



ORDINARY MEETING

AGENDA

10 JANUARY 2017

Your attendance is required at an Ordinary meeting of Council to be held in the Council Chambers, 232 Bolsover Street, Rockhampton on 10 January 2017 commencing at 9.00am for transaction of the enclosed business.

A handwritten signature in black ink, appearing to be "C. R.", written over a horizontal line.

CHIEF EXECUTIVE OFFICER
5 January 2017

Next Meeting Date: 24.01.17

Please note:

In accordance with the *Local Government Regulation 2012*, please be advised that all discussion held during the meeting is recorded for the purpose of verifying the minutes. This will include any discussion involving a Councillor, staff member or a member of the public.

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1 OPENING

The opening prayer to be presented by Reverend Lindsay Howie from St Paul's Cathedral.

2 PRESENT

Members Present:

The Mayor, Councillor M F Strelow (Chairperson)
Councillor C E Smith
Councillor C R Rutherford
Councillor M D Wickerson
Councillor S J Schwarten
Councillor A P Williams
Councillor R A Swadling

In Attendance:

Mr E Pardon – Chief Executive Officer

3 APOLOGIES AND LEAVE OF ABSENCE

Leave of absence previously granted for Councillor Neil Fisher from 8 January 2017 to 14 January 2017 inclusive.

4 CONFIRMATION OF MINUTES

Minutes of the Ordinary Meeting held 13 December 2016
Minutes of the Special Meeting held 20 December 2016

5 DECLARATIONS OF INTEREST IN MATTERS ON THE AGENDA

6 BUSINESS OUTSTANDING

Nil

7 PUBLIC FORUMS/DEPUTATIONS

Nil

8 PRESENTATION OF PETITIONS

Nil

9 COMMITTEE REPORTS

Nil

10 COUNCILLOR/DELEGATE REPORTS

Nil

11 OFFICERS' REPORTS

11.1 FUTURE GROWTH FORECASTS - 2015 QGSO MEDIUM SERIES POPULATION PROJECTIONS

File No:	11344
Attachments:	Nil
Authorising Officer:	Scott Waters - Acting Executive Manager Regional Development
Author:	Robert Truscott - Coordinator Strategic Planning

SUMMARY

The Queensland Government Statisticians Office (QGSO) has released the 2015 edition population projections. Population projections are used to inform Council plans for service delivery, including infrastructure, social services and settlement pattern. Population growth has been consistently lower than current forecasts over recent years.

Population projections have not been updated in the Local Government Infrastructure Plan (LGIP) since 2014. The release of the 2015 official growth forecasts and the relatively substantive changes they contain make it timely for Council to formally review forecasts.

This report proposes that Council adopt the 2015 QGSO Medium Series population projections to 2036 as the benchmark for future planning purposes.

OFFICER'S RECOMMENDATION

THAT Council adopt the 2015 QGSO Medium Series and its exponential projection as the estimated resident population forecast to 2036 for future growth and financial planning purposes.

COMMENTARY

Background

Council uses population projections to inform a wide range of services across Council, including financial, land use, infrastructure and community strategies. In particular, population projections are used to inform the Planning Assumptions Model (PAM) which provides the planning assumptions and growth projections that inform the Planning Assumptions Report (PAR) and the LGIP.

The PAR and LGIP provide a logical and consistent basis for detailed infrastructure planning within network catchments and assumptions about the type, scale, location and timing of future development and subsequent population and employment growth. The current PAR (V2.1 e) has not been updated since 2014 and is benchmarked against the QGSO 2008 High Series population projections.

It is essential to achieve optimal planning outcomes that the PAM is updated with the most up to date and realistic population projections available. The Strategic Planning and Infrastructure Planning team will update the PAM in 2017 using the QGSO 2015 medium series for future growth forecast purposes out to 2036.

Regional population projections

The QGSO figures are published by the State Government and are considered the benchmark for future Queensland population projection figures. Table 1 below details the QGSO 2015 medium series population figures:

Table 1 –QGSO 2015 Medium Series Population Projections

2016	2021	2026	2031	2036
85,701	90,013	94,647	99,321	104,100

The forecasts have been decreased significantly since the 2008 and 2013 QGSO population projections. Projections of the size and age structure of the Queensland population are based on the 2011 Census and assumptions are made about future levels of fertility, mortality, and overseas and interstate migration. A reduction in interstate migration, some flawed assumptions in 2011 census data and a general contraction of economic activity have contributed to lower the forecast growth.

The request to change the baseline population projections for future growth forecast purposes from the PAM V2.1 forecasts to the 2015 QGSO medium series Estimated Resident Population (ERP) projections was presented to Council at the 6 September 2016 Council Forum. Councillors supported a review of formal population projections.

CONCLUSION

Official QGSO growth forecasts for this area have reduced significantly from those that informed current planning instruments. Efficient planning requires the most up to date growth forecasts available. The 2015 QGSO Medium Series and its exponential projection as the estimated resident population forecast to 2036 represent the most current forecasts available. This population forecast should be used as the benchmark in the updating of the PAM and to inform planning for other areas of Council.

It should be noted that Council is endeavoring to surpass the ERP through development and growth incentives. Should current major proposals come to fruition, further reviews will occur.

11.2 SUBMISSION ON DRAFT LIVINGSTONE SHIRE PLANNING SCHEME

File No:	RRPS-PRO-2010/03/07/11
Attachments:	1. Strategic Framework Map - SFM-04 (LSC) 2. Map of D35-2016 and RRC Strategic Framework zoning
Authorising Officer:	Scott Waters - Acting Executive Manager Regional Development
Author:	Robert Truscott - Coordinator Strategic Planning

SUMMARY

The draft Livingstone Shire Planning Scheme is currently on public consultation from 16 November 2016 to 16 January 2017. The draft Livingstone Shire Planning Scheme is proposing additional rural residential land and a centre within the locality of Glenlee. Any further development of rural residential land in this area will place a constraint on the future urban growth to the north of Parkhurst for Rockhampton City.

Further analysis of the draft Livingstone Shire Planning Scheme is required to identify any other potential conflicts or impacts on the future settlement pattern, lifestyle amenity and economic growth opportunities of the Rockhampton Region. Strategic planning propose to prepare and lodge a submission on the draft Livingstone Shire Council Planning Scheme detailing any content that in all reasonable probability will negatively impact on the future of the Rockhampton Region.

OFFICER'S RECOMMENDATION

THAT Council lodge a submission on the draft Livingstone Shire Council Planning Scheme outlining grounds for objection or support to any settlement, zoning, land use designations, mapping and/or policies that in all reasonable probability will negatively or positively impact on the future settlement pattern, lifestyle amenity or economic growth potential of the Rockhampton Region.

COMMENTARY

The draft Livingstone Shire Planning Scheme is currently on public consultation from 16 November 2016 to 16 January 2017. The planning scheme sets out Livingstone Shire Council's (LSC) intention for the future development of the planning scheme area, over the next ten years.

Council now has the opportunity to review the draft planning scheme and prepare a properly made submission about any issues of relevance to the interests of Council. The submission must be made by 16 January. LSC are then required to respond to the matters raised in the submission and provide a report to the State Government on how they responded. Importantly, Council do not have any legal rights under the *Sustainable Planning Act 2009*, however Council could separately raise any concerns with the State government and with the relevant Minister.

