ○ Post Extraction Rehabilitation Plan Drawing Number 07003.SK.04 Issue A, dated 16.04.2007; ○ Visual Impact Analysis Drawing Number 07003.SK.05 Issue A, dated 16.04.2007; ○ Visual Bund Cross Sections Drawing Number 07003.SK.06 Issue A, dated 16.04.2007; ○ Cross Section of Rehabilitated Site Drawing Number 07003.SK.07 Issue A, dated 16.04.2007; ○ Amended Operational Extraction Plan Lots 1 and 3 Drawing Number 07001.SK.10 Issue B, dated 01.02.2015 prepared by David Brett and Associates Pty Ltd; ○ <i>Environmental Management Plan</i>, dated April 2007; ○ <i>Addendum to Environmental Management Plan</i> (Stormwater and Groundwater Quality Management Plan), dated February 2008, prepared by D Zanow in consultation with AK and DM Carr and Associates Pty Ltd; ○ <i>Addendum to Environmental Management Plan</i> (Groundwater Management Monitoring), dated 28 February 2008, prepared by A Carr; ○ <i>Vegetation Management, Water Quality, Flora and Fauna in Quarry Establishment and Rehabilitation Environmental Management Plan</i>, dated 14 February 2008, prepared by D E Baker (Environmental Soil Solutions Australia Pty Ltd); ○ <i>Noise Assessment Report No 1090-1</i>, dated 31 August 2007, prepared by Noise Measurement Services Pty Ltd; ○ <i>Flooding and Groundwater Impact Assessment</i>, Issue Final Rev 0, dated 20 April 2007, prepared by Sinclair Knight Merz (SKM); ○ <i>Resource Assessment</i>, dated March 2006; ○ <i>Impact of a Quarry on Good Quality Agricultural Land at Fernvale</i>, dated February 2008, prepared by D E Baker 	At all times

	<ul style="list-style-type: none"> ○ The <i>Department of Main Roads Concurrence Agency Response and Conditions of Approval</i> indicated on the attached Statement of Reasons referenced as E49634 830/247 P66686 Tr3691, dated 20 June 2007. 	
1.2	Comply with the relevant provisions of the Esk Shire Planning Scheme 2005, Planning Scheme Policies and Local Laws.	At all times
1.3	A legible copy of this development approval package is to be made available on the premises.	At all times
1.4	Pay to Council any outstanding rates, charges or expenses levied by Council over the subject land.	Prior to commencement of use
1.5	<p>Unless otherwise approved by Council in writing, the 'Hours of Operation' for the Extractive Industry operations shall be: 6am to 6pm Monday to Friday; 6am to 3pm Saturday, with no work on Sundays or Public Holidays.</p> <p>Extractive Industry operations must not occur on the premises outside the above hours.</p>	At all times
1.6	Provide one (1) on-site vehicular parking space for employees in accordance with Council's Planning Scheme Policy No: 3 – <i>Standards for Provision and Construction of Parking Areas</i> .	Prior to commencement of use
1.7	The vehicular parking area is to be constructed and maintained to all weather standards.	At all times
1.8	The demountable Staff Amenities Building is to be made available for employees.	At all times
1.9	Provide onsite direction-signage for vehicles entering the site and accessing the Site Office and Amenities Building.	Prior to commencement of use
1.10	Approval of any proposed Building Works will be required under the <i>Building Act</i> ; the Building Regulation, the Building Code of Australia, the Queensland Development Code and relevant Australian Standards.	Prior to commencement of building works
1.11	Security and flood lighting shall be designed, constructed, installed and maintained in accordance with Australian Standard AS4282-1997 (Control of the obtrusive effects of outdoor lighting) and so as not to cause nuisance to the occupants of nearby properties.	Prior to commencement of use
1.12	Base line water quality data for the site, overland flows, the Brisbane River and groundwater, is to be established prior to the proposed works commencing on site. A brief annual report detailing the results and findings from the surface	At the end of each financial year

	water and groundwater monitoring program is to be compiled together with a summary of groundwater related site activities for the life of the extractive industry operations.	
SCHEDULE 2 – Environmental <i>Assessment Manager</i>		
2.1	The approved use shall not cause any adverse impact on the amenity of the neighbourhood by reason of the emission of noise, vibration, glare, fumes, smoke, dust, waste water, waste products or otherwise.	At all times
2.2	That all infill material (excluding any material sourced from the Fernvale extractive industry site) be tested at a rate of one test per 5,000m ² (or other agreed quantity) of imported fill to ensure that the material is of a consistent and acceptable standard.	At all times
SCHEDULE 3 – ENGINEERING <i>Assessment Manager</i>		
	Repairs	
3.1	Repair any damage to Council infrastructure that occurs during any works carried out in association with the approved development.	At all times
	Dust	
3.2	The 'Operator of the Extractive Industry' shall be responsible for protecting nearby property owners from dust pollution arising from the construction and ongoing maintenance of the development and shall comply with any lawful instruction from Council, if in Council's opinion a dust nuisance exists.	At all times
	Rehabilitation Works	
3.3	Zanow Earthmovers Pty Ltd must provide to Council a bond or bank guarantee to the value of \$23,000 to secure the undertaking of rehabilitation works.	Prior to commencement of the use
3.4	80% of the bond or bank guarantee will be returned on termination of extractive operations and completion of restoration of the site in accordance with Council approval. 20% of the bond or bank guarantee will be returned after the restoration of the site has been effectively and successfully maintained for a period of two (2) years.	On termination of extractive operations and completion of restoration of the site; Restoration is to be maintained for a period of 2 years.
SCHEDULE 4 – REFERRAL AGENCY DEPARTMENT OF MAIN ROADS <i>Concurrence Agency Status</i> <i>Agency Response: Recommend Conditions Apply</i>		
4.1	The Department of Main Roads is a concurrence agency under the <i>Integrated Planning Regulation 1998</i> for the purposes of the <i>Transport Infrastructure Act 1994</i> . The DMR has assessed the impact of the proposed development on the State-controlled road network and requires Council to include the 'conditions of	

	development' in the Schedules of Approval as indicated on the attached Statement of Reasons. Reference: E49634 830/247 P66686 Tr3691, dated 20 June 2007.
4.2	The Department of Main Roads Agency Response (Conditions and Statement of Reasons) will be attached to Council's Decision Notice for DA6120.
SCHEDULE 5 – REFERRAL AGENCY DEPARTMENT OF INFRASTRUCTURE LOCAL GOVERNMENT AND PLANNING	
5.1	The Department of Infrastructure Local Government and Planning, in its capacity as the State Assessment and Referral Agency, has considered the request and advises that it offers no objection to the proposed changes to the development approval. Reference: SDA-0815-020112 dated 2 September 2015.
SCHEDULE 6 – ADVISORY NOTES	
6.1	The Operator of Extractive Industry shall complete required documentation and arrange a pre-start meeting with Council's Technical Officer, Supervising Engineer prior to any works starting at the site.
6.2	The Operator of the Extractive Industry shall implement all relevant sediment and erosion control measures and temporary fencing as identified on the approved Drawings for this development. Initially, those measures, which are applicable prior to the commencement of the proposed development works, shall be implemented. Council's Technical Officer shall access the sediment and erosion control measures and temporary fencing implemented, and any alterations and/or supplementary works required shall be incorporated during the construction process. All sediment control devices and sediment collection points shall be regularly monitored, sediment removed as necessary and devices maintained responsibly during construction and maintenance period of the development works.
6.3	Construction work is to be carried out only between the hours of 7am to 6pm Monday to Saturday, with no work to be undertaken on Sundays or public holidays. Noise levels from construction work shall at all times comply with the requirements of the <i>Environmental Protection Act 1994</i> .
6.4	The <i>Sustainable Planning Act 2009</i> states that any change to the use or the scale or intensity of the approved use requires the submission of a new development application and subsequent development approval.
6.5	All building work is to comply with the provisions contained in the <i>Building Act</i> ; the Building Regulation, the Building Code of Australia, the Queensland Development Code and relevant Australian Standards.
6.6	Separate development approval is required for any building work and plumbing/drainage works necessitated by the conditions contained in this approval.
6.7	The development is to be conducted in accordance with the amended Department Environment Heritage Protection Environmental Authority Permit EPPR00528213 dated 29 February 2016.

A copy of the decision will be sent to the State Assessment and Referral Agency.

Resolution

Moved – Cr Choat

Seconded – Cr Wendt

“THAT Council approves the Change Application under section 81 of the *Planning Act 2016* for DA6120 for a Development Permit for Extractive industry on land described as Lots 1, 3 and 4 RP884225 and Lots 20 and 22 SP2036590, situated at Brisbane Valley Highway, Fernvale subject to the conditions contained in the Schedules and Attachments.

SCHEDULES

SCHEDULE 1 – Planning		
<i>Assessment Manager</i>		
No	Condition	Timing
1.1	<p>Carry out the development in accordance with the material contained in the development application, supporting documentation and the plans listed below, except where amended by these conditions of approval:</p> <ul style="list-style-type: none"> ○ Extraction Area and Internal Haul Routes Drawing Number 07003.SK.02 Issue A, dated 16.04.2007; ○ Post Extraction Rehabilitation Plan Drawing Number 07003.SK.04 Issue A, dated 16.04.2007; ○ Visual Impact Analysis Drawing Number 07003.SK.05 Issue A, dated 16.04.2007; ○ Visual Bund Cross Sections Drawing Number 07003.SK.06 Issue A, dated 16.04.2007; ○ Cross Section of Rehabilitated Site Drawing Number 07003.SK.07 Issue A, dated 16.04.2007; ○ Amended Operational Extraction Plan Lots 1 and 3 Drawing Number 07001.SK.10 Issue B, dated 01.02.2015 prepared by David Brett and Associates Pty Ltd; ○ <i>Environmental Management Plan</i>, dated April 2007; ○ <i>Addendum to Environmental Management Plan</i> (Stormwater and Groundwater Quality Management Plan), dated February 2008, prepared by D Zanow in consultation with AK and DM Carr and Associates Pty Ltd; ○ Addendum to Environmental Management Plan (Groundwater Management Monitoring), dated 28 February 2008, prepared by A Carr; ○ Vegetation Management, Water Quality, Flora and Fauna in Quarry Establishment and Rehabilitation Environmental Management Plan, dated 14 February 2008, prepared by D E Baker (Environmental Soil Solutions Australia Pty Ltd); ○ <i>Noise Assessment Report No 1090-1</i>, dated 31 August 2007, prepared by Noise Measurement Services Pty Ltd; ○ <i>Flooding and Groundwater Impact Assessment</i>, Issue Final Rev 0, dated 20 April 2007, prepared by Sinclair Knight Merz (SKM); ○ <i>Resource Assessment</i>, dated March 2006; ○ Impact of a Quarry on Good Quality Agricultural Land at Fernvale, dated February 2008, prepared by D E Baker 	At all times

	<ul style="list-style-type: none"> ○ The <i>Department of Main Roads Concurrence Agency Response and Conditions of Approval</i> indicated on the attached Statement of Reasons referenced as E49634 830/247 P66686 Tr3691, dated 20 June 2007. 	
1.2	Comply with the relevant provisions of the Esk Shire Planning Scheme 2005, Planning Scheme Policies and Local Laws.	At all times
1.3	A legible copy of this development approval package is to be made available on the premises.	At all times
1.4	Pay to Council any outstanding rates, charges or expenses levied by Council over the subject land.	Prior to commencement of use
1.5	<p>Unless otherwise approved by Council in writing, the 'Hours of Operation' for the Extractive Industry operations shall be: 6am to 6pm Monday to Friday; 6am to 3pm Saturday, with no work on Sundays or Public Holidays.</p> <p>Extractive Industry operations must not occur on the premises outside the above hours.</p>	At all times
1.6	Provide one (1) on-site vehicular parking space for employees in accordance with Council's Planning Scheme Policy No: 3 – <i>Standards for Provision and Construction of Parking Areas</i> .	Prior to commencement of use
1.7	The vehicular parking area is to be constructed and maintained to all weather standards.	At all times
1.8	The demountable Staff Amenities Building is to be made available for employees.	At all times
1.9	Provide onsite direction-signage for vehicles entering the site and accessing the Site Office and Amenities Building.	Prior to commencement of use
1.10	Approval of any proposed Building Works will be required under the <i>Building Act</i> ; the Building Regulation, the Building Code of Australia, the Queensland Development Code and relevant Australian Standards.	Prior to commencement of building works
1.11	Security and flood lighting shall be designed, constructed, installed and maintained in accordance with Australian Standard AS4282-1997 (Control of the obtrusive effects of outdoor lighting) and so as not to cause nuisance to the occupants of nearby properties.	Prior to commencement of use
1.12	Base line water quality data for the site, overland flows, the Brisbane River and groundwater, is to be established prior to the proposed works commencing on site. A brief annual report detailing the results and findings from the surface	At the end of each financial year

	water and groundwater monitoring program is to be compiled together with a summary of groundwater related site activities for the life of the extractive industry operations.	
SCHEDULE 2 – Environmental <i>Assessment Manager</i>		
2.1	The approved use shall not cause any adverse impact on the amenity of the neighbourhood by reason of the emission of noise, vibration, glare, fumes, smoke, dust, waste water, waste products or otherwise.	At all times
2.2	That all infill material (excluding any material sourced from the Fernvale extractive industry site) be tested at a rate of one test per 5,000m ² (or other agreed quantity) of imported fill to ensure that the material is of a consistent and acceptable standard.	At all times
SCHEDULE 3 – ENGINEERING <i>Assessment Manager</i>		
	Repairs	
3.1	Repair any damage to Council infrastructure that occurs during any works carried out in association with the approved development.	At all times
	Dust	
3.2	The 'Operator of the Extractive Industry' shall be responsible for protecting nearby property owners from dust pollution arising from the construction and ongoing maintenance of the development and shall comply with any lawful instruction from Council, if in Council's opinion a dust nuisance exists.	At all times
	Rehabilitation Works	
3.3	Zanow Earthmovers Pty Ltd must provide to Council a bond or bank guarantee to the value of \$23,000 to secure the undertaking of rehabilitation works.	Prior to commencement of the use
3.4	80% of the bond or bank guarantee will be returned on termination of extractive operations and completion of restoration of the site in accordance with Council approval. 20% of the bond or bank guarantee will be returned after the restoration of the site has been effectively and successfully maintained for a period of two (2) years.	On termination of extractive operations and completion of restoration of the site; Restoration is to be maintained for a period of 2 years.
SCHEDULE 4 – REFERRAL AGENCY DEPARTMENT OF MAIN ROADS <i>Concurrence Agency Status</i> <i>Agency Response: Recommend Conditions Apply</i>		
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	development' in the Schedules of Approval as indicated on the attached Statement of Reasons. Reference: E49634 830/247 P66686 Tr3691, dated 20 June 2007.
4.2	The Department of Main Roads Agency Response (Conditions and Statement of Reasons) will be attached to Council's Decision Notice for DA6120.
SCHEDULE 5 – REFERRAL AGENCY DEPARTMENT OF INFRASTRUCTURE LOCAL GOVERNMENT AND PLANNING	
5.1	The Department of Infrastructure Local Government and Planning, in its capacity as the State Assessment and Referral Agency, has considered the request and advises that it offers no objection to the proposed changes to the development approval. Reference: SDA-0815-020112 dated 2 September 2015.
SCHEDULE 6 – ADVISORY NOTES	
6.1	The Operator of Extractive Industry shall complete required documentation and arrange a pre-start meeting with Council's Technical Officer, Supervising Engineer prior to any works starting at the site.
6.2	The Operator of the Extractive Industry shall implement all relevant sediment and erosion control measures and temporary fencing as identified on the approved Drawings for this development. Initially, those measures, which are applicable prior to the commencement of the proposed development works, shall be implemented. Council's Technical Officer shall access the sediment and erosion control measures and temporary fencing implemented, and any alterations and/or supplementary works required shall be incorporated during the construction process. All sediment control devices and sediment collection points shall be regularly monitored, sediment removed as necessary and devices maintained responsibly during construction and maintenance period of the development works.
6.3	Construction work is to be carried out only between the hours of 7am to 6pm Monday to Saturday, with no work to be undertaken on Sundays or public holidays. Noise levels from construction work shall at all times comply with the requirements of the <i>Environmental Protection Act 1994</i> .
6.4	The <i>Sustainable Planning Act 2009</i> states that any change to the use or the scale or intensity of the approved use requires the submission of a new development application and subsequent development approval.
6.5	All building work is to comply with the provisions contained in the <i>Building Act</i> ; the Building Regulation, the Building Code of Australia, the Queensland Development Code and relevant Australian Standards.
6.6	Separate development approval is required for any building work and plumbing/drainage works necessitated by the conditions contained in this approval.
6.7	The development is to be conducted in accordance with the amended Department Environment Heritage Protection Environmental Authority Permit EPPR00528213 dated 29 February 2016.”
	<i>Carried</i> <i>Vote - Unanimous</i>

Subject: Development Application No. 6121

Change Application to Development Approval – Minor Change under section 81 of the <i>Planning Act 2016</i>	
File No:	DA6121
Assessment No:	02312-10000-000, 02352-50000-000
Action Officer:	SP-MW

1.0 APPLICATION SUMMARY

Subject Land

Location	Brisbane Valley Highway, Fernvale
Real Property Description	Lots 1, 3 and 4 RP884225 and Lots 20 and 22 SP203659
Area	43.47ha, 22.06ha, 57.19ha, 45.95ha, 19.68ha – Total 188.35ha

Former Esk Shire Planning Scheme 2005 (as amended)

Zone	Rural
Precinct	Arable Agricultural

ShapingSEQ

Land Use Category	Regional Landscape and Rural Production Area
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Application

Original Category of Assessment	Impact assessment
Original Date of Approval	16 June 2008
Applicants contact details	Diane Kerr and Associates 19 Frobisher Street SPRINGWOOD QLD 4127
Land Owner	Zanow Earthmovers No.5 Pty Ltd PO Box 9 FERNVALE QLD 4306 Noel Schmidt and Rivermead Pty Ltd PO Box 27 FERNVALE QLD 4306
Date application received	13 January 2022

State Agency Referrals

Concurrence	Department of State Development, Infrastructure, Local Government and Planning - State Assessment and Referral Agency
Third Party Advice	Seqwater

RECOMMENDED DECISION

Approve the request to change the development approval for Development Application No. 6121 subject to the amended conditions and requirements contained in the Schedules.



**Locality plan Lots 1, 3 and 4 RP884225 and Lots 20 and 22 SP203659
Brisbane Valley Highway, Fernvale**

2.0 BACKGROUND TO APPROVAL

Zanow Sand and Gravel operate an extractive industry at Fernvale. This includes both the extraction and processing of materials on site, as well as the processing of materials from the operator's Coominya site. Requests to 'Change an Existing Approval' have already been made for all three of the existing Fernvale approvals as well as the Coominya approval.

Council granted a Negotiated Decision Notice for DA6121 dated 16 June 2008, for:

- A Development Permit for a Material Change of Use for Extractive Industry;
- A Development Permit for a Material Change of Use for the following Environmentally Relevant Activities:
 - ERA 20(c) - Extraction of rock or other materials from a quarry using plant or equipment having a design capacity of 100,000 tonnes or more a year (Level 1);
 - ERA 22(c) - Screening etc materials using plant or equipment having a design capacity of 100,000 tonnes or more a year (Level 1); and
- A Development Permit for Operational Works.

The approval is for the extraction of soil, sand, gravel and associated materials. The extraction operation involves the progressive and staged removal of topsoil and overburden, the extraction and processing of sand and gravel on-site. Both the Coominya and Fernvale operations have been undertaken and managed by Zanow Earthmovers.

A change application was approved on 27 May 2016 to reduce the bond or bank guarantee in condition 3.3 from \$250,000 to \$131,000.

3.0 REQUESTED CHANGE

The applicant on behalf of their client wishes to change the applications so that the bond listed in Condition 3.3 and 3.4 no longer applies.

Condition 3.3

3.3	Zanow Earthmovers Pty Ltd must provide to Council a bond or bank guarantee to the value of \$131,000 to secure the undertaking of rehabilitation works.	Prior to commencement of use.
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Condition 3.4

3.4	80% of the bond or bank guarantee will be returned on termination of extractive operations and completion of restoration of the site in accordance with Council approval. 20% of the bond or bank guarantee will be returned after the restoration of the site has been effectively and successfully maintained for a period of two (2) years.	On termination of extractive operations and completion of restoration of the site; Restoration is to be maintained for a period of 2-years.
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3.1 Applicant's Comments

The applicant provided the following comments as part of their change request.

"The applicable (updated) bank guarantee was provided to Council in June 2017.

It is requested that Council delete conditions 3.3 and 3.4, which require a bank guarantee to secure the rehabilitation works associated with the extractive industry operations, on the following grounds:

1. The rehabilitation works are conditioned on the State Government's Environmental Authority. This includes a condition that requires *"rehabilitation of disturbed areas must take place progressively as works are completed and new areas of extraction are commenced"*. The State does not require financial assurances for extractive industry operations.
2. Hy-tec / Adelaide Brighton Ltd have provided a letter to the Chief Executive Officer of Somerset Regional Council, dated 7 December 2021 (refer to Attachment A). Extracts from this letter advise that *"Hy-Tec is a wholly owned subsidiary of Adbri Limited (Adbri). Adbri is listed on the ASX with market capitalisation of approximately \$1.88 billion (as at 10 December 2021). ... Adbri and Hy-Tec are each party to a Deed of Cross Guarantee (the Deed), under which each Company guarantees the debt of the other. This Deed is registered with ASIC and noted in the Annual Report for Adbri Limited.... Somerset Regional Council can be assured that Hy-Tec and its parent, Adbri, hold the necessary financial capacity to complete rehabilitation of the sites and there is no longer any need for the bank guarantees"*.
3. Hy-Tec are also purchasing the Zanow approved extractive industry at Rocky Gully Road / Banffs Lane, Coominya. This Somerset Regional Council approval (issued more recently in May 2020) does not require a bank guarantee as security for rehabilitation works.

4. As advised in a letter from the Chief Executive Officer of Somerset Regional Council, dated 7 December 2021, Zanows may apply *“for a change of development approval to remove the requirement for bonds or bank guarantees to secure the requirement for rehabilitation given that the purchaser (Hy-tec/ Adelaide Brighton Ltd) is a listed company and that the total of the bank guarantee is not significant relative to the purchase value of the sites”*.

No other conditions of development will be affected by this change. In addition, this request will not result in any changes to the Referral Agency conditions of approval.

The removal of the condition requiring security for the rehabilitation works will not result in a “substantially different development” for the Extractive Industry approval.”

Schedule 1 of the *Development Assessment Rules* (‘DA Rules’ – Version 1.3) provides guidance on what constitutes ‘Substantially Different Development’ when determining whether a change to the development application or development approval is considered a minor change. To confirm the proposed minor change does not result in substantially different development, assessment against Schedule 1 of the DA Rules has been provided below.

A change may be considered to result in a ‘substantially different development’ if any of the following apply to the proposed change:

- (a) Involves a new use; or
Comment: No new use is being proposed as part of the proposed minor change application to the approved Extractive Industry.
- (b) Results in the application applying to a new parcel of land; or
Comment: The application applies to the same parcels of land.
- (c) Dramatically changes the built form in terms of scale, bulk and appearance; or
Comment: There is no change to the approved development. The approved quarry footprint does not change. As such, the built form in terms of scale, bulk and appearance does not change.
- (d) Changes the ability of the proposed development to operate as intended (For example, reducing the size of a retail complex may reduce the capacity of the complex to service the intended catchment); or
Comment: The rehabilitation works are conditioned under the State Government’s Environmental Authority. This includes a condition that requires “rehabilitation of disturbed areas as works are completed and new areas of extraction are commenced”. The State does not require financial assurances for extractive industry operations. The bank guarantee requirement is a Council imposed matter. It is an administrative security which, as justified under Section B, is not required to ensure that the necessary rehabilitation works will be undertaken by the new purchaser (Adbri).
- (e) Removes a component that is integral to the operation of the development; or
Comment: No component of the approved quarry, which is integral to its operation, is to be removed. There are no changes proposed to the quarry footprint. In addition, as mentioned above, progressive rehabilitation works are required under the Environmental Authority and security is no longer required (as justified under Section B).
- (f) Significantly impacts on traffic flow and the transport network, such as increasing traffic to the site; or
Comment: As there is no change to the approved quarry there will be no change to the impacts on the traffic flows and transport networks.
- (g) Introduces new impacts or increase the severity of known impacts; or

Comment: As there is no change to the approved quarry there will be no new impacts or increased severity of known impacts.

- (h) Removes an incentive or offset component that would have balanced a negative impact of the development; or
Comment: The proposed change does not remove any incentives or offset components for the existing development approval. As mentioned above, the Council requirement for securities for rehabilitation works is an administrative security which, as justified under Section B, is not required to ensure that the necessary rehabilitation works will be undertaken by the new purchaser.
- (i) Impacts on infrastructure provisions.
Comment: The proposed amendment does not impact on the provision, location or demand of infrastructure.

The original development application was assessed against the relevant local planning instrument at the time, being the Esk Shire (IPA) Planning Scheme, which is now superseded. The Somerset Region Planning Scheme (Version 4) is the relevant local planning instrument for the site.

It is submitted that the proposed change does not need to be re-assessed against the current Planning Scheme to ensure the approved operations remain compliant with the relevant Council provisions. This is on the basis that the required security (i.e. bank guarantee) for rehabilitation works is an administrative requirement by Council. It is not a requirement under the planning scheme and/or associated assessment benchmarks.

3.2 Officer's Comments

Section 66 of the *Planning Act 2016* references prohibited development conditions.

The applicant has not specifically referenced the provisions of the *Planning Act 2016*, however in point 1 and point e above, the applicant has referenced the State's role in managing rehabilitation of the site through the Environmental Authority, and that Council's condition as a result is in effect unnecessary.

A review of the Environmental Authority EPPR00528213 for this development (and the other Zanows extractive industry sites) include the following conditions with respect to rehabilitation.

Condition number	Condition
L1	Rehabilitation of disturbed areas required under Schedule 1 Condition L1, must take place progressively as works are completed and new areas of extraction are commenced.
L2	Treatment and management of acid sulfate soils must comply with the current edition of the <i>Queensland Acid Sulfate Soil Technical Manual</i> .
L3	Rehabilitation of Lot 1 on Plan RP884225 must be completed in accordance with the "Rehabilitation Plan" contained in Section 7.0 of document described as the <i>Environmental Management Plan (EMP)</i> contained in Appendix C of a document described as <i>Assessment Report in support of a Development Application for Extractive Industry and Environmentally Relevant Activities, Lot 1 Brisbane Valley Highway, Fernvale, dated April 2007</i> to the satisfaction of the administering authority.

L4	Rehabilitation of Lot 227 Plan CA31637 and Lot 228 CA31637 must be completed in accordance with the “ <i>Rehabilitation Plan</i> ” contained in Section 7.0 of document described as the “ <i>Environmental Management Plan – Extractive Industry – Coominya Connection Road, Coominya, dated November 2006</i> ” to the satisfaction of the administering authority.								
L5	<p>Each site (including all disturbed areas such as slopes, borrow pits, stockpile and screening areas) must be rehabilitated to a stable landform and in accordance with the plans listed in <i>Table 3 – Rehabilitation Plans</i>.</p> <p>Table 3 – Rehabilitation Plans</p> <table> <tr> <th>Site</th><th>Relevant Drawings</th></tr> <tr> <td>Lot 1 on Plan RP884225</td><td> <ul style="list-style-type: none"> • 07001.SK.10 Issue B entitled “Operational Extraction Plan for Lot 1 and 3”, dated 01.02.2015; • 07001.SK.07 Issue A entitled “Cross Sections of Rehabilitated Site, Lot 1 Brisbane Valley Highway, Fernvale” dated 16.04.2007; • 07001.SK.08 Issue A entitled “Cross Section of Rehabilitated Site, Lot 1 Brisbane Valley Highway, Fernvale” dated 15.11.2006; • 07001.SK.09 Issue A entitled “Post Extraction Rehabilitation Plan, Lot 1 Brisbane Valley Highway, Fernvale” dated 09.09.2007. </td></tr> <tr> <td>Lot 3 on Plan RP884225</td><td> <ul style="list-style-type: none"> • 07001.SK.10 Issue B entitled “Operational Extraction Plan for Lot 1 and 3”, dated 01.02.2015; • 07001.SK.07 Issue A entitled “Cross Sections of Rehabilitated Site, Lot 3 Brisbane Valley Highway, Fernvale” dated 16.04.2007; • 07003.SK.04 Issue A entitled “Post Extraction Rehabilitation Plan, Lot 3 Brisbane Valley Highway, Fernvale” dated 16.04.2007. </td></tr> <tr> <td>Lot 227 Plan CA31637, and Lot 228 Plan CA31637</td><td> <ul style="list-style-type: none"> • 05648.SK.02 Issue E entitled “Progressive Staging Plan, Coominya Connection Rd, Coominya” dated 01.08.2015; • 05648.SK.03 Issue E entitled “Post Extraction Rehabilitation Plan, Coominya Connection Rd, Coominya dated 31.08.2007; • 05648.SK.04 Issue B entitled “Cross Section of Rehabilitated Site, Coominya Connection Rd, Coominya dated 10.10.2006; • 05648.SK.05 Issue B entitled “Cross Section of Rehabilitated Site, Coominya Connection Rd, Coominya dated 10.10.2006; • 05648.SK.06 Issue B entitled “Cross Section of Rehabilitated Site, Coominya Connection Rd, Coominya dated 10.10.2006; </td></tr> </table>	Site	Relevant Drawings	Lot 1 on Plan RP884225	<ul style="list-style-type: none"> • 07001.SK.10 Issue B entitled “Operational Extraction Plan for Lot 1 and 3”, dated 01.02.2015; • 07001.SK.07 Issue A entitled “Cross Sections of Rehabilitated Site, Lot 1 Brisbane Valley Highway, Fernvale” dated 16.04.2007; • 07001.SK.08 Issue A entitled “Cross Section of Rehabilitated Site, Lot 1 Brisbane Valley Highway, Fernvale” dated 15.11.2006; • 07001.SK.09 Issue A entitled “Post Extraction Rehabilitation Plan, Lot 1 Brisbane Valley Highway, Fernvale” dated 09.09.2007. 	Lot 3 on Plan RP884225	<ul style="list-style-type: none"> • 07001.SK.10 Issue B entitled “Operational Extraction Plan for Lot 1 and 3”, dated 01.02.2015; • 07001.SK.07 Issue A entitled “Cross Sections of Rehabilitated Site, Lot 3 Brisbane Valley Highway, Fernvale” dated 16.04.2007; • 07003.SK.04 Issue A entitled “Post Extraction Rehabilitation Plan, Lot 3 Brisbane Valley Highway, Fernvale” dated 16.04.2007. 	Lot 227 Plan CA31637, and Lot 228 Plan CA31637	<ul style="list-style-type: none"> • 05648.SK.02 Issue E entitled “Progressive Staging Plan, Coominya Connection Rd, Coominya” dated 01.08.2015; • 05648.SK.03 Issue E entitled “Post Extraction Rehabilitation Plan, Coominya Connection Rd, Coominya dated 31.08.2007; • 05648.SK.04 Issue B entitled “Cross Section of Rehabilitated Site, Coominya Connection Rd, Coominya dated 10.10.2006; • 05648.SK.05 Issue B entitled “Cross Section of Rehabilitated Site, Coominya Connection Rd, Coominya dated 10.10.2006; • 05648.SK.06 Issue B entitled “Cross Section of Rehabilitated Site, Coominya Connection Rd, Coominya dated 10.10.2006;
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It is therefore considered conditions 3.3 and 3.4 should be deleted.

4.0 PLANNING CONSIDERATIONS

The applicant has made a Change Application in accordance with s78 and s79 of the *Planning Act 2016*.

It is considered the proposed development satisfies with the requirements and represents a minor change that can be assessed under the provisions of s81 of the *Planning Act 2016*.

5.0 OTHER PLANNING CONSIDERATIONS

5.1 Referral Agencies

In accordance with section 80 of the *Planning Act 2016*, the State Assessment and Referral Agency is not considered an affected entity of the minor change, and as such no comments or conditions have been sought from the Department of State Development, Infrastructure, Local Government and Planning. The Department will, however, be provided with a copy of the Decision Notice.

5.2 Public awareness of the proposed development

Should the application be submitted with the proposed design, the Category of Assessment would remain as impact assessment, requiring public notification.

The proposed change has no implication upon the operation of the extractive industry with respect to impact upon the public. The application was originally approved in 2008 and has been operational for almost 15 years.

Council received no submissions when the development was originally publicly notified.

The use has commenced, and the proposed change has no material impact upon the operation of the use. The change only relates to a financial transaction between Council and the operator.

6.0 CONCLUSION

The proposed minor change will facilitate the ongoing operation of the existing extractive industry, noting the change only involves a bond.

7.0 ATTACHMENT

- Extraction Area and Internal Haul Routes Drawing Number 07003.SK.02 Issue A, dated 16.04.2007;
- Amended Operational Extraction Plan Lots 1 and 3 Drawing Number 07001.SK.10 Issue B, dated 01.02.2015 prepared by David Brett and Associates Pty Ltd;

RECOMMENDED DECISION

That Council approves the Change Application under section 81 of the *Planning Act 2016* for DA6121 for a Development Permit for Extractive industry on land described as Lots 1, 3 and 4 RP884225 and Lots 20 and 22 SP2036590, situated at Brisbane Valley Highway, Fernvale subject to the conditions contained in the Schedules and Attachments.

SCHEDULES

SCHEDULE 1 – Planning Assessment Manager		
No	Condition	Timing
1.1	Carry out the development in accordance with the material contained in the development application, supporting documentation and the plans listed below, except where amended by these conditions of approval: <ul style="list-style-type: none"> ○ Extraction Area and Internal Haul Routes Drawing 	At all times

	<ul style="list-style-type: none"> ○ Number 07003.SK.02 Issue A, dated 16.04.2007; ○ Post Extraction Rehabilitation Plan Drawing Number 07003.SK.04 Issue A, dated 16.04.2007; ○ Visual Impact Analysis Drawing Number 07003.SK.05 Issue A, dated 16.04.2007; ○ Visual Bund Cross Sections Drawing Number 07003.SK.06 Issue A, dated 16.04.2007; ○ Cross Section of Rehabilitated Site Drawing Number 07003.SK.07 Issue A, dated 16.04.2007; ○ Revised Operational Extraction Plan Lots 1 and 3 Drawing Number 07001.SK.10 Issue B, dated 01.02.2015 prepared by David Brett and Associates Pty Ltd; ○ <i>Environmental Management Plan</i>, dated April 2007; ○ <i>Addendum to Environmental Management Plan</i> (Stormwater and Groundwater Quality Management Plan), dated February 2008, prepared by D Zanow in consultation with AK and DM Carr and Associates Pty Ltd; ○ <i>Addendum to Environmental Management Plan</i> (Groundwater Management Monitoring), dated 28 February 2008, prepared by A Carr; ○ <i>Vegetation Management, Water Quality, Flora and Fauna in Quarry Establishment and Rehabilitation Environmental Management Plan</i>, dated 14 February 2008, prepared by D E Baker (Environmental Soil Solutions Australia Pty Ltd); ○ <i>Noise Assessment Report No 1090-1</i>, dated 31 August 2007, prepared by Noise Measurement Services Pty Ltd; ○ <i>Flooding and Groundwater Impact Assessment</i>, Issue Final Rev 0, dated 20 April 2007, prepared by Sinclair Knight Merz (SKM); ○ <i>Resource Assessment</i>, dated March 2006; ○ <i>Impact of a Quarry on Good Quality Agricultural Land at Fernvale</i>, dated February 2008, prepared by D E Baker ○ <i>The Department of Main Roads Concurrence Agency Response and Conditions of Approval</i> indicated on the attached Statement of Reasons referenced as E49634 830/247 P66686 Tr3691, dated 20 June 2007. 	
1.2	Comply with the relevant provisions of the Esk Shire Planning Scheme 2005, Planning Scheme Policies and Local Laws.	At all times
1.3	A legible copy of this development approval package is to be made available on the premises.	At all times
1.4	Pay to Council any outstanding rates, charges or expenses levied by Council over the subject land.	Prior to commencement of use
1.5	Unless otherwise approved by Council in writing, the 'Hours of Operation' for the Extractive Industry operations shall be: 6am to 6pm Monday to Friday; 6am to 3pm Saturday, with no work on Sundays or Public Holidays.	At all times

	Extractive Industry operations must not occur on the premises outside the above hours.	
1.6	Provide two on-site vehicular parking spaces for employees in accordance with Council's Planning Scheme Policy No: 3 – <i>Standards for Provision and Construction of Parking Areas</i> .	Prior to commencement of use
1.7	The vehicular parking area is to be constructed and maintained to all weather standards.	At all times
1.8	The demountable Staff Amenities Building is to be made available for employees.	At all times
1.9	Provide onsite direction-signage for vehicles entering the site and accessing the Site Office and Amenities Building.	Prior to commencement of use
1.10	Approval of any proposed Building Works will be required under the <i>Building Act</i> , the Building Regulation, the Building Code of Australia, the Queensland Development Code and relevant Australian Standards.	Prior to commencement of building works
1.11	Security and flood lighting shall be designed, constructed, installed and maintained in accordance with Australian Standard AS4282-1997 (Control of the obtrusive effects of outdoor lighting) and so as not to cause nuisance to the occupants of nearby properties.	Prior to commencement of use
1.12	Base line water quality data for the site, overland flows, the Brisbane River and groundwater, is to be established prior to the proposed works commencing on site. A brief annual report detailing the results and findings from the surface water and groundwater monitoring program is to be compiled together with a summary of groundwater related site activities for the life of the extractive industry operations.	At the end of each financial year
1.13	The banks of the proposed lake are to be constructed using low permeable clay/silt (<50mm/day) to ensure the lake is isolated from groundwater flow.	At the time of constructing the lake
1.14	Prior to extraction commencing on Stages F to J (adjacent to the Brisbane River), detailed field and laboratory testing of the natural levee is to be undertaken to confirm the parameters and assumptions of the Geotechnical Report prepared by Morrison Geotechnic are reasonable. This report is to be submitted to Council to demonstrate compliance or to recommend necessary stabilisation methods to ensure long-term bank stability.	Prior to works commencing on Stages F to J
SCHEDULE 2 – Environmental Assessment Manager		
2.1	The approved use shall not cause any adverse impact on the amenity of the neighbourhood by reason of the emission of noise, vibration, glare, fumes, smoke, dust, waste water, waste	At all times

	products or otherwise.	
2.2	That all infill material (excluding any material sourced from the Fernvale extractive industry site) be tested at a rate of one test per 5,000m ² (or other agreed quantity) of imported fill to ensure that the material is of a consistent and acceptable standard.	At all times
SCHEDULE 3 – ENGINEERING		
<i>Assessment Manager</i>		
	Repairs	
3.1	Repair any damage to Council infrastructure that occurs during any works carried out in association with the approved development.	At all times
	Dust	
3.2	The ‘Operator of the Extractive Industry’ shall be responsible for protecting nearby property owners from dust pollution arising from the construction and ongoing maintenance of the development and shall comply with any lawful instruction from Council, if in Council’s opinion a dust nuisance exists.	At all times
	Rehabilitation Works	
3.3	Zanow Earthmovers Pty Ltd must provide to Council a bond or bank guarantee to the value of \$131,000 to secure the undertaking of rehabilitation works.	Prior to commencement of the use
3.4	80% of the bond or bank guarantee will be returned on termination of extractive operations and completion of restoration of the site in accordance with Council approval. 20% of the bond or bank guarantee will be returned after the restoration of the site has been effectively and successfully maintained for a period of two years.	On termination of extractive operations and completion of restoration of the site; Restoration is to be maintained for a period of 2 years.
SCHEDULE 4 – REFERRAL AGENCY		
DEPARTMENT OF MAIN ROADS		
<i>Concurrence Agency Status</i>		
<i>Agency Response: Recommend Conditions Apply</i>		
4.1	The Department of Main Roads is a concurrence agency under the <i>Integrated Planning Regulation 1998</i> for the purposes of the <i>Transport Infrastructure Act 1994</i> . The DMR has assessed the impact of the proposed development on the State-controlled road network and requires Council to include the ‘conditions of development’ in the Schedules of Approval as indicated on the attached Statement of Reasons. Reference: E49634 830/247 P66686 Tr3691, dated 20 June 2007.	
4.2	The Department of Main Roads Agency Response (Conditions and Statement of Reasons) will be attached to Council’s Decision Notice for DA6121.	
SCHEDULE 5 – REFERRAL AGENCY		
DEPARTMENT OF INFRASTRUCTURE LOCAL GOVERNMENT AND PLANNING		
5.1	The Department of Infrastructure Local Government and Planning, in its capacity as the	

	State Assessment and Referral Agency, has considered the request and advises that it offers no objection to the proposed changes to the development approval. Reference: SDA-0815-020112 dated 2 September 2015.
SCHEDULE 6 – ADVISORY NOTES	
6.1	The Operator of Extractive Industry shall complete required documentation and arrange a pre-start meeting with Council's Technical Officer, Supervising Engineer prior to any works starting at the site.
6.2	The Operator of the Extractive Industry shall implement all relevant sediment and erosion control measures and temporary fencing as identified on the approved Drawings for this development. Initially, those measures, which are applicable prior to the commencement of the proposed development works, shall be implemented. Council's Technical Officer shall access the sediment and erosion control measures and temporary fencing implemented, and any alterations and/or supplementary works required shall be incorporated during the construction process. All sediment control devices and sediment collection points shall be regularly monitored, sediment removed as necessary and devices maintained responsibly during construction and maintenance period of the development works.
6.3	Construction work is to be carried out only between the hours of 7am to 6pm Monday to Saturday, with no work to be undertaken on Sundays or public holidays. Noise levels from construction work shall at all times comply with the requirements of the <i>Environmental Protection Act 1994</i> .
6.4	The <i>Sustainable Planning Act 2009</i> states that any change to the use or the scale or intensity of the approved use requires the submission of a new development application and subsequent development approval.
6.5	All building work is to comply with the provisions contained in the <i>Building Act</i> ; the Building Regulation, the Building Code of Australia, the Queensland Development Code and relevant Australian Standards.
6.6	Separate development approval is required for any building work and plumbing/drainage works necessitated by the conditions contained in this approval.
6.7	The development is to be conducted in accordance with the amended Department Environment Heritage Protection Environmental Authority Permit EPPR00528213 dated 29 February 2016.

A copy of the decision will be sent to the State Assessment and Referral Agency.