DISCUSSION

It is important to review the draft Livingstone Shire Planning Scheme for any policy settings that may conflict with the most logical and efficient residential and economic growth of the Rockhampton Region. It is important that any residential growth occurring beyond the boundaries of Council's local government area, is justified by a realistic growth analysis as part of a population and residential needs study.

The Rockhampton city urban area is constrained to the east (Berserker Ranges) and south and west (due to flooding), therefore the logical expansion into the future is to the north (Parkhurst and beyond).

While forecast growth can be accommodated up to and beyond the planning horizon of the current planning scheme it is important to recognise that the city will continue to grow beyond that horizon. In addition, any future development within the LSC should not impact upon current or future planned non-residential uses in Council's LGA to ensure that their full economic potential is achieved.

The draft Livingstone Shire Planning Scheme proposes additional rural residential land and a centre to the north of Rockhampton Regional Council's local government area boundary, within the locality of Glenlee. The current area is already constrained by the existing park / rural residential settlement pattern. The further development of rural residential land will place a constraint on urban growth to the north in the longer term but will also place unreasonable demand on services provided by Council in the short to medium term. Importantly, once land is subdivided into rural / park residential allotments, the footprint and growth of the City is greatly compromised. Appropriate urban densities can therefore no longer be achieved, without significant cost to Council or future developers.

Of importance Council will recall that a development application is being assessed by LSC for a largely rural residential development with the inclusion of a centre on the lands identified in Attachment 2 D35-2016 and RRC strategic framework. This application is still active with the applicant having until early February to respond to the information request letter sent by LSC. Once responded to, Council will have the opportunity to lodge a formal submission.

Of concern, this area has been zoned emerging communities under the draft Livingstone Shire Planning Scheme, with the zoning now extended beyond the boundaries of the current application (see Attachment 2 D35-2016 and RRC strategic framework). The proposed zoning change will further constrain the logical and efficient urban settlement pattern of Rockhampton to the north.

Further analysis of the draft Livingstone Shire Council Planning Scheme is essential to the early identification of any potential impacts on the future growth and economic wellbeing of the Rockhampton Region. Strategic planning propose to prepare and lodge a submission on the draft Livingstone Shire Council Planning Scheme detailing any issues and requesting that LSC address these concerns, prior to the second state interest review and final adoption of the draft Livingstone Shire Council Planning Scheme. Work is continuing to assess the risks of this and other possible impacts.

CONCLUSION

The draft Livingstone Shire Council Planning Scheme contains a proposed strategic settlement pattern and zoning changes that will constrain the logical efficient urban settlement pattern to the north of Rockhampton.

Further analysis of the draft Livingstone Shire Council Planning Scheme is essential to determine if it contains any other settlement, zoning, land use designations, mapping and/or policies that could impact on the future settlement pattern and economic growth of the Rockhampton Region.

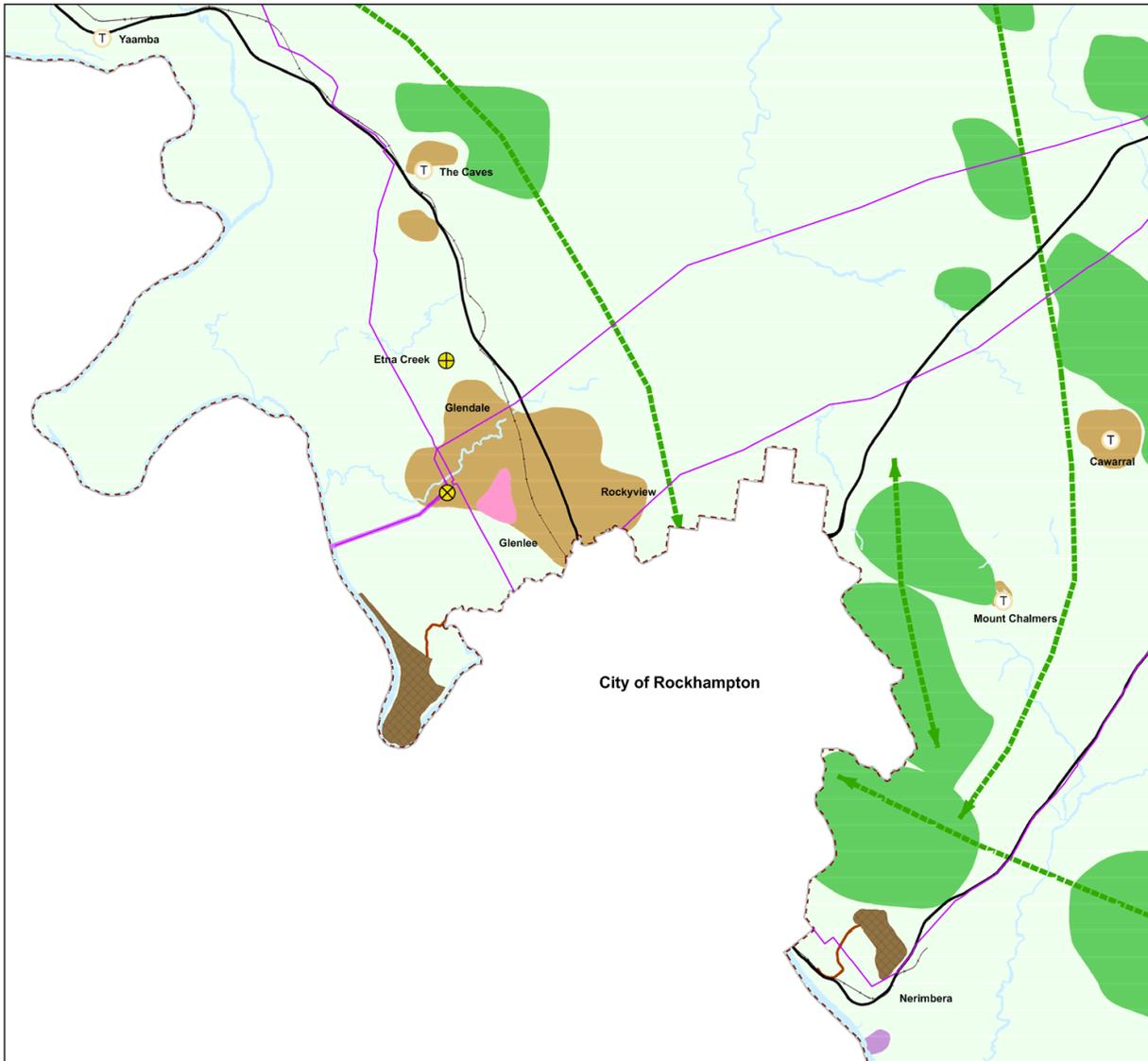
Strategic planning proposes to prepare a submission during the public consultation phase of the draft Livingstone Shire Council Planning Scheme detailing the issues and requesting that LSC address these concerns.