Resolution

Moved – Cr Gaedtke

Seconded – Cr Brieschke

“THAT Council approves the Change Application under section 81 of the *Planning Act 2016* for DA6121 for a Development Permit for Extractive industry on land described as Lots 1, 3 and 4 RP884225 and Lots 20 and 22 SP2036590, situated at Brisbane Valley Highway, Fernvale subject to the conditions contained in the Schedules and Attachments

SCHEDULES

SCHEDULE 1 – Planning <i>Assessment Manager</i>		
No	Condition	Timing
1.1	<p>Carry out the development in accordance with the material contained in the development application, supporting documentation and the plans listed below, except where amended by these conditions of approval:</p> <ul style="list-style-type: none"> ○ Extraction Area and Internal Haul Routes Drawing Number 07003.SK.02 Issue A, dated 16.04.2007; ○ Post Extraction Rehabilitation Plan Drawing Number 07003.SK.04 Issue A, dated 16.04.2007; ○ Visual Impact Analysis Drawing Number 07003.SK.05 Issue A, dated 16.04.2007; ○ Visual Bund Cross Sections Drawing Number 07003.SK.06 Issue A, dated 16.04.2007; ○ Cross Section of Rehabilitated Site Drawing Number 07003.SK.07 Issue A, dated 16.04.2007; ○ Revised Operational Extraction Plan Lots 1 and 3 Drawing Number 07001.SK.10 Issue B, dated 01.02.2015 prepared by David Brett and Associates Pty Ltd; ○ <i>Environmental Management Plan</i>, dated April 2007; ○ <i>Addendum to Environmental Management Plan</i> (Stormwater and Groundwater Quality Management Plan), dated February 2008, prepared by D Zanow in consultation with AK and DM Carr and Associates Pty Ltd; ○ <i>Addendum to Environmental Management Plan</i> (Groundwater Management Monitoring), dated 28 February 2008, prepared by A Carr; ○ <i>Vegetation Management, Water Quality, Flora and Fauna in Quarry Establishment and Rehabilitation Environmental Management Plan</i>, dated 14 February 2008, prepared by D E Baker (Environmental Soil Solutions Australia Pty Ltd); ○ <i>Noise Assessment Report No 1090-1</i>, dated 31 August 2007, prepared by Noise Measurement Services Pty Ltd; ○ <i>Flooding and Groundwater Impact Assessment</i>, Issue Final Rev 0, dated 20 April 2007, prepared by Sinclair Knight Merz (SKM); ○ <i>Resource Assessment</i>, dated March 2006; ○ <i>Impact of a Quarry on Good Quality Agricultural Land at Fernvale</i>, dated February 2008, prepared by D E Baker ○ The <i>Department of Main Roads Concurrence Agency Response and Conditions of Approval</i> indicated on the attached Statement of Reasons referenced as E49634 830/247 P66686 Tr3691, dated 20 June 2007. 	At all times
1.2	Comply with the relevant provisions of the Esk Shire Planning Scheme 2005, Planning Scheme Policies and Local Laws.	At all times
1.3	A legible copy of this development approval package is to be made available on the premises.	At all times

1.4	Pay to Council any outstanding rates, charges or expenses levied by Council over the subject land.	Prior to commencement of use
1.5	Unless otherwise approved by Council in writing, the 'Hours of Operation' for the Extractive Industry operations shall be: 6am to 6pm Monday to Friday; 6am to 3pm Saturday, with no work on Sundays or Public Holidays. Extractive Industry operations must not occur on the premises outside the above hours.	At all times
1.6	Provide two on-site vehicular parking spaces for employees in accordance with Council's Planning Scheme Policy No: 3 – <i>Standards for Provision and Construction of Parking Areas</i> .	Prior to commencement of use
1.7	The vehicular parking area is to be constructed and maintained to all weather standards.	At all times
1.8	The demountable Staff Amenities Building is to be made available for employees.	At all times
1.9	Provide onsite direction-signage for vehicles entering the site and accessing the Site Office and Amenities Building.	Prior to commencement of use
1.10	Approval of any proposed Building Works will be required under the <i>Building Act</i> ; the Building Regulation, the Building Code of Australia, the Queensland Development Code and relevant Australian Standards.	Prior to commencement of building works
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1.13	The banks of the proposed lake are to be constructed using low permeable clay/silt (<50mm/day) to ensure the lake is isolated from groundwater flow.	At the time of constructing the lake
1.14	Prior to extraction commencing on Stages F to J (adjacent to the Brisbane River), detailed field and laboratory testing of the natural levee is to be undertaken to confirm the parameters and	Prior to works commencing on Stages F to J

	assumptions of the Geotechnical Report prepared by Morrison Geotechnic are reasonable. This report is to be submitted to Council to demonstrate compliance or to recommend necessary stabilisation methods to ensure long-term bank stability.	
SCHEDULE 2 – Environmental <i>Assessment Manager</i>		
2.1	The approved use shall not cause any adverse impact on the amenity of the neighbourhood by reason of the emission of noise, vibration, glare, fumes, smoke, dust, waste water, waste products or otherwise.	At all times
2.2	That all infill material (excluding any material sourced from the Fernvale extractive industry site) be tested at a rate of one test per 5,000m ² (or other agreed quantity) of imported fill to ensure that the material is of a consistent and acceptable standard.	At all times
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	<i>Repairs</i>	
3.1	Repair any damage to Council infrastructure that occurs during any works carried out in association with the approved development.	At all times
	<i>Dust</i>	
3.2	The 'Operator of the Extractive Industry' shall be responsible for protecting nearby property owners from dust pollution arising from the construction and ongoing maintenance of the development and shall comply with any lawful instruction from Council, if in Council's opinion a dust nuisance exists.	At all times
	<i>Rehabilitation Works</i>	
3.3	Zanow Earthmovers Pty Ltd must provide to Council a bond or bank guarantee to the value of \$131,000 to secure the undertaking of rehabilitation works.	Prior to commencement of the use
3.4	80% of the bond or bank guarantee will be returned on termination of extractive operations and completion of restoration of the site in accordance with Council approval. 20% of the bond or bank guarantee will be returned after the restoration of the site has been effectively and successfully maintained for a period of two years.	On termination of extractive operations and completion of restoration of the site; Restoration is to be maintained for a period of 2 years.
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4.1	The Department of Main Roads is a concurrence agency under the <i>Integrated Planning Regulation 1998</i> for the purposes of the <i>Transport Infrastructure Act 1994</i> . The DMR has assessed the impact of the proposed development on the State-controlled road	

	network and requires Council to include the 'conditions of development' in the Schedules of Approval as indicated on the attached Statement of Reasons. Reference: E49634 830/247 P66686 Tr3691, dated 20 June 2007.
4.2	The Department of Main Roads Agency Response (Conditions and Statement of Reasons) will be attached to Council's Decision Notice for DA6121.
SCHEDULE 5 – REFERRAL AGENCY DEPARTMENT OF INFRASTRUCTURE LOCAL GOVERNMENT AND PLANNING	
5.1	The Department of Infrastructure Local Government and Planning, in its capacity as the State Assessment and Referral Agency, has considered the request and advises that it offers no objection to the proposed changes to the development approval. Reference: SDA-0815-020112 dated 2 September 2015.
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6.1	The Operator of Extractive Industry shall complete required documentation and arrange a pre-start meeting with Council's Technical Officer, Supervising Engineer prior to any works starting at the site.
6.2	The Operator of the Extractive Industry shall implement all relevant sediment and erosion control measures and temporary fencing as identified on the approved Drawings for this development. Initially, those measures, which are applicable prior to the commencement of the proposed development works, shall be implemented. Council's Technical Officer shall access the sediment and erosion control measures and temporary fencing implemented, and any alterations and/or supplementary works required shall be incorporated during the construction process. All sediment control devices and sediment collection points shall be regularly monitored, sediment removed as necessary and devices maintained responsibly during construction and maintenance period of the development works.
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6.4	The <i>Sustainable Planning Act 2009</i> states that any change to the use or the scale or intensity of the approved use requires the submission of a new development application and subsequent development approval.
6.5	All building work is to comply with the provisions contained in the <i>Building Act</i> ; the Building Regulation, the Building Code of Australia, the Queensland Development Code and relevant Australian Standards.
6.6	Separate development approval is required for any building work and plumbing/drainage works necessitated by the conditions contained in this approval.
6.7	The development is to be conducted in accordance with the amended Department Environment Heritage Protection Environmental Authority Permit EPPR00528213 dated 29 February 2016."
	<i>Carried</i> <i>Vote - Unanimous</i>

Subject:	Development Application No. 2026 Change Application to Development Approval – Minor Change under section 81 of the <i>Planning Act 2016</i>
File No:	DA2026
Assessment No:	02312-10000-000, 02352-50000-000
Action Officer:	SP-MW

1.0 APPLICATION SUMMARY

Subject Land

Location	Brisbane Valley Highway, Fernvale
Real Property Description	Lot 1 RP28857, Lot 4 RP884225 and Lots 20 and 22 SP203659
Area	4.978ha, 57.19ha, 45.95ha, 19.68ha – Total 127.8ha

Former Esk Shire Planning Scheme 2005 (as amended)

Zone	Rural
Precinct	Arable Agricultural

ShapingSEQ

Land Use Category	Regional Landscape and Rural Production Area
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Application

Original Category of Assessment	Impact assessment
Original Date of Approval	2 December 2003
Applicants contact details	Diane Kerr and Associates 19 Frobisher Street SPRINGWOOD QLD 4127
Land Owner	Zanow Earthmovers No.5 Pty Ltd PO Box 9 FERNVALE QLD 4306 Noel Schmidt and Rivermead Pty Ltd PO Box 27 FERNVALE QLD 4306 Murray and Bradley Jensen 211 England Creek Road FERNVALE QLD 4306
Date application received	13 January 2022

State Agency Referrals

Concurrence	Department of State Development, Infrastructure, Local Government and Planning - State Assessment and Referral Agency
Third Party Advice	Seqwater

RECOMMENDED DECISION

Approve the request to change the development approval for Development Application No. 2026 subject to the amended conditions and requirements contained in the Schedules.



**Locality plan Lot 1 RP28857, Lot 4 RP884225 and Lots 20 and 22 SP203659
Brisbane Valley Highway and Powells Road, Fernvale**

2.0 BACKGROUND TO APPROVAL

Zanow Sand and Gravel operate an extractive industry at Fernvale. This includes both the extraction and processing of materials on site, as well as the processing of materials from the operator's Coominya site. Requests to 'Change an Existing Approval' have already been made for all three of the existing Fernvale approvals as well as the Coominya approval.

Council granted a Negotiated Decision Notice for DA2026 dated 2 December 2003, for:

- A Development Permit for a Material Change of Use for Extractive Industry and General Industry and Environmentally Relevant Activities;

The approval is for the extraction of soil, sand, gravel and associated materials. The extraction operation involves the progressive and staged removal of topsoil and overburden, the extraction and processing of sand and gravel on-site. Both the Coominya and Fernvale operations have been undertaken and managed by Zanow Earthmovers.

A change application was approved on 27 May 2016 to increase the bond or bank guarantee in condition 3 from \$200,000 to \$311,000.

Lot 20 and 22SP203659 were originally Lot 2 RP28857 and Lot 2 RP884225, however this was changed through minor survey work.

3.0 REQUESTED CHANGE

The applicant on behalf of their client wishes to change the applications so that the bond listed in Condition 3 no longer applies.

Condition 3

3	The developer must provide to Council a bond or bank guarantee in the amount of \$311,000 for the approved area of extraction to secure the undertaking of rehabilitation works. This bond or bank guarantee is to be submitted prior to the commencement of works and is to be retained by Council for the life of the project. The bond or bank guarantee will be returned after the restoration of the extraction area, delineated in drawing 02484.SK.04A, has been effectively and successfully completed in accordance with the 'Integrated Environmental Management System Report' submitted with the application.
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The applicant provided the following comments as part of their change request.

"The applicable (updated) bank guarantee was provided to Council in June 2017.

It is requested that Council delete condition 3, which require a bank guarantee to secure the rehabilitation works associated with the extractive industry operations, on the following grounds:

1. The rehabilitation works are conditioned on the State Government's Environmental Authority. This includes a condition that requires *"rehabilitation of disturbed areas must take place progressively as works are completed and new areas of extraction are commenced"*. The State does not require financial assurances for extractive industry operations.
2. Hy-tec / Adelaide Brighton Ltd have provided a letter to the Chief Executive Officer of Somerset Regional Council, dated 7 December 2021 (refer to Attachment A). Extracts from this letter advise that *"Hy-Tec is a wholly owned subsidiary of Adbri Limited (Adbri). Adbri is listed on the ASX with market capitalisation of approximately \$1.88 billion (as at 10 December 2021). ... Adbri and Hy-Tec are each party to a Deed of Cross Guarantee (the Deed), under which each Company guarantees the debt of the other. This Deed is registered with ASIC and noted in the Annual Report for Adbri Limited.... Somerset Regional Council can be assured that Hy-Tec and its parent, Adbri, hold the necessary financial capacity to complete rehabilitation of the sites and there is no longer any need for the bank guarantees"*.
3. Hy-Tec are also purchasing the Zanow approved extractive industry at Rocky Gully Road / Banffs Lane, Coominya. This Somerset Regional Council approval (issued more recently in May 2020) does not require a bank guarantee as security for rehabilitation works.
4. As advised in a letter from the Chief Executive Officer of Somerset Regional Council, dated 7 December 2021, Zanows may apply *"for a change of development approval to remove the requirement for bonds or bank guarantees to secure the requirement for rehabilitation given that the purchaser (Hy-tec/ Adelaide Brighton Ltd) is a listed company and that the total of the bank guarantee is not significant relative to the purchase value of the sites"*.

No other conditions of development will be affected by this change. In addition, this request will not result in any changes to the Referral Agency conditions of approval.

The removal of the condition requiring security for the rehabilitation works will not result in a "substantially different development" for the Extractive Industry approval."

Schedule 1 of the *Development Assessment Rules* ('DA Rules' – Version 1.3) provides guidance on what constitutes 'Substantially Different Development' when determining whether a change to the development application or development approval is considered a minor change. To confirm the proposed minor change does not result in substantially different development, assessment against Schedule 1 of the DA Rules has been provided below.

A change may be considered to result in a 'substantially different development' if any of the following apply to the proposed change:

- (a) Involves a new use; or
Comment: No new use is being proposed as part of the proposed minor change application to the approved Extractive Industry.
- (b) Results in the application applying to a new parcel of land; or
Comment: The application applies to the same parcels of land.
- (c) Dramatically changes the built form in terms of scale, bulk and appearance; or
Comment: There is no change to the approved development. The approved quarry footprint does not change. As such, the built form in terms of scale, bulk and appearance does not change.
- (d) Changes the ability of the proposed development to operate as intended (For example, reducing the size of a retail complex may reduce the capacity of the complex to service the intended catchment); or
Comment: The rehabilitation works are conditioned under the State Government's Environmental Authority. This includes a condition that requires "rehabilitation of disturbed areas as works are completed and new areas of extraction are commenced". The State does not require financial assurances for extractive industry operations. The bank guarantee requirement is a Council imposed matter. It is an administrative security which, as justified under Section B, is not required to ensure that the necessary rehabilitation works will be undertaken by the new purchaser (Adbri).
- (e) Removes a component that is integral to the operation of the development; or
Comment: No component of the approved quarry, which is integral to its operation, is to be removed. There are no changes proposed to the quarry footprint. In addition, as mentioned above, progressive rehabilitation works are required under the Environmental Authority and security is no longer required (as justified under Section B).
- (f) Significantly impacts on traffic flow and the transport network, such as increasing traffic to the site; or
Comment: As there is no change to the approved quarry there will be no change to the impacts on the traffic flows and transport networks.
- (g) Introduces new impacts or increase the severity of known impacts; or
Comment: As there is no change to the approved quarry there will be no new impacts or increased severity of known impacts.
- (h) Removes an incentive or offset component that would have balanced a negative impact of the development; or
Comment: The proposed change does not remove any incentives or offset components for the existing development approval. As mentioned above, the Council requirement for securities for rehabilitation works is an administrative security which, as justified under Section B, is not required to ensure that the necessary rehabilitation works will be undertaken by the new purchaser.
- (i) Impacts on infrastructure provisions.
Comment: The proposed amendment does not impact on the provision, location or demand of infrastructure.

The original development application was assessed against the relevant local planning instrument at the time, being the Esk Shire (IPA) Planning Scheme, which is now superseded. The Somerset Region Planning Scheme (Version 4) is the relevant local planning instrument for the site.

It is submitted that the proposed change does not need to be re-assessed against the current Planning Scheme to ensure the approved operations remain compliant with the relevant Council provisions. This is on the basis that the required security (i.e. bank guarantee) for rehabilitation works is an administrative requirement by Council. It is not a requirement under the planning scheme and/or associated assessment benchmarks.

3.2 Officer's Comments

Section 66 of the *Planning Act 2016* references prohibited development conditions.

The applicant has not specifically referenced the provisions of the *Planning Act 2016*, however in point 1 and point e above, the applicant has referenced the State's role in managing rehabilitation of the site through the Environmental Authority, and that Council's condition as a result is in effect unnecessary.

A review of the Environmental Authority EPPR00528213 for this development (and the other Zanows extractive industry sites) include the following conditions with respect to rehabilitation.

Condition number	Condition				
L1	Rehabilitation of disturbed areas required under Schedule 1 Condition L1, must take place progressively as works are completed and new areas of extraction are commenced.				
L2	Treatment and management of acid sulfate soils must comply with the current edition of the <i>Queensland Acid Sulfate Soil Technical Manual</i> .				
L3	Rehabilitation of Lot 1 on Plan RP884225 must be completed in accordance with the " <i>Rehabilitation Plan</i> " contained in Section 7.0 of document described as the <i>Environmental Management Plan (EMP)</i> contained in Appendix C of a document described as <i>Assessment Report in support of a Development Application for Extractive Industry and Environmentally Relevant Activities, Lot 1 Brisbane Valley Highway, Fernvale, dated April 2007</i> to the satisfaction of the administering authority.				
L4	Rehabilitation of Lot 227 Plan CA31637 and Lot 228 CA31637 must be completed in accordance with the " <i>Rehabilitation Plan</i> " contained in Section 7.0 of document described as the " <i>Environmental Management Plan – Extractive Industry – Coominya Connection Road, Coominya, dated November 2006</i> " to the satisfaction of the administering authority.				
L5	Each site (including all disturbed areas such as slopes, borrow pits, stockpile and screening areas) must be rehabilitated to a stable landform and in accordance with the plans listed in <i>Table 3 – Rehabilitation Plans</i> . <div> <table> <tr> <th>Site</th><th>Relevant Drawings</th></tr> <tr> <td>Lot 1 on Plan RP884225</td><td> <ul style="list-style-type: none"> 07001.SK.10 Issue B entitled "Operational Extraction Plan for Lot 1 and 3", dated 01.02.2015; 07001.SK.07 Issue A entitled "Cross Sections of Rehabilitated Site, Lot 1 Brisbane Valley Highway, Fernvale" dated 16.04.2007; </td></tr> </table> </div>	Site	Relevant Drawings	Lot 1 on Plan RP884225	<ul style="list-style-type: none"> 07001.SK.10 Issue B entitled "Operational Extraction Plan for Lot 1 and 3", dated 01.02.2015; 07001.SK.07 Issue A entitled "Cross Sections of Rehabilitated Site, Lot 1 Brisbane Valley Highway, Fernvale" dated 16.04.2007;
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Lot 1 on Plan RP884225	<ul style="list-style-type: none"> 07001.SK.10 Issue B entitled "Operational Extraction Plan for Lot 1 and 3", dated 01.02.2015; 07001.SK.07 Issue A entitled "Cross Sections of Rehabilitated Site, Lot 1 Brisbane Valley Highway, Fernvale" dated 16.04.2007; 				

		<ul style="list-style-type: none"> • 07001.SK.08 Issue A entitled “Cross Section of Rehabilitated Site, Lot 1 Brisbane Valley Highway, Fernvale” dated 15.11.2006; • 07001.SK.09 Issue A entitled “Post Extraction Rehabilitation Plan, Lot 1 Brisbane Valley Highway, Fernvale” dated 09.09.2007.
	Lot 3 on Plan RP884225	<ul style="list-style-type: none"> • 07001.SK.10 Issue B entitled “Operational Extraction Plan for Lot 1 and 3”, dated 01.02.2015; • 07001.SK.07 Issue A entitled “Cross Sections of Rehabilitated Site, Lot 3 Brisbane Valley Highway, Fernvale” dated 16.04.2007; • 07003.SK.04 Issue A entitled “Post Extraction Rehabilitation Plan, Lot 3 Brisbane Valley Highway, Fernvale” dated 16.04.2007.
	Lot 227 Plan CA31637, and Lot 228 Plan CA31637	<ul style="list-style-type: none"> • 05648.SK.02 Issue E entitled “Progressive Staging Plan, Coominya Connection Rd, Coominya” dated 01.08.2015; • 05648.SK.03 Issue E entitled “Post Extraction Rehabilitation Plan, Coominya Connection Rd, Coominya dated 31.08.2007; • 05648.SK.04 Issue B entitled :Cross Section of Rehabilitated Site, Coominya Connection Rd, Coominya dated 10.10.2006; • 05648.SK.05 Issue B entitled :Cross Section of Rehabilitated Site, Coominya Connection Rd, Coominya dated 10.10.2006; • 05648.SK.06 Issue B entitled :Cross Section of Rehabilitated Site, Coominya Connection Rd, Coominya dated 10.10.2006;

It is therefore considered condition 3 should be deleted.

4.0 PLANNING CONSIDERATIONS

The applicant has made a Change Application in accordance with s78 and s79 of the *Planning Act 2016*.

It is considered the proposed development satisfies with the requirements and represents a minor change that can be assessed under the provisions of s81 of the *Planning Act 2016*.

5.0 OTHER PLANNING CONSIDERATIONS

5.1 Referral Agencies

In accordance with section 80 of the *Planning Act 2016*, the State Assessment and Referral Agency is not considered an affected entity of the minor change, and as such no comments or conditions have been sought from the Department of State Development, Infrastructure, Local Government and Planning. The Department will, however, be provided with a copy of the Decision Notice.

5.2 Public awareness of the proposed development

Should the application be submitted with the proposed design, the Category of Assessment would remain as impact assessment, requiring public notification.

The proposed change has no implication upon the operation of the extractive industry with respect to impact upon the public. The application was originally approved in 2003 and has been operational for almost 20 years.

Council received no submissions when the development was originally publicly notified.

The use has commenced, and the proposed change has no material impact upon the operation of the use. The change only relates to a financial transaction between Council and the operator.

6.0 CONCLUSION

The proposed minor change will facilitate the ongoing operation of the existing extractive industry, noting the change only involves a bond.

7.0 ATTACHMENT

- 'Existing extraction area delineation' drawing 02484.SK.03A dated 04.07.2002 and
- 'Proposed extraction area delineation' drawing 02484.SK.04A dated 07.05.2002,

RECOMMENDED DECISION

That Council approves the Change Application under section 81 of the *Planning Act 2016* for DA6121 for a Development Permit for Extractive industry on land described as Lots 1, 3 and 4 RP884225 and Lots 20 and 22 SP2036590, situated at Brisbane Valley Highway, Fernvale subject to the conditions contained in the Schedules and Attachments.

SCHEDULES

SCHEDULE 1

1. The approved development must generally comply with the facts and circumstances set out in Development Application Number DA2026 and be undertaken generally in accordance with the 'Hydraulic Impact Assessment' prepared by Sinclair Knight Merz dated July 2002; and with the 'Integrated Environmental Management System Report' dated September 2002; and with the 'Existing extraction area delineation' drawing 02484.SK.03A dated 04.07.2002 and 'Proposed extraction area delineation' drawing 02484.SK.04A dated 07.05.2002, both prepared by David Brett and Associates Pty Ltd Development Planners.
2. The use shall not commence until such time as the requirements of the conditions of this development permit have been complied with.
3. ~~The developer must provide to Council a bond or bank guarantee in the amount of \$311,000 for the approved area of extraction to secure the undertaking of rehabilitation works. This bond or bank guarantee is to be submitted prior to the commencement of works and is to be retained by council for the life of the project. The bond or bank guarantee will be returned after the restoration of the extraction area, delineated in drawing 02484.SK.04A, has been effectively and successfully completed in accordance with the 'Integrated Environmental Management System Report' submitted with the application.~~

SCHEDULE 2

1. The development, the subject of this approval, must comply with the Esk Shire Planning Scheme, Planning Scheme Policies, Local Laws and Local Law Policies.

2. Previously deleted

~~Extraction work is to be undertaken in accordance with the current approved Quarry material Permit as issued by the Department of Natural Resources and Mines and any subsequent permit.~~

3. The hours of operation for all activities, other than standard maintenance, will be limited to the hours 6am to 6pm on Monday to Saturday inclusive. Activities other than standard maintenance must not occur on Sundays or public holidays.
4. The operator is to fund the erection of programmable illuminated signs on the Brisbane Valley Highway at the northern and southern approaches to the restricted speed zone outside the Fernvale State School, for the first week of each school term over a period of 2 years from the date of this permit, by arrangement with the Department of Main Roads.
5. The developer will be responsible for the cost of any alterations necessary to public utility mains or services resulting from any works associated with the conditions of this approval.
6. Any activities associated with this extractive industry and associated general industry must not be carried out until such time as the relevant licence (or licences), have been issued by the Queensland ~~Environmental Protection Agency~~ Department of Environment Heritage Protection. Where no such licence/s are required, the Council must be given verification of this fact in writing by the ~~Environmental Protection Agency~~ Department of Environment Heritage Protection prior to the activities being carried out.
7. The developer is to retain the natural river embankment and maintain a forty (40) metre wide vegetated buffer between the extraction site and the Brisbane River for the life of the operations.
8. The site must be rehabilitated and effectively and successfully maintained progressively and must follow the conclusion of extraction works in each stage. The rehabilitation must include removal of all stockpiles and equipment, as well as planting in accordance with the rehabilitation practices and procedures as outlined in the Integrated Environmental Management System report.

Progressive rehabilitation must be undertaken on any areas affected by the use where that use has ceased in that part of the premises. This is intended to prevent large areas of affected land remaining not rehabilitated for lengthy periods.

9. The batters of the extraction pit must be no steeper than 1:3.

SCHEDULE 3

ADVICE

Furthermore, the developer is advised that –

1. The *Sustainable Planning Act 2009* states that any change to the use or the scale or intensity of the approved use requires the submission of a new development application and subsequent development approval. This approval is limited to Extractive Industry and associated General Industry on land described as Lot 1 RP28857, Lot 20 SP203659, Lot 22 SP203659 and Lot 4 RP884225 situated along

Brisbane Valley Highway and Powells Road, Fernvale.

2. All necessary licences, approval and permits required by law are to be held by the owner and/or occupier of the premises, which is the subject of this development approval, is to be obtained prior to the approved use being commenced.
3. Signs may be displayed only following an approval from Council.
4. Any external or security lighting or auditory devices must not cause nuisance or danger.
5. All building work is to comply with the provisions contained in the Building Act, the Building Regulation, and Building Code of Australia, Queensland Development Code and relevant Australian Standards.
6. Separate development approval is required for any building work and plumbing/drainage works necessitated by the conditions contained in this approval.
7. Fuel storage must be licensed with Somerset Region under the provisions of the Dangerous Goods Safety Management Regulation.
8. Prior to any works being undertaken within the dedicated road reserve, the necessary approvals must be obtained.
9. The development is to be conducted in accordance with the amended Department Environment Heritage Protection Environmental Authority Permit EPPR00528213 dated 29 February 2016.

SCHEDULE 4

Concurrence Agency – Queensland Department of Main Roads (Response attached in the Statement of Reasons)

Esk Shire: Brisbane Valley Highway

Proposed Material Change of Use – Extractive Industry up to 350,000 tonnes per annum

Lot 1 RP28857, Lot 20 SP203659, Lot 22 SP203659 and Lot 4 RP884225 situated along Brisbane Valley Highway and Powells Road, Fernvale.

File Number: 830247

Tracker 1803 amended - Sheet Number: 1 of 1 sheet

SCHEDULE 5

Department of Infrastructure Local Government and Planning

The Department of Infrastructure Local Government and Planning, in its capacity as the State Assessment and Referral Agency, has considered the request and advises that it offers no objection to the proposed changes to the development approval.

Reference: SDA-0815-020112 dated 2 September 2015.

A copy of the decision will be sent to the State Assessment and Referral Agency.

Resolution

Moved – Cr Choat

Seconded – Cr Gaedtke

“THAT Council approves the Change Application under section 81 of the *Planning Act 2016* for DA6121 for a Development Permit for Extractive industry on land described as Lots 1, 3 and 4 RP884225 and Lots 20 and 22 SP2036590, situated at Brisbane Valley Highway, Fernvale subject to the conditions contained in the Schedules and Attachments

SCHEDULES**SCHEDULE 1**

4. The approved development must generally comply with the facts and circumstances set out in Development Application Number DA2026 and be undertaken generally in accordance with the ‘Hydraulic Impact Assessment’ prepared by Sinclair Knight Merz dated July 2002; and with the ‘Integrated Environmental Management System Report’ dated September 2002; and with the ‘Existing extraction area delineation’ drawing 02484.SK.03A dated 04.07.2002 and ‘Proposed extraction area delineation’ drawing 02484.SK.04A dated 07.05.2002, both prepared by David Brett and Associates Pty Ltd Development Planners.
5. The use shall not commence until such time as the requirements of the conditions of this development permit have been complied with.
6. ~~The developer must provide to Council a bond or bank guarantee in the amount of \$311,000 for the approved area of extraction to secure the undertaking of rehabilitation works. This bond or bank guarantee is to be submitted prior to the commencement of works and is to be retained by council for the life of the project. The bond or bank guarantee will be returned after the restoration of the extraction area, delineated in drawing 02484.SK.04A, has been effectively and successfully completed in accordance with the ‘Integrated Environmental Management System Report’ submitted with the application.~~

SCHEDULE 2

10. The development, the subject of this approval, must comply with the Esk Shire Planning Scheme, Planning Scheme Policies, Local Laws and Local Law Policies.
11. Previously deleted

~~Extraction work is to be undertaken in accordance with the current approved Quarry material Permit as issued by the Department of Natural Resources and Mines and any subsequent permit.~~
12. The hours of operation for all activities, other than standard maintenance, will be limited to the hours 6am to 6pm on Monday to Saturday inclusive. Activities other than standard maintenance must not occur on Sundays or public holidays.
13. The operator is to fund the erection of programmable illuminated signs on the Brisbane Valley Highway at the northern and southern approaches to the restricted speed zone outside the Fernvale State School, for the first week of each school term over a period of 2 years from the date of this permit, by arrangement with the Department of Main Roads.

14. The developer will be responsible for the cost of any alterations necessary to public utility mains or services resulting from any works associated with the conditions of this approval.
15. Any activities associated with this extractive industry and associated general industry must not be carried out until such time as the relevant licence (or licences), have been issued by the Queensland ~~Environmental Protection Agency~~ Department of Environment Heritage Protection. Where no such licence/s are required, the Council must be given verification of this fact in writing by the ~~Environmental Protection Agency~~ Department of Environment Heritage Protection prior to the activities being carried out.
16. The developer is to retain the natural river embankment and maintain a forty (40) metre wide vegetated buffer between the extraction site and the Brisbane River for the life of the operations.
17. The site must be rehabilitated and effectively and successfully maintained progressively and must follow the conclusion of extraction works in each stage. The rehabilitation must include removal of all stockpiles and equipment, as well as planting in accordance with the rehabilitation practices and procedures as outlined in the Integrated Environmental Management System report.

Progressive rehabilitation must be undertaken on any areas affected by the use where that use has ceased in that part of the premises. This is intended to prevent large areas of affected land remaining not rehabilitated for lengthy periods.

18. The batters of the extraction pit must be no steeper than 1:3.

SCHEDULE 3

ADVICE

Furthermore, the developer is advised that –

10. The *Sustainable Planning Act 2009* states that any change to the use or the scale or intensity of the approved use requires the submission of a new development application and subsequent development approval. This approval is limited to Extractive Industry and associated General Industry on land described as Lot 1 RP28857, Lot 20 SP203659, Lot 22 SP203659 and Lot 4 RP884225 situated along Brisbane Valley Highway and Powells Road, Fernvale.
11. All necessary licences, approval and permits required by law are to be held by the owner and/or occupier of the premises, which is the subject of this development approval, is to be obtained prior to the approved use being commenced.
12. Signs may be displayed only following an approval from Council.
13. Any external or security lighting or auditory devices must not cause nuisance or danger.
14. All building work is to comply with the provisions contained in the Building Act, the Building Regulation, and Building Code of Australia, Queensland Development Code and relevant Australian Standards.
15. Separate development approval is required for any building work and

plumbing/drainage works necessitated by the conditions contained in this approval.

16. Fuel storage must be licensed with Somerset Region under the provisions of the Dangerous Goods Safety Management Regulation.
17. Prior to any works being undertaken within the dedicated road reserve, the necessary approvals must be obtained.
18. The development is to be conducted in accordance with the amended Department Environment Heritage Protection Environmental Authority Permit EPPR00528213 dated 29 February 2016.

SCHEDULE 4

Concurrence Agency – Queensland Department of Main Roads (Response attached in the Statement of Reasons)

Esk Shire: Brisbane Valley Highway

Proposed Material Change of Use – Extractive Industry up to 350,000 tonnes per annum

Lot 1 RP28857, Lot 20 SP203659, Lot 22 SP203659 and Lot 4 RP884225 situated along Brisbane Valley Highway and Powells Road, Fernvale.

File Number: 830247

Tracker 1803 amended - Sheet Number: 1 of 1 sheet

SCHEDULE 5

Department of Infrastructure Local Government and Planning

The Department of Infrastructure Local Government and Planning, in its capacity as the State Assessment and Referral Agency, has considered the request and advises that it offers no objection to the proposed changes to the development approval.

Reference: SDA-0815-020112 dated 2 September 2015."

Carried

Vote - Unanimous

Subject:	Development Application No. DA21605 Development Application for a Development Permit for Reconfiguring a Lot by Subdivision (one lot into two lots – subdivision by road severance)
File No:	DA21605
Assessment No:	06045-00000-000
Action Officer:	PO-MS

1.0 APPLICATION SUMMARY

Subject Land

Location	Banks Creek Road, Banks Creek
Real Property Description	Lot 3 M33497
Area	95.87 hectares
Current land use	Vacant land (agricultural – cattle grazing)
Easements	and Nil identified
Encumbrances	

Somerset Region Planning Scheme Version Four

Zone	Rural
Overlays	OM1 Agricultural Land OM3 Biodiversity OM4 Bushfire



Locality Plan of Lot 3 M33497
Situated at Banks Creek Road, Banks Creek

2.0 APPLICATION

The application seeks a development permit for reconfiguring a lot by subdivision, specifically to subdivide one lot into two lots by the existing road severance.

The application is made under Version Four of the Somerset Region Planning Scheme (the planning scheme). The site is located within the Rural zone.

The application is required because the planning scheme categorises the subdivision of property within the Rural zone as either code assessable development, or subject to impact assessment where not achieving the minimum lot size and dimensions for the applicable zone. In this instance, the application is subject to impact assessment.

The application will be assessed against the matters set out in section 45 and decided in accordance with section 60 of the *Planning Act 2016*.

3.0 PROPOSAL

The applicant proposes to subdivide the subject property from one lot, creating two lots according to the existing road severance along Banks Creek Road.

Details of the proposed lots are as follows:

Proposed Lot	New Lot size	Road Frontage
Lot 61	17.13 ha	Approx. 1,370m
Lot 62	78.74 ha	Approx. 2,501m

The subject land does not currently contain any dwellings.

The lot on the northern side of Banks Creek Road is proposed to be a vinculum lot, being severed by Un-named Road #1204. The applicant has stated that this road may be proposed to be closed in future, however, this is not part of the current application.

The location is susceptible to extreme flood hazard associated with the Brisbane River and Banks Creek. Both lots have locations unaffected by flood hazard. The northern proposed lot is the more significantly affected of the two lots.

4.0 SITE DETAILS AND SURROUNDING LAND USES

The subject lot is 95.87 hectares, irregular in shape and identified as being in the Rural zone. The land is bordered by Banks Creek to the north, the Brisbane River to the west and south-west, and Banks Creek England Creek Road to the east.

The allotment is severed by Banks Creek Road and an unnamed road on the northern side of Banks Creek Road.

Land to the south-west consists of the urban extent of the Urban Footprint for Fernvale. Land to the north, east, and south-east Rural zoned land generally utilized for agricultural purposes.

The subject land is mapped as being affected by bushfire, flood, and landslide hazards.

The site is not located within service catchment areas for reticulated water and sewerage supply and is not covered by Queensland Urban Utilities' Netserv plan.

5.0 PLANNING ASSESSMENT – STATE PLANNING INSTRUMENTS

This application is made under the provisions of the *Planning Act 2016*. In accordance with the Act, the assessment manager must assess the application against the assessment benchmarks within the following state planning instruments:

- the State Planning Policy 2017;
- the South East Queensland Regional Plan 2017;
- the *Planning Regulation 2017* (Schedule 10).

An assessment of the application against the state planning instruments is set out below.

5.1 STATE PLANNING POLICY

A new State Planning Policy (SPP) came into effect on 3 July 2017 and is not currently reflected in the Somerset Region Planning Scheme. An assessment of the proposed development against the assessment benchmarks contained within Part E of the SPP is required.

The application has been assessed against the assessment benchmarks and the proposal is considered to comply.

5.2 SOUTH EAST QUEENSLAND REGIONAL PLAN 2017

The site is located within the Regional Landscape and Rural Production Area. The development application has been assessed against the provisions of the regional plan and associated regulatory requirements and was found to be consistent.

The proposal is not prohibited development as the subdivision of a lot according to a road severance is identified as being an *exempt subdivision* under the regional plan's regulatory provisions.

5.3 PLANNING REGULATION 2017 (SCHEDULE 10)

Schedule 10 of the *Planning Regulation 2017* sets forth development assessment provisions and requirements set by the State.

The subject land contains some regulated vegetation and koala habitat area, however no vegetation clearing is proposed or required. The proposal will not result in the possibility of additional accepted operational work (being for additional vegetation clearing) occurring.

The proposal is not located in proximity to a Queensland heritage place or local heritage place, is not known to be on a contaminated land register, nor involves any environmentally relevant activities.

The subject land is contained within the Regional Landscape and Rural Production Area (RLRPA) of the South East Queensland Regional Plan. The subdivision of a property within the RLRPA according to a road severance existing prior to March 2006 is categorised as an *exempt subdivision*. The proposed development remains consistent with the provisions for the SEQRP under Schedule 10.

The property is not affected by any State Government interests for infrastructure matters.

The proposed development is consistent with the requirements of Schedule 10. The application does not require further referral or assessment under the *Planning Regulation 2017*.

5.4 PLANNING REGULATION 2017 (SCHEDULE 12)

The development is not captured under the provisions for Schedule 12 - Particular reconfiguring a lot requiring code assessment.

6.0 PLANNING ASSESSMENT – LOCAL PLANNING INSTRUMENTS

An assessment against the relevant parts of the planning scheme is set out below.

6.1 SOMERSET REGION PLANNING SCHEME (VERSION FOUR)

6.1.1 Strategic Framework Assessment

The application is subject to impact assessment and therefore requires assessment against the strategic policy intent of the planning scheme. The development achieves compliance with the applicable development codes of parts 6, 7, and 8 of the planning scheme. The proposal is therefore considered to appropriately advance the strategic policy intent of the planning scheme.

6.1.2 Code Assessment

The Somerset Region Planning Scheme identifies assessment benchmarks which development is to be assessed against, with proposed solutions measured against the performance outcome proposed by the codes. An assessment against the relevant parts of the Planning Scheme is set out below. In instances where alternative solutions are provided in lieu of the acceptable outcomes they are discussed below.

Code Assessment Summary

Applicable Code	Compliance with Overall Outcomes	Performance Outcomes
Reconfiguring a lot code	Yes	PO1
Services, works and infrastructure code	Yes	Nil required
Transport, access and parking code	Yes	Nil required

Applicable Overlay Code	Compliance with Overall Outcomes	Performance Outcomes
Agricultural land overlay code	Yes	PO1
Biodiversity overlay code	Yes	Nil required
Bushfire hazard overlay code	Yes	Nil required
Catchment management overlay code	Yes	Nil required
Extractive resources overlay code		Nil required
Flood hazard overlay code	Yes	Nil required
Infrastructure overlay code	Yes	Nil required
Landslide hazard overlay code	Yes	Nil required

6.1.3 Performance Outcome Assessment

Where the proposal does not achieve the required acceptable outcome, an assessment of the proposed alternative solution against the performance outcome criteria is presented in the following tables.

Reconfiguring a lot code

Performance outcome		Acceptable outcome									
For assessable development											
Lot size and subdivision design											
PO1 <i>Lot size and dimensions:</i> (a) provide sufficient area for the siting and construction of buildings and structures; (b) provide for safe vehicular and pedestrian access; (c) respond appropriately to site characteristics including slope of the land and topography; and (d) are consistent with the intended character of the zone.	AO1.1 The minimum <i>lot</i> size and dimensions complies with Table 8.3.4.3.B – Minimum Lot Size and Dimensions. Extract from Table 8.3.4.3.B - Minimum lot sizes and dimensions <table><tr><th>Zone/Precinct</th><th>Minimum Lot Size</th><th>Minimum frontage</th></tr><tr><td>Rural zone</td><td>100 hectares</td><td>300 metres</td></tr></table>		Zone/Precinct	Minimum Lot Size	Minimum frontage	Rural zone	100 hectares	300 metres			
Zone/Precinct	Minimum Lot Size	Minimum frontage									
Rural zone	100 hectares	300 metres									
Performance outcome assessment											
Proposal The application is for the subdivision of one lot into two lots by road severance, creating two lots as per below. <table><tr><th>Proposed Lot</th><th>New Lot size</th><th>Road Frontage</th></tr><tr><td>Lot 61</td><td>17.13 ha</td><td>Approx. 1,370m</td></tr><tr><td>Lot 62</td><td>78.74 ha</td><td>Approx. 2,501m</td></tr></table> <p>Neither of the two new lots achieve a minimum lot size of 100 hectares, as required per AO1.1.</p>			Proposed Lot	New Lot size	Road Frontage	Lot 61	17.13 ha	Approx. 1,370m	Lot 62	78.74 ha	Approx. 2,501m
Proposed Lot	New Lot size	Road Frontage									
Lot 61	17.13 ha	Approx. 1,370m									
Lot 62	78.74 ha	Approx. 2,501m									
Planning comments The proposal is considered to achieve PO1 in the following ways:											

- a) While at this stage no dwellings are proposed, each proposed lot provides sufficient area for siting and construction of a dwelling and domestic outbuildings, etc.
- b) Each lot can safely access Banks Creek Road.
- c) The proposal has demonstrated an appropriate response to site characteristics. The land is subject to flooding; however, each lot contains area free from flooding.
- d) The subdivision remains consistent with the existing locality and with existing Rural zoned lots across Somerset. The development will retain the rural character of the locality.

It is recommended that the alternative solution be accepted in this instance.

Agricultural land overlay code

Performance outcome	Acceptable outcome
For assessable development	
PO1 Loss, fragmentation, alienation or diminished capacity of agricultural land is avoided unless: <ul style="list-style-type: none"> (a) an overriding need exists for the development in terms of public benefit; (b) no suitable alternative site exists; (c) loss or fragmentation is minimised to the extent possible. 	AO1.3 Reconfiguring a lot does not result in the creation of a lot with an area less than 100 hectares on land identified as Agricultural Land Class A or Class B or Important Agricultural Areas on the Agricultural land overlay maps OM01a-b .
Performance outcome assessment	
Proposal Some of the land is identified as Class A Agricultural Land. The proposal will result in the creation of a lot of less than 100 hectares, not achieving AO1.3.	
Planning comments Proposed Lot 62 will contain almost the entire mapped extent of the Class A Agricultural Land in this location. This fact notwithstanding, the proposal will not result in the further fragmentation, alienation or diminished capacity of the agricultural land than has already occurred as a result of the existing road reserves over the property.	
It is recommended that the alternative solution be accepted in this instance.	

6.1.4 Overall Outcome Assessment

The proposal is considered to comply with all of the relevant performance outcomes. As such, no assessment of the overall outcomes is required.

6.2 TRUNK INFRASTRUCTURE AND ADOPTED CHARGES

6.2.1 Local Government Infrastructure Plan

The site is not affected by a trunk infrastructure requirement of the Local Government Infrastructure Plan.

6.2.2 Infrastructure Charges

Under the Somerset Regional Council Charges Resolution (No. 1) 2021, infrastructure charges are applicable for the reconfiguring of a lot, where creating a new lot. If the development is approved, the applicant will be issued with an infrastructure charges notice in accordance with section 119 of the Act. A draft infrastructure charges notice has been provided per Attachment 2.

6.2.3 Transport network

The subject land has frontage to Banks Creek Road. Banks Creek Road is partially sealed over Savages Crossing at the Brisbane River, after which the road is formed with a gravel construction.

Infrastructure charges are applicable for the transport network, as shown on the draft charges notice.

6.2.4 Stormwater and drainage

The development will not result in changes to the existing drainage conditions of the land. The development will be conditioned that stormwater drainage flows are to be non-worsening for adjoining properties.

Adopted charges for the stormwater network do not apply as the property is not located within the Urban Footprint.

6.2.5 Parks and open space

The proposal is not considered to have any adverse impacts upon Council's parks and open space network.

Adopted charges for the parks and open space network do not apply as the property is not located within a relative service catchment.

6.2.6 Electricity and telecommunications

The planning scheme does not require that lots in the Rural zone be connected to the reticulated electricity network or to telecommunications.

6.2.7 Water supply and sewerage

The subject land is not serviced by reticulated water or sewerage infrastructure. Future dwellings, if proposed on the either of the new allotments will be required to provide their own potable water supply and effluent disposal systems, in line with Council's desired standards of service for dwellings in the Rural zone.

7.0 OTHER RELEVANT MATTERS

Not applicable for code assessment.

8.0 REFERRAL AGENCIES

In accordance with the *Planning Regulation 2017*, there are no referral agencies applicable for this application.

Council did not seek any third-party advice for this application.

9.0 PUBLIC NOTIFICATION

The application was subject to impact assessment, and public notification was required. Public notification was undertaken in accordance with the Act. The applicant provided a notice of compliance. Public notification was undertaken from 25 November to 16 December 2021. No comments or submissions were received by Council regarding this application.

10.0 ATTACHMENTS

1. Proposed Reconfiguration by Road Severance over Lot 3 on M33497, Banks Creek Road, Banks Creek, provided by Baird and Hayes, drawn by P.E., dated 10 September 2021, reference no. 13758, drawing no. P03-01a
2. Draft Infrastructure Charges Notice

11.0 RECOMMENDATION

THAT Council approve the Development Application for a Development Permit for Reconfiguring a Lot by Subdivision (One Lot into Two Lots – subdivision by road severance) on land described as Lot 3 on M33497, situated at Banks Creek Road, Banks Creek, subject to the recommended conditions and requirements contained in the Schedules and Attachments to this report.

THAT the officer report for this application be published to the website as Council's Statement of Reasons in accordance with s63(5) of *Planning Act 2016*.

SCHEDULE 1 – GENERAL CONDITIONS		
<i>Assessment Manager</i>		
No	Condition	Timing
1.1	Carry out the development generally in accordance with the material contained in the development application, supporting documentation and the plan(s) listed below, except where amended by these conditions of approval. Proposed Reconfiguration by Road Severance over Lot 3 on M33497, Banks Creek Road, Banks Creek, provided by Baird and Hayes, drawn by P.E., dated 10 September 2021, reference no. 13758, drawing no. P03-01a	At all times
1.2	Comply with the relevant provisions of the Somerset Region Planning Scheme, Planning Scheme Policies and Local Laws.	At all times
1.3	A Licensed Surveyor must install new Survey Marks in their correct positions in accordance with the Survey Plan and the work must be certified in writing.	Prior to Plan of Subdivision Endorsement Request
1.4	A Licensed Surveyor must certify in writing that: <ol style="list-style-type: none"> a) any structures located over any new boundary have been removed. Relevant approvals must be gained for the removal of any structures. b) the boundary clearances for any existing buildings that are to remain on the site comply with the relevant provisions of the planning scheme and the <i>Building Act 1975</i> (unless varied by this Decision Notice). 	Prior to Plan of Subdivision Endorsement Request
1.5	Pay to Council any outstanding rates, charges or expenses levied by Council over the subject land.	Prior to Plan of Subdivision Endorsement Request

1.6	Pay to Council the applicable amount for the issue of new valuations by the Department of Natural Resources, Mines and Energy for the new allotments. Currently, the amount is set at \$39.00 per allotment.	Prior to Plan of Subdivision Endorsement Request
1.7	Any existing roof-water conduits, electrical conduits, effluent disposal areas, irrigation areas or pipes, telecommunication conduits, reticulated water conduits, and any other utility conduits common to both proposed lots shall be terminated within each proposed lot.	Prior to Plan of Subdivision Endorsement Request
SCHEDULE 2 – ENGINEERING <i>Assessment Manager</i>		
No	Condition	Timing
	Public Utilities/Infrastructure	
2.1	Bear the costs of works carried out to Council and utility services infrastructure and assets, including any alterations and repairs resulting from compliance with these conditions.	Prior to Plan of Subdivision Endorsement Request
2.2	Repair any damage to Council infrastructure that occurs during any works carried out in association with the approved development.	Prior to Plan of Subdivision Endorsement Request
	Stormwater drainage	
2.3	Stormwater drainage and flows are to have a no worsening effect on adjoining, upstream, or downstream landholders.	At all times
	Vehicle access	
2.4	All vehicular access for new allotments shall provide convenient and safe access and egress from the site in accordance with <i>Somerset Regional Council Design Standards</i> .	At all times
2.5	The landowner is responsible for construction and maintenance of vehicular access for the property, from the road carriageway to property boundary in accordance with Council's Policy and Standards. Approval is to be sought from Council and the landowner must advise all potential purchasers accordingly.	At all times
	Erosion and sediment control	
2.6	Erosion and sedimentation controls shall be implemented, as necessary, and shall be maintained to Council's satisfaction at all times during the course of the project. Should Council determine that proposed controls are ineffective or a downstream drainage system has become silted, the developer will: <ul style="list-style-type: none"> Be required to install additional measures. 	At all times

	<ul style="list-style-type: none"> • Be responsible for the restoration work. 	
SCHEDULE 3 – ADVICE		
Assessment Manager		
This approval has effect in accordance with the provisions of section 71 of the <i>Planning Act 2016</i> . [A copy of section 71 will be enclosed with the Decision Notice]		
Currency Period - Pursuant to section 85 of the <i>Planning Act 2016</i> the approval will lapse if the first change of the use under the approval does not start within the 'currency period' – being four (4) years starting the day the approval takes effect.		
This approval requires Council to approve a plan of subdivision before the plan can be registered or otherwise recorded, pursuant to Part 9, Section 69 of the <i>Planning Regulation 2017</i> .		
The applicant may make representations (change representations) about a matter in this development application within the applicant's appeal period under the process established in chapter 3, part 5, subdivision 1 of the <i>Planning Act 2016</i> .		
The <i>Planning Act 2016</i> provides for a person to make a change to this development application outside the applicant's appeal period, following the process outlined in chapter 3, part 5, subdivision 2 of the Act.		
The form <i>Application to Approval Plan of Subdivision [version 1.0 effective 3 July 2017]</i> must be completed by the person requesting development assessment of this conditional approval. The form must be submitted to Council and must be accompanied by the relevant fees, and a compliance summary of development conditions. If there is insufficient space on the form, the person must attach extra pages outlining compliance.		
Landowners are responsible for the construction and maintenance of any vehicular access for the property, from the road carriageway to property boundary in accordance with Council's standards. Approval is to be sought from Council and the landowner must advise all potential purchasers accordingly.		
The Plan of Subdivision will not be released until all works are completed to Council's satisfaction or uncompleted works are suitably bonded.		
Any further developments of the site may require further approvals.		
Biosecurity Queensland should be notified on 13 25 23 of proposed development(s) occurring in the Fire Ant Restricted Area before earthworks commence. It should be noted that works involving movements of soil associated with earthworks may be subject to movement controls and failure to obtain necessary approvals from Biosecurity Queensland is an offence.		
It is a legal obligation to report any sighting or suspicion of fire ants within 24 hours to Biosecurity Queensland on 13 25 23.		
The Fire Ant Restricted Area as well as general information can be viewed on the DAF website www.daf.qld.gov.au/fireants		

The Applicant has the Right of Appeal to the Planning and Environment Court regarding the conditions of this approval.

Should the Applicant notify Council in writing that the conditions of approval are accepted without dispute and that the right of appeal to the Court will not be exercised, the Decision Notice may be taken to be the development permit.

Attachments for the Decision Notice include:

1. Proposed Reconfiguration by Road Severance over Lot 3 on M33497, Banks Creek Road, Banks Creek, provided by Baird and Hayes, drawn by P.E., dated 10 September 2021, reference no. 13758, drawing no. P03-01a
2. Infrastructure Charges Notice

Resolution

Moved – Cr Wendt

Seconded – Cr Choat

- “1. THAT Council approve the Development Application for a Development Permit for Reconfiguring a Lot by Subdivision (One Lot into Two Lots – subdivision by road severance) on land described as Lot 3 on M33497, situated at Banks Creek Road, Banks Creek, subject to the recommended conditions and requirements contained in the Schedules and Attachments to this report.
2. THAT the officer report for this application be published to the website as Council’s Statement of Reasons in accordance with s63(5) of *Planning Act 2016*.

SCHEDULE 1 – GENERAL CONDITIONS

Assessment Manager

No	Condition	Timing
1.1	Carry out the development generally in accordance with the material contained in the development application, supporting documentation and the plan(s) listed below, except where amended by these conditions of approval. Proposed Reconfiguration by Road Severance over Lot 3 on M33497, Banks Creek Road, Banks Creek, provided by Baird and Hayes, drawn by P.E., dated 10 September 2021, reference no. 13758, drawing no. P03-01a	At all times
1.2	Comply with the relevant provisions of the Somerset Region Planning Scheme, Planning Scheme Policies and Local Laws.	At all times
1.3	A Licensed Surveyor must install new Survey Marks in their correct positions in accordance with the Survey Plan and the work must be certified in writing.	Prior to Plan of Subdivision Endorsement Request
1.4	A Licensed Surveyor must certify in writing that: c) any structures located over any new boundary have been removed. Relevant approvals must be gained for the removal of any structures. d) the boundary clearances for any existing buildings that	Prior to Plan of Subdivision Endorsement Request

	are to remain on the site comply with the relevant provisions of the planning scheme and the <i>Building Act 1975</i> (unless varied by this Decision Notice).	
1.5	Pay to Council any outstanding rates, charges or expenses levied by Council over the subject land.	Prior to Plan of Subdivision Endorsement Request
1.6	Pay to Council the applicable amount for the issue of new valuations by the Department of Natural Resources, Mines and Energy for the new allotments. Currently, the amount is set at \$39.00 per allotment.	Prior to Plan of Subdivision Endorsement Request
1.7	Any existing roof-water conduits, electrical conduits, effluent disposal areas, irrigation areas or pipes, telecommunication conduits, reticulated water conduits, and any other utility conduits common to both proposed lots shall be terminated within each proposed lot.	Prior to Plan of Subdivision Endorsement Request
SCHEDULE 2 – ENGINEERING		
<i>Assessment Manager</i>		
No	Condition	Timing
	Public Utilities/Infrastructure	
2.1	Bear the costs of works carried out to Council and utility services infrastructure and assets, including any alterations and repairs resulting from compliance with these conditions.	Prior to Plan of Subdivision Endorsement Request
2.2	Repair any damage to Council infrastructure that occurs during any works carried out in association with the approved development.	Prior to Plan of Subdivision Endorsement Request
	Stormwater drainage	
2.3	Stormwater drainage and flows are to have a no worsening effect on adjoining, upstream, or downstream landholders.	At all times
	Vehicle access	
2.4	All vehicular access for new allotments shall provide convenient and safe access and egress from the site in accordance with <i>Somerset Regional Council Design Standards</i> .	At all times
2.5	The landowner is responsible for construction and maintenance of vehicular access for the property, from the road carriageway to property boundary in accordance with Council's Policy and Standards. Approval is to be sought from Council and the landowner must advise all potential purchasers accordingly.	At all times

	Erosion and sediment control	
2.6	<p>Erosion and sedimentation controls shall be implemented, as necessary, and shall be maintained to Council's satisfaction at all times during the course of the project. Should Council determine that proposed controls are ineffective or a downstream drainage system has become silted, the developer will:</p> <ul style="list-style-type: none"> • Be required to install additional measures. • Be responsible for the restoration work. 	At all times
SCHEDULE 3 – ADVICE		
Assessment Manager		
This approval has effect in accordance with the provisions of section 71 of the <i>Planning Act 2016</i> . [A copy of section 71 will be enclosed with the Decision Notice]		
Currency Period - Pursuant to section 85 of the <i>Planning Act 2016</i> the approval will lapse if the first change of the use under the approval does not start within the 'currency period' – being four (4) years starting the day the approval takes effect.		
This approval requires Council to approve a plan of subdivision before the plan can be registered or otherwise recorded, pursuant to Part 9, Section 69 of the <i>Planning Regulation 2017</i> .		
The applicant may make representations (change representations) about a matter in this development application within the applicant's appeal period under the process established in chapter 3, part 5, subdivision 1 of the <i>Planning Act 2016</i> .		
The <i>Planning Act 2016</i> provides for a person to make a change to this development application outside the applicant's appeal period, following the process outlined in chapter 3, part 5, subdivision 2 of the Act.		
The form <i>Application to Approval Plan of Subdivision [version 1.0 effective 3 July 2017]</i> must be completed by the person requesting development assessment of this conditional approval. The form must be submitted to Council and must be accompanied by the relevant fees, and a compliance summary of development conditions. If there is insufficient space on the form, the person must attach extra pages outlining compliance.		
Landowners are responsible for the construction and maintenance of any vehicular access for the property, from the road carriageway to property boundary in accordance with Council's standards. Approval is to be sought from Council and the landowner must advise all potential purchasers accordingly.		
The Plan of Subdivision will not be released until all works are completed to Council's satisfaction or uncompleted works are suitably bonded.		
Any further developments of the site may require further approvals.		

Biosecurity Queensland should be notified on 13 25 23 of proposed development(s) occurring in the Fire Ant Restricted Area before earthworks commence. It should be noted that works involving movements of soil associated with earthworks may be subject to movement controls and failure to obtain necessary approvals from Biosecurity Queensland is an offence.

It is a legal obligation to report any sighting or suspicion of fire ants within 24 hours to Biosecurity Queensland on 13 25 23.

The Fire Ant Restricted Area as well as general information can be viewed on the DAF website www.daf.qld.gov.au/fireants

The Applicant has the Right of Appeal to the Planning and Environment Court regarding the conditions of this approval.

Should the Applicant notify Council in writing that the conditions of approval are accepted without dispute and that the right of appeal to the Court will not be exercised, the Decision Notice may be taken to be the development permit."

Carried

Vote - Unanimous

Subject:	Development Application No. 21769 Development Application for a Development Permit for Material Change of Use for Home-based Business (Hair Salon)
File No:	DA21769
Assessment No:	02346-49000-000
Action Officer:	SP-MO

1.0 APPLICATION DETAILS

Subject Land

Location:	12 Daintree Court, Fernvale
Real property description:	Lot 95 SP143582
Site area:	4,000m ²
Current land use:	Dwelling house and associated buildings/structures
Easements/encumbrances:	Nil identified

Somerset Region Planning Scheme (Version Four)

Zone:	General residential zone
Precinct:	Park residential precinct
Overlays:	High impact activities management area overlay Landslide hazard overlay

South East Queensland Regional Plan 2017

Land use category:	Urban Footprint
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Application

Proposal:	Home-based business (hair salon)
Category of assessment:	Code assessment
Applicant details:	Dolls and Guys Hair Pty Ltd 12 Daintree Court Fernvale QLD 4306

Owner details: Trent Doyle
Date application properly made: 14 December 2021

Referral agencies None required
Public notification Not required

RECOMMENDED DECISION

Approve the Development Application subject to the conditions and requirements contained in the schedules and attachments of this report.



Locality Plan of Lot 95 SP143582
Situated at 12 Daintree Court, Fernvale

2.0 PROPOSAL

This application seeks approval to start a home hair salon in a converted garage of the existing dwelling house at 12 Daintree Court, Fernvale, formally described as Lot 95 SP143582.

The proposed home-based business will occupy 17m² of the existing dwelling, being less than 10% of the floor area dwelling house. It is proposed to operate the business such that the service would be provided to only one customer at a time, with a maximum of one non-resident employee for the business.

The applicant has sought approval to operate during the standard hours of operation stated in the Home-based business code, namely 6am to 6pm Monday to Friday and 8am to 12pm on Saturdays. No trade would occur on Sundays or Public Holidays. This affords the applicant flexibility to provides services at convenient times to customer, but not necessarily operating for the fully listed hours.

The application material advises that resident parking will be accommodated behind the dwelling. There are existing sheds at the rear of the property that may accommodate this purpose. This leaves sufficient space in front of the dwelling for the parking of two customer vehicles.

The application is to be assessed against the matters set out in section 45 and decided in accordance with section 60 of the *Planning Act 2016*.

3.0 SITE DETAILS AND SURROUNDING LAND USES

The subject land is a regular shaped allotment and is bounded to the north by Daintree Court, and to the east, south and west by similar sized park residential allotments. The lot is improved by a dwelling house, including several domestic outbuildings, and gains access from a piped cross over to Daintree Court.

The lot, and each adjoining lot, is within the General residential zone - Park residential precinct.

The lot is shown on the Landslide hazard overlay as having slope exceeding 15%. As the proposal does not provide additional building works, there are no slope concerns posed by the development.

4.0 PLANNING ASSESSMENT – STATE PLANNING INSTRUMENTS

The application has been assessed in accordance with the requirements of the *Planning Act 2016*. In accordance with the Act, the assessment manager must assess the application against the assessment benchmarks within the following state planning instruments:

- the *State Planning Policy 2017*;
- the *South East Queensland Regional Plan 2017*;
- the *Planning Regulation 2017* (Schedule 10).

An assessment of the application against the state planning instruments is set out below.

4.1 State Planning Policy

A new State Planning Policy (SPP) came into effect on 3 July 2017 and is not currently reflected in the Somerset Region Planning Scheme. An assessment of the proposed development against the assessment benchmarks contained within Part E of the SPP is required.

The application has been assessed against the assessment benchmarks and the proposal is considered to comply.

4.2 South East Queensland Regional Plan 2017

The site is located within the urban footprint. The development application has been assessed against the provisions of the regional plan and the associated regulatory requirements and was found to be consistent.

4.3 Planning Regulation 2017 (Schedule 10)

The proposal does not impact on any regulated vegetation, is not located in proximity to a Queensland heritage place or local heritage place, is not known to be on the contaminated land or environmental management register, nor involves any environmentally relevant activities.

There are no assessment benchmarks from the Planning Regulation 2017 applicable to the development.

5.0 PLANNING ASSESSMENT – LOCAL PLANNING INSTRUMENTS

An assessment against the applicable local planning instruments is set out below.

5.1 Somerset Region Planning Scheme (Version Four)

5.1.1 Strategic Framework Assessment

An assessment against the Strategic Framework assessment was not required as this development application was subject to code assessment.

5.1.2 Code Compliance Summary

The assessment below identifies how the development proposal achieves the assessment benchmarks and where the development proposal:

- (a) proposes an alternative outcome to the identified acceptable outcomes satisfying or not satisfying the corresponding performance outcomes; and
- (b) proposes an outcome where no acceptable outcome is stated in the code and the proposed outcome does not satisfy the corresponding performance outcome.

Applicable Code	Compliance with Overall Outcomes	Performance Outcomes
General residential zone code	Yes	Complies with all acceptable outcomes
Home-based business code	Yes	Complies with all acceptable outcomes
Services, works and infrastructure code	Yes	Complies with all acceptable outcomes
Transport, access and parking code	Yes	PO7, PO10
Applicable Overlay Code	Compliance with Overall Outcomes	Performance Outcomes
Landslide hazard overlay	Yes	Complies with all acceptable outcomes

The assessment of the development proposal against the Performance Outcomes of the applicable code(s) is discussed below.

5.1.3 Performance Outcome Assessment

Transport, access and parking code

Performance outcome	Acceptable outcome
Car parking locations and treatment	
PO7 Car parking location minimises impacts on the streetscape and contributes to the intended character of the zone and locality.	A07.1 Car parking is located behind or within a building.
Proposal The applicant proposes to park two cars on the existing driveway leading to the garage, which is not within or behind the building.	
Performance Outcome Assessment The proposal does not require the construction of a typical parking area associated with a commercial building, but instead is able to reuse the existing parking arrangement for the dwelling.	

The location of the parking is consistent with a dwelling house and as such it is considered that this arrangement will continue to support the residential character of the premises.

The house is set back approximately 15 metres from the front boundary of the site.

It is recommended that the alternative solutions to AO7.1 be accepted in this instance.

Vehicle standing and manoeuvring areas

PO10

Vehicle standing and manoeuvring areas are of suitable standard for the intended use and the areas are constructed to a standard that avoids *environmental nuisance*.

AO10

Internal manoeuvring and standing areas of the *site* are sealed.

Proposal

The proposal retains the existing access and manoeuvring areas, which are made of a compacted gravel.

Performance Outcome Assessment

The planning scheme seeks that two parking spaces be provided (in addition to the two required for the dwelling) as the applicant has applied for up to one employee to be onsite. Where no employees are involved, a home-based business of this size does not require a dedicated parking space.

It is considered that the intended use will not result in an environmental nuisance as the proposed parking arrangement is consistent with the anticipated parking demand brought by the scale of operation proposed, noting that only customer is to receive hair dressing services at any time.

It is recommended that the alternative solution to AO10 be accepted in this instance.

6.0 OTHER PLANNING CONSIDERATIONS

6.1 Trunk Infrastructure and Services

The following items of trunk infrastructure and services applicable to the proposed development are individually addressed below.

6.2 Infrastructure charges

The proposed development is for a home-based business, which is identified as being a minor use under Somerset Regional Council Charges Resolution (No. 1) 2021.

There are no adopted charges for minor uses under the Charges Resolution.

6.3 Water supply and sewerage

The subject land is located within the connections area for water and sewerage. The proposal is not expected to require alteration to the existing water supply connection.

The subject land is located outside of the connections area and future connections area for sewerage infrastructure under Urban Utilities' Netserv Plan.

The site contains sufficient area for onsite treatment systems to be designed in accordance with the relevant regulatory requirements. A plumbing and drainage approval has already been granted for the plumbing works associated with the proposed salon fixtures.

Infrastructure charges for water and sewerage are managed by Urban Utilities, separate from Council's Charges Resolution.

6.4 Electricity and telecommunications

The dwelling is connected to the reticulated electricity and telecommunications networks. No changes to these connections are proposed.

6.5 Stormwater/drainage

There are no known issues with the existing drainage of the site. Standard conditions have been included to demonstrate non-worsening for other properties.

6.6 Transport network

The proposal does not result in changes to the existing crossover to Daintree Court, which is a sealed access street in the road register.

6.7 Parks and open space

The proposal is not considered to result in an impact on Council's parks and open space network.

7.0 REFERRAL AGENCIES

In accordance with the *Planning Regulation 2017*, there are no referral agencies applicable for this application.

Council did not seek any third-party advice for this application.

8.0 PUBLIC NOTIFICATION

As the application is subject to code assessment, public notification was not required.

9.0 CONCLUSION

The proposed development is for a material change of use for a home-based business, within an established dwelling in Fernvale. The proposed development complies with the acceptable outcomes of the relevant assessment benchmarks or provided alternative solutions achieving the performance outcomes. It is recommended that the application be approved, subject to the imposition of reasonable and relevant conditions as outlined in the schedules and attachments.

10.0 ATTACHMENTS

1. Proposal Plan

RECOMMENDED DECISION

1. THAT Council approve the Development Application for a Development Permit for Material Change of Use for Home-based business (Hair Salon) on land described as Lot 95 SP143582, situated at 12 Daintree Court, Fernvale, subject to the recommended conditions and requirements contained in the attachments to this report.
2. THAT the officer report for this application be published to the website as Council's Statement of Reasons in accordance with s63(5) of the *Planning Act 2016*.

SCHEDULE 1 – GENERAL CONDITIONS		
<i>Assessment Manager</i>		
No	Condition	Timing
1.1	Carry out the development generally in accordance with the material contained in the development application, supporting	At all times.

	documentation and the plan(s) listed below, except where amended by these conditions of approval.	
	Proposal Plan, supplied by applicant, Council reference DA21769, no date	
1.2	Comply with the relevant provisions of the Somerset Region Planning Scheme, Planning Scheme Policies and Local Laws.	At all times.
1.3	A legible copy of this development approval package is to be available on the premises.	At all times during the construction phase.
1.4	Pay to Council any outstanding rates or charges or expenses that are a charge over the subject land levied by Council; and/or levied but not fully paid over the subject land.	Prior to the commencement of use.
1.5	The home-based business is to be operated by persons of the dwelling house who permanently reside at the premises.	At all times.
1.6	The maximum number of persons employed on the site, in addition to persons who permanently reside at the premises, is one (1).	At all times.
1.7	The maximum number of customers at any one time is one (1).	At all times.
1.8	Home based businesses do not occur outside the hours of: (a) 6am and 6pm Monday to Friday; and (b) 8am and 12pm on Saturday.	At all times.
SCHEDULE 2 – ENGINEERING		
<i>Assessment Manager</i>		
No	Condition	Timing
Public Utilities/Infrastructure		
2.1	Bear the costs of works carried out to Council and utility services infrastructure and assets, including any alterations and repairs resulting from compliance with these conditions whether carried out by Council, or otherwise.	At all times.
2.2	Repair any damage to Council infrastructure that occurs during any works carried out in association with the approved development.	At all times.
Stormwater drainage		
2.3	Stormwater drainage and flows are to have a no worsening effect on adjoining, upstream, or downstream landholders.	At all times.
Vehicle access		
2.4	All vehicular access shall provide convenient and safe access and egress from the site.	At all times.

2.5	The landowner is responsible for maintenance of vehicular access for the property, from the road carriageway to property boundary in accordance with Council's Policy and Standards.	At all times.
	Erosion and sediment control	
2.6	<p>Erosion and sedimentation controls shall be implemented, as necessary, and shall be maintained to Council's satisfaction at all times during the course of the project. Should Council determine that proposed controls are ineffective or a downstream drainage system has become silted, the developer will:</p> <ul style="list-style-type: none"> • Be required to install additional measures. • Be responsible for the restoration work. <p>Should the developer fail to complete the works determined by Council within the specified time, the Council will complete the work and recover all costs from the developer associated with the work.</p>	At all times.
SCHEDULE 3 – ENVIRONMENTAL		
<i>Assessment Manager</i>		
No	Condition	Timing
3.1	All solid, semi-solid and liquid waste generated from the construction and occupation of this approved development must be collected and disposed of by Council's contractor or other Council approved waste collector unless otherwise approved by Council.	At all times.
3.2	All construction / demolition or other waste is to be removed from the site and deposited at an approved waste disposal facility in a manner acceptable to Somerset Regional Council unless otherwise authorised by Council.	During construction phase.
3.3	<p>The holder of this development approval must not:</p> <ul style="list-style-type: none"> • Burn or bury waste generated in association with this development approval at or on the development site; nor • Allow waste generated in association with this development approval to burn or be burnt or buried at or on the development site; nor • Stockpile any waste on the development site. 	At all times.
3.4	<p>The holder of this development approval must not:</p> <ul style="list-style-type: none"> • Release stormwater runoff into a roadside gutter/swale, stormwater drain or water that results in a build-up of sand, silt or mud in the gutter, drain or water; or • Deposit sand, silt or mud in a roadside gutter, stormwater drain or water; or in a place where it could reasonably be expected to move or be washed into a roadside gutter/swale, stormwater drain or water and 	During construction phase.

	result in a build-up of sand, silt or mud in the gutter, drain or water.	
SCHEDULE 4 – ADVICE		
Assessment Manager		
This approval has effect in accordance with the provisions of section 71 of the <i>Planning Act 2016</i> , and development may commence in accordance with section 72.		
Currency Period - Pursuant to section 85 of the <i>Planning Act 2016</i> the approval will lapse if the first change of the use under the approval does not start within the currency period – being six (6) years starting the day the approval takes effect.		
The applicant may make representations (change representations) about a matter in this development application within the applicant's appeal period under the process established in chapter 3, part 5, subdivision 1 of the <i>Planning Act 2016</i> .		
The <i>Planning Act 2016</i> provides for a person to make a change to this development application outside the applicant's appeal period, following the process outlined in chapter 3, part 5, subdivision 2 of the Act.		
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 <i>Planning Act 2016</i> . 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 <i>Planning Act 2016</i>).		
Separate development approval is required for any building work and plumbing/drainage work necessitated by the conditions contained in this approval.		
This development approval is for the proposed development only. Any additional structures proposed may require their own planning approval and will be assessed on its own merits.		

Attachments for the Decision Notice include:

- Proposal Plan, supplied by applicant, Council reference DA21769, no date.

Resolution

Moved – Cr Gaedtke

Seconded – Cr Isidro

1. “THAT Council approve the Development Application for a Development Permit for Material Change of Use for Home-based business (Hair Salon) on land described as Lot 95 SP143582, situated at 12 Daintree Court, Fernvale, subject to the recommended conditions and requirements contained in the attachments to this report
2. THAT the officer report for this application be published to the website as Council's Statement of Reasons in accordance with s63(5) of the *Planning Act 2016*

SCHEDULE 1 – GENERAL CONDITIONS

Assessment Manager

No	Condition	Timing
1.1	Carry out the development generally in accordance with the material contained in the development application, supporting documentation and the plan(s) listed below, except where	At all times.

	amended by these conditions of approval.	
	Proposal Plan, supplied by applicant, Council reference DA21769, no date	
1.2	Comply with the relevant provisions of the Somerset Region Planning Scheme, Planning Scheme Policies and Local Laws.	At all times.
1.3	A legible copy of this development approval package is to be available on the premises.	At all times during the construction phase.
1.4	Pay to Council any outstanding rates or charges or expenses that are a charge over the subject land levied by Council; and/or levied but not fully paid over the subject land.	Prior to the commencement of use.
1.5	The home-based business is to be operated by persons of the dwelling house who permanently reside at the premises.	At all times.
1.6	The maximum number of persons employed on the site, in addition to persons who permanently reside at the premises, is one (1).	At all times.
1.7	The maximum number of customers at any one time is one (1).	At all times.
1.8	Home based businesses do not occur outside the hours of: (a) 6am and 6pm Monday to Friday; and (b) 8am and 12pm on Saturday.	At all times.
SCHEDULE 2 – ENGINEERING		
<i>Assessment Manager</i>		
No	Condition	Timing
Public Utilities/Infrastructure		
2.1	Bear the costs of works carried out to Council and utility services infrastructure and assets, including any alterations and repairs resulting from compliance with these conditions whether carried out by Council, or otherwise.	At all times.
2.2	Repair any damage to Council infrastructure that occurs during any works carried out in association with the approved development.	At all times.
Stormwater drainage		
2.3	Stormwater drainage and flows are to have a no worsening effect on adjoining, upstream, or downstream landholders.	At all times.
Vehicle access		
2.4	All vehicular access shall provide convenient and safe access and egress from the site.	At all times.

2.5	The landowner is responsible for maintenance of vehicular access for the property, from the road carriageway to property boundary in accordance with Council's Policy and Standards.	At all times.
	Erosion and sediment control	
2.6	<p>Erosion and sedimentation controls shall be implemented, as necessary, and shall be maintained to Council's satisfaction at all times during the course of the project. Should Council determine that proposed controls are ineffective or a downstream drainage system has become silted, the developer will:</p> <ul style="list-style-type: none"> • Be required to install additional measures. • Be responsible for the restoration work. <p>Should the developer fail to complete the works determined by Council within the specified time, the Council will complete the work and recover all costs from the developer associated with the work.</p>	At all times.
SCHEDULE 3 – ENVIRONMENTAL		
<i>Assessment Manager</i>		
No	Condition	Timing
3.1	All solid, semi-solid and liquid waste generated from the construction and occupation of this approved development must be collected and disposed of by Council's contractor or other Council approved waste collector unless otherwise approved by Council.	At all times.
3.2	All construction / demolition or other waste is to be removed from the site and deposited at an approved waste disposal facility in a manner acceptable to Somerset Regional Council unless otherwise authorised by Council.	During construction phase.
3.3	<p>The holder of this development approval must not:</p> <ul style="list-style-type: none"> • Burn or bury waste generated in association with this development approval at or on the development site; nor • Allow waste generated in association with this development approval to burn or be burnt or buried at or on the development site; nor • Stockpile any waste on the development site. 	At all times.
3.4	<p>The holder of this development approval must not:</p> <ul style="list-style-type: none"> • Release stormwater runoff into a roadside gutter/swale, stormwater drain or water that results in a build-up of sand, silt or mud in the gutter, drain or water; or • Deposit sand, silt or mud in a roadside gutter, stormwater drain or water; or in a place where it could reasonably be expected to move or be washed into a roadside gutter/swale, stormwater drain or water and 	During construction phase.

	result in a build-up of sand, silt or mud in the gutter, drain or water.	
SCHEDULE 4 – ADVICE		
Assessment Manager		
This approval has effect in accordance with the provisions of section 71 of the <i>Planning Act 2016</i> , and development may commence in accordance with section 72.		
Currency Period - Pursuant to section 85 of the <i>Planning Act 2016</i> the approval will lapse if the first change of the use under the approval does not start within the currency period – being six (6) years starting the day the approval takes effect.		
The applicant may make representations (change representations) about a matter in this development application within the applicant's appeal period under the process established in chapter 3, part 5, subdivision 1 of the <i>Planning Act 2016</i> .		
The <i>Planning Act 2016</i> provides for a person to make a change to this development application outside the applicant's appeal period, following the process outlined in chapter 3, part 5, subdivision 2 of the Act.		
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 <i>Planning Act 2016</i> . 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 <i>Planning Act 2016</i>).		
Separate development approval is required for any building work and plumbing/drainage work necessitated by the conditions contained in this approval.		
This development approval is for the proposed development only. Any additional structures proposed may require their own planning approval and will be assessed on its own merits."		
<u>Carried</u>		
Vote - Unanimous		

Subject:	Request for Exemption Certificate for use of former fire station building for new community use as the Esk Men's Shed
File Ref:	Exemption Certificate EC0056
Action Officer:	PO-MS

Background/Summary

Esk Men's Shed Inc. seek to utilise the former fire station building located at 12 Heap Street, Esk, also described as Lot 138 SP132929 as a new community use for a Men's Shed.

The subject land is identified as in the Community Facilities zone, with the new use being defined as a *community use*. Under the Planning Scheme, the proposed new use would be categorised as 'accepted development subject to requirements', however, in this instance the land is affected by the Flood hazard overlay map. Council's Flood hazard map identifies the site as a Low Flood Hazard area.

Consequently, for the existing fire shed to be utilised as a Men's Shed a material change of use application would be required, subject to code assessment. Council has received a

request by Esk Men's Shed Inc for an Exemption Certificate for the proposed use of the shed.

As the proposal doesn't involve any new building works, it is compliant with the requirements of the Community facilities zone code. However, the Flood hazard overlay code identifies that vulnerable uses, including community uses, are to achieve a minimum floor level of the 0.2% AEP flood event plus 500mm. The flood height at this location is 400mm above the existing ground level, and as such the minimum floor level requirements have not been satisfied.

It is considered that the change of use within the established building will not result in any additional adverse impacts on the hydrological functions of the land beyond those already expected/experienced. Further, it is considered that the proposed use will not place a greater number of persons at risk from a flood event than is tolerable at this location.

Section 46 of the *Planning Act 2016* allows the local government to give an exemption certificate if any other following apply:

- i. the effects of the development would be minor or inconsequential, considering the circumstances under which the development was categorised as assessable development;
- ii. the development was categorised as assessable development only because of particular circumstances that no longer apply;
- iii. the development was categorised as assessable development because of an error.

The effects of the development are considered to be *minor and inconsequential* in the circumstances in which the development was categorised as assessable development, in that the proposed use will occur within an existing building with a tolerable risk to flooding in any area anticipated for community uses to occur.

If accepted by Council, the Exemption Certificate will apply to the use of the existing structure only. Any future increase in intensity of use of the site will trigger the need for a material change of use application.

Attachments

The plans of the proposed development are available as per Attachment 1.

Recommendation

THAT Council:

1. approve the request for an Exemption Certificate applying to the proposed use of the existing fire shed for use as a Men's Shed, on land described as Lot 138 SP132929, and situated at 12 Heap Street, Esk.
2. advise Esk Men's Shed Inc that a future material change or increase in intensity of use of the site will require a development application to be submitted to Council.

Resolution

Moved – Cr Isidro

Seconded – Cr Brieschke

“THAT Council:

1. Approve the request for an Exemption Certificate applying to the proposed use of the existing fire shed for use as a Men's Shed, on land described as Lot 138 SP132929, and situated at 12 Heap Street, Esk.

2. Advise Esk Men's Shed Inc that a future material change or increase in intensity of use of the site will require a development application to be submitted to Council."

Carried

Vote - Unanimous

Subject:	Development Application No. 21687 Development Application for a Development Permit for a Reconfiguring a Lot for Subdivision (One Lot into Two Lots)
File No:	DA21687
Assessment No:	01937-00000-000
Action Officer:	SP – MO

1.0 APPLICATION SUMMARY

Subject Land

Location:	2 Toogoolawah Biarra Road, Toogoolawah
Real property description:	3 RP92514
Site area:	7.297 hectares
Current land use:	Dwelling house and associated structures
Easements/encumbrances:	Nil identified

Somerset Region Planning Scheme (Version Four)

Zone:	General residential zone
Overlays:	OM4 Bushfire hazard overlay OM8 High impact activities management area overlay OM10 Landslide hazard overlay OM12 Scenic amenity overlay

South East Queensland Regional Plan 2017

Land use category:	Urban Footprint
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Application

Proposal:	Reconfiguring a lot (one lot into two lots)
Category of assessment:	Code assessment
Applicant details:	William Dodd c- ONF Surveyors PO Box 896 KINGAROY QLD 4610
Owner details:	William and Helen Dodd
Date application received:	10 November 2021
Date application properly made:	10 November 2021

Referral Agencies	Not applicable
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Public Notification	Not applicable
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RECOMMENDED DECISION

Approve the Development Application subject to the conditions and requirements contained in the schedules and attachments of this report.



Locality Plan of Lot 3 RP92514

Situated at 2 Toogoolawah Biarra Road, Toogoolawah

2.0 PROPOSAL

This application seeks approval for a development permit for a reconfiguring a lot (one lot into two lots) on land at 2 Toogoolawah Biarra Road, Toogoolawah, formally described as Lot 3 RP92514. The application proposes to create two new lots, one containing the existing dwelling house and associated buildings and structures, with the other lot being vacant.

The application does not propose further improvements, building works, or additional land uses for each of the created lots. The proposed plan of subdivision is provided in the attachments to this report.

Details of the proposed lots are as follows:

Existing lots	Existing area and frontage	Proposed lots	Proposed area and frontage
Lot 3	Existing Lot 3 has an area of 7.279 hectares and a frontage of 146 metres to Toogoolawah Biarra Road, and 256 metres to Eskdale Road.	Lot 1	Proposed Lot 1 has an area of 3.34 hectares and a frontage of 76 metres to Eskdale Road, and 146 metres to Toogoolawah Biarra Road.
		Lot 2	Proposed Lot 2 has an area of 3.96 hectares and a frontage of 180 metres to Eskdale Road.

The site is within the General residential zone, where lot sizes of 600m² are possible. As such, the proposal is not for an ultimate development scenario. There is sufficient size and dimension of both lots to provide for future subdivision potential at a contemporary

residential standard, subject to detailed investigation of topography and servicing requirements.

The application will be assessed against the matters set out in section 45 and decided in accordance with section 60 of the *Planning Act 2016*.

3.0 SITE DETAILS AND SURROUNDING LAND USES

The site is a near regular shaped allotment with frontages to Toogoolawah Biarra Road, Eskdale Road, and a minor connection to Annette Street. The lot adjoins the Toogoolawah Golf Course on the northern boundary, and Urban Utilities water reservoir and telecommunications facilities to the north west. Land west of the site is within the Rural zone, and land east/south is in the General residential zone, reflecting the site's position on the hill at the western end of the town.

4.0 PLANNING ASSESSMENT – STATE PLANNING INSTRUMENTS

The application has been assessed in accordance with the requirements of the *Planning Act 2016*. In accordance with the Act, the assessment manager must assess the application against the assessment benchmarks within the following state planning instruments:

- the State Planning Policy 2017;
- the South East Queensland Regional Plan 2017;
- the *Planning Regulation 2017* (Schedule 10).

An assessment of the application against the state planning instruments is set out below.

4.1 STATE PLANNING POLICY

A new State Planning Policy (SPP) came into effect on 3 July 2017 and is not currently reflected in the Somerset Region Planning Scheme. An assessment of the proposed development against the assessment benchmarks contained within Part E of the SPP is required.

The application has been assessed against the assessment benchmarks and the proposal is considered to comply.

4.2 SOUTH EAST QUEENSLAND REGIONAL PLAN 2017

The site is located within the Urban Footprint. The development application has been assessed against the provisions of the regional plan and the associated regulatory requirements and was found to be consistent.

4.3 PLANNING REGULATION 2017 (SCHEDULE 10)

The development application did not require assessment against any of the assessment benchmarks within the Regulation.

The proposal does result in any impact to areas of vegetation mapped as being regulated vegetation or koala habitat, is not located in proximity to a Queensland heritage place or local heritage place. No other state interests from the Regulation affect the proposal.

5.0 PLANNING ASSESSMENT – LOCAL PLANNING INSTRUMENTS

An assessment against the applicable local planning instruments is set out below.

5.1 SOMERSET REGION PLANNING SCHEME (VERSION FOUR)

5.1.1 Strategic Framework Assessment

An assessment against the Strategic Framework assessment was not required as this development application was subject to code assessment.

5.1.2 Code Compliance Summary

The assessment below identifies how the development proposal achieves the assessment benchmarks and where the development proposal:

- (a) Proposes an alternative outcome to the identified acceptable outcomes satisfying or not satisfying the corresponding performance outcomes; and
- (b) Proposes an outcome where no acceptable outcome is stated in the code and the proposed outcome does not satisfy the corresponding performance outcome.