**SUBMISSION ON DRAFT
LIVINGSTONE SHIRE PLANNING
SCHEME**

**Strategic Framework Map - SFM-04
(LSC)**

Meeting Date: 10 January 2017

Attachment No: 1



Legend

- M Major Centre
- L Local Centre
- T Township
- ✈ Airport
- ★ Tourism and Ecotourism Development
- ▲ Maritime Development Area
- ⊕ Major Social Infrastructure
- ⊗ Major Infrastructure
- Major Electricity Infrastructure
- State Controlled Road
- Railway Network
- Nature Corridor or Link
- Stock Route
- KRA Transport Route
- Shoalwater Bay Military Training Area
- Extractive, Mineral and Forestry Resource
- Waterbody and Waterways
- Nature Conservation and Open Space
- Specialised Centre
- Future Industrial
- New Industrial
- Industrial
- Urban Infill
- Future Urban
- New Urban
- Urban
- Rural Residential
- Rural
- Planning Scheme Area

Approx Scale @ A3 1:120,000

0 2 4 8
Kilometers

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**Strategic Framework Map
SFM-04
Rockhampton and Surrounds**

Public Notification Version

DRAFT LIVINGSTONE PLANNING SCHEME

**SUBMISSION ON DRAFT
LIVINGSTONE SHIRE PLANNING
SCHEME**

**Map of D35-2016 and RRC Strategic
Framework zoning**

Meeting Date: 10 January 2017

Attachment No: 2

11.3 MAJOR AMENDMENT TO ROCKHAMPTON REGION PLANNING SCHEME - CLASS 10A STRUCTURES

File No:	RRPS-PRO-2015/001-01-01
Attachments:	Nil
Authorising Officer:	Robert Truscott - Coordinator Strategic Planning Scott Waters - Acting Executive Manager Regional Development
Author:	Cameron Wyatt - Senior Strategic Planner

SUMMARY

Currently, officers are preparing a major amendment to the Rockhampton Region Planning Scheme (RRPS). The changes are in response to an internal review undertaken by strategic planning and initial feedback from internal and external stakeholders. At the 6 September 2016 and 4 October 2016 Councillor forums, issues associated with Class 10a structures (sheds/carports) were discussed. As a result, a further report is presented providing options regarding stormwater / overland flow and amenity issues occurring as a result of these developments.

OFFICER'S RECOMMENDATION

THAT Council excludes provisions related to Class 10a structures within residential zones as part of the major amendment to the Rockhampton Region Planning Scheme.

COMMENTARY

The new planning scheme commenced on 24 August 2015. Since that time Council officers have been undertaking a review of the contents to ensure continual improvement. Concerns have been raised on the impact of class 10a structures within urban areas. These issues relate to building design and residential amenity (height, size and setbacks) and stormwater impacts resulting from class 10a structures.

BACKGROUND

Class 10a structures on residential properties have been discussed previously within Council forums on 6 September 2016 and 4 October 2016. Prior to the adoption of the RRPS, it was resolved that class 10a buildings in residential areas would have a maximum size of sixty (60) square metres, and a building height of 4.5 metres to the eaves and five (5) metres to the ridgeline. Once a proposal exceeded these limits, a planning application would be required to be lodged with Council for assessment. Currently the planning scheme contains the following requirement:

Class 10a – buildings and structures	
PO1 Any additional building on the site of a residential use must not be visually dominant.	AO1.1 Class 10a – buildings and structures defined under the Building Code of Australia when not attached to a residential use do not exceed: (a) a total of sixty (60) square metres in gross floor area; and (b) a height of 4.5 metres to the eave line and five (5) metres to the ridge line.

The planning scheme requires the lodgment of a building application assessable against the planning scheme if the abovementioned provisions are not met.

Architects / designers have been stating on the plans that the building(s) are being used for car storage as Gross floor area excludes car parking areas. This results in larger class 10a structures being approved by building certifiers.

Stormwater management issues

Since August 2015, Council has received sixty-four (64) complaints in relation to the impact of stormwater and overland flow onto private properties. Overland stormwater flow is generally a civil matter to be resolved between neighbours. In many cases, water that is coming from the neighbouring property is flowing naturally via the ground. This can be caused by factors such as high rain volumes causing water to flow down the natural fall of the land. Water that cannot enter the underground drainage system will find its natural way to the nearest watercourse via overflow paths which can include roadways, public reserves, pathways and frequently through private property.

Proposal

It is recommended that Council remove the current RRPS class 10a structures requirements from the scheme and rely on the Queensland Development Code.

The following table provides a breakdown across Queensland Council's in relation to requirements for class 10a structures.

Local Government	Requirements with Urban Areas for Class 10a (excluding character/heritage areas)
Brisbane City Council	Self assessable requirements related to building length (25m) and building height (9.5m). Otherwise no other size requirements
Bundaberg Regional Council	Self assessable – same requirements as the QDC. No specific requirement in relation building size
Cairns Regional Council	No requirements
Central Highlands Regional Council	Self assessable requirements – 100m ² GFA size Maximum height of 4.5 metres
Gladstone Regional Council	No requirements
Gold Coast Regional Council	No requirements
Gympie Regional Council	No requirements
Fraser Coast Regional Council	Self assessable – same requirements as the QDC. No specific requirement in relation building size
Sunshine Coast Regional Council	Self assessable requirements similar to current RRPS 56m ² total floor area requirements
Southern Downs Regional Council	No requirements
Townsville City Council	No requirements
Toowoomba Regional Council	No requirements

Note—The above table only includes planning schemes adopted under the Sustainable Planning Act 2009.

The majority of Council's do not regulate class 10a structures or outbuildings under their planning schemes, outside of overlays and zones associated with character or heritage. Some Council's do duplicate requirements already outlined in the Queensland Development Codes. This is seen as unnecessary, as these requirements are already regulated through the building application process.

The provisions already contained in the Queensland Development Code include:

Site Coverage: 50%

Building Height:

Maximum height 8.5 metre on slope less than fifteen (15) per centum

Maximum height 10 metres on slope greater than fifteen (15) per centum

Setbacks:

Front setback is six (6) metres (or similar setback to adjoining dwelling generally 3-6 metres), except for a corner lot where a truncation is required.

Side and rear boundary:

Building and structure height	Setback
< 4.5 metres	1.5 metre setback
4.5 metres – 7.5 metres	2.0 metre setback
> 7.5 metres	2.0 metres plus 0.5 metres for every 3 metres or part exceeding 7.5 metres (maximum 8.5 metres – 10 metres high building requires 2.5 metres setback)

If Council resolved not to regulate Class 10a structures under the planning scheme within the low / low/medium density residential zones, provisions would still remain for the neighbourhood character areas.

It is also planned to develop facts sheets for customer service use on Council’s website outlining the role and rights of property owners and provide an explanation of the role the Queensland Building and Construction Commission (QBCC). Further engagement with the community and the development industry may be required, if concerns continue, particularly in relation stormwater and overland flow.

Alternative Option

To reduce the scale and adverse impacts of these structures an alternative option is to limit the size based on Total Floor Area rather than the Gross Floor Area. The administrative definition for Total Floor Area proposed is specified below,

“The total floor area of all storeys of a building (measured from the outside of the external walls or the centre of a common wall). The term includes buildings or structures used for the parking and manoeuvring of motor vehicles.”

The original proposal in the major amendment to the Rockhampton Region Planning Scheme was to change the requirement from referring to gross floor area to total use area. The new administrative definition of total use area would include car parking facilities.