Applicable Code	Compliance with Overall Outcomes	Performance Outcomes
Reconfiguring a lot code	Yes	PO11
Services, works and infrastructure code	Yes	Nil
Transport, access and parking code	Yes	Nil
Applicable Overlay Code	Compliance with Overall Outcomes	Performance Outcomes
Bushfire hazard overlay code	Yes	Nil
Landslide hazard overlay code	Yes	Nil

The assessment of the development proposal against the Performance Outcomes of the applicable code(s) is discussed below.

5.1.3 Performance Outcome Assessment

Reconfiguring a lot code

Performance outcome	Acceptable outcome
Movement network and access	
PO11 Access to existing or future public transport services is provided where practicable and reasonably necessary having regard to the location of the <i>site</i> and access to public transport.	AO11 All lots are located within 500 metres (radial distance) of an existing or potential public transport route.
Proposal The proposal is not located within an area that may be serviced by an existing or potential public transport route.	
Planning comments The subdivision is at the edge of the Toogoolawah urban footprint. There is currently no public transport route within 500 metres radial distance of this location, as it is not reasonably necessary for the State to provide such a service. It is considered that if it were practical or reasonably necessary to provide a public transport route servicing this area, that the proposed lot arrangement would provide a suitable level of pedestrian connectivity to such a route. It is recommended that the alternative solution be accepted in this instance.	

5.1.4 Overall Outcome Assessment

The proposal is considered to comply with all the relevant performance outcomes. As such, a detailed assessment of the overall outcomes was not required.

6.0 OTHER PLANNING CONSIDERATIONS

6.1 Trunk Infrastructure and Services

The following items of trunk infrastructure and services applicable to the proposed development are individually addressed below.

6.2 Infrastructure charges

Under the Somerset Regional Council Charges Resolution (No. 1) 2021, infrastructure charges are applicable to reconfiguring a lot in the General residential zone. The draft infrastructure charges notice is attached to this report.

6.3 Water supply and sewerage

The subject land is located adjoining the connections area for the water network under Urban Utilities' Netserv Plan. The site is not within the connections area or future connections area for the sewerage network.

The applicant proposes to connect the development to the reticulated water network, noting that the existing lot has a water connection. The recommended conditions package provides that the water network connection is required, unless the property is located outside the Netserv Area or Urban Utilities advise that the property cannot be reasonably serviced by the water network.

Wastewater will be managed by suitable onsite wastewater systems installed as part of the future building process for the new dwelling.

Infrastructure charges for the water supply and sewerage networks are managed by Urban Utilities, separate from this development application.

6.4 Electricity and telecommunications

The recommended conditions of approval require each lot to be connected to a reticulated electricity and telecommunications networks.

The recommended conditions of approval also require a licenced surveyor certify that all property connections are entirely within the lots that they serve.

6.5 Stormwater/drainage

The proposal is not anticipated to result in a concentration of stormwater flows to any adjoining landholders, nor impact on any upstream or downstream properties. Standard stormwater conditions are included in the recommended conditions package.

Infrastructure charges for the stormwater network are applicable as per the land is within the Urban Footprint and are as shown on the attached draft notice.

6.6 Transport network

The existing dwelling gains access from Toogoolawah Biarra Road, which is a trunk collector, and a Local Road of Regional Significance, which will be retained through the subdivision. Proposed Lot 2 will gain access from Eskdale Road, which is a sealed access street in Council's road hierarchy.

The proposal is not anticipated to result in an impact in the safety and efficiency of either road network. Infrastructure charges for the transport network are applicable and are as shown on the attached draft notice.

6.6 Parks and open space

The proposal is not considered to result in an unreasonable impact on Council's parks and open space network.

Infrastructure charges for the parks and open space network are not applicable as the property is not located within an identified service catchment area.

7.0 REFERRAL AGENCIES

In accordance with the *Planning Regulation 2017*, there are no referrals agencies applicable for the application.

Council did not seek any third-party advice for this application.

8.0 PUBLIC NOTIFICATION

As the application is subject to code assessment, public notification was not required.

No comments or submissions were received.

9.0 CONCLUSION

The proposed development is for a one into two lot subdivision. The development will provide two large lots that greatly exceed the minimum lot size and frontage width requirements, with sufficient area to avoid preventing further conversion to contemporary residential (subject to technical investigation).

The proposed development, subject to the recommended conditions package, generally achieves the intended outcomes sought by the Somerset Region Planning Scheme (Version Four).

10.0 ATTACHMENT

1. Proposed Subdivision Plan
2. Draft Infrastructure Charges Notice

RECOMMENDED DECISION

1. THAT Council approve the Development Application for a Development Permit for a Reconfiguring a Lot (one lot into two lots) on land described as Lot 3 RP92514, situated at 2 Toogoolawah Biarra Road, Toogoolawah, subject to the recommended conditions and requirements contained in the attachments to this report.
2. THAT the officer report for this application be published to the website as Council's Statement of Reasons in accordance with s63(5) of the *Planning Act 2016*.

SCHEDULE 1 – GENERAL CONDITIONS		
<i>Assessment Manager</i>		
No	Condition	Timing
1.1	Carry out the development generally in accordance with the material contained in the development application, supporting documentation and the plan(s) listed below, except where amended by these conditions of approval.	At all times.
	Proposed Subdivision, drawn by ONF Surveyors, reference 9932P/1, dated 4/11/2021.	
1.2	Comply with the relevant provisions of the Somerset Region Planning Scheme (Version Four), Planning Scheme Policies and Local Laws.	At all times.

1.3	A Licensed Surveyor must install new Survey Marks in their Prior to Council's correct positions in accordance with the Survey Plan and the endorsement of the work must be certified in writing.	Prior to request for endorsement of the Plan of Subdivision.
1.4	Pay to Council any outstanding rates or charges or expenses that are a charge over the subject land levied by Council; and/or levied but not fully paid over the subject land.	Prior to request for endorsement of the Plan of Subdivision.
1.5	Pay to Council the applicable amount at the time of request for plan of subdivision endorsement for the issue of new valuations by the Department of Resources. Currently, the amount is set at \$39 per allotment.	Prior to request for endorsement of the Plan of Subdivision.
1.6	Provide certification from a Licenced Surveyor that all services (e.g. water, sewerage, drainage, electricity, telecommunications) are wholly contained within the lot that they serve.	Prior to request for endorsement of the Plan of Subdivision.
1.7	Remove any services made redundant as a result of the development and reinstate the land.	Prior to request for endorsement of the Plan of Subdivision.
SCHEDULE 2 – ENGINEERING		
<i>Assessment Manager</i>		
No	Condition	Timing
2.1	All works are to be designed and constructed in accordance with the requirements of the <i>Somerset Regional Council Design Standards</i> .	At all times.
2.2	Bear the costs of works carried out to Council and utility services infrastructure and assets, including any alterations and repairs resulting from compliance with these conditions.	At all times.
2.3	Repair any damage to Council infrastructure that occurs during any works carried out in association with the approved development.	Prior to request for endorsement of the Plan of Subdivision.
GENERAL SERVICES		
2.4	Connect the development to a reticulated water supply, electricity supply, and telecommunications utilities in accordance with acceptable standards of the relevant regulatory authority so that it is available to each allotment. Where proposed allotments front existing overhead electricity or telecommunication service, these lots may connect direct to such service to the approval and requirements of the service provider.	Prior to request for endorsement of the Plan of Subdivision.

	<i>Note: For the water network, no connection to the water network is required where Urban Utilities advise that the property is either (a) outside of the water connections area, or (b) can otherwise not reasonably be serviced.</i>	
2.5	The applicant must provide written evidence (e.g. connection certificate) from each particular service provider stating either that each lot has been connected to the applicable service, is available at a standard connection, or has a current supply agreement.	Prior to request for endorsement of the Plan of Subdivision.
	VEHICLE ACCESS	
2.6	All vehicular access for new allotments shall provide convenient and safe access and egress from the site in accordance with <i>Somerset Regional Council Design Standards</i> .	At all times.
2.7	The Applicant is to construct vehicle accesses for proposed Lot 2 in general accordance with Council's standard drawing SRC-ROAD-016. The access is to be sealed with a minimum of a two-coat bitumen seal.	Prior to request for endorsement of the Plan of Subdivision.
	STORMWATER	
2.8	Stormwater Drainage and flows are to have a non worsening effect on adjoining, upstream, or downstream landholders.	At all times.
2.9	The development does not increase the flood hazard for other properties.	At all times.
	EROSION AND SEDIMENT CONTROL	
2.10	Erosion and sedimentation controls shall be implemented, as necessary, and shall be maintained to Council's satisfaction at all times during the course of the project. Should Council determine that proposed controls are ineffective or a downstream drainage system has become silted, the developer will: <ul style="list-style-type: none"> • Be required to install additional measures. • Be responsible for the restoration work. Should the developer fail to complete the works determined by Council within the specified time, the Council will complete the work and recover all costs from the developer associated with the work.	At all times.
2.11	Where vegetation is removed, the vegetation waste shall be disposed of by: <ul style="list-style-type: none"> i) Milling; ii) Chipping and/or mulching iii) Disposal at an approved waste disposal facility. 	At all times.

	No incineration of vegetation or waste will be permitted at the site. Waste other than vegetation waste, generated as a result of the operations shall be disposed of to an approved disposal facility.	
SCHEDULE 3 – ADVICE		
<i>Assessment Manager</i>		
This approval has effect in accordance with the provisions of section 71 of the <i>Planning Act 2016</i> . [A copy of section 71 will be enclosed with the Decision Notice]		
Currency Period - Pursuant to section 85 of the <i>Planning Act 2016</i> the approval will lapse if the plan of subdivision is not provided to the local government within the 'currency period' – being four (4) years starting the day the approval takes effect.		
The applicant may make representations (change representations) about a matter in this development application within the applicant's appeal period under the process established in chapter 3, part 5, subdivision 1 of the <i>Planning Act 2016</i> .		
The <i>Planning Act 2016</i> provides for a person to make a change to this development application outside the applicant's appeal period, following the process outlined in chapter 3, part 5, subdivision 2 of the Act.		
This development approval is for the proposed development only. Any additional uses/structures, if triggers assessable development, may require their own planning approval and will be assessed on its own merits.		
<p>Biosecurity Queensland should be notified on 13 25 23 of proposed development(s) occurring in the Fire Ant Restricted Area before earthworks commence. It should be noted that works involving movements of soil associated with earthworks may be subject to movement controls and failure to obtain necessary approvals from Biosecurity Queensland is an offence.</p> <p>It is a legal obligation to report any sighting or suspicion of fire ants within 24 hours to Biosecurity Queensland on 13 25 23.</p> <p>The Fire Ant Restricted Area as well as general information can be viewed on the DAF website www.daf.qld.gov.au/fireants</p>		
<p>The Applicant has the Right of Appeal to the Planning and Environment Court regarding the conditions of this approval.</p> <p>Should the Applicant notify Council in writing that the conditions of approval are accepted without dispute and that the right of appeal to the Court will not be exercised, the Decision Notice may be taken to be the development permit.</p>		

Attachments for the Decision Notice include:

- Proposed Subdivision, drawn by ONF Surveyors, reference 9932P/1, dated 4/11/2021.

Resolution

Moved – Cr Brieschke

Seconded – Cr Wendt

1. "THAT Council approve the Development Application for a Development Permit for a Reconfiguring a Lot (one lot into two lots) on land described as Lot 3 RP92514, situated at 2 Toogoolawah Biarra Road, Toogoolawah, subject to the recommended conditions and requirements contained in the attachments to this report.
2. THAT the officer report for this application be published to the website as Council's Statement of Reasons in accordance with s63(5) of the *Planning Act 2016*.

SCHEDULE 1 – GENERAL CONDITIONS*Assessment Manager*

No	Condition	Timing
1.1	Carry out the development generally in accordance with the material contained in the development application, supporting documentation and the plan(s) listed below, except where amended by these conditions of approval. Proposed Subdivision, drawn by ONF Surveyors, reference 9932P/1, dated 4/11/2021.	At all times.
1.2	Comply with the relevant provisions of the Somerset Region Planning Scheme (Version Four), Planning Scheme Policies and Local Laws.	At all times.
1.3	A Licensed Surveyor must install new Survey Marks in their Prior to Council's correct positions in accordance with the Survey Plan and the endorsement of the work must be certified in writing.	Prior to request for endorsement of the Plan of Subdivision.
1.4	Pay to Council any outstanding rates or charges or expenses that are a charge over the subject land levied by Council; and/or levied but not fully paid over the subject land.	Prior to request for endorsement of the Plan of Subdivision.
1.5	Pay to Council the applicable amount at the time of request for plan of subdivision endorsement for the issue of new valuations by the Department of Resources. Currently, the amount is set at \$39 per allotment.	Prior to request for endorsement of the Plan of Subdivision.
1.6	Provide certification from a Licenced Surveyor that all services (e.g. water, sewerage, drainage, electricity, telecommunications) are wholly contained within the lot that they serve.	Prior to request for endorsement of the Plan of Subdivision.
1.7	Remove any services made redundant as a result of the development and reinstate the land.	Prior to request for endorsement of the Plan of Subdivision.

SCHEDULE 2 – ENGINEERING*Assessment Manager*

No	Condition	Timing
2.1	All works are to be designed and constructed in accordance with the requirements of the <i>Somerset</i>	At all times.

	<i>Regional Council Design Standards.</i>	
2.2	Bear the costs of works carried out to Council and utility services infrastructure and assets, including any alterations and repairs resulting from compliance with these conditions.	At all times.
2.3	Repair any damage to Council infrastructure that occurs during any works carried out in association with the approved development.	Prior to request for endorsement of the Plan of Subdivision.
	GENERAL SERVICES	
2.4	<p>Connect the development to a reticulated water supply, electricity supply, and telecommunications utilities in accordance with acceptable standards of the relevant regulatory authority so that it is available to each allotment.</p> <p>Where proposed allotments front existing overhead electricity or telecommunication service, these lots may connect direct to such service to the approval and requirements of the service provider.</p> <p><i>Note: For the water network, no connection to the water network is required where Urban Utilities advise that the property is either</i> <i>(a) outside of the water connections area, or</i> <i>(b) can otherwise not reasonably be serviced.</i></p>	Prior to request for endorsement of the Plan of Subdivision.
2.5	The applicant must provide written evidence (e.g. connection certificate) from each particular service provider stating either that each lot has been connected to the applicable service, is available at a standard connection, or has a current supply agreement.	Prior to request for endorsement of the Plan of Subdivision.
	VEHICLE ACCESS	
2.6	All vehicular access for new allotments shall provide convenient and safe access and egress from the site in accordance with <i>Somerset Regional Council Design Standards</i> .	At all times.
2.7	The Applicant is to construct vehicle accesses for proposed Lot 2 in general accordance with Council's standard drawing SRC-ROAD-016. The access is to be sealed with a minimum of a two-coat bitumen seal.	Prior to request for endorsement of the Plan of Subdivision.
	STORMWATER	
2.8	Stormwater Drainage and flows are to have a non worsening effect on adjoining, upstream, or downstream landholders.	At all times.
2.9	The development does not increase the flood hazard for other properties.	At all times.

	EROSION AND SEDIMENT CONTROL	
2.10	<p>Erosion and sedimentation controls shall be implemented, as necessary, and shall be maintained to Council's satisfaction at all times during the course of the project. Should Council determine that proposed controls are ineffective or a downstream drainage system has become silted, the developer will:</p> <ul style="list-style-type: none"> • Be required to install additional measures. • Be responsible for the restoration work. <p>Should the developer fail to complete the works determined by Council within the specified time, the Council will complete the work and recover all costs from the developer associated with the work.</p>	At all times.
2.11	<p>Where vegetation is removed, the vegetation waste shall be disposed of by:</p> <ul style="list-style-type: none"> iv) Milling; v) Chipping and/or mulching vi) Disposal at an approved waste disposal facility. <p>No incineration of vegetation or waste will be permitted at the site. Waste other than vegetation waste, generated as a result of the operations shall be disposed of to an approved disposal facility.</p>	At all times.
SCHEDULE 3 – ADVICE		
<i>Assessment Manager</i>		
This approval has effect in accordance with the provisions of section 71 of the <i>Planning Act 2016</i> . <i>[A copy of section 71 will be enclosed with the Decision Notice]</i>		
Currency Period - Pursuant to section 85 of the <i>Planning Act 2016</i> the approval will lapse if the plan of subdivision is not provided to the local government within the 'currency period' – being four (4) years starting the day the approval takes effect.		
The applicant may make representations (change representations) about a matter in this development application within the applicant's appeal period under the process established in chapter 3, part 5, subdivision 1 of the <i>Planning Act 2016</i> .		
The <i>Planning Act 2016</i> provides for a person to make a change to this development application outside the applicant's appeal period, following the process outlined in chapter 3, part 5, subdivision 2 of the Act.		
This development approval is for the proposed development only. Any additional uses/structures, if triggers assessable development, may require their own planning approval and will be assessed on its own merits.		
Biosecurity Queensland should be notified on 13 25 23 of proposed development(s) occurring in the Fire Ant Restricted Area before earthworks commence. It should be noted that works involving movements of soil associated with earthworks may be subject to movement controls and failure to obtain necessary approvals from Biosecurity		

Queensland is an offence.

It is a legal obligation to report any sighting or suspicion of fire ants within 24 hours to Biosecurity Queensland on 13 25 23.

The Fire Ant Restricted Area as well as general information can be viewed on the DAF website www.daf.qld.gov.au/fireants

The Applicant has the Right of Appeal to the Planning and Environment Court regarding the conditions of this approval.

Should the Applicant notify Council in writing that the conditions of approval are accepted without dispute and that the right of appeal to the Court will not be exercised, the Decision Notice may be taken to be the development permit."

Carried

Vote - Unanimous

Subject:	Development Application No. 20579 Change Representations for Development Application for a Development Permit for Material Change of Use for Animal Keeping (Extension to Boarding Kennel)
File No:	DA20579
Assessment No:	34842-00000-000
Action Officer:	SP-MO

1.0 APPLICATION DETAILS

Subject Land

Location:	1073 Glamorgan Vale Road, Glamorgan Vale
Real property description:	Lot 18 SP324001 (formerly Lot 98 CH3113)
Site area:	21.983 hectares
Current land use:	Animal keeping (Boarding kennel, Cattery, Breeding rearing and training kennel)
Easements/encumbrances:	A RP168081

Somerset Region Planning Scheme (Version Four)

Zone:	Rural zone
Overlays:	OM2 Air transport overlay OM4 Bushfire hazard overlay OM5 Catchment management overlay OM8 High impact activities management area overlay

South East Queensland Regional Plan 2017

Land use category:	Regional Landscape and Rural Production Area
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Application

Proposal:	Animal Keeping (Extension to Boarding Kennel)
Category of assessment:	Impact assessment
Applicant details:	Lyngold Pty Ltd c/- Diane Kerr and Associates 19 Frobisher Street SPRINGWOOD QLD 4127

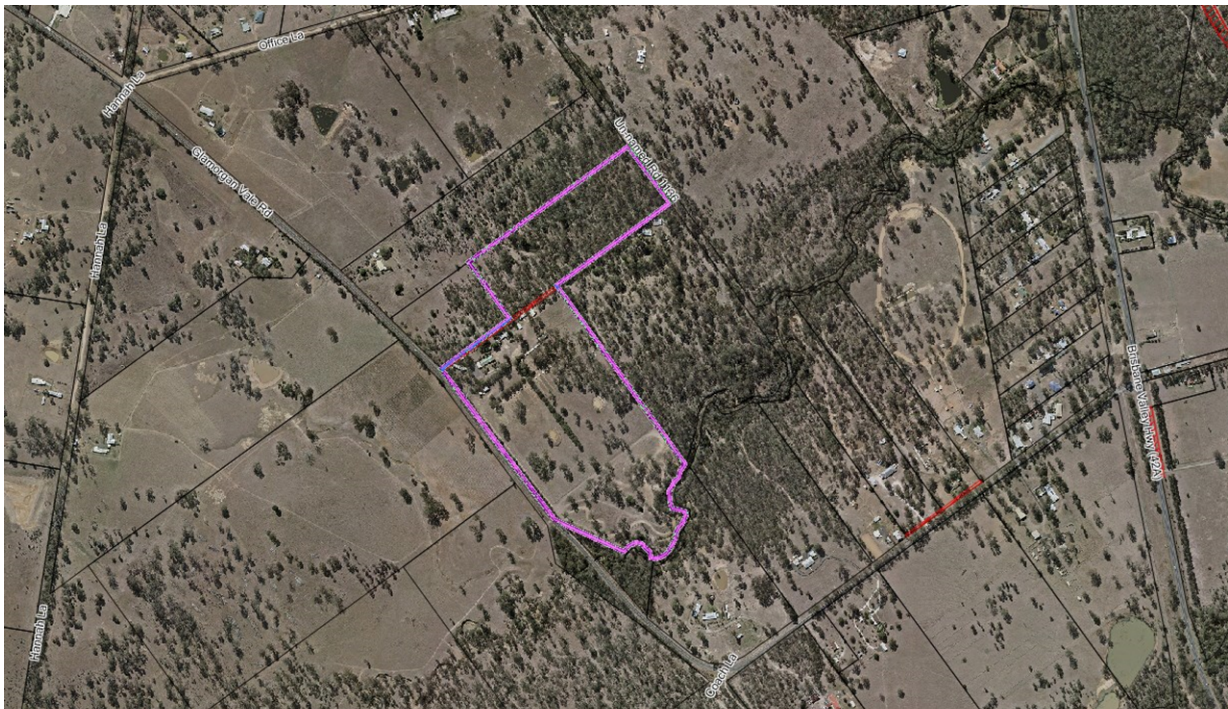
Owner details: Lyngold Pty Ltd
Date application properly made: 29 March 2021
Date application decided: 29 October 2021, Ordinary Meeting

Referral agencies None required

Public Notification Required
Submissions received: Four

RECOMMENDED DECISION

Give a Negotiated Decision Notice for the Development Approval subject to the amended conditions and requirements contained in the schedules and attachments of this report.



Locality Plan of Lot 18 SP324001
Situated at 1073 Glamorgan Vale Road, Glamorgan Vale

2.0 BACKGROUND

Council, at its ordinary meeting of 29 October 2021 considered and approved Development Application DA20579 for a Material Change of Use for the Extension of the Boarding Kennel at the Country Pet Motel at Glamorgan Vale. The applicant has now made change representations to Council seeking to change conditions and approved plans of the approval.

By a way of summary, the site has a complex development approval history that has resulted in multiple development approvals (as well as former Local Law permits and environmental authorities that no longer have effect). A detailed history of the site is available in the minutes of the ordinary meeting from 29 October 2021 (commencing page 45).

This application sought to extend the boarding kennel component and consolidate all aspects of the boarding approval to this single development approval. This allowed for the historic breeding kennel approval to sit as a separate approval with limited interaction between the two permits.

The change representations have been made under section 75 of the *Planning Act 2016* and must be assessed in accordance with section 76.

3.0 REQUESTED CHANGES

The applicant has made the following representations about the approval.

3.1 Table of approved plans

Current table

Plan/Document number	Plan/Document name	Date
J21020TP-02	Staging Plan (Site Plan) – drawn by Lockyer Drafting Designs	March 2021
J21020TP-01	Locality Plan – drawn by Lockyer Drafting Designs	March 2021
197401.0278.R01V04	Noise Impact Assessment – prepared by Ask Consulting Engineers	5 September 2021

Applicant representation

It is requested that the [table of approved plans] be amended to reflect the latest plans that were submitted prior to the application being decided.

The above referenced Staging Plan / Siting Plan is superseded by a later plan – Issue D plan dated 27 August 2021. This was submitted to Council in an email dated 27 August 2021 in response to Council's [second] further advice request letter.

It is requested that the Locality Plan be deleted as it does not reflect the latest Site Plan details. Retaining this plan as part of the approved plans will create confusion as the details differ to the Site Plan. Furthermore, the plan was only submitted for assessment purposes with the intent of providing context for the broader site details. It is noted that this plan is included in the approved Noise Impact Assessment report.

[These change representations] also introduce a new plan for clarification regarding Condition 1.6. It is requested that this plan be added to the list of approved documents.

Officer recommendation

The proposed changes to the referencing of the Staging Plan (Site Plan) and removal of the Locality Plan are supported as they are administrative in nature and reflect minor errors in the approval package.

The inclusion of the Visual Line of Sight Screening Plan is supported, on the recommendation of section 3.3 below.

The recommended change to approved plans is as follows:

Plan/Document number	Plan/Document name	Date
J21020TP-02 Issue D	Staging Plan (Site Plan) – drawn by Lockyer Drafting Designs	27 August 2021

SK 100 Issue A	Visual Line of Sight Screening Plan	November 2021
197401.0278.R01V04	Noise Impact Assessment – prepared by Ask Consulting Engineers	5 September 2021

3.2 Condition 1.1

Condition 1.1 includes the plans of approval that must be complied with and are to be amended in accordance with the above recommendation.

1.1	Carry out the development generally in accordance with the material contained in the development application, supporting documentation and the plan(s) listed below, except where amended by these conditions of approval.	At all times.
	Staging Plan (Site Plan), drawn by Lockyer Drafting Designs, reference J21020TP-02 Issue D, dated 27 August 2021	
	Visual Line of Sight Screening Plan, drawn by Diane Kerr and Associates, reference SK1 100 Issue A, dated November 2021	
	Noise Impact Assessment, prepared by Ask Consulting Engineers, reference 197401.0278.R01V04, dated 5 September 2021	

3.3 Condition 1.6

Current condition

1.6	Provide barriers to limit external visual line of sight between runs for the new kennel buildings.	Prior to use and to be maintained.
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Applicant representation

This condition is not clear. It is believed that the intent of the condition is to provide a visual screen between the boarding kennel dogs and the breeding / rearing kennel dogs to minimise the potential to trigger barking. It should be noted that this is not an acoustic noise matter. Instead it is an additional preventative measure.

However, care also needs to be taken to ensure that there are not too many solid barriers around the kennels that will create hot conditions for the dogs and minimise air flow, thus reducing the animal's welfare.

In order to provided clarification, it is proposed to provide 1.2m high shade cloth screening in locations that have been marked on the attached Visual Line of Sight Screening Plan (refer to Attachment A).

The applicant has proposed the rewording of the condition as follows:

Provide 1.2m high shade cloth screening in accordance with the approved Visual Line of Sight Screening Plan, (Dwg SK 100, Issue A, dated November 2021) to minimise visual line of sight between the external new kennel buildings yards and the breeding/rearing dog kennel yards.

Officer recommendation

The planning scheme includes an acceptable outcome (AO6.3 of the Animal keeping code) seeking that for kennels, *outdoor animal enclosures are screened with barriers to prevent external visual line of sight to other animals or external activities.* This relates to the

performance outcome requirement to limit stress to the dogs within the enclosures, rather than specifically addressing noise impacts (covered by the acoustic assessment).

In the original assessment report presented to Council, officers considered that the use of external screening hadn't been given adequate consideration and recommended that a condition be included providing barriers to limit visual lines of sight between the kennels (including both boarding and breeding kennels).

It is considered that providing solid walls between each of the individual runs would provide animal welfare issues as it may significantly restrict natural breezes within the runs, whilst the provision of screening along the external perimeters would adequately address visual disturbance to animals from beyond the kennels.

The applicant has proposed a shade cloth screening solution along the external fences of buildings C and F that have viewsheds to other kennels, primarily the breeding kennels. These are shown on the additional plan, Visual Line of Sight Screening Plan, attached to this report. It is considered that this approach achieves the intended outcome of the initial condition and the performance outcome of the code.

To facilitate compliance with the plan, condition 1.6 is recommended to be changed as follows:

1.6	Provide 1.2 metre high shade cloth screening in accordance with the approved Visual Line of Sight Screening Plan, drawn by Diane Kerr and Associates, reference SK 100 Issue A, dated November 2021.	Prior to commencement of use at each stage and to be maintained.
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3.4 Condition 1.7

Current condition

1.7	Undertake the development in sequential stages as identified on the approved staging plan. <i>Note: Where a conflict in staging arises between two or more approved plans/documents, the approved staging plan shall take precedence.</i>	At all times.
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Applicant representation

Stages 1 – 3 need to be constructed as these apply to the acoustic barrier to the neighbour as well as addressing the existing building complexes (which are to be upgraded/replaced). However, buildings C and F can be constructed in any order. It is requested that the condition be amended to allow flexibility.

It is requested that Council amend the condition [as follows]:

Undertake the development in sequential stages as identified on the approved staging plan for Stages 1 to 3. Stages 4 and 5 can be constructed in any order.

Note: Where a conflict in staging arises between two or more approved plans/documents, this condition shall take precedence.

Officer recommendation

It is appropriate to allow flexibility to the operator to develop the new kennels (stages four and five) in either order once the acoustic barrier and existing boarding kennels have been upgraded/reconfigured in compliance with this approval (stages one – three).

The reference to the approved plan taking precedence is to show the ‘metes and bounds’ of each stage, rather than the effect of timing (as the conditions always take precedence over the plans and documents). As such, this condition is required to clarify that the staging plan takes precedence over any other staging information, other than the order of stages managed by the condition.

The recommended change to the condition is as follows:

1.7	Undertake the development in sequential stages as identified on the approved staging plan for Stages 1 – 3, prior to constructing Stages 4 or 5. <i>Note: Where a conflict in staging arises between the approved plans/documents, the staging shown on the approved staging plan prevails, in the order identified in this condition. .</i>	At all times.
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3.5 Condition 1.9

Current condition

1.9	The total number of dogs boarded on the site must not exceed the following at each respective stage. Stage One – Twenty (20) dogs Stage Two – Twenty (20) dogs Stage Three – Thirty-five (35) dogs Stage Four – Eighty-five (85) dogs Stage Five – One Hundred (100) dogs	At all times.
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Applicant representation

It is requested that further detail be added to provide easy clarification on each stage without having to refer to the approved plan.

It is requested that Council amend the condition to include the following (or similar) wording.

The total number of dogs boarded on the site must not exceed the following at each respective stage.

*Stage One (Acoustic Barrier to Neighbour) – Twenty (20) dogs
Stage Two (Upgraded Building B) – Twenty (20) dogs
Stage Three (New building/yards A) – Thirty-five (35) dogs
Stage Four (New building/yards C) – Eighty-five (85) dogs
Stage Five (New building/yards F) – One Hundred (100) dogs*

Officer recommendation

It is considered that adding a description to each of the stages risks reducing clarity between the stages, and as such it is recommended that the condition not duplicate the detail laid out on the approved staging plan.

As the applicant has requested the flexibility to deliver stages four and five in either order, it is necessary to amend the condition such that the maximum of 85 dogs applies at the commencement of the earlier of stages four or five, with the final increase in boarding provided at the commencement of the final stage.

The recommended change to the condition is as follows:

1.9	<p>The total number of dogs boarded on the site must not exceed the following at each respective stage.</p> <p>Stage One – Twenty (20) dogs Stage Two – Twenty (20) dogs Stage Three – Thirty-five (35) dogs The earlier of Stage Four (New building/yards C) or Stage Five (New building/yards F) – Eighty-five (85) dogs After all five stages – One Hundred (100) dogs</p>	At all times.
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3.6 Condition 1.10

Current condition

1.10	<p>The boarding dogs may only be kept within Kennels A, B, C and F, or their associated yards, as shown on the approved plans.</p> <p><i>Note: The use of kennels, yards, hydrobaths, or other facilities associated with the breeding approval (DA2847) is not permitted.</i></p>	At all times.
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Applicant representation

The site is approved for both boarding kennels and breeding/rearing kennels. It is operated as one coordinated business. For ease of operations and commercial efficiencies some facilities are used to cater for both types of kennels (dogs). This includes hydrobaths, some preparation areas, and storage / maintenance facilities. The intent of the condition is to ensure that the dogs are kept in the approved kennels according to whether they are being boarded and or breed/reared. The shared use of ancillary facilities does not impact on this compliance matter. It is therefore requested that the reference to these facilities be deleted.

Officer recommendation

It is the assessing officer's opinion that the application as presented to Council did not include the existing hydrobaths or bulk food storage areas, nor any of the property maintenance sheds. The intent of the condition is that the boarding kennel is managed entirely within the area shown in the application as being for the boarding kennel and generally separate from areas used for the breeding and rearing kennels. This does not restrict other activities that occur on the property that are not specific components of the approval (such as property maintenance).

With respect of the existing hydrobath location, the hydrobath is located in an un-enclosed shed that does not offer any noise attenuation and has been the source of noise complaints. The application material does not propose any additional upgrades or attenuation works to the existing hydrobath area, nor any assessment of its compliance with contemporary standards to justify its current standard. Additionally, new hydrobath facilities are proposed for Kennel C.

It is not considered that sufficient assessment has been provided to allow for the use of the existing hydrobath area associated with the breeding approval as part of the boarding kennel. No changes are recommended.

With respect to food preparation and storage, it is understood that bulk food storage is occurring in the shed alongside the hydrobath area, whilst the preparation of food for serving occurs within preparation areas at each of the boarding kennels. This arrangement does not present the same potential amenity impacts (for example, noise) as the use of hydrobaths. Access and manoeuvring for vehicles making deliveries to the shed is addressed by the conditions of approval, as discussed later in this report. It is considered acceptable to allow the bulk storage of food to continue in this area, provided that preparation is occurring in the identified preparation areas.

It is not considered that the property maintenance is affected by this approval, however it is recommended to add a clarification to the condition that storage areas and areas for property maintenance are not included in the condition.

1.10	The boarding dogs may only be kept within Kennels A, B, C and F, or their associated yards, as shown on the approved plans. <i>Note: The use of kennels, yards, hydrobaths, or other facilities associated with the breeding approval (DA2847) is not permitted. This does not include areas for storage or associated with property maintenance.</i>	At all times.
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3.7 Condition 1.14

Current condition

1.14	Pick up and drop off of animals is to occur between the hours of 7am and 6pm only.	At all times.
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Applicant representation

There are no specified hours of operation under the Animal Keeping Code and Rural Zone Code. It is assumed that this condition has been applied to control noise. Any noise from cars entering and existing the property is unlikely to be an issue at any nearby residences. The key aspect will be taking the dog(s) to/from the reception area to the boarding kennel building/s. This is likely to disruption the dogs and potentially create increased barking.

It is noted that as per the Noise Impact Assessment report, all boarding dogs will be kept inside the acoustically designed buildings from 6pm to 7am (i.e. evening and night hours).

In order to provide a suitable commercial operation, there are circumstances where earlier and later pick-ups are required. This is offered by other boarding kennels within the south east Queensland area.

It is proposed that any dogs that are to be dropped off and/or picked up outside these hours, are to be kept in the existing holding kennels located in the reception office. The reception building is constructed from brick, insulated, and is lined with fibre cement sheeting (outside) and gyprock sheeting (internal). This provides sound attenuated 'interim holding' conditions.

The applicant has proposed the following condition to support the above.

Pick up and drop off of animals is to occur between the hours of 7am and 6pm only. Pick up or drop offs outside of these hours are only permitted on limited occasions and the dogs are to be held in holding kennels located inside the reception office. A separate record book is to be kept of the frequency and times of these occasions.

Note: If Council receives a valid noise complaint(s) that is verified by a suitably qualified person that drop offs and pickups from the reception office causes unacceptable nuisance at an affected residential premises, then Council will enforce the 7am to 6pm period. This can be verified by re-enacting an early or late drop off and/or pick up.

Officer recommendation

The animal keeping code does not have an hours of operation condition, however there are outcomes within the Rural zone code and the Strategic Framework about the reasonable amenity expectations with respect of hours of operation. The initial officer's assessment noted comments made by submitters with respect of 24hr collection and the compatibility with the rural environment.

The proposed alternative put forward by the applicant is generally supported, as the keeping of animals within the reception building for collection mitigates potential disturbances where dogs are required to be kennelled. Additionally, the reception is attached to the primary dwelling where any noise nuisance would be readily identifiable by the operator.

As such, it is considered that infrequent use of outside hours collection in extraordinary circumstances could be accommodated with minimal noise impact, provided dogs were moved to the reception area during the day hours to await collection, or, in the case of outside hour arrivals, kept within the reception until the next day for introduction to the kennels.

The amended condition is proposed as follows:

1.14	<p>Pick up and drop off of animals is to occur between the hours of 7am and 6pm only.</p> <p>Outside hours drop off/collection is only available for extraordinary circumstances, where dogs are to be held in holding kennels located within the reception between 6pm and 7am and only moved to/from the kennels between 7am and 6pm.</p> <p>A register of outside hours drop-off/collections is to be maintained and made available to Council officers upon request.</p>	At all times.
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3.8 Condition 1.15

Current condition

1.15	Ensure that fencing external to each dog yard is constructed to koala safe standard, to prevent koala intrusion into the dog yards.	Prior to the commencement of use for each stage and to be maintained.
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Applicant representations

It is requested that the condition be modified to clarify that the koala safe fencing only applies to the outer perimeter of each dog yard complex, and not any internal dog yard areas. It is also requested that the timing be amended to enable the existing kennel fencing to be upgraded for the existing established yards.

It is requested that Council amend the condition as follows.

Ensure that the outer perimeter of each dog yard complex is constructed with fencing to a koala safe standard, to prevent koala intrusion into the dog yard complex.

Timing: Within 6 months of permit taking effect for Stage 2 and then prior to the commencement of use for each subsequent stage and to be maintained.

Officer recommendations

The applicant has requested the wording be clarified that only external fencing of each yard complex is to be provided with Koala proofing materials. This is the intent of the condition as initially proposed and achieves requirements of the *Planning Regulation 2017*.

The changes to timing with respect to upgrading the existing fencing around Stage 2 is supported, noting that this stage is for an upgraded kennel rather than a new build.

The proposed changes to the wording are supported, as proposed below.

1.15	Ensure that the outer perimeter of each dog yard complex is constructed with fencing to a koala safe standard, to prevent koala intrusion into the dog yard complex.	Within 6 months of the permit taking effect for Stage 2, and then prior to the commencement of use for each subsequent stage and to be maintained.
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3.9 Condition 1.16

Current condition

1.16	Ensure that the fencing surrounding each yard group is constructed such that dogs are prevented from digging beneath the fence.	Prior to the commencement of use for each stage and to be maintained.
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Applicant representations

It is requested that the condition be modified to make it clear that the condition applies to the fencing to the outer perimeter of each dog yard complex, consistent with the requested amendments to Condition 1.15 above. It is also requested that the timing be amended to enable the existing kennel fencing to be upgraded for the existing established yards.

It is requested that Council amend the condition as follows:

Ensure that the fencing surrounding the perimeter of each dog yard complex is constructed such that dogs are prevented from digging beneath the fence.

Timing: Within 6 months of permit taking effect for Stage 2 and then prior to the commencement of use for each subsequent stage and to be maintained

Officer comments

The planning scheme seeks to have animal closures to be escape proof but does not provide any acceptable outcomes demonstrating how that is to be achieved. As such, the conditions attached to the approval require each kennel complex to have an escape proof perimeter fence.

Subordinate Local Law 2 has additional requirements specific to the operation of a kennel, including *all enclosures which form part of the operation of the premises are provided and maintained in a manner so as to prevent the escape of any animal kept in the enclosure*. As a qualitative statement, it is for the operator to ensure that dogs kept in each enclosure are unable to escape, however they may determine the most appropriate mechanism for achieving the requirement.

This condition ensures that the external permitter achieves the requirement in a predefined manner but does not discharge the operator's onus on ensuring dogs remain contained within their enclosures. A note is recommended to be attached to the condition reflecting this.

1.16	Ensure that the fencing surrounding the perimeter of each dog yard complex is constructed such that dogs are prevented from digging beneath the fence. Note: The requirements of Subordinate Local Law 2 continue to apply to each animal enclosure as part of this kennel complex.	Within 6 months of the permit taking effect for Stage 2, and then prior to the commencement of use for each subsequent stage and to be maintained.
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3.10 Condition 2.4

Current condition

2.4	Provide parking on-site car parking for 10 vehicles, including 1 space for disabled persons, in accordance with Council's Planning Scheme Standards for Provision and Construction of Parking areas.	At all times.
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Applicant representation

It is requested that the condition be reworded to provide clarity on the timing of the provision of the required car parking spaces. At commencement only 5 car parking spaces are required. The additional 5 car parking spaces are to be constructed at the commencement of either Stage 4 or 5, whichever is sooner. It is also requested that the timing be amended accordingly.

It is requested that the condition be amended as follows:

Provide car parking on-site for a total of 10 vehicles, including 1 space for disabled persons, in accordance with Council's Planning Scheme Standards for Provision and Construction of Parking areas. 5 car parking spaces are to be provided prior to the commencement of Stage 2 and an additional 5 space prior to the commencement of either Stage 4 or 5, whichever is sooner.

Timing: 5 spaces prior to commencement of Stages 2 and Stage 4 or 5 (whichever is sooner) and to be maintained.

Officer recommendation

The proposed change seeks to clarify that the initial five car parking spaces are required prior to commencement of stage 2 with the additional five spaces to be provided prior to the first of the new kennel buildings being constructed. This is consistent with the intended outcome approved by Council, with the recommended wording of the condition as follows:

2.4	Provide parking on-site car parking for a total of 10 vehicles, including one (1) space for disabled persons, in accordance with Council's Planning Scheme Standards for Provision and Construction of Parking areas. Five (5) car parking spaces are to be provided prior to the commencement of Stage 2 Five (5) car parking spaces are to be provided prior to the commencement of Stages 4 or 5 (whichever is earlier).	As indicated.
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3.11 Condition 2.6

Current condition

2.6	Construct and maintain the vehicle manoeuvring and parking areas of hard standing material such as concrete, asphalt, bitumen or gravel in accordance with Australian Standards. The disabled persons parking area is to of concrete, asphalt or bitumen.	At all times.
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Applicant representations

It is requested that the condition be clarified so that the requirement for hard stand material does not apply to the driveways extending beyond the Pet Motel car park area.

It is requested that Council amend the condition as follows:

Construct and maintain the vehicle manoeuvring and parking areas used by clientele (i.e. from the property boundary up to and including the car parking area in front of the reception office) of hard stand material such as concrete, asphalt, bitumen or gravel in accordance with Australian Standards.

Officer recommendations

The recommended change does not include areas that require access for delivery vehicles, where deliveries are made to the bulk food storage shed located within the site. It is necessary to achieve requirements of the planning scheme that these internal access and manoeuvring areas be constructed and maintained to the appropriate standard.

Council notes delivery vehicles are currently using land within an access easement serving an adjoining property to deliver to the bulk food storage shed between the existing boarding kennels and the secondary dwelling. It is not within Council's scope to direct that delivery vehicles do not use the easement, however Council can require that the access be constructed to an appropriate standard.

The alternative is to provide a new internal access route, constructed to an appropriate standard, that avoids the use of the easement. The condition, as currently worded, affords the applicant the flexibility to do either, but requires them to construct it at the appropriate standard.

The recommended change to the condition clarifies that areas for the customer car park area and where used by delivery vehicles are to be constructed.

2.6	Construct and maintain the vehicle manoeuvring and parking areas, associated with the customer parking area and delivery vehicles, of hard standing material such as concrete, asphalt, bitumen or gravel in accordance with Australian Standards. The disabled persons parking area is to of concrete, asphalt or bitumen.	At all times.
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3.12 Condition 3.2

Current condition

3.2	All solid waste generated from the occupation of the development must be collected and packaged appropriately for disposal at an approved waste disposal facility. If the on-site disposal system for kennel waste water fails, liquid waste must be disposed of at an approved waste disposal facility.	At all times.
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Applicant representation

As stated in the Kennel Management Plan, "for health reasons all dog faeces will be collected from kennel buildings twice daily and the yards daily. They are bagged, sealed and placed in wheelie bins. These are collected on a weekly basis". It is unclear whether the wording of "disposal at an approved waste disposal facility" covers Council wheelie bin collection.

Officer recommendation

Under current waste cleansing policies, the use of the wheelie bin is an appropriate method of transferring the waste to the Council waste disposal facility. It is not necessary to add this to the condition, as the approved Kennel Management Plan identifies how the waste is to be managed and accepts this is the appropriate method.

It is recommended that no changes be made to the condition.

3.13 Condition 3.7

Current condition

3.7	All wastewater from the kennel blocks including wash down waters are to pass through an approved secondary effluent disposal system.	At all times.
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Applicant representation

As part of the development application, it was explained that "the proposal is for extensions to an existing Boarding Kennel. The existing Country Pet Motel has an established effluent disposal area. The additional effluent disposal areas for the new Boarding Kennels

(Buildings C and F) are illustrated in the supporting Hydraulic Services Report (refer to Appendix F)". It is requested that the condition be amended to reference these submitted plans/documents.

Officer recommendation

The new waste disposal system requires plumbing and drainage approval from Council. The plan provided in support of the application details how the waste disposal system may sit on the property, but the planning approval does not require this detail as part of the approval. The detailed design can be assessed and approved by Council through a plumbing application.

It is recommended that no changes be made to the condition.

3.14 Conditions 4.2 and 4.6

Current conditions

4.2	Provide certification from the suitably qualified person, that the installation and construction of kennel buildings are in accordance with the report titled, <i>Country Pet Motel Extension – Noise Impact Assessment</i> , dated 5 September 2021, by Ask Acoustic and Air Quality and the design certified under condition 4.1.	Prior to the commencement of the use.
4.6	Provide certification from a suitably qualified person, that the installation and construction of ventilation installed on kennel buildings is in accordance with the report titled, <i>Country Pet Motel Extension – Noise Impact Assessment</i> , dated 5 September 2021, by Ask Acoustic and Air Quality and the design certified under condition 4.5.	Prior to commencement of the use.

Applicant representations

It is requested that the timing of these conditions be amended to ensure there is no misunderstanding and that the timing applies to each stage of development. As detailed in the Development Assessment Report and on the plans, Stage 2 is an existing building which is to be upgraded (i.e. it was already approved for 20 boarding dogs). It is requested that 3 months be permitted to enable these works to be completed.

Timing (4.2 and 4.6): Within 3 months of permit taking effect for Stage 2 and then prior to commencement of use for each stage.

Officer recommendation

The applicant has proposed that the condition require the acoustic certification of stage 2 to occur within 3 months of the permit taking effect, and then prior to the commencement of use for each stage after. This administrative change provides increased clarity and a more responsive timeframe for undertaking the compliance with the approval for the first upgraded kennel.

It is recommended that the timing of conditions 4.2 and 4.6 be amended as requested.

4.2	Provide certification from the suitably qualified person, that the installation and construction of kennel buildings are in accordance with the report titled, <i>Country Pet Motel Extension – Noise Impact Assessment</i> , dated 5 September 2021, by Ask Acoustic and Air Quality and the design certified under	Within 3 months of permit taking effect for Stage 2 and then prior to commencement
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	condition 4.1.	of use for each stage.
4.6	Provide certification from a suitably qualified person, that the installation and construction of ventilation installed on kennel buildings is in accordance with the report titled, <i>Country Pet Motel Extension – Noise Impact Assessment</i> , dated 5 September 2021, by Ask Acoustic and Air Quality and the design certified under condition 4.5.	Within 3 months of permit taking effect for Stage 2 and then prior to commencement of use for each stage.

3.15 Condition 5.1.2

Current condition

5.1.2	<p>To ensure that dog barking is actively controlled and minimised the applicant must prepare and fully comply with a Bark Management Plan which details the means by which barking will be managed. The Plan must set out in sufficient detail the procedures to be strictly undertaken by all staff relating to but not limited to:</p> <ul style="list-style-type: none"> (a) control of dog barking in the kennel facilities (particularly in the exercise yards), in respect of: <ul style="list-style-type: none"> (i) verbal command/interactions; (ii) additional exercise; (iii) use of ultrasonic "pet training devices"; (iv) allocation of dogs to the acoustic isolation kennels; and (v) other separation procedures. (b) the requirement for ongoing monitoring of the kennel facility for aggressive dogs or dogs that cause excessive barking and the procedures for moving these dogs to the isolation kennels. (c) the record keeping requirements when dogs are moved to the isolation kennels. These records must include the following details: <ul style="list-style-type: none"> (i) date and time of relocation to the isolation kennels or other kennel block; (ii) the reason for allocation; (iii) date and time of re-entry to standard kennel area (where applicable). 	At all times.
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Applicant representation

This condition requires the preparation of a Bark Management Plan. The timing states "At all times".

As detailed in the Development Assessment Report this application for 100 boarding dogs incorporated the existing (approved) 20 boarding dogs on the basis that it will:

- *Simplify the boarding kennel approval component of the Country Pet Motel, and*
- *Ensure that both the existing and new boarding kennel buildings and yards comply with current Council standards.*

It is therefore requested that 3 months be permitted to prepare the Plan.

Officer recommendation

The current timing does not adequately address a timeframe to submit the plan, given the development incorporates existing uses already underway (under lawful approvals). As such, it is necessary to define a time period to provide the plan to Council, from the date that the development permit takes effect.

Consideration has been given to the three month request, however on the basis of potential noise from barking, it is recommended that a reduced period of 30 days be given.

It is recommended that the timing of condition 5.1.2 be amended with the reduced timeframe of 30 days from approval taking effect.

5.1.2	<p>To ensure that dog barking is actively controlled and minimised the applicant must prepare and fully comply with a Bark Management Plan which details the means by which barking will be managed. The Plan must set out in sufficient detail the procedures to be strictly undertaken by all staff relating to but not limited to:</p> <ul style="list-style-type: none"> (d) control of dog barking in the kennel facilities (particularly in the exercise yards), in respect of: <ul style="list-style-type: none"> (vi) verbal command/interactions; (vii) additional exercise; (viii) use of ultrasonic "pet training devices"; (ix) allocation of dogs to the acoustic isolation kennels; and (x) other separation procedures. (e) the requirement for ongoing monitoring of the kennel facility for aggressive dogs or dogs that cause excessive barking and the procedures for moving these dogs to the isolation kennels. (f) the record keeping requirements when dogs are moved to the isolation kennels. These records must include the following details: <ul style="list-style-type: none"> (iv) date and time of relocation to the isolation kennels or other kennel block; (v) the reason for allocation; (vi) date and time of re-entry to standard kennel area (where applicable). 	Within 30 days of this development approval taking effect and to be maintained at all times.
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3.16 Condition 5.1.9**Current condition**

5.1.9	<ul style="list-style-type: none"> (a) Background sound system shall be installed into the interior of each kennel building to provide masking sound. (b) A video and intercom system shall be provided to the interior of each kennel building. The system shall be configured so that it can be used to monitor and communicate with the dogs at any time of the day or night. (c) The video and intercom system shall be able to be operated from the reception building as well as the onsite residence. 	Prior to the commencement of the use and to be maintained.
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	(d) Any public address system with speakers located outside the buildings or in the service corridors between the kennel buildings (where they may be able to broadcast to the open air) are not permitted.	
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Applicant representation

The requirement for a background sound system is supported and is currently implemented on-site. Similarly, no public address systems are used or proposed. As detailed in the development application material, the staff have walkie talkies to keep in touch with each other during the daytime periods. These are linked to the house, the caretaker's residence and the reception office.

However, it is requested that the requirements for a video/intercom system (i.e. conditions b and c) be deleted on the following grounds:

- These conditions have been included to add an extra level of control to the potential noise generated from dogs when they are inside the kennel building.*
- The kennel buildings (including ventilation) will be acoustically designed and constructed. Certification that they meet the required standards is required to be submitted to Council prior to commencement of each stage.*
- There are additional requirements for the construction of external acoustic barriers. These will also be acoustically designed and constructed and require certification of compliance.*
- The dogs are required to be kept inside the kennel buildings from 6pm to 7am (i.e. evening and night hours).*
- A background sound system will be played during the evening / night hours, masking outside noises.*
- A video camera will not see everything as the kennels are kept dark at night and the individual interior partitions between the inside kennels pens would block a large proportion of the views of pets.*
- The operators of the Country Pet Motel (with over 30 years' experience) know that barking is not minimised by using an intercom system, in fact experience shows that hearing voices stimulates the dogs. In other words, if the dogs hear a person's voice (e.g. the operators voice) it is likely to trigger more dogs to bark. This system may work with breeding kennels where the dogs are familiar with the owners/operators and will be calmed / controlled by their voice commands, but it has the opposite effect on boarding kennels.*
- With all of the other conditions and noise control criteria in place, it is submitted that the requirement for a video/intercom system is not required but is also likely to exacerbate the situation.*

The applicant requests that parts b and c of the condition be deleted.

Officer recommendation

The purpose of the video/intercom system is for the improved monitoring of dog behaviour to allow the operator to respond to potential disturbances in a timely manner. Modern wireless camera systems provide for night modes that would allow viewing during overnight hours, and it is considered that appropriate coverage can be provided to monitor the situation at each kennel without requiring direct visibility of every pen.

The representation that the installation of the system would result in an exacerbation of the situation is disputed, as the condition does not require the applicant to speak to the dogs through the system to resolve the disturbance. The requirement is for the introduction of a means to allow the operator to be aware of the disturbance and to make an informed decision as to how to resolve the disturbance.

It is recommended that no change be made to the condition.

3.17 Condition 5.3.1 and 5.3.2

Current conditions

5.3.1	The applicant must commission an acoustic assessment and associate report of the kennel operations, conducted by a suitably qualified acoustical consultant in order to confirm / assess the degree of compliance with the conditions of this approval. Council may also request that Council's appointed acoustical engineer participate in, and/or observe, the work undertaken for the assessment conducted at the commencement of operations for each stage of the kennels.	Upon request by Council.
5.3.2	A copy of the report mentioned in condition 5.3.1 must be submitted to Council within 7 days of its completion.	Within 7 days of the completion of the report.

Applicant representation

The development application has been assessed and approved. In relation to the matter of noise, there are numerous conditions that detail the requirements to achieve the required noise levels. This includes but is not limited to the design / construction of the kennel buildings (and ventilation / mechanical plant), acoustic barriers, dog barking management and staff training, and operational noise limits.

It is unclear but the condition appears to require that a compliance report be provided prior to commencement of each stage of the kennels. This is an onerous and costly requirement and does not seem to meet the requirements of a reasonable and relevant condition under the Planning Act 2016.

The assessment to approve the boarding kennel development has been based on a technical noise assessment report. This report has been peer reviewed by an acoustic consultant selected by Council. Further clarification has been provided on requested matters and, based on this, approval has been granted. These conditions then appear to undermine these noise assessments/reviews and requires further (costly) noise assessments without any justification (e.g. valid noise complaints). The conditions appear to assume non-compliance.

It is requested that Council delete these conditions. As with any other land use, if there is a valid noise complaint (i.e. not frivolous or vexatious) then the standard process to demonstrate compliance can be implemented.

Officer recommendation

These conditions are imposed on the recommendation of Council's acoustic consultant and have been based on conditions of approval prepared by joint experts and implemented by the Planning and Environment Court in *Kanes Business Corporation Pty Ltd v Somerset Regional Council and Ors*. The primary purpose of the condition is to ensure the development has been progressively constructed and operated to meet the acoustic objectives outlined in the approved plans and conditions of approval.

Importantly, the purpose of the condition is not to enforce compliance in the event of complaints (substantiated or otherwise). As the applicant rightly claims, the enforcement provisions of the planning system provide adequate methods for Council to direct a person to demonstrate compliance with development conditions. In this instance, clear and quantifiable standards have been set in the conditions package that can be measured to in the event of complaints.

Notwithstanding, it is recommended to review the timing of the condition to provide certainty to both Council and the applicant and align more closely to conditions set in the previous kennel permit decision of the Planning and Environment Court.

No changes are proposed to the wording of either condition 5.3.1 or 5.3.2, as it is considered both reasonable and relevant, and confirm conditions set in a previous kennel permit decision of the Planning and Environment Court. The timing of condition 5.3.1 is recommended to be amended as follows:

5.3.1	The applicant must commission an acoustic assessment and associate report of the kennel operations, conducted by a suitably qualified acoustical consultant in order to confirm / assess the degree of compliance with the conditions of this approval. Council may also request that Council's appointed acoustical engineer participate in, and/or observe, the work undertaken for the assessment conducted at the commencement of operations for each stage of the kennels.	Upon commencement of Stage 2 and each subsequent stage.
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3.18 Other Changes

No further changes to the development conditions or plans/documents of approval are required.

The change representations do not affect the Infrastructure Charges Notice given with the development approval.

4.0 ATTACHMENTS

1. Overall Site Layout Plan
2. Staging Plan (Site Plan)
3. Visual Line of Sight Screening Plan

RECOMMENDED DECISION

1. THAT Council supports the changes as identified in the report, its schedules and attachments and issues a Negotiated Decision Notice for Development Application No. 20579 for a Development Permit for Material Change of Use for Animal Keeping (Extension to Boarding Kennel) on land described as Lot 18 SP324001, situated at 1073 Glamorgan Vale Road, Glamorgan Vale, with the balance of changes requested taken not to be supported.
2. THAT the officer report for this application be published to the website as Council's Statement of Reasons in accordance with s63(5) of the *Planning Act 2016*.

SCHEDULE 1 – GENERAL CONDITIONS		
Assessment Manager		
No	Condition	Timing
1.1	Carry out the development generally in accordance with the material contained in the development application,	At all times.

	supporting documentation and the plan(s) listed below, except where amended by these conditions of approval.	
	Staging Plan (Site Plan), drawn by Lockyer Drafting Designs, reference J21020TP-02 Issue D, dated 27 August 2021	
	Visual Line of Sight Screening Plan, drawn by Diane Kerr and Associates, reference SK1 100 Issue A, dated November 2021	
	Noise Impact Assessment, prepared by Ask Consulting Engineers, reference 197401.0278.R01V04, dated 5 September 2021	
1.2	Comply with the relevant provisions of the Somerset Region Planning Scheme (Version Four), Planning Scheme Policies and Local Laws.	At all times.
1.3	A legible copy of this development approval package is to be available on the premises.	At all times.
1.4	Pay to Council any outstanding rates, charges or expenses levied by Council over the subject land.	Prior to commencement of the use.
	Amended Plans	
1.5	Submit to Council for approval amended proposal plans (floor plans and elevations) for Buildings A, C and F that annotate the building materials proposed to be used. The amended plans will form part of the approved plans and documents of this approval.	Within 3 months of this development approval taking effect.
1.6	Provide 1.2 metre high shade cloth screening in accordance with the approved Visual Line of Sight Screening Plan, drawn by Diane Kerr and Associates, reference SK 100 Issue A, dated November 2021.	Prior to commencement of use at each stage and to be maintained.
	Develop in Stages	
1.7	Undertake the development in sequential stages as identified on the approved staging plan for Stages 1 – 3, prior to constructing Stages 4 or 5. <i>Note: Where a conflict in staging arises between the approved plans/documents, the staging shown on the approved staging plan prevails, in the order identified in this condition. .</i>	At all times.
1.8	Undertake Stage One (1) of the development (acoustic barrier to existing neighbour) within six (6) months of this permit taking effect.	Within 6 months of this permit taking effect.
	Maximum Capacity	
1.9	The total number of dogs boarded on the site must not	At all times.

	<p>exceed the following at each respective stage.</p> <p>Stage One – Twenty (20) dogs Stage Two – Twenty (20) dogs Stage Three – Thirty-five (35) dogs The earlier of Stage Four or Stage Five – Eighty-five (85) dogs After all five stages – One Hundred (100) dogs</p>	
1.10	<p>The boarding dogs may only be kept within Kennels A, B, C and F, or their associated yards, as shown on the approved plans.</p> <p><i>Note: The use of kennels, yards, hydrobaths, or other facilities associated with the breeding approval (DA2847) is not permitted. This does not include areas for storage or associated with property maintenance.</i></p>	At all times.
	Kennel Management Plan	
1.11	<p>Submit to Council for approval an amended Kennel Management Plan that incorporates the following amendments:</p> <ul style="list-style-type: none"> Identify a complaint management phone number and process, consistent with the requirements of this permit. Identify drop off and pick up times, consistent with the requirements of this permit. <p>The amended Kennel Management Plan will form part of the approved plans and documents of this approval.</p>	Within 3 months of this development approval taking effect.
1.12	The Kennel Management Plan must be reviewed by the kennel operator annually to ensure that it is kept current.	Each 12 months from the commencement of the development.
1.13	<p>Where the kennel operator decides to amend the Kennel Management Plan, a copy of the Kennel Management Plan must be provided to Council.</p> <p><i>Note: The amended Kennel Management Plan must not amend components that form part of the approved Kennel Management Plan without approval from Council or its delegate.</i></p>	Within 20 days of amending the Kennel Management Plan.
1.14	<p>Pick up and drop off of animals is to occur between the hours of 7am and 6pm only.</p> <p>Outside hours drop off/collection is only available for extraordinary circumstances, where dogs are to be held in holding kennels located within the reception between 6pm and 7am and only moved to/from the kennels between 7am and 6pm.</p>	At all times.

	A register of outside hours drop-off/collections is to be maintained and made available to Council officers upon request.	
	Fencing	
1.15	Ensure that the outer perimeter of each dog yard complex is constructed with fencing to a koala safe standard, to prevent koala intrusion into the dog yard complex.	Within 6 months of the permit taking effect for Stage 2, and then prior to the commencement of use for each subsequent stage and to be maintained.
1.16	Ensure that the fencing surrounding the perimeter of each dog yard complex is constructed such that dogs are prevented from digging beneath the fence. Note: The requirements of Subordinate Local Law 2 continue to apply to each animal enclosure as part of this kennel complex.	Within 6 months of the permit taking effect for Stage 2, and then prior to the commencement of use for each subsequent stage and to be maintained.
1.17	Ensure that colours of acoustic fences within 15 metres of property boundaries harmonise with the colours of adjacent rural/bushland vegetation and should include natural tones of green, grey and brown.	Prior to commencement of use for each stage and to be maintained.
	Setbacks	
1.18	Provide certification from a licenced surveyor that proposed acoustic fencing and any buildings or other structure associated with the boarding kennel are not located within Easement A RP168081.	Prior to the commencement of use for each relevant stage.
	Vegetation Clearing	
1.19	Ensure that any vegetation clearing accords with exempted development clearing provisions of the Planning Regulation 2017.	At all times.
	Water and wastewater	
1.20	Ensure that each kennel is connected to a reliable water supply.	At all times.
1.21	Connect each kennel building to a suitable wastewater treatment system. <i>Note: Wastewater treatment systems will require plumbing</i>	Prior to the commencement of the use for each stage.

	<i>and drainage approval.</i>	
SCHEDULE 2 – ENGINEERING		
<i>Assessment Manager</i>		
No.	Condition	Timing
	WORKS	
2.1	All works are to be designed and constructed in accordance with the requirements of the Somerset Regional Council Development Manual and Standard Drawings.	At all times.
2.2	Bear the costs of works carried out to Council and utility services infrastructure and assets, including any alterations and repairs resulting from compliance with these conditions.	Prior to the commencement of use.
	VEHICLE ACCESS	
2.3	The landowner is responsible for construction and maintenance of vehicular access for the property, from the road carriageway to property boundary in accordance with Council's Policy and Standards.	At all times.
	CAR PARKING	
2.4	Provide parking on-site car parking for a total of 10 vehicles, including one (1) space for disabled persons, in accordance with Council's Planning Scheme Standards for Provision and Construction of Parking areas. Five (5) car parking spaces are to be provided prior to the commencement of Stage 2 Five (5) car parking spaces are to be provided prior to the commencement of Stages 4 or 5 (whichever is earlier).	As indicated.
2.5	Construct and maintain the driveway of hard standing material such as concrete, asphalt or bitumen in accordance with Australian Standards.	At all times.
2.6	Construct and maintain the vehicle manoeuvring and parking areas, associated with the customer parking area and delivery vehicles, of hard standing material such as concrete, asphalt, bitumen or gravel in accordance with Australian Standards. The disabled persons parking area is to be of concrete, asphalt or bitumen.	At all times.
	INDOOR AND OUTDOOR LIGHTING	
2.7	The outdoor lighting of the development must mitigate adverse lighting and illumination impacts by: <ul style="list-style-type: none"> Not causing nuisance by way of light spill or glare at adjacent properties and roadways. 	At all times.

	<ul style="list-style-type: none"> Providing graduated intensity lighting with lower level brightness at the perimeter of the subject land and higher intensities at the centre of the subject land. Directing lighting onto the subject land and away from neighbouring properties. Using shrouding devices to preclude light overspill onto surrounding properties where necessary. Not operating lighting that uses sodium lights or flare plumes. 	
	STORMWATER	
2.8	Stormwater Drainage and flows are to have a no worsening effect on adjoining, upstream, or downstream landholders.	At all times.
	EROSION AND SEDIMENT CONTROL	
2.9	<p>Erosion and sedimentation controls shall be implemented, as necessary, and shall be maintained to Council's satisfaction at all times during the course of the project. Should Council determine that proposed controls are ineffective or a downstream drainage system has become silted, the developer will:</p> <ul style="list-style-type: none"> Be required to install additional measures. Be responsible for the restoration work. 	At all times.
2.10	<p>Where vegetation is removed, the vegetation waste shall be disposed of by:</p> <p>(a) Milling; (b) Chipping and/or mulching (c) Disposal at an approved waste disposal facility.</p>	At all times.
SCHEDULE 3 – Environmental Assessment Manager		
No	Condition	Timing
3.1	<p>All buildings, structures, fittings, fixtures and grounds forming part of this development approval must be maintained:</p> <p>(a) in a serviceable condition; (b) in a state of good repair and efficient action; (c) in a clean, sanitary condition; (d) free of an accumulation of materials that may form a harbour to vermin or pests; and (e) free of vermin and pest infestations.</p>	At all times.
3.2	All solid waste generated from the occupation of the development must be collected and packaged appropriately for disposal at an approved waste disposal facility.	At all times.

	If the on-site disposal system for kennel waste-water fails, liquid waste must be disposed of at an approved waste disposal facility.	
3.3	All construction / demolition or other waste is to be removed from the site and deposited at an approved waste disposal facility in a manner acceptable to Council unless otherwise authorised by Council.	During construction phase(s) of the development.
3.4	The holder of this development approval must not: <ul style="list-style-type: none"> (a) burn or bury waste generated in association with this development approval at or on the development site; or (b) allow waste generated in association with this development approval to burn or be burnt or buried at or on the development site; or (c) stockpile any waste on the development site. 	At all times.
3.5	Only rainwater from uncontaminated areas may drain directly into the stormwater system or waters.	At all times.
3.6	Waste waters from enclosures are to be drained so as not to cause nuisance to adjoining properties.	At all times.
3.7	All wastewater from the kennel blocks including wash down waters are to pass through an approved secondary effluent disposal system.	At all times.
3.8	All spillage of waste, contaminants and other materials are not to be cleaned up by hosing, sweeping or otherwise releasing such wastes, contaminants or materials into any storm water system or waters.	At all times.
3.9	Animal feed is to be stored in insect and vermin proof containers.	At all times.
3.10	Excreta, food scraps and other material that is or is likely to become offensive is to be collected daily; and if not immediately removed from the premises, kept in a waste container in accordance with condition 3.12.	At all times.
3.11	All enclosures which form part of the development are to be constructed and maintained in a manner so as to: <ul style="list-style-type: none"> (a) be kept clean and in a sanitary condition; (b) prevent the escape of any animal kept in the enclosure; (c) protect the safety of staff and the public; (d) be in a state of good order and repair; (e) reduce the risk of injury to any animal kept in the enclosure; (f) permit regular cleaning of all internal and external 	At all times.

	<p>surfaces of each enclosure and regular checking of any animal within the enclosure;</p> <p>(g) be able to be effectively cleaned and sanitised;</p> <p>(h) all indoor enclosures shall be constructed with impervious materials; and</p> <p>(i) ensure the comfort of any animal kept in the enclosure and use its best endeavours to limit the spread of disease.</p>	
3.12	Waste containers sufficient to accommodate the collection and storage of all waste generated as part of the operation of the premises are to be provided and regularly cleaned and maintained in a clean, tidy, sanitary and hygienic condition. Containers are to be designed and maintained to prevent the ingress of water and vermin.	At all times.
3.13	<p>All complaints received by the applicant relating to operations at the kennel facility must be recorded in a register with the following details:</p> <p>(a) nature, time and date of complaint;</p> <p>(b) type of communication (telephone, letter, personal etc.);</p> <p>(c) name, contact address and contact telephone number of complainant (Note: if the complainant does not wish to be identified then "Not identified" is to be recorded);</p> <p>(d) response and investigation undertaken as a result of the complaint;</p> <p>(e) name of person responsible for investigating complaint; and</p> <p>(f) action taken as a result of the complaint investigation and signature of responsible person.</p>	At all times.
3.14	<p>All incidents occurring at the kennel facility (e.g. environmental incidents, workplace accidents) must be recorded in a register and kept at the premises with the following details:</p> <p>(a) time, date and details of the incident;</p> <p>(b) how the incident occurred;</p> <p>(c) the action taken to remedy the incident;</p> <p>(d) the investigations into the incident; and</p> <p>(e) recommendations following the incident.</p>	At all times.
3.15	Notwithstanding any other condition of this development permit, this development permit does not authorise any release of contaminants that causes, or is likely to cause, an environmental nuisance or environmental harm to any premises beyond the boundaries of the development site.	At all times.

SCHEDULE 4 – Kennel Facilities: Acoustic Design and Construction
Assessment Manager

No	Condition	Timing
	KENNEL BUILDINGS	
4.1	Provide certification from a suitably qualified person that the design of the kennel buildings meets the requirements contained in section 6.3 of the report titled, <i>Country Pet Motel Extension – Noise Impact Assessment</i> , dated 5 September 2021, by Ask Acoustic and Air Quality, and the noise limits listed in condition 5.2.	Prior to Building Works approval being granted.
4.2	Provide certification from the suitably qualified person, that the installation and construction of kennel buildings are in accordance with the report titled, <i>Country Pet Motel Extension – Noise Impact Assessment</i> , dated 5 September 2021, by Ask Acoustic and Air Quality and the design certified under condition 4.1.	Within 3 months of permit taking effect for Stage 2 and then prior to commencement of use for each stage.
	ACOUSTIC BARRIERS	
4.3	Provide certification from a suitably qualified person that the design of the acoustic barriers meets the requirements contained in section 6.6 of the report titled, <i>Country Pet Motel Extension – Noise Impact Assessment</i> , dated 5 September 2021, by Ask Acoustic and Air Quality, and the noise limits listed in condition 5.2.	Prior to Building Works approval being granted.
4.4	Provide certification from the suitably qualified person, that the installation and construction of acoustic barriers are in accordance with the report titled, <i>Country Pet Motel Extension – Noise Impact Assessment</i> , dated 5 September 2021, by Ask Acoustic and Air Quality and the design certified under condition 4.3.	Prior to commencement of the use.
	VENTILATION	
4.5	Provide certification from a suitably qualified person that the design of the ventilation installed on kennel buildings meets the requirements detailed in section 6.7 of the report titled, <i>Country Pet Motel Extension – Noise Impact Assessment</i> , dated 5 September 2021, by Ask Acoustic and Air Quality, and the noise limits listed in condition 5.2.	Prior to Building Works approval being granted.
4.6	Provide certification from a suitably qualified person, that the installation and construction of ventilation installed on kennel buildings is in accordance with the report titled, <i>Country Pet Motel Extension – Noise Impact Assessment</i> , dated 5 September 2021, by Ask Acoustic and Air Quality and the design certified under condition 4.5.	Within 3 months of permit taking effect for Stage 2 and then prior to commencement of use for each stage.
	MECHANICAL PLANT	
4.7	The mechanical plant must be selected and installed so that the limits set at condition 5.2 are not exceeded at adjacent dwellings.	At all times.
4.8	The limits contained in condition 5.2 apply to the component noise level generated by all items of	At all times.

	mechanical plant operating simultaneously or in combination at any one time.	
4.9	Individual items of plant must be selected so that their contribution to the emission does not result in an exceedance of the limits contained in condition 5.2.	At all times.
SCHEDULE 5 – Kennel Management <i>Assessment Manager</i>		
No	Condition	Timing
5.1	DOG BARK MANAGEMENT AND STAFF TRAINING	
5.1.1	Dog barking, howling and related vocalisations are to be actively controlled.	At all times.
5.1.2	<p>To ensure that dog barking is actively controlled and minimised the applicant must prepare and fully comply with a Bark Management Plan which details the means by which barking will be managed. The Plan must set out in sufficient detail the procedures to be strictly undertaken by all staff relating to but not limited to:</p> <ul style="list-style-type: none"> (a) control of dog barking in the kennel facilities (particularly in the exercise yards), in respect of: <ul style="list-style-type: none"> (i) verbal command/interactions; (ii) additional exercise; (iii) use of ultrasonic "pet training devices"; (iv) allocation of dogs to the acoustic isolation kennels; and (v) other separation procedures. (b) the requirement for ongoing monitoring of the kennel facility for aggressive dogs or dogs that cause excessive barking and the procedures for moving these dogs to the isolation kennels. (c) the record keeping requirements when dogs are moved to the isolation kennels. These records must include the following details: <ul style="list-style-type: none"> (i) date and time of relocation to the isolation kennels or other kennel block; (ii) the reason for allocation; (iii) date and time of re-entry to standard kennel area (where applicable). 	Within 30 days of the development approval taking effect and to be maintained at all times.
5.1.3	The Bark Management Plan must be reviewed by the kennel operator annually to ensure that it is kept current.	Each 12 months from the commencement of the development.
5.1.4	The Bark Management Plan shall be incorporated in the kennel facilities standard operational procedures and must be available for inspection by Council officers upon request.	At all times.

5.1.5	<p>The kennel operator must ensure that all staff (including casual and seasonal staff) complete training in a way which ensures that staff understand the requirements and are competent in using the procedures in the Bark Management Plan to adequately control dog barking. The training must address:</p> <ul style="list-style-type: none"> (a) the procedures for controlling dog barking in accordance with the Bark Management Plan; (b) the operational procedures of the kennel facility; (c) emergency procedures and response to incidents; and (d) complaint handling. 	At all times.
5.1.6	All new staff must complete the training within one month of commencement of the employment date at the kennel facilities.	At all times.
5.1.7	The applicant must keep a record to demonstrate that all staff have satisfactorily completed training within one month of the commencement date; or if re-training an employee is required.	At all times.
5.1.8	Retraining of a staff member is required if the employee fails to comply with the Bark Management Plan or the operational procedures of the kennel. Retraining of all staff is required if any modification is made to the Bark Management Plan or changes are made to the operational procedures of the kennel.	At all times.
5.1.9	<ul style="list-style-type: none"> (a) Background sound system shall be installed into the interior of each kennel building to provide masking sound. (b) A video and intercom system shall be provided to the interior of each kennel building. The system shall be configured so that it can be used to monitor and communicate with the dogs at any time of the day or night. (c) The video and intercom system shall be able to be operated from the reception building as well as the onsite residence. (d) Any public address system with speakers located outside the buildings or in the service corridors between the kennel buildings (where they may be able to broadcast to the open air) are not permitted. 	Prior to the commencement of the use and to be maintained.
5.2	OPERATIONAL NOISE LIMITS	
5.2.1	<p>Noise from dogs at the kennel facility must be limited such that the A-weighted average maximum noise level, $L_{Amax, avg}$ when measured outside at any affected noise sensitive place must not exceed:</p> <ul style="list-style-type: none"> (a) the background noise level + 10dBA for daytime 	At all times.

	<p>hours (7 am to 6 pm);</p> <p>(b) the background noise level + 5dBA for evening hours (6pm to 10pm);</p> <p>(c) the background noise level + 5 dBA for nighttime hours (10 pm to 7 am); or</p> <p>(d) the noise limits specified in Table A, whichever is greater.</p> <p>Table A Noise Limits $L_{Amax, avg}$ dBA</p> <table><tr><th>Period</th><th>Noise Limit $L_{Amax, avg}$ dBA</th></tr><tr><td>Day (7 am - 6 pm)</td><td>45</td></tr><tr><td>Evening (6pm – 10pm)</td><td>36</td></tr><tr><td>Night (10 pm - 7 am)</td><td>28</td></tr></table>	Period	Noise Limit $L_{Amax, avg}$ dBA	Day (7 am - 6 pm)	45	Evening (6pm – 10pm)	36	Night (10 pm - 7 am)	28	
Period	Noise Limit $L_{Amax, avg}$ dBA									
Day (7 am - 6 pm)	45									
Evening (6pm – 10pm)	36									
Night (10 pm - 7 am)	28									
5.2.2	<p>The component noise from the kennel facility must be limited such that the adjusted A-weighted equivalent continuous noise level, $L_{Aeq, adj, 15 min}$ when measured outside at any affected noise sensitive place must not exceed:</p> <p>(a) the background noise level + 3 dBA for daytime hours (7 am to 6 pm);</p> <p>(b) the background noise level + 3 dBA for evening hours (6 pm to 10 pm);</p> <p>(c) the background noise level + 0 dBA for nighttime hours (10 pm to 7 am); or</p> <p>(d) the noise limits specified in Table B, whichever is greater.</p> <p>Table B Noise Limits $L_{Aeq, adj, 15 min}$ dBA</p> <table><tr><th>Period</th><th>Noise Limit $L_{Aeq, adj, 15 min}$ dBA</th></tr><tr><td>Day (7 am - 6 pm)</td><td>38</td></tr><tr><td>Evening (6 pm - 10 pm)</td><td>34</td></tr><tr><td>Night (10 pm - 7 am)</td><td>23</td></tr></table>	Period	Noise Limit $L_{Aeq, adj, 15 min}$ dBA	Day (7 am - 6 pm)	38	Evening (6 pm - 10 pm)	34	Night (10 pm - 7 am)	23	At all times.
Period	Noise Limit $L_{Aeq, adj, 15 min}$ dBA									
Day (7 am - 6 pm)	38									
Evening (6 pm - 10 pm)	34									
Night (10 pm - 7 am)	23									
5.2.3	<p>Measurement Procedures:</p> <p>For the purposes of measuring the noise limits in conditions 5.2.1 and 5.2.2, the following procedures must be used:</p> <p>(a) Sound measurement instrumentation, measurement and reporting must be in accordance with the provisions of "AS 1055: Part 1-1997. Acoustics- Description and Measurement of Environmental Noise - Part 1: General Procedures " and where there is no conflict with the provisions of AS1055 Part 1-1997, Department of Environment and Heritage Protection Noise Monitoring Manual 2013, or later</p>	At all times.								

	<p>version.</p> <p>(b) Measurements must be conducted with the sound measurement instrumentation set to "Fast" time response and "A" frequency weighting.</p> <p>(c) The Background Noise Level ($L_{A90,T}$):</p> <p>(i) during the relevant time period, T, refers to the average minimum A-weighted sound level in the absence of the noise under consideration.</p> <p>(ii) when statistical analysis is used, the background noise level shall be taken as that noise level which is exceeded for 90 percent of the relevant time period, T (that is, the $L_{A90,T}$).</p>	
5.2.4	<p>For condition 5.2.1:</p> <p>(a) Sound levels from the kennelled dogs shall be monitored for a period of not less than thirty (30) minutes on not fewer than three (3) separate occasions randomly selected.</p> <p>(b) On each such occasion:</p> <p>(i) at least ten (10) maximum sound levels from the dogs (barks or other vocalisations) shall be measured and recorded; and</p> <p>(ii) the arithmetic average of the individual maximum sound levels due to the dogs (the average maximum level) shall be compared with the noise limits given in Table A.</p> <p>(iii) The noise emission from the kennelled dogs shall be deemed to be unacceptable if so rated on two (2) out of three (3) occasions.</p>	At all times.
5.2.5	<p>For condition 5.2.2:</p> <p>(a) The Measured Noise Level:</p> <p>The measured noise level shall be determined as the equivalent continuous sound pressure level in dBA due to noise from the subject site during the relevant assessment period, T.</p> <p>A measurement interval of 15 minutes shall be used, except where this period is insufficient to provide a true representation of the characteristics of the noise under consideration.</p> <p>(b) Where the noise exhibits tonal or impulsive characteristics, the measured noise level shall be adjusted in accordance with Table C.</p>	At all times.

	<p>Table C Adjustments to the Measured Noise Level</p> <table border="1"> <thead> <tr> <th colspan="2" data-bbox="336 327 523 360">Characteristics of the noise</th><th data-bbox="932 327 1102 394">Adjustment dBA</th></tr> </thead> <tbody> <tr> <td data-bbox="336 412 523 546" rowspan="2">Tonal components :</td><td data-bbox="523 412 916 479">If the tonal components are just perceptible</td><td data-bbox="916 412 1102 479">2</td></tr> <tr> <td data-bbox="523 479 916 546">If the tonal components are readily perceptible</td><td data-bbox="916 479 1102 546">5</td></tr> <tr> <td data-bbox="336 546 523 680" rowspan="2">Impulse Components :</td><td data-bbox="523 546 916 613">If the impulse components are just perceptible</td><td data-bbox="916 546 1102 613">2</td></tr> <tr> <td data-bbox="523 613 916 680">If the impulse components are readily perceptible</td><td data-bbox="916 613 1102 680">5</td></tr> </tbody> </table>	Characteristics of the noise		Adjustment dBA	Tonal components :	If the tonal components are just perceptible	2	If the tonal components are readily perceptible	5	Impulse Components :	If the impulse components are just perceptible	2	If the impulse components are readily perceptible	5	
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	If the impulse components are readily perceptible	5													
5.2.6	<p>Time and Place of Measurement:</p> <p>(a) Noise from the kennel facility and the background noise level must be measured in the vicinity of the affected residential premises. The measurement position shall be at least 3.5 m from the affected residential premises as well as any other building or sound reflecting structure, but in any case shall be not more than:</p> <ul style="list-style-type: none"> (i) 20m from any residential premises during the day and evening time periods; and (ii) 5m from any residential premises during the nighttime period. <p>(b) The microphone height must be 1.5 m above local ground level except where this height would be insufficient to provide representative measurement of noise levels at all habitable levels of the relevant residential premises. In such cases the microphone height must be equivalent to 1.5 m above the floor height of the highest habitable floor or at a height equivalent to the centre of the window of the most affected habitable room in the building, whichever is higher.</p> <p>(c) The noise from the kennel facility and the background noise level must be measured at a time which is as close as practicable to the time of day that the noise is alleged to be excessive.</p> <p>(d) Where it is not practical to measure the background level in the absence of the noise from the kennel facility, the background level may be measured at another similar location where noise from the kennel facility is absent but the background noise level is considered to be equivalent to that at the affected residence.</p>	At all times.													

5.3	Acoustical Assessment – Compliance Monitoring	
5.3.1	The applicant must commission an acoustic assessment and associate report of the kennel operations, conducted by a suitably qualified acoustical consultant in order to confirm / assess the degree of compliance with the conditions of this approval. Council may also request that Council's appointed acoustical engineer participate in, and/or observe, the work undertaken for the assessment conducted at the commencement of operations for each stage of the kennels.	Upon commencement of Stage 2 and each subsequent stage.
5.3.2	A copy of the report mentioned in condition 5.3.1 must be submitted to Council within 7 days of its completion.	Within 7 days of the completion of the report.
SCHEDULE 6 – ADVICE		
<i>Assessment Manager</i>		
This approval has effect in accordance with the provisions of section 71 of the <i>Planning Act 2016</i> .		
Currency Period - Pursuant to section 85 of the <i>Planning Act 2016</i> the approval will lapse if the first change of use does not happen within the currency period – being six (6) years starting the day the approval takes effect.		
The applicant may make representations (change representations) about a matter in this development application within the applicant's appeal period under the process established in chapter 3, part 5, division 2, subdivision 1 of the <i>Planning Act 2016</i> .		
The <i>Planning Act 2016</i> provides for a person to make a change to this development application outside the applicant's appeal period, following the process outlined in chapter 3, part 5, division 2, subdivision 2 of the Act.		
This development approval is for the proposed development only. Any additional uses/structures, if triggers assessable development, may require their own planning approval and will be assessed on its own merits.		
<p>Biosecurity Queensland should be notified on 13 25 23 of proposed development(s) occurring in the Fire Ant Restricted Area before earthworks commence. It should be noted that works involving movements of soil associated with earthworks may be subject to movement controls and failure to obtain necessary approvals from Biosecurity Queensland is an offence.</p> <p>It is a legal obligation to report any sighting or suspicion of fire ants within 24 hours to Biosecurity Queensland on 13 25 23.</p> <p>The Fire Ant Restricted Area as well as general information can be viewed on the DAF website www.daf.qld.gov.au/fireants</p>		

Attachments for the Decision Notice include:

Staging Plan (Site Plan), drawn by Lockyer Drafting Designs, reference J21020TP-02 Issue D, dated 27 August 2021

Visual Line of Sight Screening Plan, drawn by Diane Kerr and Associates, reference SK1 100 Issue A, dated November 2021

Noise Impact Assessment, prepared by Ask Consulting Engineers, reference 197401.0278.R01V04, dated 5 September 2021

Resolution

Moved – Cr Gaedtke

Seconded – Cr Brieschke

1. “THAT Council supports the changes as identified in the report, its schedules and attachments and issues a Negotiated Decision Notice for Development Application No. 20579 for a Development Permit for Material Change of Use for Animal Keeping (Extension to Boarding Kennel) on land described as Lot 18 SP324001, situated at 1073 Glamorgan Vale Road, Glamorgan Vale, with the balance of changes requested taken not to be supported.
2. THAT the officer report for this application be published to the website as Council’s Statement of Reasons in accordance with s63(5) of the *Planning Act 2016*.

SCHEDULE 1 – GENERAL CONDITIONS*Assessment Manager*

No	Condition	Timing
1.1	Carry out the development generally in accordance with the material contained in the development application, supporting documentation and the plan(s) listed below, except where amended by these conditions of approval. Staging Plan (Site Plan), drawn by Lockyer Drafting Designs, reference J21020TP-02 Issue D, dated 27 August 2021 Visual Line of Sight Screening Plan, drawn by Diane Kerr and Associates, reference SK1 100 Issue A, dated November 2021 Noise Impact Assessment, prepared by Ask Consulting Engineers, reference 197401.0278.R01V04, dated 5 September 2021	At all times.
1.2	Comply with the relevant provisions of the Somerset Region Planning Scheme (Version Four), Planning Scheme Policies and Local Laws.	At all times.
1.3	A legible copy of this development approval package is to be available on the premises.	At all times.
1.4	Pay to Council any outstanding rates, charges or expenses levied by Council over the subject land.	Prior to commencement of the use.
	Amended Plans	
1.5	Submit to Council for approval amended proposal plans (floor plans and elevations) for Buildings A, C and F that annotate the building materials proposed to be used.	Within 3 months of this development approval taking effect.