The current provision would therefore be updated to read as follows (changes shown in bold):

Low Density Residential Zone Code | Low / Medium Density Residential Zone Code:

Class 10a – buildings and structures	
<p>PO2 Any additional building on the site of a residential use must not be visually dominant.</p>	<p>AO2.1 Class 10a – buildings and structures defined under the Building Code of Australia when not attached to a residential use do not exceed:</p> <p>(a) a total of sixty (60) square metres in gross total floor area; and</p> <p>(b) a height of 4.5 metres to the eave line and five (5) metres to the ridge line.</p> <p>Note—AO2.1 does not apply to a garage under the main roof of a dwelling house.</p>

New Administrative definition:

The total floor area of all storeys of a building (measured from the outside of the external walls or the centre of a common wall). The term includes buildings or structures used for the parking and manoeuvring of motor vehicles.

In relation to stormwater issues, it is not seen as appropriate to regulate class 10a structures under the major amendment to the RRPS, as the building provisions and codes already regulate stormwater management.

LEGISLATIVE CONTEXT

The process for undertaking a major amendment to the planning scheme is detailed under section 117 of the *Sustainable Planning Act 2009* and the *Statutory guideline 04/14 – Making and amending local planning instruments*.

CONCLUSION

Class 10a structures built throughout residential areas have raised a number of concerns. The major amendment being proposed provides provisions in relation to amenity. The recommendation is to leave the regulation of Class 10a structures to the Queensland Development Code. Stormwater flow resulting from Class 10a structures has also been raised as a community concern. Council involvement in resolving a dispute is limited, however further work can be undertaken to provide information to the community and particularly the development industry in relation to rights and responsibilities.

11.4 PLANNING ACT 2016 TRANSITION AND MAJOR AMENDMENT IMPACTS

File No:	RRPS-PRO-2015/001-01-01
Attachments:	Nil
Authorising Officer:	Scott Waters - Acting Executive Manager Regional Development
Author:	Robert Truscott - Coordinator Strategic Planning Cameron Wyatt - Senior Strategic Planner

SUMMARY

The purpose of this report is to review steps for transitioning the planning scheme in preparation for the commencement of the Planning Act and current process to prepare a Major amendment. The current amendment is being prepared in accordance with the Sustainable Planning Act 2009 (SPA). A new Planning Act 2016 will commence on 1 July 2017. An "Alignment Amendment" can be completed to ensure the planning scheme is consistent with the requirements of the new Act at commencement. As it is now practically impossible to complete a Major amendment under SPA prior to that time it is recommended to delay the Major amendment preparation process until after commencement.

OFFICER'S RECOMMENDATION

THAT Council prepare an "Alignment amendment" to the Rockhampton Region Planning Scheme as provided for by Ministerial Rules made in accordance with section 293 of the Planning Act 2016; and

THAT Council notify the State that it will not proceed with a major amendment to the Rockhampton Region Planning Scheme under the *Sustainable Planning Act 2009*, but intends to prepare a Major amendment upon the commencement of the new Planning Act 2016 and associated "Alignment amendment" on 1 July 2017.

BACKGROUND

Council resolved on 27 October 2015 to prepare a major amendment to the Rockhampton Region Planning Scheme under the *Sustainable Planning Act 2009*. Since that time Council has been progressively developing the draft amendment policy settings and documentation. A number of draft changes remain outstanding, including provisions related to Class 10a buildings /structures (shed developments) in residential areas, Air B&B's within residential areas, final new creek flood mapping for the Splitters Creek catchment, and a precinct to accommodate fishing and recreation activities located adjacent to the Fitzroy River. The current major amendment is being prepared in accordance with Statutory Guideline 04/14 – Making and amending local planning instruments. A new Planning Act 2016 will commence on 1 July 2017. As Council has not submitted the draft amendment for a first State interest review the remaining statutory steps in that process now make it practically impossible to complete the amendment process, prior to commencement of the new Act.

DISCUSSION

The State Government as part of its planning reform agenda has introduced a new Planning Act 2016 that will commence mid-2017. To allow local governments to transition to the new Planning Act, the State Government will be providing assistance, including funding to support the transition process. An "Alignment amendment" process has been made available to Council's to help transition current planning schemes. The amendment would include updating terminology to be consistent with the new terminology under the Act, ensure the policy intent from the strategic framework is appropriately incorporated into the overall outcomes of codes for code assessable development applications, and outdated information and references to legislation is either removed or updated. Importantly, the alignment amendment does not involve any changes to the current policy settings under the Rockhampton Region Planning Scheme.

An alignment amendment is a relevantly straightforward process whereby no State government review is required and Council will not be required to undertake public consultation. The State Government has appointed a panel of providers to assist Council's complete an Alignment amendment. Buckley Vann Town Planning Consultants are on the panel. Given their previous experience in the drafting of the Rockhampton Region Planning Scheme, they would be a logical choice to assist Council. It is therefore recommended that Council complete an Alignment amendment, as the State government will fund this transitional process and to ensure that the Rockhampton Region Planning Scheme is consistent with the new Planning Act, from the date the new Act commences.

The current major amendment is currently at stage one, the preparation stage and has not been submitted to the State government for review. It is now extremely unlikely that the major amendment to the planning scheme could be completed, prior to the commencement of the Planning Act on 1 July 2017. The major amendment cannot include the changes to align it with the Planning Act 2016, as the major amendment was lodged under SPA and Statutory Guideline 04/14 – Making and amending local planning instruments (based on legal advice from the State government).

It is recommended that the formal steps to make a major amendment in accordance with SPA now cease. The policy setting changes agreed to date and the resolution of those still outstanding can then be made in a major amendment made in accordance with the Planning Act 2016.

Further policy and preliminary drafting work to be incorporated into a future major amendment will continue through early next year, to resolve outstanding policy settings. In addition, this allows the opportunity for Councilors, internal departments, industry groups and the community to raise any other recommended changes to the planning scheme. The CBD Redevelopment Framework will also be completed during this time, allowing any changes to also be incorporated into the major amendment.

BUDGET IMPLICATIONS

It is our current understanding that the State government will fund all the consultancy fees associated with the core steps of an alignment amendment. Council will need to fund associated changes to Council systems such as ICON and Pathway.

LEGISLATIVE CONTEXT

The new Planning Act will commence mid-2017 and the Alignment amendment process allows the opportunity for Council to update its planning scheme to become compliant with the new act by commencement.

CONCLUSION

With the commencement of the new Planning Act in mid-2017, Council's across Queensland are working towards aligning planning instruments to reflect new terminology and decision rules. It is recommended that Council make use of the Alignment amendment process provided for by the legislation to transition the Rockhampton Region Planning Scheme in preparation for commencement of the Act.

11.5 FOOTPATH DINING POLICY

File No: 11979

Attachments: 1. Draft Footpath Dining Policy
2. Footpath Dining Factsheet

Authorising Officer: Michael Rowe - General Manager Community Services

Author: Steven Gatt - Manager Planning & Regulatory Services

SUMMARY

A draft policy to provide a framework to guide Council's commitment to provide for licenced food businesses in the region has been developed. The aim is to increase and encourage outdoor dining opportunities in the Rockhampton CBD and other centres.

OFFICER'S RECOMMENDATION

THAT Council adopts the Footpath Dining Policy.

COMMENTARY

It was resolved that Council undertakes to waive footpath (outdoor) dining application fees for licenced food businesses in the region for twenty-four (24) months from 1 January 2017, not retrospective. This decision was made to proactively support businesses, while promoting and supporting a quality approach to the overall quality of life for locals and visitors to the region.

As part of the commitment to the revitalisation of the Rockhampton Central Business District and other areas within the Region, Council recently distributed correspondence to applicable business advising of the waiving of footpath dining application fees for a 24 month period and supplied a fact sheet as a guide.

The purpose of this policy is to set out the circumstances and conditions under which Council will issue approvals for outdoor dining on the public footway and other similar public areas.

This policy reinforces the requirement that a clear path of travel be maintained at all times, while also allowing opportunities for beneficial uses on the public footway and limits adverse impacts on adjoining/nearby properties. The footpath dining fact sheet was also amended to reflect the draft policy.

FOOTPATH DINING POLICY

Draft Footpath Dining Policy

Meeting Date: 10 January 2017

Attachment No: 1



FOOTPATH DINING POLICY (COMMUNITY POLICY)

1 Scope:

This policy applies to food businesses requesting to use the footpath on Rockhampton Regional Council controlled areas for outdoor dining purposes.

2 Purpose:

To:

- Encourage the establishment of footpath dining;
- Ensure that footpath dining areas do not disrupt traffic and pedestrian flow or compromise safety; and
- Ensure there are no adverse impacts on adjoining/nearby properties.

3 Related Documents:

Primary

Nil

Secondary

Local Law No. 1 (Administration) 2011

Subordinate Local Law No.1.2 (Commercial Use of Local Government Controlled Areas and Roads) 2011

Commercial Use of Roads Application Form – Footpath Dining

4 Definitions:

To assist in interpretation, the following definitions apply:

Controlled Areas	Land, facilities and other infrastructure owned, held in trust or otherwise controlled by the local government, other than a road.
Council	Rockhampton Regional Council
Fees and Charges	Fees and charges contained within the schedule adopted annually by Council in accordance with the <i>Local Government Regulation 2012</i> .
Footpath	As defined in the <i>Transport Operations (Road Use Management) Act 1995</i>

5 Policy Statement:

Council is committed to the revitalisation of the Rockhampton Central Business District and other areas within the Region. Footpath dining provides a lively and attractive place to meet and socialise.

Corporate Improvement and Strategy use only

Adopted/Approved: Draft
Version: 1
Reviewed Date:

Department: Community Services
Section: Planning & Regulatory Services
Page No.: Page 1 of 3

5.1 Applications

Applications must be submitted on the Commercial Use of Roads Application Form – Footpath Dining.

5.1.1 Fees

Relevant application fees to be paid upon application are detailed in Council's Fees and Charges schedule.

5.2 Specific Requirements

Approvals are subject to conditions outlined in schedule 1 of Council's Subordinate Local Law 1.2 (Commercial Use of Local Government Controlled Areas and Roads) 2011. The following specific requirements also apply.

5.2.1 Minimum Footpath Pedestrian Access Width

Footpath dining areas must provide a clear unobstructed passageway of at least 1.5 metres wide for pedestrian traffic.

5.2.2 Minimum Shop Access Width

Footpath dining areas must provide a clear unobstructed passageway of at least 1.0 metres wide to allow access to the shop.

5.2.3 Delineation of Footpath Dining Area

Consideration can be given to the installation of temporary screens, barriers and the like in conjunction with footpath dining where it can be demonstrated that the fixture will assist with pedestrian access and safety at the location. Details of such are to be included in the site plan. Screens need to be of a weight and design that are safe.

5.2.4 Unsuitable Locations

Footpath dining may not be supported at public transport stops, near pedestrian crossings or where there are concentrated pedestrian traffic movement or vehicle traffic concerns. Footpath dining directly in front of an adjoining shop will only be considered with the written consent of the occupier of the shop and subsequent owners. The inability to maintain consent from the occupier of the shop will result in the loss of the relevant footpath area.

5.2.5 Waste Disposal

Street rubbish bins are not for the disposal of waste generated by cafes and restaurants with or without footpath dining. Footpath dining approval holders must have a commercial waste collection agreement.

5.2.6 Insurance

The footpath dining approval holder must indemnify Council in respect of any claim which may arise from use/occupation of the footpath area and hold Council harmless from and against all actions, sums of money, costs, claims, demands and other liabilities which may be sustained or suffered or recovered or made against Council by any persons during the term of an approval to operate. Council will require a Certificate of Cover for Public Liability Insurance with a minimum of 20 million dollars and noting Rockhampton Regional Council as an interested party.

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5.2.7 Approval Terms, Renewal and Transfers

Approvals will be granted for a one year period. After which time a renewal notice will be issued and a review of any changes will be completed. The annual renewal fee is detailed in Council's Fees and Charges Schedule.

If the food business is sold or leased to another person, the new owner may apply to Council for a transfer of the footpath dining approval. The new owner can do this by lodging a new application form, documents and paying the required fee.

5.2.8 Inspection

The footpath dining approval holder shall allow an authorised person to inspect the operation of the activity.

5.2.9 Liquor Licensing

Liquor consumption on footpaths is regulated under the *Liquor Act 1992*. Approval is required by the Office of Liquor and Gaming Regulation.

5.2.10 Smoke Free Areas

Legislation requires outdoor eating places to be smoke-free in accordance with the *Tobacco and Other Smoking Products Act 1998*. Control is the responsibility of the footpath dining approval holder.

5.2.11 Advertising

Advertising and signage must be contained within the approved footpath area. Low key ancillary advertising may be supported by Council such as supplementary menus or specials boards but these cannot interfere with patrons, their movement and safety, or be located in designated pedestrian zones.

5.3 Footpath Dining in Non-Council Controlled Areas

Footpath dining approval is not required when trading on private land; however a planning approval may be required. Footpath dining approval is not required from Council when trading on a main (State Government-controlled) road; however approval from the Department of Transport and Main Roads may be required.

6 Review Timelines:

This policy will be reviewed when any of the following occur:

- 6.1. The related information is amended or replaced; or
- 6.2. Other circumstances as determined from time to time by Council.

7 Responsibilities:

Sponsor	Chief Executive Officer
Business Owner	General Manager Community Services
Policy Owner	Manager Planning and Regulatory Services
Policy Quality Control	Corporate Improvement and Strategy

EVAN PARDON
CHIEF EXECUTIVE OFFICER

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FOOTPATH DINING POLICY

Footpath Dining Factsheet

Meeting Date: 10 January 2017

Attachment No: 2

It's the law

Footpath Dining

In a Region that enjoys 300 days of sunshine a year, Rockhampton Regional Council is committed to helping our community take advantage of outdoor dining to create vibrant and active street frontages. Footpath dining provides business operators the ability to expand floor space at a minimal cost, potentially improving the commercial capacity of their business.

Until 31 December 2018 footpath dining application fees are free.

What is Footpath Dining?

Footpath dining is where a business selling food and drink wishes to place tables and chairs on the footpath for use by patrons to the business.

Trading on Local Government Controlled Areas and Roads

Food businesses wanting to provide footpath dining on local government controlled areas and roads require approval in accordance with Subordinate Local Law No. 1.2 (Commercial Use of Local Government Controlled Areas and Roads) 2011.

Trading on Private Land

Footpath dining approval is not required when trading on private land, however you should check with Council's Development Assessment unit to see if planning approval is required.