	The amended plans will form part of the approved plans and documents of this approval.	
1.6	Provide 1.2 metre high shade cloth screening in accordance with the approved Visual Line of Sight Screening Plan, drawn by Diane Kerr and Associates, reference SK 100 Issue A, dated November 2021.	Prior to commencement of use at each stage and to be maintained.
	Develop in Stages	
1.7	Undertake the development in sequential stages as identified on the approved staging plan for Stages 1 – 3, prior to constructing Stages 4 or 5. <i>Note: Where a conflict in staging arises between the approved plans/documents, the staging shown on the approved staging plan prevails, in the order identified in this condition. .</i>	At all times.
1.8	Undertake Stage One (1) of the development (acoustic barrier to existing neighbour) within six (6) months of this permit taking effect.	Within 6 months of this permit taking effect.
	Maximum Capacity	
1.9	The total number of dogs boarded on the site must not exceed the following at each respective stage. Stage One – Twenty (20) dogs Stage Two – Twenty (20) dogs Stage Three – Thirty-five (35) dogs The earlier of Stage Four or Stage Five – Eighty-five (85) dogs After all five stages – One Hundred (100) dogs	At all times.
1.10	The boarding dogs may only be kept within Kennels A, B, C and F, or their associated yards, as shown on the approved plans. <i>Note: The use of kennels, yards, hydrobaths, or other facilities associated with the breeding approval (DA2847) is not permitted. This does not include areas for storage or associated with property maintenance.</i>	At all times.
	Kennel Management Plan	
1.11	Submit to Council for approval an amended Kennel Management Plan that incorporates the following amendments: <ul style="list-style-type: none"> Identify a complaint management phone number and process, consistent with the requirements of this permit. Identify drop off and pick up times, consistent with the requirements of this permit. 	Within 3 months of this development approval taking effect.

	The amended Kennel Management Plan will form part of the approved plans and documents of this approval.	
1.12	The Kennel Management Plan must be reviewed by the kennel operator annually to ensure that it is kept current.	Each 12 months from the commencement of the development.
1.13	Where the kennel operator decides to amend the Kennel Management Plan, a copy of the Kennel Management Plan must be provided to Council. <i>Note: The amended Kennel Management Plan must not amend components that form part of the approved Kennel Management Plan without approval from Council or its delegate.</i>	Within 20 days of amending the Kennel Management Plan.
1.14	Pick up and drop off of animals is to occur between the hours of 7am and 6pm only. Outside hours drop off/collection is only available for extraordinary circumstances, where dogs are to be held in holding kennels located within the reception between 6pm and 7am and only moved to/from the kennels between 7am and 6pm. A register of outside hours drop-off/collections is to be maintained and made available to Council officers upon request.	At all times.
	Fencing	
1.15	Ensure that the outer perimeter of each dog yard complex is constructed with fencing to a koala safe standard, to prevent koala intrusion into the dog yard complex.	Within 6 months of the permit taking effect for Stage 2, and then prior to the commencement of use for each subsequent stage and to be maintained.
1.16	Ensure that the fencing surrounding the perimeter of each dog yard complex is constructed such that dogs are prevented from digging beneath the fence. Note: The requirements of Subordinate Local Law 2 continue to apply to each animal enclosure as part of this kennel complex.	Within 6 months of the permit taking effect for Stage 2, and then prior to the commencement of use for each subsequent stage and to be maintained.

1.17	Ensure that colours of acoustic fences within 15 metres of property boundaries harmonise with the colours of adjacent rural/bushland vegetation and should include natural tones of green, grey and brown.	Prior to commencement of use for each stage and to be maintained.
	Setbacks	
1.18	Provide certification from a licenced surveyor that proposed acoustic fencing and any buildings or other structure associated with the boarding kennel are not located within Easement A RP168081.	Prior to the commencement of use for each relevant stage.
	Vegetation Clearing	
1.19	Ensure that any vegetation clearing accords with exempted development clearing provisions of the Planning Regulation 2017.	At all times.
	Water and wastewater	
1.20	Ensure that each kennel is connected to a reliable water supply.	At all times.
1.21	Connect each kennel building to a suitable wastewater treatment system. <i>Note: Wastewater treatment systems will require plumbing and drainage approval.</i>	Prior to the commencement of the use for each stage.
SCHEDULE 2 – ENGINEERING		
<i>Assessment Manager</i>		
No.	Condition	Timing
	WORKS	
2.1	All works are to be designed and constructed in accordance with the requirements of the Somerset Regional Council Development Manual and Standard Drawings.	At all times.
2.2	Bear the costs of works carried out to Council and utility services infrastructure and assets, including any alterations and repairs resulting from compliance with these conditions.	Prior to the commencement of use.
	VEHICLE ACCESS	
2.3	The landowner is responsible for construction and maintenance of vehicular access for the property, from the road carriageway to property boundary in accordance with Council's Policy and Standards.	At all times.
	CAR PARKING	
2.4	Provide parking on-site car parking for a total of 10 vehicles, including one (1) space for disabled persons, in accordance with Council's Planning Scheme Standards for Provision and Construction of Parking areas.	As indicated.

	Five (5) car parking spaces are to be provided prior to the commencement of Stage 2	
	Five (5) car parking spaces are to be provided prior to the commencement of Stages 4 or 5 (whichever is earlier).	
2.5	Construct and maintain the driveway of hard standing material such as concrete, asphalt or bitumen in accordance with Australian Standards.	At all times.
2.6	Construct and maintain the vehicle manoeuvring and parking areas, associated with the customer parking area and delivery vehicles, of hard standing material such as concrete, asphalt, bitumen or gravel in accordance with Australian Standards. The disabled persons parking area is to be of concrete, asphalt or bitumen.	At all times.
	INDOOR AND OUTDOOR LIGHTING	
2.7	The outdoor lighting of the development must mitigate adverse lighting and illumination impacts by: <ul style="list-style-type: none"> • Not causing nuisance by way of light spill or glare at adjacent properties and roadways. • Providing graduated intensity lighting with lower level brightness at the perimeter of the subject land and higher intensities at the centre of the subject land. • Directing lighting onto the subject land and away from neighbouring properties. • Using shrouding devices to preclude light overspill onto surrounding properties where necessary. • Not operating lighting that uses sodium lights or flare plumes. 	At all times.
	STORMWATER	
2.8	Stormwater Drainage and flows are to have a no worsening effect on adjoining, upstream, or downstream landholders.	At all times.
	EROSION AND SEDIMENT CONTROL	
2.9	Erosion and sedimentation controls shall be implemented, as necessary, and shall be maintained to Council's satisfaction at all times during the course of the project. Should Council determine that proposed controls are ineffective or a downstream drainage system has become silted, the developer will: <ul style="list-style-type: none"> • Be required to install additional measures. • Be responsible for the restoration work. 	At all times.
2.10	Where vegetation is removed, the vegetation waste shall	At all times.

	be disposed of by:	
	(d) Milling;	
	(e) Chipping and/or mulching	
	(f) Disposal at an approved waste disposal facility.	
SCHEDULE 3 – Environmental Assessment Manager		
No	Condition	Timing
3.1	All buildings, structures, fittings, fixtures and grounds forming part of this development approval must be maintained: (f) in a serviceable condition; (g) in a state of good repair and efficient action; (h) in a clean, sanitary condition; (i) free of an accumulation of materials that may form a harbour to vermin or pests; and (j) free of vermin and pest infestations.	At all times.
3.2	All solid waste generated from the occupation of the development must be collected and packaged appropriately for disposal at an approved waste disposal facility. If the on-site disposal system for kennel waste-water fails, liquid waste must be disposed of at an approved waste disposal facility.	At all times.
3.3	All construction / demolition or other waste is to be removed from the site and deposited at an approved waste disposal facility in a manner acceptable to Council unless otherwise authorised by Council.	During construction phase(s) of the development.
3.4	The holder of this development approval must not: (a) burn or bury waste generated in association with this development approval at or on the development site; or (b) allow waste generated in association with this development approval to burn or be burnt or buried at or on the development site; or (c) stockpile any waste on the development site.	At all times.
3.5	Only rainwater from uncontaminated areas may drain directly into the stormwater system or waters.	At all times.
3.6	Waste waters from enclosures are to be drained so as not to cause nuisance to adjoining properties.	At all times.
3.7	All wastewater from the kennel blocks including wash down waters are to pass through an approved secondary effluent disposal system.	At all times.

3.8	All spillage of waste, contaminants and other materials are not to be cleaned up by hosing, sweeping or otherwise releasing such wastes, contaminants or materials into any storm water system or waters.	At all times.
3.9	Animal feed is to be stored in insect and vermin proof containers.	At all times.
3.10	Excreta, food scraps and other material that is or is likely to become offensive is to be collected daily; and if not immediately removed from the premises, kept in a waste container in accordance with condition 3.12.	At all times.
3.11	<p>All enclosures which form part of the development are to be constructed and maintained in a manner so as to:</p> <ul style="list-style-type: none"> (j) be kept clean and in a sanitary condition; (k) prevent the escape of any animal kept in the enclosure; (l) protect the safety of staff and the public; (m) be in a state of good order and repair; (n) reduce the risk of injury to any animal kept in the enclosure; (o) permit regular cleaning of all internal and external surfaces of each enclosure and regular checking of any animal within the enclosure; (p) be able to be effectively cleaned and sanitised; (q) all indoor enclosures shall be constructed with impervious materials; and (r) ensure the comfort of any animal kept in the enclosure and use its best endeavours to limit the spread of disease. 	At all times.
3.12	Waste containers sufficient to accommodate the collection and storage of all waste generated as part of the operation of the premises are to be provided and regularly cleaned and maintained in a clean, tidy, sanitary and hygienic condition. Containers are to be designed and maintained to prevent the ingress of water and vermin.	At all times.
3.13	<p>All complaints received by the applicant relating to operations at the kennel facility must be recorded in a register with the following details:</p> <ul style="list-style-type: none"> (g) nature, time and date of complaint; (h) type of communication (telephone, letter, personal etc.); (i) name, contact address and contact telephone number of complainant (Note: if the complainant does not wish to be identified then "Not identified" is to be recorded); (j) response and investigation undertaken as a result 	At all times.

	<p>of the complaint;</p> <p>(k) name of person responsible for investigating complaint; and</p> <p>(l) action taken as a result of the complaint investigation and signature of responsible person.</p>	
3.14	<p>All incidents occurring at the kennel facility (e.g. environmental incidents, workplace accidents) must be recorded in a register and kept at the premises with the following details:</p> <p>(f) time, date and details of the incident;</p> <p>(g) how the incident occurred;</p> <p>(h) the action taken to remedy the incident;</p> <p>(i) the investigations into the incident; and</p> <p>(j) recommendations following the incident.</p>	At all times.
3.15	<p>Notwithstanding any other condition of this development permit, this development permit does not authorise any release of contaminants that causes, or is likely to cause, an environmental nuisance or environmental harm to any premises beyond the boundaries of the development site.</p>	At all times.
SCHEDULE 4 – Kennel Facilities: Acoustic Design and Construction		
<i>Assessment Manager</i>		
No	Condition	Timing
	KENNEL BUILDINGS	
4.1	<p>Provide certification from a suitably qualified person that the design of the kennel buildings meets the requirements contained in section 6.3 of the report titled, <i>Country Pet Motel Extension – Noise Impact Assessment</i>, dated 5 September 2021, by Ask Acoustic and Air Quality, and the noise limits listed in condition 5.2.</p>	Prior to Building Works approval being granted.
4.2	<p>Provide certification from the suitably qualified person, that the installation and construction of kennel buildings are in accordance with the report titled, <i>Country Pet Motel Extension – Noise Impact Assessment</i>, dated 5 September 2021, by Ask Acoustic and Air Quality and the design certified under condition 4.1.</p>	Within 3 months of permit taking effect for Stage 2 and then prior to commencement of use for each stage.
	ACOUSTIC BARRIERS	
4.3	<p>Provide certification from a suitably qualified person that the design of the acoustic barriers meets the requirements contained in section 6.6 of the report titled, <i>Country Pet Motel Extension – Noise Impact Assessment</i>, dated 5 September 2021, by Ask Acoustic and Air Quality, and the noise limits listed in condition 5.2.</p>	Prior to Building Works approval being granted.
4.4	<p>Provide certification from the suitably qualified person, that the installation and construction of acoustic barriers are in accordance with the report titled, <i>Country Pet Motel Extension – Noise Impact Assessment</i>, dated 5</p>	Prior to commencement of the use.

	September 2021, by Ask Acoustic and Air Quality and the design certified under condition 4.3.	
	VENTILATION	
4.5	Provide certification from a suitably qualified person that the design of the ventilation installed on kennel buildings meets the requirements detailed in section 6.7 of the report titled, <i>Country Pet Motel Extension – Noise Impact Assessment</i> , dated 5 September 2021, by Ask Acoustic and Air Quality, and the noise limits listed in condition 5.2.	Prior to Building Works approval being granted.
4.6	Provide certification from a suitably qualified person, that the installation and construction of ventilation installed on kennel buildings is in accordance with the report titled, <i>Country Pet Motel Extension – Noise Impact Assessment</i> , dated 5 September 2021, by Ask Acoustic and Air Quality and the design certified under condition 4.5.	Within 3 months of permit taking effect for Stage 2 and then prior to commencement of use for each stage.
	MECHANICAL PLANT	
4.7	The mechanical plant must be selected and installed so that the limits set at condition 5.2 are not exceeded at adjacent dwellings.	At all times.
4.8	The limits contained in condition 5.2 apply to the component noise level generated by all items of mechanical plant operating simultaneously or in combination at any one time.	At all times.
4.9	Individual items of plant must be selected so that their contribution to the emission does not result in an exceedance of the limits contained in condition 5.2.	At all times.
SCHEDULE 5 – Kennel Management		
<i>Assessment Manager</i>		
No	Condition	Timing
5.1	DOG BARK MANAGEMENT AND STAFF TRAINING	
5.1.1	Dog barking, howling and related vocalisations are to be actively controlled.	At all times.
5.1.2	<p>To ensure that dog barking is actively controlled and minimised the applicant must prepare and fully comply with a Bark Management Plan which details the means by which barking will be managed. The Plan must set out in sufficient detail the procedures to be strictly undertaken by all staff relating to but not limited to:</p> <p>(a) control of dog barking in the kennel facilities (particularly in the exercise yards), in respect of:</p> <ul style="list-style-type: none"> (i) verbal command/interactions; (ii) additional exercise; (iii) use of ultrasonic "pet training devices"; (iv) allocation of dogs to the acoustic isolation 	Within 30 days of the development approval taking effect and to be maintained at all times.

	<p>kennels; and</p> <p>(v) other separation procedures.</p> <p>(b) the requirement for ongoing monitoring of the kennel facility for aggressive dogs or dogs that cause excessive barking and the procedures for moving these dogs to the isolation kennels.</p> <p>(c) the record keeping requirements when dogs are moved to the isolation kennels. These records must include the following details:</p> <p>(iv) date and time of relocation to the isolation kennels or other kennel block;</p> <p>(v) the reason for allocation;</p> <p>(vi) date and time of re-entry to standard kennel area (where applicable).</p>	
5.1.3	The Bark Management Plan must be reviewed by the kennel operator annually to ensure that it is kept current.	Each 12 months from the commencement of the development.
5.1.4	The Bark Management Plan shall be incorporated in the kennel facilities standard operational procedures and must be available for inspection by Council officers upon request.	At all times.
5.1.5	<p>The kennel operator must ensure that all staff (including casual and seasonal staff) complete training in a way which ensures that staff understand the requirements and are competent in using the procedures in the Bark Management Plan to adequately control dog barking. The training must address:</p> <p>(a) the procedures for controlling dog barking in accordance with the Bark Management Plan;</p> <p>(b) the operational procedures of the kennel facility;</p> <p>(c) emergency procedures and response to incidents; and</p> <p>(d) complaint handling.</p>	At all times.
5.1.6	All new staff must complete the training within one month of commencement of the employment date at the kennel facilities.	At all times.
5.1.7	The applicant must keep a record to demonstrate that all staff have satisfactorily completed training within one month of the commencement date; or if re-training an employee is required.	At all times.
5.1.8	Retraining of a staff member is required if the employee fails to comply with the Bark Management Plan or the operational procedures of the kennel. Retraining of all staff is required if any modification is made to the Bark	At all times.

	Management Plan or changes are made to the operational procedures of the kennel.									
5.1.9	<p>(a) Background sound system shall be installed into the interior of each kennel building to provide masking sound.</p> <p>(b) A video and intercom system shall be provided to the interior of each kennel building. The system shall be configured so that it can be used to monitor and communicate with the dogs at any time of the day or night.</p> <p>(c) The video and intercom system shall be able to be operated from the reception building as well as the onsite residence.</p> <p>(d) Any public address system with speakers located outside the buildings or in the service corridors between the kennel buildings (where they may be able to broadcast to the open air) are not permitted.</p>	Prior to the commencement of the use and to be maintained.								
5.2	OPERATIONAL NOISE LIMITS									
5.2.1	<p>Noise from dogs at the kennel facility must be limited such that the A-weighted average maximum noise level, $L_{Amax, avg}$ when measured outside at any affected noise sensitive place must not exceed:</p> <p>(e) the background noise level + 10dBA for daytime hours (7 am to 6 pm);</p> <p>(f) the background noise level + 5dBA for evening hours (6pm to 10pm);</p> <p>(g) the background noise level + 5 dBA for nighttime hours (10 pm to 7 am); or</p> <p>(h) the noise limits specified in Table A, whichever is greater.</p> <p>Table A Noise Limits $L_{Amax, avg}$ dBA</p> <table><tr><th>Period</th><th>Noise Limit $L_{Amax, avg}$ dBA</th></tr><tr><td>Day (7 am - 6 pm)</td><td>45</td></tr><tr><td>Evening (6pm – 10pm)</td><td>36</td></tr><tr><td>Night (10 pm - 7 am)</td><td>28</td></tr></table>	Period	Noise Limit $L_{Amax, avg}$ dBA	Day (7 am - 6 pm)	45	Evening (6pm – 10pm)	36	Night (10 pm - 7 am)	28	At all times.
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Evening (6pm – 10pm)	36									
Night (10 pm - 7 am)	28									
5.2.2	<p>The component noise from the kennel facility must be limited such that the adjusted A-weighted equivalent continuous noise level, $L_{Aeq, adj, 15 min}$ when measured outside at any affected noise sensitive place must not exceed:</p> <p>(e) the background noise level + 3 dBA for daytime hours (7 am to 6 pm);</p> <p>(f) the background noise level + 3 dBA for evening hours (6 pm to 10 pm);</p> <p>(g) the background noise level + 0 dBA for nighttime hours (10 pm to 7 am); or</p> <p>(h) the noise limits specified in Table B, whichever is</p>	At all times.								

	<p>greater.</p> <p>Table B Noise Limits $L_{Aeq, adj, 15 min}$ dBA</p> <table><tr><th>Period</th><th>Noise Limit $L_{Aeq, adj, 15 min}$ dBA</th></tr><tr><td>Day (7 am - 6 pm)</td><td>38</td></tr><tr><td>Evening (6 pm - 10 pm)</td><td>34</td></tr><tr><td>Night (10 pm - 7 am)</td><td>23</td></tr></table>	Period	Noise Limit $L_{Aeq, adj, 15 min}$ dBA	Day (7 am - 6 pm)	38	Evening (6 pm - 10 pm)	34	Night (10 pm - 7 am)	23	
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Day (7 am - 6 pm)	38									
Evening (6 pm - 10 pm)	34									
Night (10 pm - 7 am)	23									
5.2.3	<p>Measurement Procedures:</p> <p>For the purposes of measuring the noise limits in conditions 5.2.1 and 5.2.2, the following procedures must be used:</p> <p>(a) Sound measurement instrumentation, measurement and reporting must be in accordance with the provisions of "AS 1055: Part 1-1997. Acoustics- Description and Measurement of Environmental Noise - Part 1: General Procedures " and where there is no conflict with the provisions of AS1055 Part 1-1997, Department of Environment and Heritage Protection Noise Monitoring Manual 2013, or later version.</p> <p>(b) Measurements must be conducted with the sound measurement instrumentation set to "Fast" time response and "A" frequency weighting.</p> <p>(c) The Background Noise Level ($L_{A_{bg,T}}$):</p> <p>(iii) during the relevant time period, T, refers to the average minimum A-weighted sound level in the absence of the noise under consideration.</p> <p>(iv) when statistical analysis is used, the background noise level shall be taken as that noise level which is exceeded for 90 percent of the relevant time period, T (that is, the $L_{A90,T}$).</p>	At all times.								
5.2.4	<p>For condition 5.2.1:</p> <p>(a) Sound levels from the kennelled dogs shall be monitored for a period of not less than thirty (30) minutes on not fewer than three (3) separate occasions randomly selected.</p> <p>(b) On each such occasion:</p> <p>(iv) at least ten (10) maximum sound levels from the dogs (barks or other vocalisations) shall be measured and recorded; and</p> <p>(v) the arithmetic average of the individual maximum sound levels due to the dogs</p>	At all times.								

	<p>(the average maximum level) shall be compared with the noise limits given in Table A.</p> <p>(vi) The noise emission from the kennelled dogs shall be deemed to be unacceptable if so rated on two (2) out of three (3) occasions.</p>														
5.2.5	<p>For condition 5.2.2:</p> <p>(a) The Measured Noise Level:</p> <p>The measured noise level shall be determined as the equivalent continuous sound pressure level in dBA due to noise from the subject site during the relevant assessment period, T.</p> <p>A measurement interval of 15 minutes shall be used, except where this period is insufficient to provide a true representation of the characteristics of the noise under consideration.</p> <p>(b) Where the noise exhibits tonal or impulsive characteristics, the measured noise level shall be adjusted in accordance with Table C.</p> <p>Table C Adjustments to the Measured Noise Level</p> <table border="1"> <thead> <tr> <th colspan="2">Characteristics of the noise</th><th>Adjustment dBA</th></tr> </thead> <tbody> <tr> <td rowspan="2">Tonal components :</td><td>If the tonal components are just perceptible</td><td>2</td></tr> <tr> <td>If the tonal components are readily perceptible</td><td>5</td></tr> <tr> <td rowspan="2">Impulse Components:</td><td>If the impulse components are just perceptible</td><td>2</td></tr> <tr> <td>If the impulse components are readily perceptible</td><td>5</td></tr> </tbody> </table>	Characteristics of the noise		Adjustment dBA	Tonal components :	If the tonal components are just perceptible	2	If the tonal components are readily perceptible	5	Impulse Components:	If the impulse components are just perceptible	2	If the impulse components are readily perceptible	5	At all times.
Characteristics of the noise		Adjustment dBA													
Tonal components :	If the tonal components are just perceptible	2													
	If the tonal components are readily perceptible	5													
Impulse Components:	If the impulse components are just perceptible	2													
	If the impulse components are readily perceptible	5													
5.2.6	<p>Time and Place of Measurement:</p> <p>(a) Noise from the kennel facility and the background noise level must be measured in the vicinity of the affected residential premises. The measurement position shall be at least 3.5 m from the affected residential premises as well as any other building or sound reflecting structure, but in any case shall be not more than:</p> <p>(i) 20m from any residential premises during the day and evening time periods; and</p> <p>(ii) 5m from any residential premises during</p>	At all times.													

	the nighttime period.	
	<p>(b) The microphone height must be 1.5 m above local ground level except where this height would be insufficient to provide representative measurement of noise levels at all habitable levels of the relevant residential premises. In such cases the microphone height must be equivalent to 1.5 m above the floor height of the highest habitable floor or at a height equivalent to the centre of the window of the most affected habitable room in the building, whichever is higher.</p> <p>(c) The noise from the kennel facility and the background noise level must be measured at a time which is as close as practicable to the time of day that the noise is alleged to be excessive.</p> <p>(d) Where it is not practical to measure the background level in the absence of the noise from the kennel facility, the background level may be measured at another similar location where noise from the kennel facility is absent but the background noise level is considered to be equivalent to that at the affected residence.</p>	
5.3	Acoustical Assessment – Compliance Monitoring	
5.3.1	The applicant must commission an acoustic assessment and associate report of the kennel operations, conducted by a suitably qualified acoustical consultant in order to confirm / assess the degree of compliance with the conditions of this approval. Council may also request that Council's appointed acoustical engineer participate in, and/or observe, the work undertaken for the assessment conducted at the commencement of operations for each stage of the kennels.	Upon commencement of Stage 2 and each subsequent stage.
5.3.2	A copy of the report mentioned in condition 5.3.1 must be submitted to Council within 7 days of its completion.	Within 7 days of the completion of the report.
SCHEDULE 6 – ADVICE		
<i>Assessment Manager</i>		
This approval has effect in accordance with the provisions of section 71 of the <i>Planning Act 2016</i> .		
Currency Period - Pursuant to section 85 of the <i>Planning Act 2016</i> the approval will lapse if the first change of use does not happen within the currency period – being six (6) years starting the day the approval takes effect.		
The applicant may make representations (change representations) about a matter in this development application within the applicant's appeal period under the process established in chapter 3, part 5, division 2, subdivision 1 of the <i>Planning Act 2016</i> .		

The *Planning Act 2016* provides for a person to make a change to this development application outside the applicant's appeal period, following the process outlined in chapter 3, part 5, division 2, subdivision 2 of the Act.

This development approval is for the proposed development only. Any additional uses/structures, if triggers assessable development, may require their own planning approval and will be assessed on its own merits.

Biosecurity Queensland should be notified on 13 25 23 of proposed development(s) occurring in the Fire Ant Restricted Area before earthworks commence. It should be noted that works involving movements of soil associated with earthworks may be subject to movement controls and failure to obtain necessary approvals from Biosecurity Queensland is an offence.

It is a legal obligation to report any sighting or suspicion of fire ants within 24 hours to Biosecurity Queensland on 13 25 23.

The Fire Ant Restricted Area as well as general information can be viewed on the DAF website www.daf.qld.gov.au/fireants “

Carried

Vote - Unanimous

Subject:	Request for Exemption Certificate for use of former storage building as Clubhouse and Extension at Lowood Football Grounds
File Ref:	Exemption Certificate EC0057
Action Officer:	SP-MW

Background/Summary

Brisbane Valley Soccer Club seek to utilise an existing equipment shed at the Lowood Football Grounds located at Lindemans Road, Lowood, also described as Lot 59 RP854663 as a new clubhouse, and extensions to the building for toilets and change rooms.

We are writing to formally request an exemption of the Development Application to convert the current Brisbane Valley Soccer Club (“The Club”) building from an equipment shed to a clubhouse.

The Club is aware of the need to make changes to the existing building in order for the shed to comply with the requirements of a Clubhouse. The Club is prepared, willing and able to make the necessary changes and to work with Council and other organisations to achieve this outcome.

Brisbane Valley Soccer Club was established in 1991 and has continued to grow over the last 30 years.

Brisbane Valley Soccer Club caters for a diverse range of members of the community. Currently our membership is around 200 players, which includes, participation from both females and males, Aboriginal and Torres Strait Islanders, people with disabilities and ages from 5 to over 50.

Currently Brisbane Valley Soccer Club hosts matches every Saturday and training on Monday and Wednesday afternoon and evenings. On these days the Club can have in excess of 300 people, coming into the grounds from the local community as well as spectators and players from outside the Somerset Region.

The subject land is identified in the *Recreation and open space* zone, with the proposed use being defined as an *Outdoor sport and recreation*. Under the Planning Scheme, the proposed new use would be categorised as 'accepted development subject to requirements', however, in this instance the land is affected by the Flood hazard overlay map. Council's Flood hazard map identifies the site as a Significant Flood Hazard area.

Consequently, for the existing equipment shed to be utilised as a Clubhouse and extensions to the building, a material change of use application would be required, subject to code assessment. Council has received a request by Brisbane Valley Soccer Club for an Exemption Certificate for the proposed use of the shed.

As the existing building doesn't involve any new building works, it is compliant with the requirements of the Recreation and open space zone code.

The extension to the building would not achieve compliance with the minor building works criteria under the Planning Scheme. The extension to the building would require assessment against the:

- Recreation and open space zone code
- Recreation activities code
- Services, infrastructure and works code
- Transport, access and parking code
- Catchment management overlay code
- Flood hazard overlay code.

Section 46(3) of the *Planning Act 2016* allows the local government to give an exemption certificate if any other following apply:

- iv. the effects of the development would be minor or inconsequential, considering the circumstances under which the development was categorised as assessable development;
 - v. the development was categorised as assessable development only because of particular circumstances that no longer apply;
 - vi. the development was categorised as assessable development because of an error.
- (i) The effects of the development would be minor or inconsequential.
The development is a relatively minor modification to the existing Soccer equipment shed. While it is arguable the development may generate additional numbers of persons, the proposed clubhouse is ancillary to the operation of the sports grounds. As a consequence, if there was a flood event affecting the site, it is likely the sports grounds would not be operating and therefore the clubhouse would not be open in those circumstances.

It is considered that the change of use within the established building will not result in any additional adverse impacts on the hydrological functions of the land beyond those already expected/experienced. Further, it is considered that the proposed use will not place a greater number of persons at risk from a flood event than is tolerable at this location.

The effects of the development are considered to *be minor and inconsequential* in the circumstances in which the development was categorised as assessable development, in that the proposed use will occur within an existing building with a tolerable risk to flooding in any area anticipated for community uses to occur.

In summary, the effect of the development is inconsequential considering the minor extension and ancillary nature of the clubhouse and the operation of the existing sports grounds.

- (ii) the development was categorised as assessable development only because of particular circumstances that no longer apply;
Council has not implemented a change to the scheme, nor a policy that had been accepted by the State, nor a version of the planning scheme that had been approved but not yet adopted, that would alter the particular circumstances for this type of development.

The Somerset Region Planning Scheme states:

Outdoor sport and recreation is accepted development subject to requirements if:

- (a) *involving no building work or only minor building work; and*
- (b) *complying with all the identified requirements in the Recreation and open space zone code.*

Minor building work is defined as follows:

minor building work means building work that increases the gross floor area of a building by no more than the lesser of the following—

- (a) *50m²;*
- (b) *an area equal to 5% of the gross floor area of the building*

Gross floor area is defined as follows:

gross floor area, for a building, means the total floor area of all of the building, measured from the outside of the external walls or corner posts and the centre of any common walls of the building, for all open structure, measured between the supporting points other than areas used for—

- (a) *building services, plant or equipment; or*
- (b) *access between levels; or*
- (c) *a ground floor public lobby; or*
- (d) *a mall; or*
- (e) *parking, loading or manoeuvring vehicles; or*
- (f) *unenclosed private balconies, whether roofed or not.*

While the development proposes a toilet block and change rooms, the development proposes an extension of 30.46m² for change rooms, and male and female toilets with an area of 44.47m² (total 75m² extension).

As such the use does not comprise minor building work, however the increase in GFA only relates to ancillary facilities directly associated with the operation of the sports fields. The use however complies with the identified requirements in the Recreation and open space zone code.

It could be contended that the extension to the proposed toilets and change rooms are not an intensification of the use, in that they would be for use by persons already attending the site, as well as for changing for home and visiting teams, however the building extension does exceed 50m² or 5% of the gross floor area of the building, and as such would typically trigger the Code assessable criteria for the use.

It is considered the proposal therefore does not comply with the criteria applicable under Section 46 (3).

- (iii) the development was categorised as assessable development because of an error.

The use of the building as a clubhouse, is ancillary to the use of the site as sporting fields.

However the criteria referencing “no building work or only minor building work” is a consistent criteria for Accepted development subject to requirements” across all of the Categories of development and assessment for a variety of uses, and within all of the zones in the Planning Scheme. As such, the development has not been categorised in error.

It is considered the proposal does not comply with the criteria applicable under Section 46 (3).

The Exemption Certificate will be limited to the extent specified. Any future development or change of use may trigger the need for a material change of use application.

Attachments

The plans of the proposed development are available as per Attachment 1.

Recommendation

THAT Council approve the request for an Exemption Certificate for Outdoor sport and recreation (applying to utilise an existing equipment shed as a new clubhouse and building extension of 75m² for toilets and change rooms), on land described as Lot 59 RP854663, and situated at Lindemans Road, Lowood.

Resolution

Moved – Cr Wendt

Seconded – Cr Choat

“THAT Council approve the request for an Exemption Certificate for Outdoor sport and recreation (applying to utilise an existing equipment shed as a new clubhouse and building extension of 75m² for toilets and change rooms), on land described as Lot 59 RP854663, and situated at Lindemans Road, Lowood”.

Carried

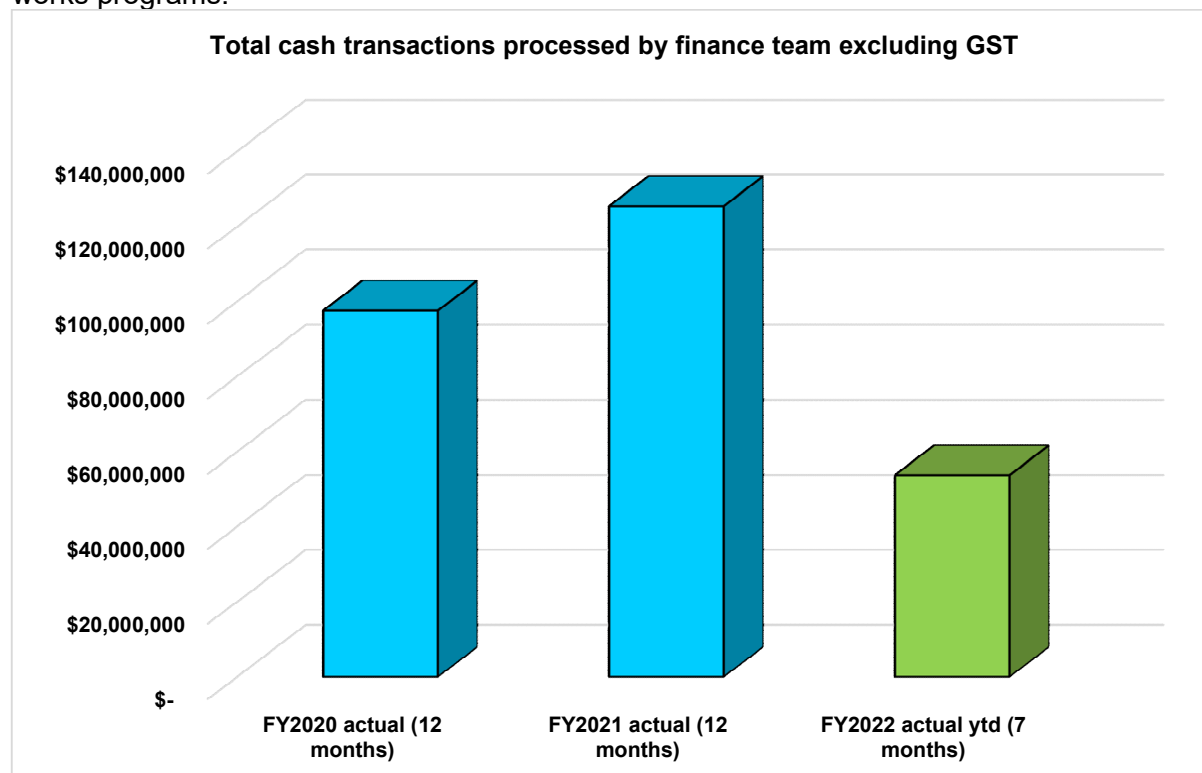
Vote - Unanimous

Subject:	Finance report
File Ref:	Monthly reporting/ finance
Action Officer:	DFIN

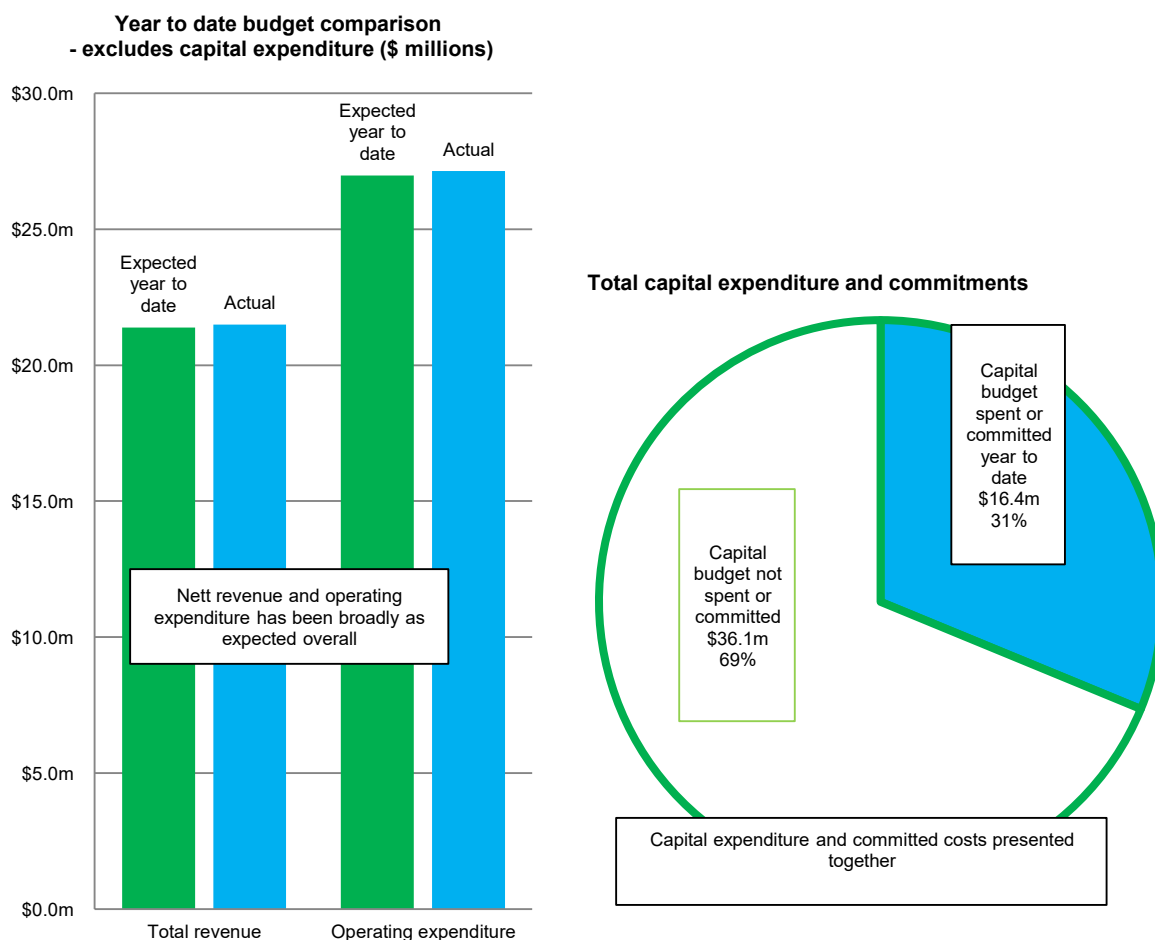
Background/Summary**Financial reports**

Reports for the period 1 July 2021 to 31 January 2022 are attached detailing the progress that has been made in relation to Council's FY2022 budget as required by Local Government Regulation 2012 s204.

The finance team has processed \$54M in transactions for the financial year to date including grants, rates and contract revenue transactions and payments to suppliers and employees. Transaction volumes have increased in recent years with larger capital and recoverable works programs:



Results for the year to date are summarised as follows:



Competitive grants

- Council officers lodged an application under the Australian Government's Heavy Vehicle Safety and Productivity Program (HVSPP) on 11 January 2022 as follows:

HVSPP competitive project application	Project value	Funding sought
Widen and strengthen 1.3km of Lowood Minden Road from chainage 8.13km to ch9.45km near the intersection of Kisslings Road to a total 10.0m sealed width. This will allow vehicles to safely pull over to allow emergency vehicles to access fires and other emergencies along the road in a way that will reduce the risk to people and property. Adding regulation sealed shoulders will reduce crash risk by 41% (Austroads)) during evacuations and under normal use.	\$1,434,204	\$1,147,363

- Council officers lodged an application under the Australian Government's Black Summer Bushfire Recovery Grants Program (BSBRGP) on 23 August 2021 as follows:

BSBRGP competitive project application	Project value	Funding sought
Fernvale Firewall - construct a 4.3km long, 20m wide firebreak along the southern boundary of the Fernvale urban footprint development area including 3.8 km of bitumen sealed roads (Muckerts and McCulkins	\$6,777,433	\$4,500,000

Lanes) for emergency access and egress and 0.5km of cleared fire appliance access route near residential areas including undergrounding of powerlines.		
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- Council officers also lodged a second BSBRGP application on 29 September 2021 as follows:

BSBRGP competitive project application	Project value	Funding sought
Somerset/ Brisbane Boundary Firewall - construct a 1.67km long, 9 to 20m wide firebreak along the boundary between the Somerset and Brisbane LGAs including new bitumen sealed roads (Waverley and Sheppards Roads) which will facilitate emergency access and egress.	\$1,709,815	\$854,907

- Council officers lodged an application under the Australian Government's Preparing Australian Communities Program (PACP) on 22 December 2021 as follows:

PACP competitive project application	Project value	Funding sought
Somerset priority evacuation routes Austroads improvement project. Widen the bitumen surface (to 7.0m) and formation (to 9.0m) of 3 single-lane key evacuation routes (total 8.21km) being sections of Main St Lowood, Ivory Creek Rd and Toogoolawah-Biarra Rd. A review into the adequacy of evacuation routes has identified the need to widen those routes in line with Austroads-recommended widths for trunk roads. Widening the evacuation routes will reduce the risk of road crash incidents during an evacuation by 22 – 36 %. The key evacuation routes carry a total 1,078 vehicles a day including 93 heavy vehicles highlighting their importance to the local community and economy and provide important regional links.	\$7,092,476	\$3,546,238

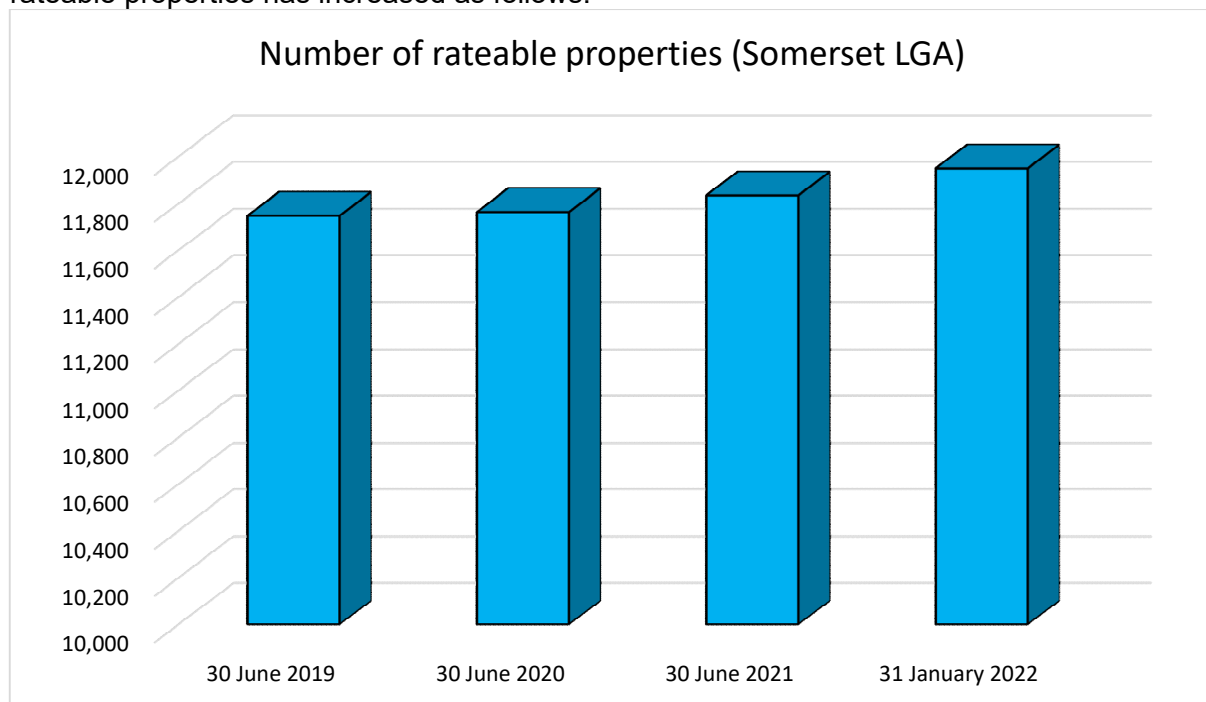
- Council officers are preparing applications under the Australian Government's Building Better Regions Fund round 6 for projects entitled the Brisbane Valley Rail Trail Mountain Bike Park in Esk and Toogoolawah Gateway Centre with a total value of \$7.9M
- Council officers lodged an application under the Australian Government's Queensland's Fishing Infrastructure Grants Program on 24 September 2021 as follows:

Queensland's Fishing Infrastructure Grants Program	Project value	Funding sought
Mid-Brisbane River recreation safety and security CCTV project. Council seeks funding to permanently install CCTV to permanently achieve improvements to the recreational fishing and boating experience along Queensland's mid-Brisbane River. Qld Police support the project as it will create "a safer area for the community to conduct recreational activities and an increase in usage by the community".	\$70,169	\$63,000

- Council officers lodged applications for \$31,711 in solar projects at the Lowood and Esk SES buildings under the 2022-23 SES Support Grant offered by Queensland Fire and Emergency Services on 17 November 2021 seeking 75% funding
- Council officers are also developing further proposals under the Australia Government's Bridges Renewal Program and Heavy Vehicle Safety and Productivity Program and under the Queensland Local Government Grants and Subsidies Program (LGGSP)

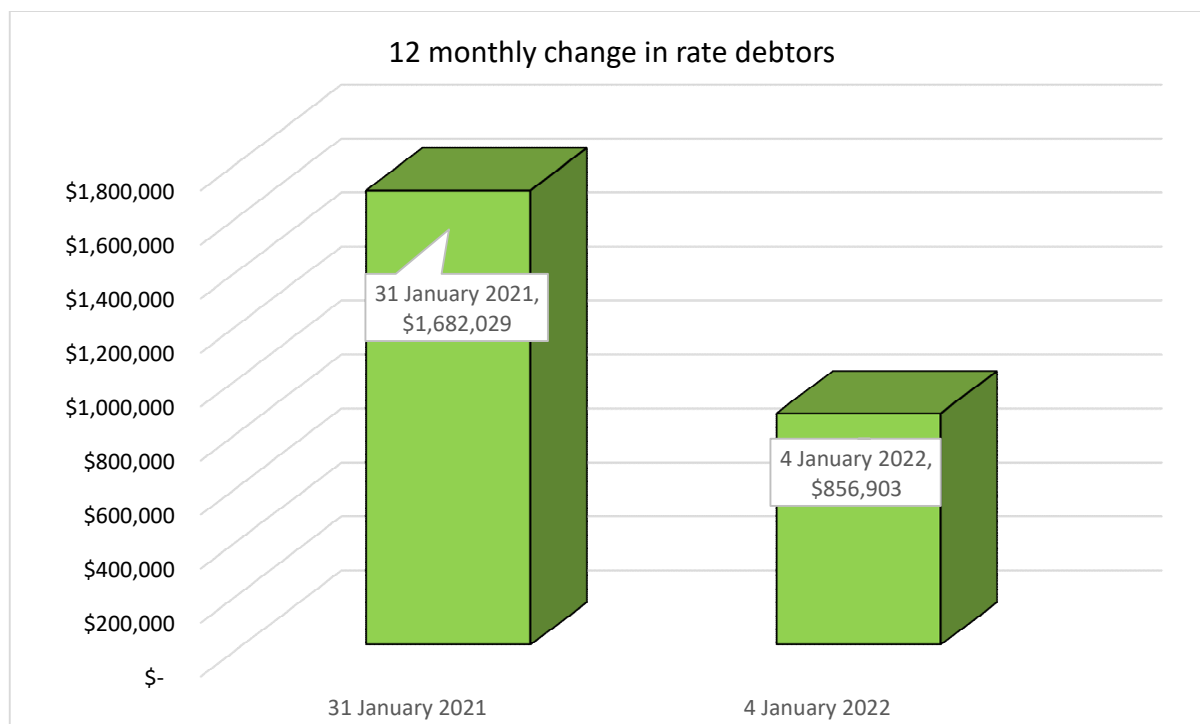
Growth

Rateable property data provides an indication of regional growth. The total number of rateable properties has increased as follows:



Rates

Rates are issued in six monthly cycles. Total rate debtors at comparable dates (generally after the due dates) over the past 12 months were as follows:



Council issued 38 notices of intention to sell land for overdue rates totalling \$290,616 in overdue rates on 19 November 2021. Council is working with the owners of these properties and their mortgagees to recover overdue rates without incurring legal costs where possible.

Investments

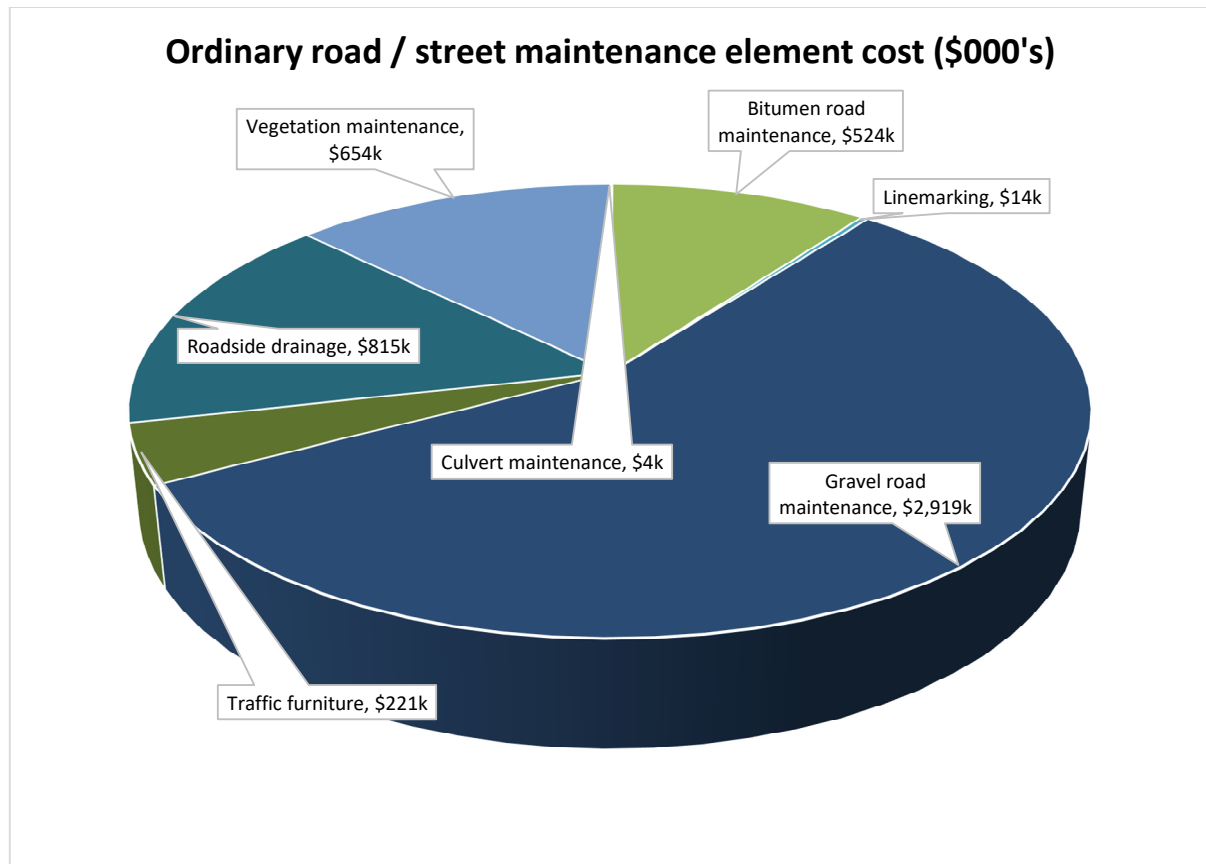
Council relies on interest revenue to keep rates at the lowest possible level. Interest rates are at historic lows. An investment summary is attached detailing interest earnings from Queensland Treasury Corporation (QTC) and other sources. QTC interest rates have been variable and were 0.41% net during December 2021. Council's key investment strategy has been to maintain two interest-bearing credit facilities totalling \$43.8 million to Urban Utilities (UU) which fund infrastructure such as Lowood wastewater treatment plant as well as providing mutual benefit to both UU and Council. These carry a combined weighted average interest rate of 2.11%. Council is currently working with Urban Utilities and state authorities to establish a third credit facility of \$10 million.

Ordinary road maintenance detail

Ordinary road maintenance costs exceed pro rata budget as below:

Maintenance type	Total (\$000's)
Bitumen road maintenance	524
Gravel road maintenance	2,919
Roadside drainage	815
Culvert maintenance	4
Vegetation maintenance	654
Traffic furniture	221
Linemarking	14
Total actual year to date	5,151
Expected pro-rata budget year to date	3,237

While overall Council net operating costs are within pro rata budget expectations, road maintenance costs exceed budget.



As previously requested, Council's 30 most costly road segments for ordinary maintenance for the year to date were as below. Costs per linear metre have been added for context.

Road segment	Cost (\$'000's)	Cost per metre (\$)
Bellthorpe Rd (gravel) Ch0-Ch11460	161	14
Kingaham Rd (gravel) Ch0-Ch8960	120	13
Banks Creek Rd (gravel) Ch4670-Ch12870	89	11
Mt Byron Rd (gravel) Ch2020-Ch15370	82	6
West Branch RdXing35Ch19065-19070	81	
Diaper Rd (gravel) Ch3000-Ch6200	79	25
Westvale Rd (gravel) Ch1340-Ch13550	77	6
Ivory Creek Rd (gravel) Ch10150-Ch12590	73	30
Monsildale Rd (gravel) Ch12000-Ch19100	72	10
Monsildale Rd (gravel) Ch1630-Ch10200	66	8
Kimballa Rd (gravel) Ch8780-Ch9850	59	55
Yabba Rd (gravel) Ch0-Ch3330	58	17
Sunday Creek Rd (gravel) Ch1690-Ch3390	55	33
Waverley Rd (gravel) Ch100-Ch1200	52	47
Patrick Estate Rd (bitumen) Ch240-Ch720	50	104
Hope St (bitumen) Ch0-Ch230	49	213
Silverleaves Rd (gravel) Ch40-Ch2150	48	23
Mt Byron Rd (gravel) Ch160-Ch1170	42	41
Cressbrook Cab (gravel) Ch8280-Ch13860	41	7
Yielo Rd (gravel) Ch5100-Ch15500	41	4
Ivory Creek Rd (gravel) Ch12590-Ch15230	40	15
Kimballa Rd (gravel) Ch9850-Ch13670	40	10

Mt Byron Rd (gravel) Ch15370-Ch19310	40	10
Glenhowden Rd (gravel) Ch30-Ch1580	39	25
Morden Rd (gravel) Ch1880-Ch6470	38	8
Kipper Creek Rd (gravel) Ch6360-Ch10710	38	9
Mt Buggery Rd (gravel) Ch0-Ch990	36	36
Banks Creek Rd (gravel) Ch3300-Ch4670	33	24
William St Kilcoy (bitumen) Ch110-Ch410	32	108
Mt Mulgowie Rd (gravel) Ch840-Ch3100	32	14
Subtotal (\$000's)	1,763	

Special road maintenance/ renewal

In addition to ordinary bitumen road maintenance, expenditure on special road maintenance including resealing of bitumen roads has been budgeted of \$1.793M. Reseals will be completed out over coming months.

Attachments

Financial reports and payment listings

Recommendation

THAT Council receive the financial reports for 1 July 2021 to 31 January 2022 and payments presented for the period 4 January 2022 to 31 January 2022 totalling \$3,844,201.46 and that the contents be noted.

Resolution

Moved – Cr Choat

Seconded – Cr Brieschke

“THAT Council receive the financial reports for 1 July 2021 to 31 January 2022 and payments presented for the period 4 January 2022 to 31 January 2022 totalling \$3,844,201.46 and that the contents be noted”.

Carried

Vote - Unanimous

Subject: Local government grants and subsidies program 2022-2024
File Ref: LGGSP 2024
Action Officer: DFIN

Background/Summary

In August 2020, Council endorsed submitting Local Government Grants and Subsidies Program (LGGSP) etc funding applications for planned new PV solar projects and for shade structures over the new grandstand seating at Kilcoy recreation grounds/ racecourse (August 2020).

In addition, endorsement is sought to lodge an LGGSP application for new/renewed playgrounds at Honeywood Park, Stumer Park and Parslow Park (all in Fernvale) based on forward works estimates. The estimated total cost of these projects is \$400,000.

Attachments

Nil

Recommendation

THAT Council endorse the submission of a funding application for new/renewed playgrounds at Honeywood Park, Stumer Park and Parslow Park

Resolution

Moved – Cr Gaedtke

Seconded – Cr Brieschke

“THAT Council endorse the submission of a funding application for new/renewed playgrounds at Honeywood Park, Stumer Park and Parslow Park”.

Carried

Vote - Unanimous

Subject:	Proposed change to Information Security Policy
File Ref:	Cyber security
Action Officer:	DFIN

Background/Summary

Corporate and Community Services monthly reports outline the number of Council system users failing phishing tests. These phishing tests are conducted consistent with the Information Security Policy (copy attached).

Large numbers of organisations (including Australian local governments) have been subject to successful ransomware attacks in recent years which have resulted in those organisations:

- Losing access to their own systems and data for lengthy periods
- Incurring significant public resources in re-creating systems and data
- Not knowing for certain once systems are rebuilt, whether or not cyber-criminals might still have access for future extortion attempts
- Not knowing whether data about private customers, residents etc might be held and released publicly at a later date pending payment of a ransom
- Suffering public reputational damage

Additional wording is proposed to the information security policy to help underline the seriousness of the threat from ransomware and to help manage the risks implied above.

Attachments

Information security policy

Recommendation

THAT the following text be added to the Information Security Policy immediately after the words *“Quarterly email phishing testing will be conducted for all staff, contractors and Councillors with access to corporate email. Staff, contractors and Councillors who fail phishing tests will be advised of the failures within 30 days and these staff, contractors and Councillors will be required to undertake and pass refresher information security training.”*:

“Disciplinary action will be taken for all employees who fail phishing tests more than once in a three-year period.”

Resolution

Moved – Cr Choat

Seconded – Cr Isidro

*“THAT the following text be added to the Information Security Policy immediately after the words **“Quarterly email phishing testing will be conducted for all staff, contractors and Councillors with access to corporate email. Staff, contractors and Councillors who fail phishing tests will be advised of the failures within 30 days and these staff, contractors and Councillors will be required to undertake and pass refresher information security training.”**:*

“Disciplinary action will be taken for all employees who fail phishing tests more than once in a three-year period.”

Carried*Vote - Unanimous*

Subject:	Linville Railway Siding – Camping and Facilities Plan
File Ref:	SRC - Council Properties – Planning - Future Planning of Premises
Action Officer:	DCORP

Background/Summary

On 13 October 2021 Council accepted a proposal from Landmark to construct amenities within the Railway siding (per the attached map). Construction of these facilities is set to commence in February/March of 2022. Council staff met with the Ambassadors and Craig England Manager Rail Corridor Management - Transport and Main Roads (TMR) on 17 November 2021 to review the plans for the Railway Station building. The plans for the building included a disabled toilet. During discussions the Building Certifier advised that this component of the plans would not be required if a connecting path capable of providing access to wheelchairs was constructed between the new Council amenities and the Station building. This was discussed at length, it was agreed that a site meeting would help clarify the amenities location, path length and potential pedestrian/vehicular access controls.

On 10 December 2021, a site meeting was held where the location of the amenities was discussed and several alternatives considered. Additional caravan/camping facilities and other enhancements of the siding camping area were also discussed. When asked, Council staff advised TMR and the Ambassadors that there was no long term/Master plan for the area as this had not been needed to date. However, it was generally agreed by all that the future development and use of the area would be enhanced by a long term Plan. It was agreed to not delay the amenities construction or the Station repairs while waiting for a plan to be developed. It was also agreed that both of these projects should proceed as proposed.

The Director of Operations and Craig England of TMR discussed co-contributions toward a plan and whether Council would make a contribution to a Plan, carry out consultation on the Plan and provide a project officer to lead the development of the Plan. Costs were discussed and it was agreed that a plan would cost in the order of \$20,000 to \$50,000. Should TMR want to start the planning process an offer to contribute and request to commence planning would be required. The attached TMR offer was received on 15 December 2021. Council officers have discussed and consider this to be the minimum required should Council wish to develop a Plan for the area. The total cost for the Plan would be \$20,000 plus Council would lead the project and incur officer's time.

Attachments

Attachment 1 – Proposed Location of Amenities – Linville
Attachment 2 – SRC Letter Master Planning Proposal

Recommendation

That Council accept the offer from Transport and Main Roads for a contribution towards a Linville Railway Siding Master Plan and allocate \$10,000 from a future budget amendment toward Council's portion of the costs.

Resolution

Moved – Cr Isidro

Seconded – Cr Choat

“THAT Council accept the offer from Transport and Main Roads for a contribution towards a Linville Railway Siding Master Plan and allocate \$10,000 from a future budget amendment toward Council's portion of the costs”.

Carried*Vote - Unanimous*

Subject: Permit to Occupy – Unnamed Road 4091
File Ref: 2021-2022 Road Licence (Permit to Occupy) – Doc. 1352928
Action Officer: DCORP

Background/Summary

An application has been received for a permit to occupy Unnamed Road 4091, as per the attached map.

The applicant has requested a permit to occupy an estimated area of 587 metres of Unnamed Road 4091, off Armstrongs Lane, Moore for grazing purposes.

The applicant has prepared all documentation required and has submitted it to Council for review and approval prior to forwarding to the Department of Resources.

Council's Development Design Manager has reviewed the documentation and has no objection to the application.

Attachments

Map of proposed site

Recommendation

THAT Council offer no objection to the application for a permit to occupy over Unnamed Road 4091.

Resolution

Moved – Cr Brieschke

Seconded – Cr Isidro

“THAT Council offer no objection to the application for a permit to occupy over Unnamed Road 4091”.

Carried*Vote - Unanimous*

Subject: Application for Proposed Lease over Reserve RES759 – Stanley Street, Moore
File Ref: 2021 - 2022 - Leases (Road Licence - Permit to Occupy - Stock Grazing Permit) - Doc. 1350240
Action Officer: CCSO

Background/Summary

Council has received correspondence from the Department of Resources regarding an application for a proposed lease over reserve 759 described as Lot 14 on Crown Plan M56211 and highlighted yellow on the attached departmental Smartmap.

Queensland Fire and Emergency Services have made application to the Department of Resources proposing to use the area for Moore–Linville Rural Fire Brigade.

The reserve is a state departmental reserve and the proposed purpose of the reserve will be for public purposes being for a rural fire brigade.

The Design and Development Manager has been consulted and has not offered any objection or further comments to the proposal.

The Moore – Linville Fire Brigade currently have a premises located along Main Street, Moore (Lot 8 RP14965), which currently contains one shed and two bores which provide water to both the Fire Brigade and the Moore public toilets.

Attachments

- Departmental Smartmap provided by the Department of Resources

Recommendation

THAT Council offer no objections to the proposed lease to Department of Fire and Emergency Services for reserve 759 described as Lot 14 on Crown Plan M56211.

Resolution

Moved – Cr Wendt

Seconded – Cr Brieschke

“THAT Council offer no objections to the proposed lease to Department of Fire and Emergency Services for reserve 759 described as Lot 14 on Crown Plan M56211”.

Carried

Vote - Unanimous

Subject: Local government grants and subsidies program 2022-2024
File Ref: 2022 – 2024 Local Government Grants and Subsidies
Action Officer: ACM

Background/Summary

In June 2021, Council discussed submitting a Local Government Grants and Subsidies Program (LGGSP) funding application for the purchase and installation of a new ERCO lighting design system for The Condensery – Somerset Regional Art Gallery, (lighting standard used by Museums and Galleries in Queensland).

On 4 May 2021 The Condensery – Somerset Regional Art Gallery Advisory Committee moved that Council officers seek a quote for the upgrade of lighting in the gallery to bring it in line with professional museum and gallery standards.

In addition, advice was sought from professional industry body Museum and Galleries QLD (MAGQ). MAGQ advised that the current lighting system and levels are unsatisfactory for the professional display of art work. The current system provides neither adequate lumens nor directional flexibility to light works hung on the walls, displayed on plinths or exhibition cases throughout the space. There are also lighting gaps evident where sections of the gallery space are not illuminated effectively for wayfinding.

MAGQ recommended that ERCO lighting be installed at The Condensery. ERCO is the leading international specialist in architectural lighting and the benchmark standard for professional fine art lighting, used by museums and galleries Australia wide. ERCO use only 100% LED technology, ensuring sustainability and reduced energy consumption.

ERCO lighting also offers high-quality LED lighting, without compromise in visual experience or conservation of art. Their track system allows for flexibility of lighting design by easily adding or moving specific luminaires such as spotlights, downlights or wallwashers to create the correct presentation of an exhibition or focus on a work of art. The quality of lighting technology is not only important for the precise distribution of light and a qualitative art experience, but also for the long-term cost-efficiency of the lighting installation.

A quote was sought for an ERCO track and lighting design system from Queensland suppliers Raylinc Agencies Pty Ltd. The estimated total cost of this project is \$69 000.

Attachments

Attachment 1 - Precision Electrical Quote
Attachment 2 – Luxson Illumination Quote

Recommendation

THAT Council endorse the submission of a funding application for the purchase and installation of new ERCO lighting design system for The Condensery – Somerset Regional Art Gallery.

Resolution

Moved – Cr Gaedtke

Seconded – Cr Isidro

“THAT Council endorse the submission of a funding application for the purchase and installation of new ERCO lighting design system for The Condensery – Somerset Regional Art Gallery”.

Carried

Vote - Unanimous

Subject:	Kilcoy Aquatic Centre – Community Usage Survey
File Ref:	Recreation and Cultural Services – Service Provision – Recreation Facilities
Action Officer:	A/MRT

Background / Context

On 24 November 2021 Council received the results of a community driven survey regarding usage of the Kilcoy Aquatic Centre.

The survey was compiled by Kilcoy resident, Francis (Blue) Reidy OAM. Mr Reidy OAM has compiled 22 responses from local residents regarding their usage of the facility. The information collated by Mr Reidy OAM provides detailed insights into the usage of the Kilcoy Aquatic Centre by residents predominately aged 60 and above. This information has been confidentially forwarded (names and private details removed) to the facility lessee, Somerset Leisure, to inform their future facility program operations.

Whilst the information provides insights regarding the usage by a core group of elderly users, it does not make a compelling case for a season extension trial.

Attachments

1. Community survey regarding the use of the Kilcoy Aquatic Centre

Recommendation

THAT Council note the contents of the report regarding community usage of the Kilcoy Aquatic Centre.

Resolution

Moved – Cr Isidro

Seconded – Cr Brieschke

“THAT Council note the contents of the report regarding community usage of the Kilcoy Aquatic Centre”.

Carried

Vote - Unanimous

Subject: Somerset Lights Competition and Trail 2022
File Ref: Tourism - 2021 – Events - 2021 – Somerset Christmas Lights Competition
Action Officer: TO – BH

Background/Summary

The fifth annual Christmas Lights competition was held in December 2021. Entries were strong with 41 submitted. This is a slight decrease of 4 entries on the 2020 year.

Judging was delayed this year due to the wet weather – no major implications occurred.

2022 Somerset Christmas Light Competition Recommendations

Entries Open: Monday, 3 October 2022 at 9am

Entries Close: Thursday, 24 November 2022 at 4pm

Judging: Between: Monday, 28 November and Monday, 5 December 2022

Winners Announced: Friday, 9 December 2022

Light Trail Announced: Advertised from Thursday, 1 December 2022

Bus Tours 1 x Saturday evening – 17 December Between 6.30pm and 9.30pm

North, south and middle bus runs (pending on entrants)

Note: this will only occur if a sponsor can be secured to cover all costs of these bus tours.

Dates and times may vary depending on the sponsor.

Judges: Two Councillors and two Christmas Light enthusiast or previous competition winner (this could be a person/s from outside the Somerset region).

Major Categories that are advertised for entrants to choose from:

- **Best Business**
 - Category A – Shopfront display only
 - Category B – Shopfront and additional space
- **Best Community Group**
 - Category A – Shopfront display only
 - Category B – Shopfront and additional space
- **Best Rural Display**
- **Best Urban Display**

Categories that are up to the judges discretion:

- Display under 5000 lights
- Display over 5000 and under 10 000 lights
- Display over 10 000 lights
- Best Solar Display
- Non-competition category – for all entrants that would like to be a part of the trail and not a part of the competition – information would be required by Friday, 26 November 2021 at 5pm

People's Choice: A people's choice categories for each town Toogoolawah, Kilcoy, Esk, Lowood and Fernvale (and surrounds of all places) to be organised using social media and newspapers.

Sponsor: Open up to same sponsors as 2021 to start with.
Additional sponsors to be sought for the bus tours nights. Sponsors to be approached in April and offer considered approaches to each sponsor – what will best fit the particular sponsor.

Winners Prizing: Framed winners certificate and a \$500 cash prize for three winners of each of the major categories as a minimum. Additional prizing will be dependent on sponsors.

Design/Promotion: Paper copy of registration forms are to be designed and distributed throughout the region. Flyers/invitation cards to be placed into future participants mailboxes inviting to participate in upcoming competitions.

Attachments

Nil.

Recommendations

THAT Council

1. accept the above 2022 event recommendations
2. allocate two Councillors to be on the judging panel for 2022. Cr _____ and Cr _____ be part of the judging panel for 2022 Christmas Light Trail.
3. allocate \$4000 in the 2022/2023 budget

Resolution

Moved – Cr Brieschke

Seconded – Cr Wendt

“THAT Council

1. accept the above 2022 event recommendations
2. allocate two Councillors to be on the judging panel for 2022. Cr Brieschke and Cr Wendt to be part of the judging panel for 2022 Christmas Light Trail.
3. allocate \$4000 in the 2022/2023 budget”.

Carried

Vote - Unanimous

Subject:	Operations Report for January 2022
File Ref:	Governance – Reporting – Officer Reports
Action Officer:	CSSA

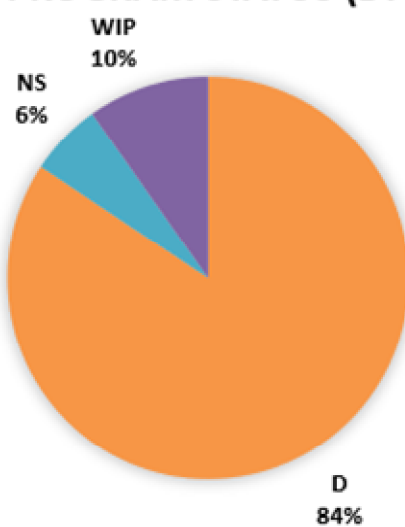
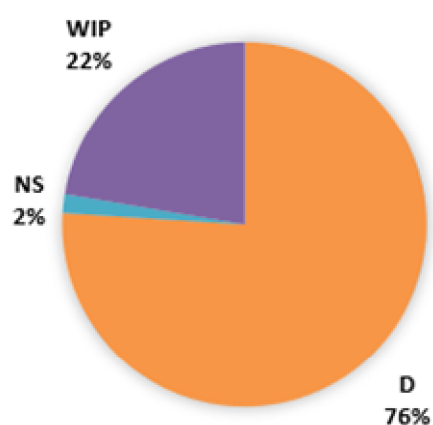
Background/Summary**Technical Design Team****Design Team (Michael Kinion)**

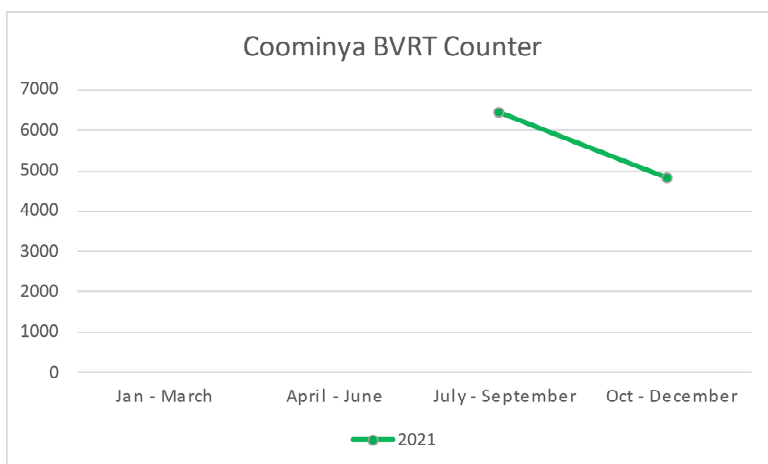
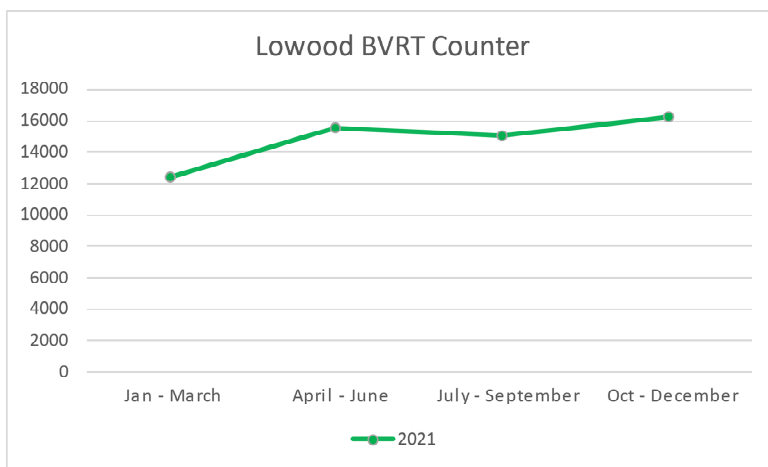
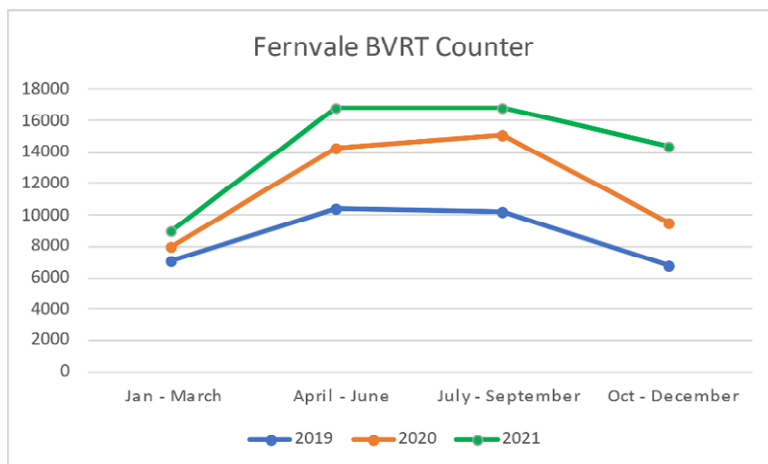
This team is finalising the last designs for the 2021/2022 capital works budget program. The design team continues to provide support to the construction crews on various construction projects including Mangerton Street and George Street projects, Toogoolawah and Banks Creek Road project, Fernvale. The design team also continue to provide support to external contractors along the Brisbane Valley Rail Trail in Lowood and on Lowood Minden Road at Minden.

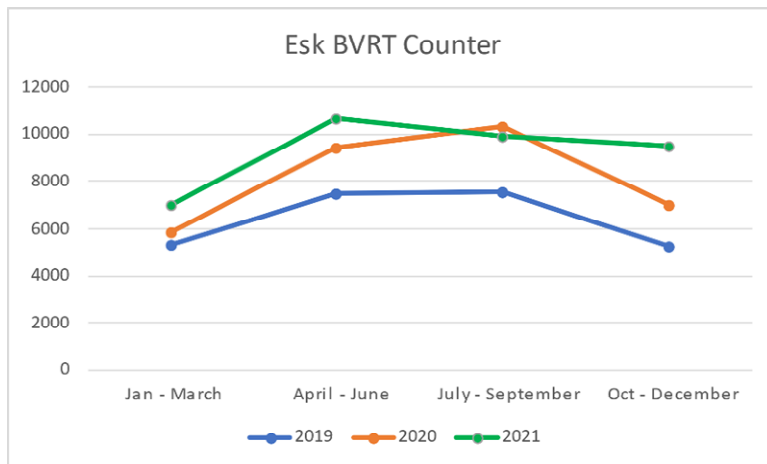
The Technical Design team continue to set out traffic counters within the region, and provide continual assessment of Council infrastructure to insure our information remains current with in our asset system. The “Design Program Status” pie charts below show the current progress of the designs for financial year 2021 / 2022.

Permit	Jan-2022	Jan-2021
Land Access Permit	30	51
Property Access Applications	28	12
National Heavy Vehicle Regulator Permits Processed	9	12

Design Projects Progression

DESIGN PROGRAM STATUS (BY COUNT)**Design Budget Progression****DESIGN PROGRAM STATUS (BY BUDGET)****Rail Trail Counter Charts**





Works Department

Day Labour Works

- Drainage structure improvements on stormwater network in Toogoolawah and Kilcoy is progressing including Taylor Street, Kilcoy pool drainage and Brown Street. Kennedy Street, Kilcoy is now completed.
- Banks Creek Road, Fernvale – Kerbing works and drainage works completed with footpath and roadworks ongoing.
- Mangerton Street, Toogoolawah - roadworks and stormwater completed. Footpath and minor works ongoing.
- Wanora Road has been sealed with some drainage works left to complete.
- Gravel maintenance on the following roads in the northern and southern regions have been completed this month including Ryans Road - Coominya, Sandford Street - Moore, Burrows Street – Moore and Waverley Road - Lake Manchester.
- Grading crews are ongoing in northern and southern region areas focusing on segment damage from recent rains.
- Mowing and slashing works on Council and DTMR roads occurring. Slashing and spraying of culvert and armour rails in progress.

Workshop

- Completed repairs, services, and scheduled maintenance of Council fleet.
- Repairs to many plant items over the break period.
- Monthly check and start test on emergency gensets were carried out at Esk Civic Centre, Esk Administration office, Fernvale Futures and Kilcoy depot.
- Carried out operational inspections on all Council playgrounds and carried out repairs where required.

Department of Transport and Main Roads (TMR) Works

Council is presently working on the following projects on behalf of TMR.

- Repairing potholes, edge breaks and sealing of patches on pavement repairs over the TMR and Council networks.
- TMR Stage 1 Stabilisation Brisbane Valley highway works – extended pavement repairs removing old asphalt patches in large quantities, this is making good, recycled gravel for use on gravel roads, completion mid-December.
- Stage 2 Stabilising works submission to DTMR for continuation of current works on DTMR network of BVH, Esk Hampton and Wivenhoe Somerset.
- Tree clearing works undertaken on road shoulders on the following roads Esk Hampton and Wivenhoe Somerset Road

- Guard rail repairs and improvements at several locations on Brisbane Valley Highway and D'Aguilar Highway.
- Reseal prep works undertaken on Esk Hampton Road, edge repairs and patching as required on going after holiday period.

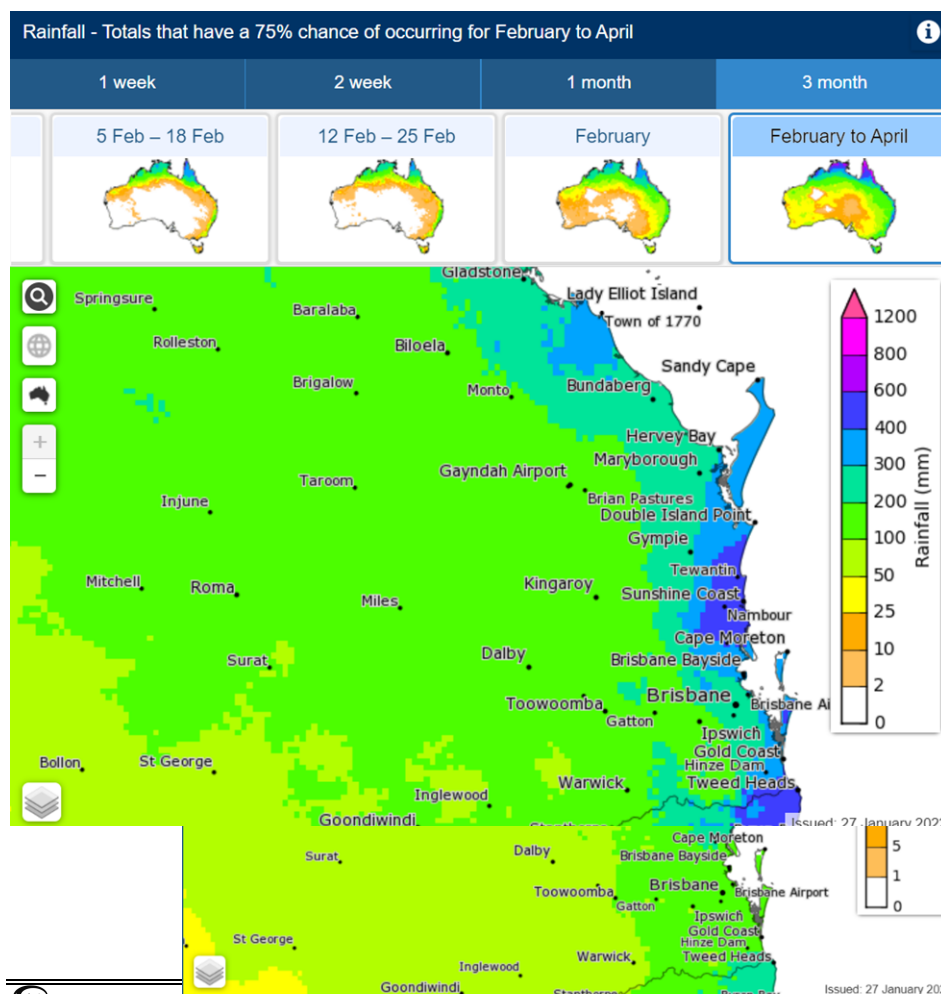
Works carried out by Contractors

- Esk landfill stage 4 works in progress by Brown contractors - with cell excavation works to be completed in coming weeks
- AandM Civil Contractors continuing with stabilising works on Brisbane Valley Highway for December
- Lowood Minden Road project – Brown Contractors culvert construction and road reconstruction now completed with some minor works remaining
- BVRT Lowood to Fernvale section in final stages for completion with Brown Contractors
- Sandy Creek Fire Break Trail Path construction works completed with Brown Contractors with minor works involving vegetation and drain treatments
- RPQ sealing program following on the TMR Stabilisation work segments identified for reseal under TMR direction

Weather Outlook

February to April rainfall is likely to be above median for much of northern and eastern Queensland. The month of February indicates above median rainfall is likely for much of northern and eastern Queensland. Falls of over 200mm in the Somerset region over the coming three months are likely.