Trading on a Main Road

Footpath dining approval is not required from Council when trading on a main (State Government-controlled) road; however you should check with the Department of Transport and Main Roads to see if an approval is required.

Liquor Licensing

Liquor consumption on footpaths is regulated under the *Liquor Act 1992*. Approval is required by the Office of Liquor and Gaming Regulation.

Smoke Free Areas

Legislation requires outdoor eating places to be smoke-free in accordance with the *Tobacco and Other Smoking Products Act 1998*.



General Requirements

Persons wanting to undertake footpath dining should take the following conditions/requirements into consideration prior to making an application with Council:

- Take measures to protect the safety of persons who may be involved in, or affected by, the activity;
- Take out and maintain insurance for a minimum of \$20 million for Council controlled roads indemnifying Rockhampton Regional Council against any or all claims of damages resulting from the activity;

Contact us

Rockhampton Regional Council
Planning and Regulatory Services

P: 07 4932 9000 or 1300 22 55 77

E: enquiries@rrc.qld.gov.au

W: www.rrc.qld.gov.au



It's the law

- Allow for the operation of the activity to be inspected by an authorised person;
- The activity must not:
 - a. Cause a nuisance;
 - b. Create a traffic nuisance;
 - c. Increase an existing traffic nuisance,
 - d. Detrimentially affect the efficiency of the road network;
 - e. Detrimentially affect the amenity of the neighbourhood;
 - f. Create a road safety risk.
- Footpath dining equipment, including tables and chairs, must be removed from the footpath when the business is not operating/open for business;
- Footpath dining equipment is to be kept in a good state of repair, of safe construction and visually aesthetic;
- Footpath dining area/s are to be maintained in a clean condition at all times;
- Provision of a clear unobstructed passageway of at least 1m wide to allow access to the shop;
- Provision of a clear unobstructed passageway of at least 1.5m wide for pedestrian traffic.

Are you Selling Food?

You may also require a Food Business Licence. Check with Council's Environment and Public Health unit to see if a licence is required.



How to Apply for an Approval

To apply for footpath dining approval, you will simply need to submit a completed Commercial Use of Roads Application Form – Footpath Dining with supporting documentation. Application fees are exempt until 31 December 2018.

Supporting information includes:

- Site plan to scale (1:100, refer attached template);
- Colour photographs/brochures of materials eg tables, seating, barriers, umbrellas etc;
- Certificate of Cover for Public Liability Insurance with a minimum of \$20 million and noting Rockhampton Regional Council as an interested party;
- Written consent of the occupier of the land to the operation of footpath dining at the place or a written statement from the occupier of the land in support of footpath dining.

Council endeavours to process all applications as quickly as possible, but please be aware this can sometimes take up to 30 days.

To avoid delays in the approval process, please ensure you include all required information with your submission. The necessary documentation is available from Council via the below contact details.

Renewal Fees

Once an application for footpath dining is approved, only the annual renewal fee will need to be paid. The annual renewal fee is currently \$75 per annum for the 2016/2017 financial year.

Contact us

Rockhampton Regional Council
Planning and Regulatory Services

P: 07 4932 9000 or 1300 22 55 77

E: enquiries@rrc.qld.gov.au

W: www.rrc.qld.gov.au

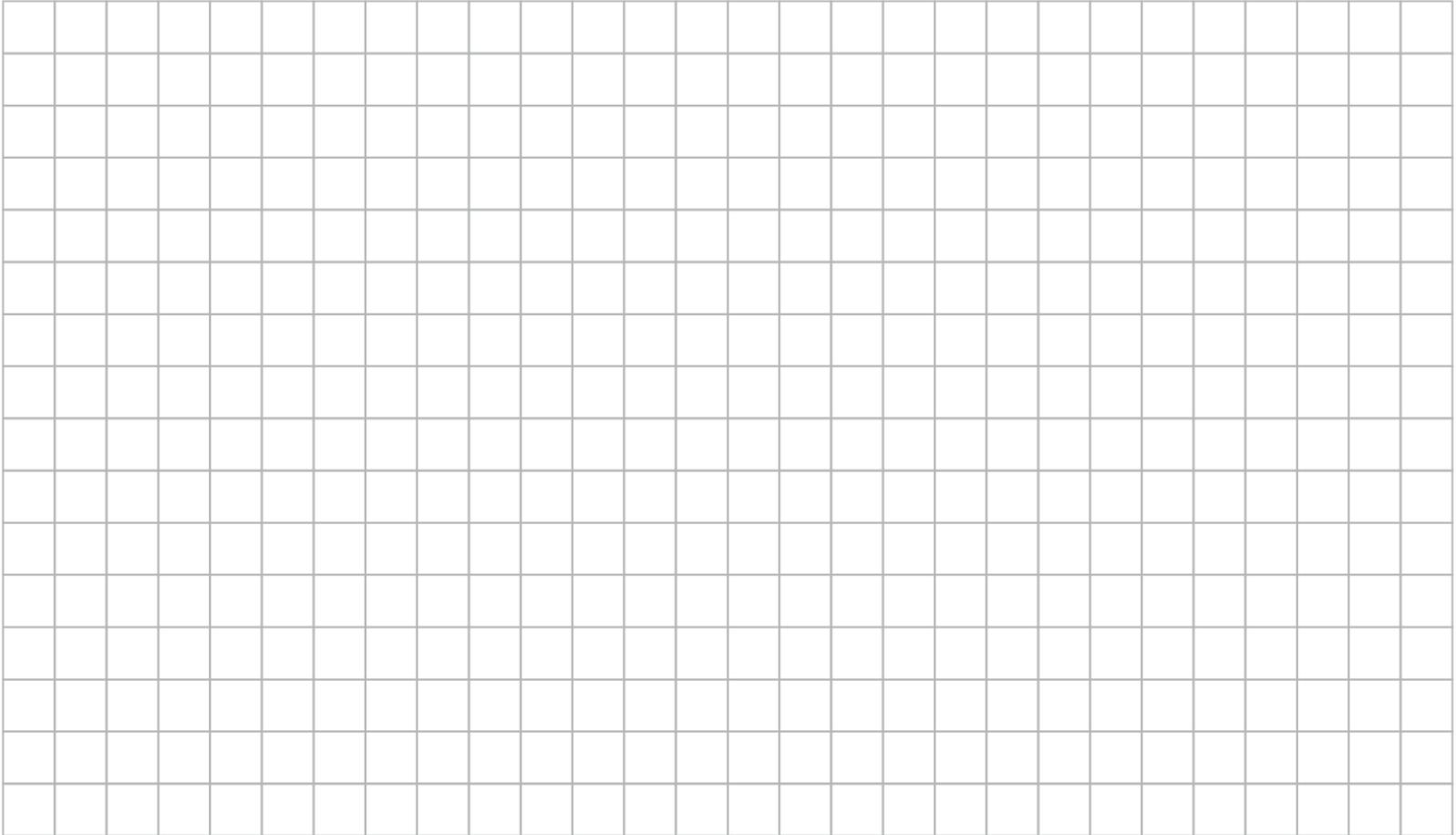




Site Plan Drawing | Existing and Proposed

Drawings should follow the following measurements:

- > Length of business frontage > Width of the footpath (Shop front to kerb) > Length of the dining area and width (breadth) of the dining area across the footpath
- > Location of any Council property (litter bins, public seats) in front of the business > Distance between the outer border of the dining area and the kerb (min 1.5m required) > Position of all furniture including tables, chairs, barriers, plants etc.



Scale: 1:100 Example: 1cm = 1m (each square is 1cm x 1cm when printed to actual size)

11.6 DRAFT BUSKING POLICY

File No:	11979
Attachments:	1. Draft Busking Policy 2. Busking Application and Factsheet
Authorising Officer:	Michael Rowe - General Manager Community Services
Author:	Steven Gatt - Manager Planning & Regulatory Services

SUMMARY

A draft policy and accompanying documentation has been developed to provide a framework to guide the appropriate use of areas for busking to encourage vibrancy and promote arts and culture within the community, in the Rockhampton CBD and other centres.

OFFICER'S RECOMMENDATION

THAT Council adopts the Busking Policy.

COMMENTARY

A well-managed footway supports local businesses and promotes both equitable access by creating places and streets that are amenable and attractive to all visitors and encourage social, cultural and economic amenity and vitality.

Changes to Council policy in regard to busking have occurred to encourage this vibrancy and promote arts and culture within the community council resolved to encourage busking via a fee free permit.

The following recommendations have been developed:

1. A draft policy for busking;
2. A simplified renewal form that can be processed by customer service;
3. Changes to the fees and charges occurred to indicate that the permit application fee is free;
4. The necessary insurance is now available via Council and
5. Fact sheets have been improved, as per the suggestions outlined in the report.

This policy will guide the activity, whilst ensuring there are no adverse impacts on nearby properties and pedestrian flow or compromise safety. The development of this policy is presented to Council for consideration.

DRAFT BUSKING POLICY

Draft Busking Policy

Meeting Date: 10 January 2017

Attachment No: 1



BUSKING POLICY (COMMUNITY POLICY)

1 Scope:

This policy applies to any person requesting to busk within Rockhampton Regional Council controlled areas or roads.

2 Purpose:

To encourage busking to create vibrancy and promote arts and culture within the community, whilst ensuring there are no adverse impacts on nearby properties and the community.

3 Related Documents:

Primary

Nil

Secondary

Local Law No. 1 (Administration) 2011

Subordinate Local Law No.1.2 (Commercial Use of Local Government Controlled Areas and Roads) 2011

Subordinate Local Law No. 4 (Local Government Controlled Areas, Facilities and Roads)

Busking Fact Sheet

Commercial Use of Roads Application Form – Busking

Parental Consent Form

Uninsured Performers Public Liability Policy

4 Definitions:

To assist in interpretation, the following definitions apply:

Business Hours	The hours of the day during which, a given business is open.
Busking	A musical or theatrical performance undertaken by a person- <ul style="list-style-type: none"> ▪ to entertain the public; and ▪ seeking voluntary reward for the performance.
Busker	A street entertainer who provides performances for the public by dancing, singing, miming, puppetry, playing an instrument, reciting a story or poetry, or doing other acts of a similar nature in public places.
Council	Rockhampton Regional Council
Dangerous Materials and Implements	Materials and implements that pose risk, hazard or uncertain outcomes for people. <i>Dangerous materials</i> include flammable materials and chemicals, fire, fireworks, smoke, flares, heated elements or anything giving off a level of heat or toxicity that poses a threat of harm or damage to members of the public and property.

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	<i>Dangerous implements</i> include knives, spears, swords, spike and sharp implements of any kind that pose a threat of harm to the general public.
Fees and Charges	Fees and charges contained within the schedule adopted annually by Council in accordance with the <i>Local Government Regulation 2012</i> .
Footpath	As defined in the <i>Transport Operations (Road Use Management) Act 1995</i>

5 Policy Statement:

Council recognises that:

- Buskers contribute to a sense of place; provide entertainment and thought provoking experiences to tourists and members of the general public.
- Busking is recognised as a valid means for people to make a living.
- Buskers make an important contribution to the cultural life of a city by reflecting styles, values and the issues of society at large.
- Busking should not interfere with pedestrian traffic, the conduct of business, or contribute to a lack of safety.

5.1 Prohibited Activities, Materials and Implements

The following are not considered to be busking under the terms of this policy and as such an approval will not be issued:

- Balloon sculptors;
- Tarot card and palm readers, fortune readers;
- Artists selling their work (such as portrait artists);
- Masseurs or masseuses;
- Vendors of any kind (including vendors of fluffy toys, lollies, jewellery etc); and
- Soliciting of money for any purpose.

Any materials or implements prohibited or deemed dangerous by any legislative act or regulation will not be approved. Including, but are not limited to, the following:

- Use of fire;
- Use of knives;
- Use of swords;
- Use of pyrotechnics; and
- Use of flammable liquids such as kerosene, firewater, or scented lamp oil.

5.2 Locations Not Permitted

All residential areas and any location deemed unsuitable by Council.

Within 10 metres of footpath dining facilities or licensed venues during business hours unless specific invitation has been supplied by management of the business.

5.3 Permitted Hours, Duration and Areas

Busking is permitted between the hours of:

- 9.00am to 9.00pm Sunday to Thursday; and

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- 9.00am to 12.00am Friday and Saturday.

The duration of performances must not exceed 45 minutes per set and there must be a minimum interval of 15 minutes between sets.

Busking is permitted within the permitted hours:

- At the front of vacant shop fronts with frontages greater than 4 metres; and
- Outside of business hours at the front of closed shop fronts

in the following areas:

- Rockhampton central business district, bounded by the Fitzroy River; Albert, Stanley and Denison Streets;
- Conaghan Park, 5 Lawrie Street, Gracemere; and
- Morgan Street, between Central and East Streets, Mount Morgan

5.4 Specific Requirements

5.4.1 Approval Terms

One month approvals will be issued, after which a new application will be required. Approvals are not transferable or refundable.

5.4.2 Conditions

Approvals are subject to conditions outlined in schedule 1 of Council's Subordinate Local Law 1.2 (Commercial Use of Local Government Controlled Areas and Roads) 2011. The following conditions also apply.

The approval holder must:

- Limit the operation of the approved activity so it does not cause undue obstruction to pedestrian or vehicular traffic, for example, by obstructing pedestrian or vehicular access at the entrance to a shop or building;
- Remove all equipment from the area identified in the approval upon ceasing the approved activity unless otherwise specified by a Council authorised person;
- Not advertise or associate the approval holder with advertising in conjunction with any performance;
- Not use any form of amplification;
- Not interfere with the conduct of any activity, including a temporary entertainment event, the subject of Council approval;
- Not undertake the approved activity at a public place during the conduct of an activity which is the subject of a Council approval (other approval) without the written consent of the holder of the other approval;
- Not directly collect or solicit for donations;
- Not sell, offer or expose for sale any articles or commodity other than CD's consisting of the approval holders own work; and
- Comply with directions issued by Council's authorised persons and members of the QLD Police Service, Ambulance, Fire and any other Emergency Service.

The approval holder may be restricted to permitted locations.

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5.5 Public Liability Insurance

Council holds an Uninsured Performers Public Liability Policy which provides busking approval holders cover for approved activities within the Council Local Government area.

The insurance is subject to terms, conditions, excesses and exclusions as detailed in the Uninsured Performers Public Liability Policy, which is available on Council's website.