Outlook for remainder of February (these are the most likely totals – i.e. 75% chance)



Outlook for
February to April
(these are the
most likely totals –
i.e. 75% chance)

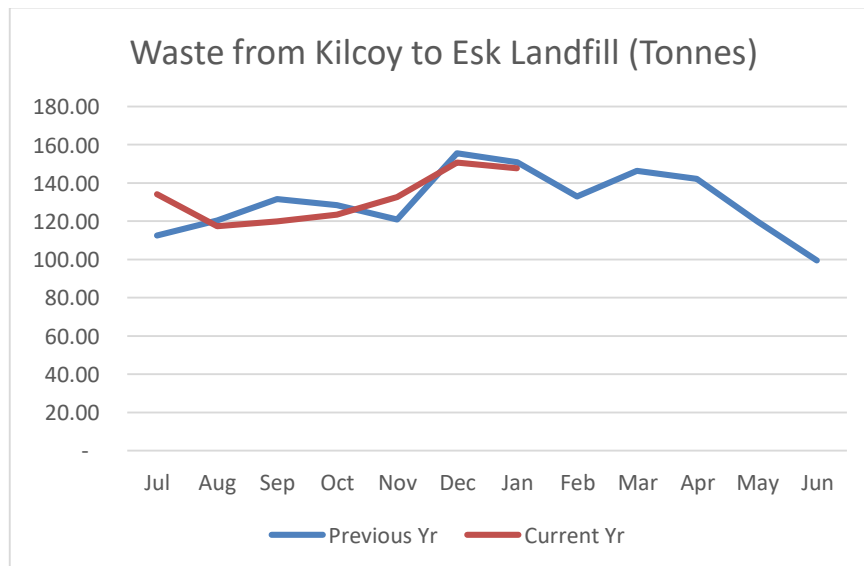
Disaster Management

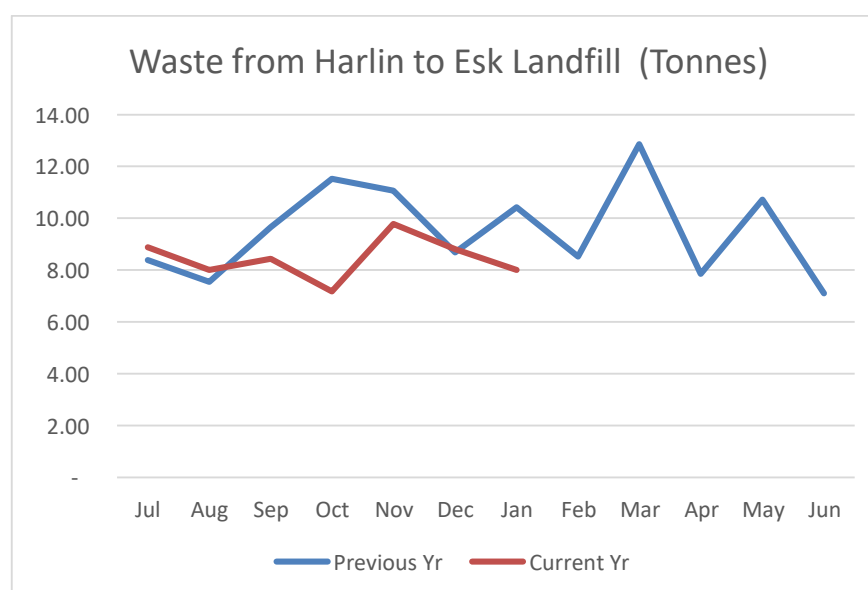
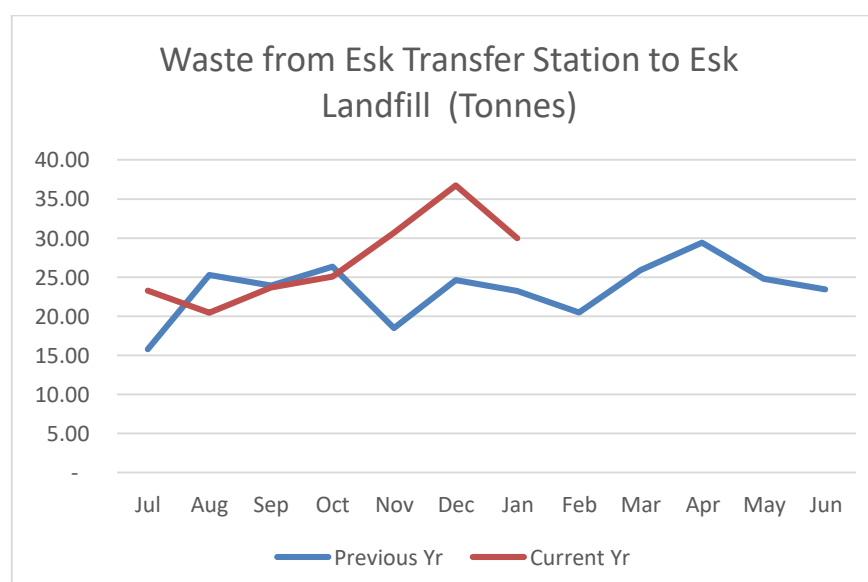
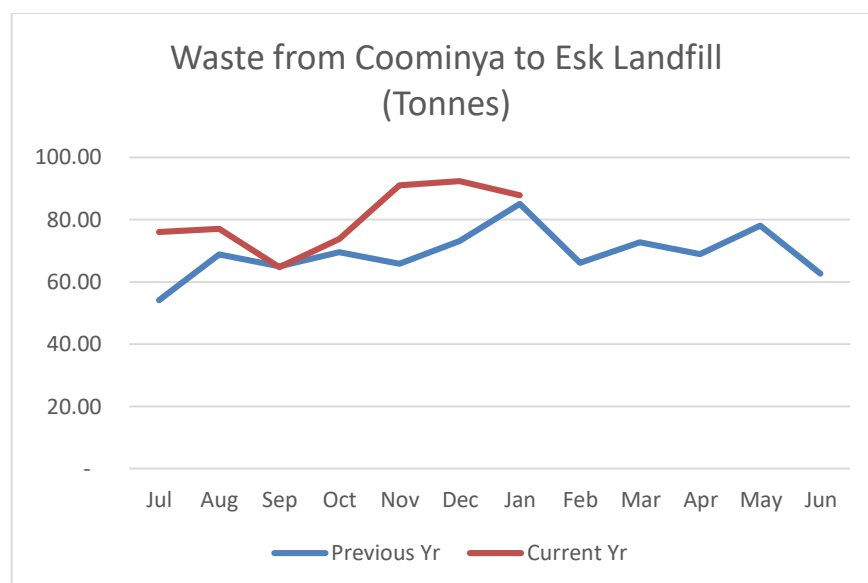
- Council has been working with Queensland and West Moreton Health to bring testing and vaccination centres to Somerset. Vaccination are now scheduled for clinics to be held at the Somerset Civic Centre on the following dates and will include the age groups of 5+:
 - Saturday 5th February and Sunday 6th February
 - Saturday 5th March and Sunday 6th March
 - Saturday 2nd April and Sunday 3rd April
- Fortnightly vaccination clinics commenced at the Esk Hospital
- Workforce planning took place in early January to ensure staff was distributed throughout the region to limit the exposure to COVID-19
- Disaster Management Officer, Customer Service Team Leader and Director of Human Resources and Customer Service kept management informed on COVID-19 updates and processes
- Camera was installed at Twin Bridges as a trial to replace hired cameras should funding be successful as part of an application with Department of Agriculture and Fisheries.
- Heavy rainfall was experienced on the 8th January 2022 which resulted in Kilcoy Creek Bridge being closed, along with a number of crossing in the Mount Stanley area (shown below). Somerset Incident Management Team kept the LDMG and other stakeholders informed throughout

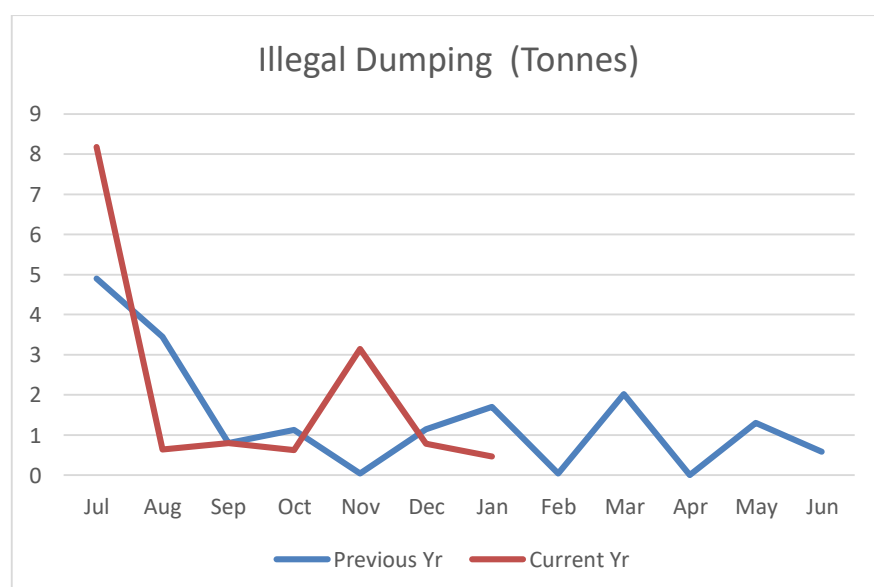
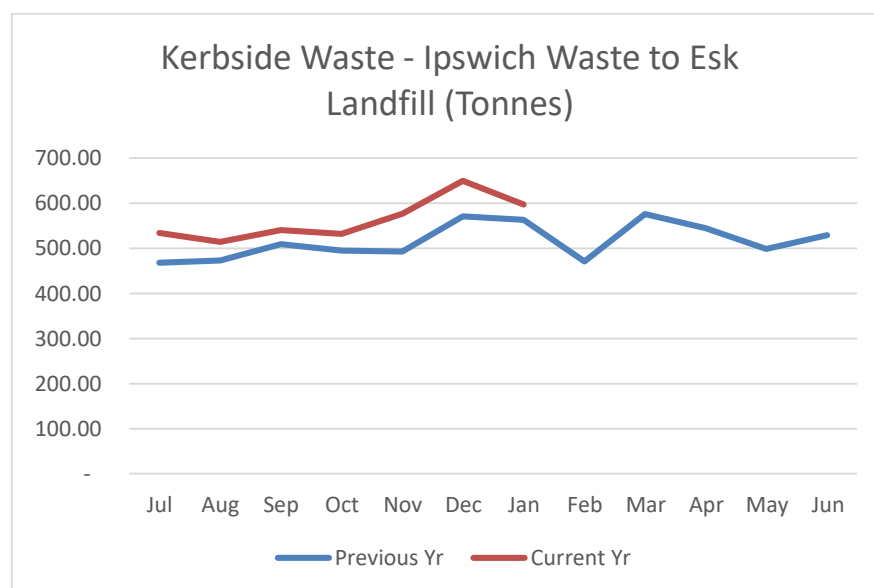


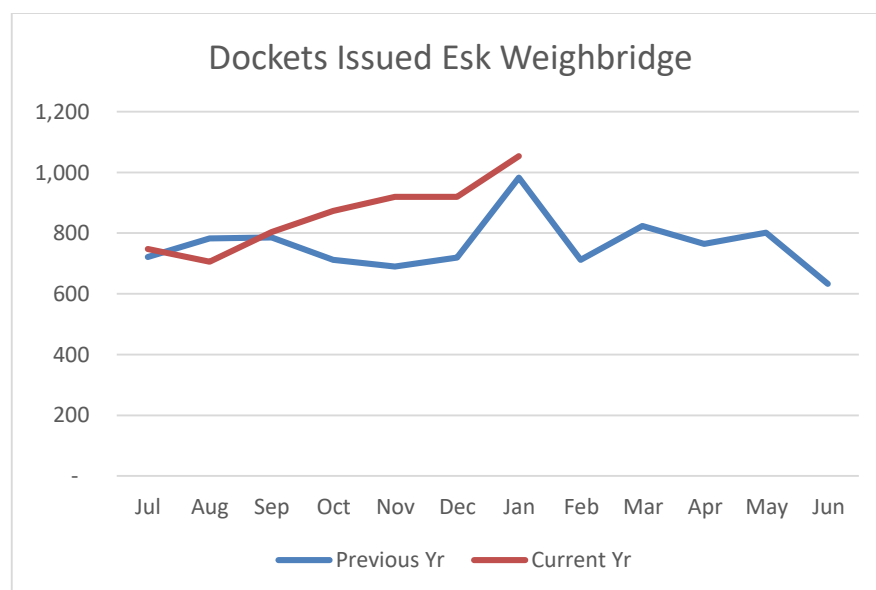
- Council was asked to assist Lockyer Valley Regional Council to provide Sandbags in preparation for significant rain back in December 2021. Whilst not required in the end, LVRC was appreciative of the support given by Somerset and the SES.
- The QERMF Risk Management study was completed last year, with additional stakeholder support requested in December/January. The results of this study will be given to the LDMG on 16 February at its quarterly meeting
- Property Specific Flood Certificates are due for release during February and will be made available free to Somerset residents
- Council was successful in its application to provide Satellite NBN services to a number of sites used as evacuation centres. This will give those facilities backup services should normal fixed NBN services be affected during an event.
- Council's WaterRide system was updated to use shared BOM data, allowing for the reduction in subscriptions costs
- Government funding was made available as a result of flooding in November / December 2021 for primary producers in the Somerset region. Extraordinary disaster assistance recovery grants of up to \$50,000, as well as low-interest loans of up to \$250,000, are now available for eligible primary producers
- Council was able to secure through GIVIT Cloth Masks that will be able to be distributed to staff and local NGOs over the coming weeks.
- Meeting was held between Council and QRA to discuss the need to look for an extension of time for the Mountain to Mountain project. This is in addition to previously applied for extensions for the Green Army and Bushfire Recovery Officer programmes

Waste Management



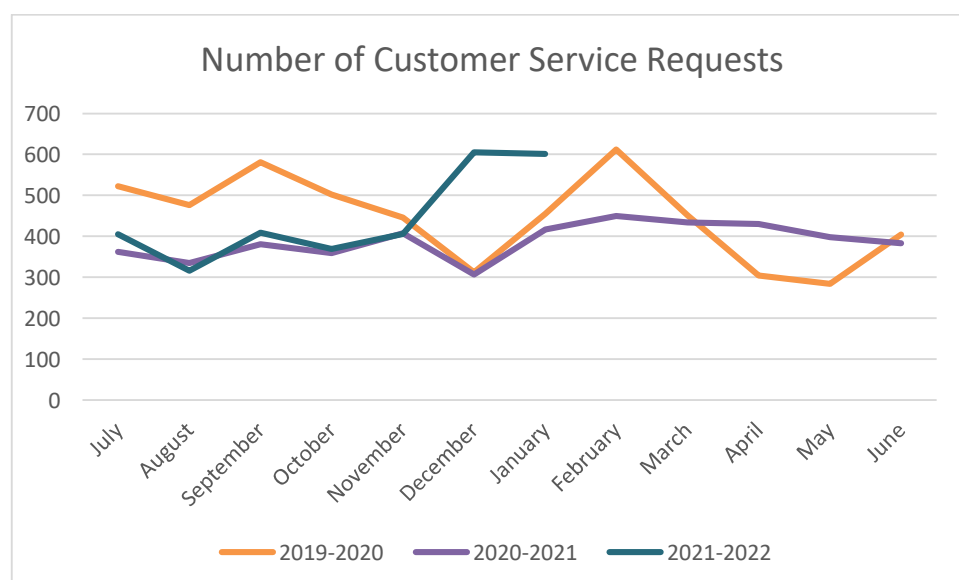


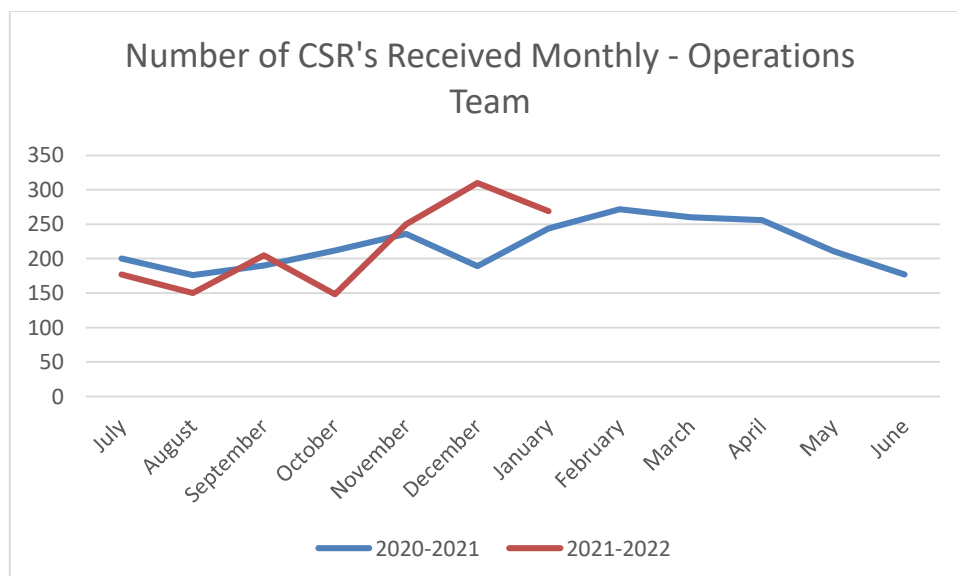




Customer Service Requests

Council received 601 customer service requests for the month of January 2022. A copy of the report is attached for your information.





	Jul -21	Aug- 21	Sep- 21	Oct -21	Nov -21	Dec -21	Jan- 22
Cemeteries	0	2	0	1	2	0	1
Departmental reviews	1	0	0	0	0	0	0
Fences on roadways	0	0	0	0	0	0	0
Illegal dumping clean ups	7	4	8	11	13	3	5
Overgrown Council land	0	2	3	2	1	5	6
Parks including mowing, cleaning/maintenance park equipment including public toilets, tables and chairs, shade shelters etc.	4	2	5	6	13	6	9
Roads - bitumen	17	17	20	6	15	37	19
Roads - gravel	20	13	16	7	18	27	45
Roads - drainage	8	7	6	9	14	34	8
Roads - culverts	3	0	2	3	4	1	2
Roads - vegetation	21	16	27	15	27	59	58
Roads - footpaths	4	2	4	4	13	10	6
Roads - linemarking	0	0	1	1	0	0	0
Roads - bridgework	0	0			0	0	0
Roads - traffic furniture	9	11	21	12	22	26	12
Rural Property Number	9	6	4	5	5	11	7
Stormwater issues wihtin private properties	1	1	0	0	0	2	0
Waste management	1	0	1	0	1	0	0
Wheelie bins (IWS) -							
Cancellation of extra services	1	1	9	2	1	1	0
Damaged lids and wheels	11	9	9	6	10	3	6
Replacement Split Bins	23	24	22	18	20	23	24

New Services	11	18	6	11	14	8	9
Extra services	6	5	7	11	9	4	7
Stolen bins	2	3	10	7	5	4	7
Missed services	6	0	1	0	1	1	3
Contractor Requests	2	1	1	1	1	0	2
Wheelie bins (Cleanaway) -							
Cancellation of extra services	1	0	0	0	0	0	1
Damaged lids and wheels	0	2	5	2	1	3	2
Replacement Split Bins	1	0	10	3	2	7	9
New Services	2	2	2	2	5	4	0
Extra services	2	0	2	0	1	0	2
Stolen bins	3	2	1	2	1	1	2
Missed services	1	0	1	1	0	0	0
Contractor Requests	0	0	1	0	0	0	0
Facilities							
Air conditioning					1	0	0
Carpentry, painting, tiling and flooring					7	1	3
Electrical					4	2	2
Equipment, furniture and fixtures					3	4	1
Grounds maintenance					1	1	1
Pest Control					0	1	
Plumbing					11	13	6
Roofing and guttering					2	3	0
Security, locks and CCTV					2	2	0
Signage					0	0	1
Vandalism					0	3	3
	17			14			
	7	150	205	8	250	310	269
<i>Note: Facility maintenance included within Operations from 1 November 2021</i>							

Attachment

Customer service report for January 2022 - attachment 1

Recommendation

THAT Council receive the Operations Report for January 2022 and the contents noted.

Resolution

Moved – Cr Brieschke

Seconded – Cr Gaedtke

“THAT Council receive the Operations Report for January 2022 and the contents noted”.

*Carried**Vote - Unanimous*

Subject:	Brisbane Sporting Car Club Limited – Request to Temporarily Close a Section of Western Branch Road for a Car Rally – Saturday, 26 March 2022
File Ref:	Roads - road closures - temporary Doc ID1353289, 1353615
Action Officer:	CSSA

Background/Summary

A request has been received from Brisbane Sporting Car Club Limited seeking permission to temporarily close a section of Western Branch Road from the intersection of Western Branch Road and River Road, Mt Stanley to the boundary of Western Branch Road and Linville Forest Road between 07:00 hours to 20:00 hours for a car rally.

This section of road has been temporarily closed in previous years to hold this event, and no complaints have ever been received.

This rally is the first round of the 2022 Queensland Rally Championship and will be contested by teams from Motorsport Australia affiliated Car Clubs in the South East Queensland and Central Queensland regions.

The rally will be based at the Nanango Stags rugby league football club, and most of the rally will be conducted on closed Forestry roads within Gallangowan and Elgin Vale State Forest. There is only one stage of the rally being held on a section of Western Branch Road. There will be a maximum number of 50 entrants with minimal impact on public traffic.

Traffic control will be used to control the road closure and a traffic management plan will be provided to Council prior to the car rally being held.

The car club has advised:-

- Public notices will be placed in the local newspaper two weeks prior to the rally.
- Road closure notification boards will be placed on affected roads within the State Forest at least four weeks before the rally.
- Forestry lessees have been advised of the date and times of the event.
- Agreement on the use of facilities at the Nanango Stags rugby league football club has been reached with the Nanango Stags Rugby League Football club.
- HQ Plantations Pty Ltd has given approval for road closures within the State Forest.

Attachments

Maps showing affected section of Western Branch Road – attachment 1

Recommendation

THAT approval be given to Brisbane Sporting Car Club Limited to temporarily close the section of Western Branch Road from the intersection of Linville Forestry Road to the intersection of River Road on Saturday, 26 March 2022 to hold their rally subject to the following conditions:-

- The section of Western Branch Road from the intersection of Linville Forestry Road to the intersection of River Road must only be closed from 07:00 hours to 20:00 hours on Saturday, 26 March 2022.

- All work on Council controlled road must be carried out in accordance with the Manual of Uniform Traffic control Devices and any other relevant state standards, regulations so laws.
- Traffic Management Plan including a Traffic Guidance Scheme to be forwarded to Council in advance of the event.
- Provide to Council a copy of the permit issued by Queensland Police Service for the temporary closure of this section of Western Branch Road.
- Provide to Council a copy of the public liability insurance to the value of \$20,000,000 with Somerset Regional Council being listed as an interested party.
- A letter drop to all neighbouring/affected properties advising them of the road closure.
- Set up a detour to traffic through River Road as per the Manual of Uniform Traffic Control Devices.

Resolution

Moved – Cr Choat

Seconded – Cr Wendt

“THAT approval be given to Brisbane Sporting Car Club Limited to temporarily close the section of Western Branch Road from the intersection of Linville Forestry Road to the intersection of River Road on Saturday, 26 March 2022 to hold their rally subject to the following conditions:-

- The section of Western Branch Road from the intersection of Linville Forestry Road to the intersection of River Road must only be closed from 07:00 hours to 20:00 hours on Saturday, 26 March 2022.
- All work on Council controlled road must be carried out in accordance with the Manual of Uniform Traffic control Devices and any other relevant state standards, regulations so laws.
- Traffic Management Plan including a Traffic Guidance Scheme to be forwarded to Council in advance of the event.
- Provide to Council a copy of the permit issued by Queensland Police Service for the temporary closure of this section of Western Branch Road.
- Provide to Council a copy of the public liability insurance to the value of \$20,000,000 with Somerset Regional Council being listed as an interested party.
- A letter drop to all neighbouring/affected properties advising them of the road closure.
- Set up a detour to traffic through River Road as per the Manual of Uniform Traffic Control Devices”.

Carried*Vote - Unanimous*

Subject:	Temporary Closure of Carpark for Mad Hatter's Tea party at Lowood Clock Park
File Ref:	Council properties - usage - 2021 - 2022 - Council Hire Agreements and Bookings - Parks and Reserves
Action Officer:	CSSA

Background/Summary

The Mad Hatter's Tea Party, a community event aimed at families with young children, is being held in Clock Park on Thursday 7 April from 9am – 12pm, with set up commencing at 6.30am and pack down completed by 1.30pm on that day. There are around twenty service provider stalls providing information and activities, in addition to entertainment, expected to be children's disco, petting zoo and face painting. (Note a jumping castle will not form part of the activities.) A free community barbecue is also being provided, utilising Council's SCOT trailer. This event is being hosted by Somerset Regional Council.

In order to provide adequate and suitable space for all activities, part of the carpark adjacent to the park, between the former railway building and the public conveniences, needs to be utilised. This was successfully implemented at last years event and caused no disruption to surrounding businesses.

Attachments

Attachment 1 - Indicative layout for Mad Hatter's Tea Party Community Event showing section of carpark to be closed

Recommendation

THAT Council approve the temporary partial closure of the Walter's Street carpark on Thursday, 7 April, from 6.30am – 1.30pm to facilitate the holding of the Mad Hatter's Tea Party, community event hosted by Somerset Regional Council as shown on attachment 1 of this report.

Resolution

Moved – Cr Brieschke Seconded – Cr Wendt

"THAT Council approve the temporary partial closure of the Walter's Street carpark on Thursday, 7 April, from 6.30am – 1.30pm to facilitate the holding of the Mad Hatter's Tea Party, community event hosted by Somerset Regional Council as shown on attachment 1 of this report".

Carried

Vote - Unanimous

Subject:	New Wheelie Bin Services – Cressbrook Caboonbah Road, Cressbrook
File Ref:	Rates – applications correspondence – 2021-2022 garbage
Action Officer:	CSSA

Background/Summary

Council officers received a request from a property owner on Cressbrook Caboonbah Road between Brisbane Valley Highway and Seftons Crossing for Council seeking a weekly 240-litre wheelie bin service. Council's waste contractor has confirmed that this section of Cressbrook Caboonbah Road can be serviced. This is the only section of Cressbrook Caboonbah Road which isn't serviced.

There are seven properties with residential dwellings along this section of Cressbrook Caboonbah which could potentially be provided with a weekly 240-litre wheelie bin service –

- 12 Cressbrook Caboonbah Road – 2 x houses
- 64 Cressbrook Caboonbah Road
- 113 Cressbrook Caboonbah Road
- 120 Cressbrook Caboonbah Road

130 Cressbrook Caboonbah Road
 153 Cressbrook Caboonbah Road
 205 Cressbrook Caboonbah Road

Council officers wrote to the property owners of the abovementioned properties seeking their interest in receiving a weekly wheelie bin service. Seven responses were received, five being yes wanting a wheelie bin service with two, number 12 and number 153, being no for the following reasons:-

- 12 Cressbrook Caboonbah Road – property has two houses and has a fortnightly skip service
- 153 Cressbrook Caboonbah Road – the house is too far away from the roadside and they currently take their rubbish to the landfill.

However, when a new road is brought onto the wheelie bin route, all houses must be provided with a wheelie bin service unless a property owner applies for an exemption and is exempted from a wheelie bin service for one of the following reasons:-

- Where in the view of the Chief Executive Officer or delegate practical, economical or safe access for the refuse collector is unable to be provided.
- Where in the view of the chief Executive Officer or delegate, there is no evidence of habitation or potential habitation within existing structures on a property such as sewerage or septic facilities.
- Where in the view of the chief Executive Officer or delegate, there is a regular (at least weekly) approved commercial garbage service provided to a property.
- Properties designed for multiple residential tenancies will be supplied with a minimum of 1 garbage service per house, unit or flat or unless the Chief Executive Officer forms the view that a service for each house, unit or flat is not required.

Due to five out of seven property owners responding yes for a weekly wheelie bin service, it is recommended that Council agree to extend the service area to include the section of Cressbrook Caboonbah Road from Brisbane Valley Highway to Seftons Crossing, Cressbrook, in the wheelie bin collection area.

Attachments

Location map – attachment 1

Recommendation

THAT Council agree to extend the service area to include the section of Cressbrook Caboonbah Road from Brisbane Valley Highway to Seftons Crossing, Cressbrook, in the wheelie bin collection area.

Resolution

Moved – Cr Brieschke

Seconded – Cr Gaedtke

“THAT Council agree to extend the service area to include the section of Cressbrook Caboonbah Road from Brisbane Valley Highway to Seftons Crossing, Cressbrook, in the wheelie bin collection area.”

Carried

Vote - Unanimous

Subject:	Community Assistance Grants 2021-2022 – Kilcoy Tennis Association Inc
File Ref:	Community Relations – Sponsorships – Donations - Doc Id 1359692
Action Officer:	DHRCS

Background/Summary

An out of rounds Community Assistance Grant application has been received from the Kilcoy Tennis Association Inc to fix a major electrical fault and restore power and lighting to the club and courts.

Amount requested:	\$7,172.47
Total cost of project:	\$7,172.47
Amount recommended to be granted:	\$7,172.47

Assessor's Summary

The applicant states:

An out of rounds Community Assistance Grant application has been submitted by the Kilcoy Tennis Association Inc to fix a major electrical fault that occurred at the end of 2021 to restore power and lighting to the club and courts.

Prior to Christmas 2021, The Kilcoy Tennis Association Inc spent over \$4,000 to upgrade the switchboard and wiring around the club house for identified safety reasons. Currently, there is no power at the site as there has been a major fault between the switchboard and the mains connection.

The rectification of this problem is imperative for safety and business reasons. A quotation has been sought to rectify the issue and reestablish connection with a quote provided for \$7,172.47. The group have advised that level of expenditure, on top of the previous funds expended, would put the club in precarious financial position.

The Kilcoy Tennis Association has also notified that due a successful grant application with Tennis Queensland, the club has been allocated \$35,000 to upgrade the court lighting system. However, the grant does not extend to cover the abovementioned work.

The quotation to rectify the current issue was sought from the contractor who completed the switchboard upgrade works given familiarity with the site and identified issues. The same contractor will also be undertaking the funded upgrade to the lighting system with the works set to commence early February.

Attachments

Nil

Recommendation

THAT the application as summarised in this report be recommended for funding and \$7,172.47 be granted to the Kilcoy Tennis Association Inc to fix a major electrical fault and restore power and lighting to the club and courts.

Resolution

Moved – Cr Gaedtke

Seconded – Cr Choat

“THAT the application as summarised in this report be recommended for funding and \$7,172.47 be granted to the Kilcoy Tennis Association

Inc to fix a major electrical fault and restore power and lighting to the club and courts.”

Carried

Vote - Unanimous

Subject:	Operational Plan 2nd Quarter Review 2021-22
File Ref:	SRC - Corporate Management\Planning - Operational Plan
Action Officer:	DCORP

Background/Summary

The Operational Plan for Somerset Regional requires reviewing at each quarter to determine progress of the items within the Plan. The 2021/22 plan was developed at a similar time to the Budget and has a close alignment with the Budget. The 2nd Quarter review contains feedback from all officers who were responsible for items within the plan. To help interpret the report outcomes Council officers have added an updated traffic light style of indicator to the report.

The 2nd Quarter review contains feedback regarding the progress of items within the current year's operational plan. Generally, the progress of the action items within the Operational Plan 2021/22 for this time of year is progressing well. The Plan is progressing well with most items “on track”. Officers tasked with responsibility for ongoing operational items are managing and progressing those items as expected.

Attachments

Attachment 1 – Operational Plan 2021-22 Quarter 2 Review

Recommendation

That Council receive the Operational Plan 2021-22 Quarter 2 review and note the progress of the action items within the plan.

Resolution

Moved – Cr Isidro

Seconded – Cr Choat

“THAT Council receive the Operational Plan 2021-22 Quarter 2 review and note the progress of the action items within the plan”.

Carried

Vote - Unanimous

Subject:	Greening Lowood Advisory Committee
File Ref:	Greening Lowood Advisory Committee
Action Officer:	EA

Background

Greening Lowood Advisory Committee met on Wednesday, 15 December 2021 to discuss miscellaneous items of business. The meeting report from the meeting is attached.

Attachments

Meeting Report for Greening Lowood Advisory Committee

Recommendation

THAT Council receive the meeting report for Greening Lowood Advisory Committee meeting held on Wednesday, 15 December 2021.

Resolution

Moved – Cr Choat

Seconded – Cr Brieschke

“THAT Council receive the meeting report for Greening Lowood Advisory Committee meeting held on Wednesday, 15 December 2021”.

Carried*Vote - Unanimous*

Subject:	Expressions of Interest for the Somerset Regional Council Economic Development and Tourism Advisory Committee
File Ref:	2020-2024 Economic Development and Tourism Advisory Committee
Action Officer:	AMRT - DPAD

Background/Summary

Per the Economic Development and Tourism Advisory Committee (EDTAC) Terms of Reference, Council has called for Expressions of Interest (EOIs) for representation for the following committee positions:

- Up to two (2) community tourism sector representatives;
- Up to three (3) business sector representatives;
- One representative from the Brisbane Valley Rail Trail (BVRT) Steering Committee.

EOIs for the community tourism and business sector representatives were called from Tuesday 14 December 2021 and closed 5pm Friday, 14 January 2022 (refer to attachment 1 for further information).

EOIs for these positions were promoted through direct email distribution to local tourism operators and businesses, and advertising through local newspapers; the Somerset, the Independent and the Kilcoy Sentinel.

EOIs for the BVRT Steering Committee representative were called on Tuesday 18 January 2022 and closed 5pm Monday 31 January 2022. EOIs for this position were promoted through direct emails to the BVRT Steering Committee members.

A sufficient number of EOIs were received for the available Committee positions. A summary of the EOIs is provided as a confidential attachment to this report.

A panel reviewed all EOIs and found the following submissions to represent the most appropriate selections per the selection criteria (in no particular order):

- Community Tourism Sector Representatives: Mr Wayne Carlson and Ms Sue Minto
- Business Sector Representatives: Mr Joe Abeya, Ms Dona Whiley and Mr Cameron Wyatt

- BVRT Steering Committee Representative: Mrs Josie Sheehan

The Acting Manager, Recreation and Tourism, declared a potential conflict of interest in review of one EOI, and at the direction of the CEO, abstained from reviewing the EOI or discussing the EOI with reference to available representative positions.

It should be noted that the selection of these representatives, does not preclude additional community stakeholders attending the EDTAC meeting as observers or guests by way of an invitation.

With the more recent addition of the agricultural representatives on the EDTAC, Council decided not to call for nominations from this sector. Both the existing agricultural representatives, Mr Duncan Brown and Mr Vince O'Brien, have confirmed their willingness to remain on the EDTAC.

Council is very appreciative of the contribution and commitment of outgoing EDTAC members, Mr Mark Wells, Mr Darren Zanow, Mr Paul Heymans, Mr David Sheehan and Ms Bronwyn Davies.

Attachments

1. Expression of Interest – Somerset Economic Development and Tourism Advisory Committee
2. Summary of EOIs – Somerset Economic Development and Tourism Advisory Committee – CONFIDENTIAL

Recommendation

THAT Council

1. Approve the selections of Mr Wayne Carlson and Ms Sue Minto as Community Tourism Representatives for the Economic Development and Tourism Advisory Committee.
2. Approve the selections of Mr Joe Abeya, Ms Dona Whiley and Mr Cameron Wyatt as Business Sector Representatives for the Economic Development and Tourism Advisory Committee.
3. Approve the selection of Mrs Josie Sheehan as the Brisbane Valley Rail Trail Steering Committee Representative for the Economic Development and Tourism Advisory Committee.
4. Writes to the outgoing Economic Development and Tourism Advisory Committee members, Mr Mark Wells, Mr Darren Zanow, Mr Paul Heymans, Mr David Sheehan and Ms Bronwyn Davies thanking them for their valuable contribution.

Resolution

Moved – Cr Gaedtke

Seconded – Cr Brieschke

“THAT Council

1. Approve the selections of Mr Wayne Carlson and Ms Sue Minto as Community Tourism Representatives for the Economic Development and Tourism Advisory Committee.

2. Approve the selections of Mr Joe Abeya, Ms Dona Whiley and Mr Cameron Wyatt as Business Sector Representatives for the Economic Development and Tourism Advisory Committee.
3. Approve the selection of Mrs Josie Sheehan as the Brisbane Valley Rail Trail Steering Committee Representative for the Economic Development and Tourism Advisory Committee.
4. Writes to the outgoing Economic Development and Tourism Advisory Committee members, Mr Mark Wells, Mr Darren Zanow, Mr Paul Heymans, Mr David Sheehan and Ms Bronwyn Davies thanking them for their valuable contribution."

*Carried**Vote - Unanimous*

Subject:	Mount Glen Rock Steering Committee Quarterly Update
File Ref:	PARK AND RESERVES – PLANNING – Mount Glen Esk
Action Officer:	CEO

Background/Summary

Following confirmation of a successful grant funding application from the Queensland Reconstruction Authority 2019 Bushfires Local Economic Recovery, Somerset Regional Council resolved to establish a Steering Committee to guide the implementation of the initial stages of the Mount Glen Rock (MGR) project. The Committee features representatives of Council, the executive staff of Council and Council Officers.

Additional external representatives such as consultants and community members will be invited to attend Committee meetings as required.

The Committee held one formal meeting in the fourth calendar quarter of 2021 to review the progress of MGR projects. Additionally, Council organised Otium Planning Group (OPG) and World Trail (WT) to present to a Council Workshop meeting and the Economic Development and Tourism Advisory Committee during the quarter.

The Steering Committee approved the engagement of OPG and WT to prepare and submit a Master Plan for the development of Mount Glen Rock per the Consultant's Brief (see attachment 1.) OPG and WT have completed all background research required to deliver a draft Master Plan (see attachment 2.). The research encompasses all previous reports and correspondence collated by Council Officers and incorporates new information from trail designers and ecological consultants, as well as civil and landscape designers.

OPG and WT submitted a draft Master Plan to Council in January 2022. The Master Plan is based on direction from the MGR Steering Committee and the findings of the background research report, with further input from trail designers, ecological consultants, civil designers, landscape designers and quantity surveyors. Council will be seeking community feedback prior to finalising the master plan via a 'Have Your Say' campaign, including a public information opportunity.

The Sandy Creek Fire Break Trail has reached practical completion with minor additional works to be completed. The trail is a low grade two-way multi-use trail suitable for use by

pedestrians, cyclists and horse riders. The trail will form the 'home spine' which will later connect trails, parking and day use facilities to the mountain and Esk township.

An Options Analysis has been submitted to Council outlining various design options for a bridge to link Hassall Street and MGR. Further feedback will be provided to the Committee regarding a suitable bridge design in early 2022.

Attachments

1. Mount Glen Rock Master Plan - Background Research Report
2. Mount Glen Rock Master Plan - DRAFT

Recommendation

THAT Council

1. Receives the Mount Glen Rock Steering Committee Update for the fourth calendar quarter ending 31 December 2022, and the contents be noted.
2. Receives and endorses the Otium Planning Group Mount Glen Rock Master Plan – Background Research Report.
3. Receives the Otium Planning Group draft Mount Glen Rock Master Plan, and the contents be noted.

Resolution

Moved – Cr Isidro

Seconded – Cr Brieschke

“THAT Council

1. Receives the Mount Glen Rock Steering Committee Update for the fourth calendar quarter ending 31 December 2022, and the contents be noted.
2. Receives and endorses the Otium Planning Group Mount Glen Rock Master Plan – Background Research Report.
3. Receives the Otium Planning Group draft Mount Glen Rock Master Plan, and the contents be noted.”

Vote - Unanimous

Carried

Confidential Closed Session

In accordance with section 254J(1)(3)(g) of the Local Government Regulation 2012 Council may close a council meeting. Further, a Local Government or a committee of a local government may make a resolution about a local government meeting under subsection (1) only if its Councillors or members consider it necessary to close the meeting to discuss one or more of the following matters:

- (g) Negotiations relation to a commercial matter involving the local government for which a public discussion would likely to prejudice the interests of the Local Government.

Resolution

Moved – Cr Brieschke

Seconded – Cr Gaedtke

“THAT in accordance with Section 254J(1)(3)(g) the meeting move into a closed session at 9.59 am to discuss Agenda Item Number 38 – Tender 1247”

Carried*Vote - Unanimous***Resolution**

Moved – Cr Brieschke

Seconded – Cr Wendt

“THAT the meeting move out of the closed session at 10.04am and be once again open to the public.”

Carried*Vote - Unanimous***Resolution**

Moved – Cr Choat

Seconded – Cr Brieschke

“THAT Council

1. Accept the tender received from Geoffrey Ratcliffe for the sale of Lot 305 CSH 2384
2. Accept the tender received from Gavin Keith and Karen Annette Gregory for the sale of Lot 409 CSH 2384.

Carried*Vote - Unanimous***Meetings authorised by Council**

Nil

Mayor and Councillor Reports**Cr Brieschke – Councillor Report**

January

- 19 Ordinary Council Meeting
- Council Workshop Meeting
- 25 Key Partner Update, West Moreton Health
- Australia Day event, Somerset Civic Centre
- 26 Australia Day Citizenship Ceremony
- Australia Day Awards Ceremony
- 28 Council Strategy Workshop
- Opening of Material Sound exhibition at The Condensery Art Gallery
- 30 Farewell event for Pastor Garth and Michelle Neilson, Toogoolawah

February

- 01 Councillor Meeting via Teams
- Key Partner Update, West Moreton Health

- 07 Visit to The Condensery Art Gallery
The Condensery Advisory Committee meeting
Local Ambulance Committee meeting, Toogoolawah
- 08 Council Briefing session via Teams
Key Partner Update, West Moreton Health

Cr Gaedtke – Councillor Report

December

- 16 Council Ordinary Meeting
- 16 Councillors' & Directors' Christmas Lunch
- 16 End of Year Team Somerset Christmas Celebration
- 18 Esk Races – Judging Fashions of the Field
- 22 Mount Glen Rock Steering Committee Meeting and Walk on Sandy Creek Trail
- 23 Inspection Sandy Creek, Esk with Brisbane Valley Kilcoy Landcare Assn and NRM Officer

January

- 10 Councillor/CEO Team Catchup (Teams)
- 17 Meeting with (2) Kilcoy residents
- 19 Council Ordinary Meeting
- 19 Council Confidential Workshop
- 26 Australia Day Citizenship Ceremony – Somerset Civic Centre
- 26 Australia Day Awards Ceremony – Somerset Civic Centre
- 28 2022 Outlook – Councillors Strategy Discussions (Teams)
- 28 Ross Manning – The Condensery

February

- 01 Teams meeting – CEO & Councillors
- 01 Somerset Arts Networking Event – “What’s the Plan?”
- 02 Mr Jim Loughheed Funeral – Past Kilcoy Shire Councillor
- 03 Brisbane Valley Heritage Trails Committee Meeting – Yarraman
- 05 Somerset & Wivenhoe Fish Stocking Assn – Release Lake Somerset – Westvale Boat Ramp
- 05 Kilcoy District Tennis Assn AGM
- 07 The Condensery – Somerset Regional Art Gallery Advisory Committee meeting – Esk
- 08 Kilcoy Hospital Auxiliary meeting

Congratulations to our new Australians and to all Australia Day Award nominees. It is overwhelming to be nominated, and the ceremony is one that resonates the pride experienced by all involved.

The second Arts Network Event was held Tuesday night 1st February, and it was titled “What’s the Plan?” This proved to be a great community brainstorming opportunity. Guests were asked to participate in a workshop that had the theme identified as significant for the arts sector across the region.

Another great effort made by the busy members of the Somerset and Wivenhoe Fish Stocking Association, with 92,500 Bass fingerlings being released into Lake Somerset at the Westvale Boat Ramp.

The Kilcoy District Tennis Assn. held its AGM on Saturday 5th February where its future plans and aspirations were captured and explained by the President.

Cr Wendt – Councillor Report

December 2021

11 Toogoolawah Christmas Carnival - Toogoolawah

January 2022

19 Ordinary Council Meeting – Esk

Workshop Meeting – Esk

25 Lowood Recreation Grounds Committee Meeting - Lowood

26 Australia Day Citizenship Ceremony and Awards – Esk

28 Councillor Strategy Discussions for 2022 Outlook – Esk

Condensery Exhibition Launch – Toogoolawah

February

01 EDTAC briefing via teams

08 Briefing by Planning Department via teams

Cr Choat – Councillor Report

Congratulations to Somerset Regional Council staff member Kelly. Kelly is part of the Library Services Team. I was fortunate enough to be in the Esk Library last week and happened to hear her interaction with a member of the public. Her interaction was patient kind and very helpful. She is the calibre of staff we want to see dealing with the public and while I am sure that the behaviour is reflected in all Somerset Regional Council Team members, this interaction was so very positive I had to mention it. Well done!

Resolution

Moved – Cr Wendt

Seconded – Cr Brieschke

““THAT Council receive the verbal and written reports of Councillors Brieschke, Gaedtke, Wendt and Choat and that the contents be noted.”

Carried

Vote - Unanimous

Receipt of Petition

Nil

Consideration of notified motions

Nil

Reception of notices of motion for next meeting

Nil

Items for reports for future meetings

Nil

Closure of Meeting

Summary

There being no further business, the Mayor, Cr Graeme Lehmann closed the meeting at 10.07am.