Approval holders are only covered by Council insurance when the approval holder:

- does not have a current Public Liability Policy for the activity they are undertaking;
- holds a valid approval issued by Council;
- is operating within the Council Local Government Area; and
- has followed their approval conditions.

The policy is limited to \$20 million for any one loss, in the event of a claim the approval holder is responsible for payment of the excess being \$1,000 each and every loss.

5.6 Application Procedure

Applications must be submitted on the Commercial Use of Roads Application Form – Busking.

For the purposes of identification, applicants will be required to provide the following items at the time of application before a busking approval will be issued:

- Proof of identity in one of the following forms:
 - Australian Passport;
 - Birth Certificate;
 - Drivers Licence;
 - 18+ Card; or
 - School ID (birth certificate also to be supplied if under the age of 16)
- Proof of parental consent for applicants under the age of 16 years, written consent signed by applicants' parents or guardians.

Relevant application fees are to be paid with the application and are detailed in Council's Fees and Charges schedule.

6 Review Timelines:

This policy will be reviewed when any of the following occur:

- 6.1. The related information is amended or replaced; or
- 6.2. Other circumstances as determined from time to time by Council.

7 Responsibilities:

Sponsor	Chief Executive Officer
Business Owner	General Manager Community Services
Policy Owner	Manager Planning and Regulatory Services
Policy Quality Control	Corporate Improvement and Strategy

EVAN PARDON
CHIEF EXECUTIVE OFFICER

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DRAFT BUSKING POLICY

Busking Application and Factsheet

Meeting Date: 10 January 2017

Attachment No: 2

Commercial Use of Roads Application Form – Busking

Privacy Notice: Rockhampton Regional Council is collecting the personal information you supply on this form for the purpose of processing your application. Council is authorised to do this under the *Rockhampton Regional Council Local Law No. 1 (Administration) 2011*, specifically *Subordinate Local Law No. 1.2 (Commercial Use of Local Government Controlled Areas and Roads) 2011*. Your personal details will not be disclosed to any other person or agency external to Council without your consent unless required or authorised by law.

This form is to be completed when applying for approval to busk within the Rockhampton Regional Council local government area. Approvals will be issued for one month, after which a new application will be required. Please refer to the Busking Factsheet for further information.

P: 07 4932 9000 | E: enquiries@rrc.qld.gov.au | W: www.rrc.qld.gov.au | PO Box 1860 Rockhampton QLD 4700 | ABN: 59 923 523 766



Applicant Details			
Applicant name: <i>(if partnership or company)</i>		ABN:	
Applicant name: <i>(if individual)</i>			
First	Middle	Last	
Trading name:			
Residential address:			
Postal address <i>(if different)</i> :			
Person responsible for the activity: <i>(if different to applicant)</i>			
Contact number/s:		Email:	
Preferred delivery method: <input type="checkbox"/> Email <input type="checkbox"/> Post <input type="checkbox"/> Collect – (Rockhampton, Gracemere, Mount Morgan)			
<i>Email is the standard form of delivery. If this method is unsuitable please select an alternative.</i>			
Busking Location			
Site address:			
Lot number:		Plan number:	
Operational Details			
Please provide a description of the performance, including any props or equipment to be used:			
Proposed commencement date:		Proposed cessation date: <i>(the maximum time granted for an approval is one month)</i>	
Proposed days and times of operation:			
Method of waste disposal:			
OFFICE USE ONLY	Date:	CSO:	Information checked: Y / N Application number:

PLR17 | V1 | Approved xxx

File 863 – zztCommunity Compliance – QDAN 480 v.4 – 19.6.4 – 3 years

Declaration

I submit this Commercial Use of Roads Approval Application Form – Busking with the supporting documentation as required.

Applicant name:

Applicant signature:

Date:

Signatory name:
(if partnership or company)

Signatory position:
(if partnership or company)

Supporting Documentation

Please remember to provide the following supporting documentation when submitting this form:

- Attach a copy of one of the following forms of identification:
 - Australian passport
 - Birth certificate
 - Drivers licence
 - 18+ card
 - School ID *(birth certificate also to be supplied if under the age of 16)*
- Colour photographs of the proposed vehicle.

It's the law

Busking

Rockhampton Regional Council has introduced an incentive program to encourage busking in the Rockhampton CBD and other centres to add vibrancy and promote arts and culture within our community.

As of 1 January 2017 all busking application fees are free.

What is busking?

Busking is a musical or theatrical performance undertaken by a person-

- (a) to entertain the public; and
- (b) seeking voluntary reward for the performance.

Busking may include dancing, singing, miming, puppetry, playing an instrument, reciting a story or poetry, or doing other acts of a similar nature.

Approval Period and Fees

One month approvals will be issued, after which a new application will be required to be submitted.

As of 1 January 2017, there are no application fees associated with your busking application.

When can I busk?

Busking is permitted between the hours of:

- 9.00am to 9.00pm Sunday to Thursday; and
- 9.00am to 12.00am Friday and Saturday.

Busking may be undertaken Monday to Sunday during the permitted hours out the front of vacant shop fronts with a frontage of greater than 4 metres.

Outside of business hours busking may be performed out the front of closed shopfronts during the relevant permitted days and hours.

How long can I busk for?

The duration of performances must not exceed 45 minutes per set and there must be a minimum interval of 15 minutes between sets.

Where can I busk (restricted areas)?

Approvals will not be granted where busking intends on being undertaken in a residential area or for a location where Council deems unsuitable.

Busking is not permitted within 10 metres of footpath dining facilities or licensed venues during business hours unless specific invitation has been supplied by management.

Under 16?

Buskers who are under 16 must be accompanied by a parent or adult guardian while busking. A parent or adult guardian must provide photo ID and provide written consent at the time of application.



Contact us

Rockhampton Regional Council
Planning and Regulatory Services

P: 07 4932 9000 or 1300 22 55 77

E: enquiries@rrc.qld.gov.au

W: www.rrc.qld.gov.au



It's the law

Public Liability Insurance

Council hold an Uninsured Performers Public Liability policy which provides approval holders cover for approved activities within the Rockhampton Regional Council Local Government Area.

The insurance is subject to terms, conditions, excesses & exclusions as detailed in the policy wording, which can be accessed on Council's website.

Approval holders are only covered by Council purchased insurance when the approval holder:

- does not have a current Public Liability policy for the activity they are undertaking;
- holds a valid approval issued by Rockhampton Regional Council;
- is operating within the Rockhampton Regional Council Local Government Area; and
- has followed the conditions set out in the approval.

The policy is limited to \$20 million for any one loss, in the event of a claim the approval holder is responsible for payment of the excess being \$1,000 each and every loss.

General Requirements

Buskers should take the following requirements into consideration prior to making application:

- Take measures to protect the safety of persons who may be involved in, or affected by, the activity,
- The activity must not:
 - (a) cause a nuisance
 - (b) create a traffic nuisance; or
 - (c) increase an existing traffic nuisance; or
 - (d) detrimentally affect the efficiency of the road network; or

(e) detrimentally affect the amenity of the neighbourhood; or

(f) cause undue obstruction to pedestrian or vehicular traffic, for example by obstructing pedestrian or vehicle access at the entrance to a shop or building; or

(g) create a road safety risk.

- All equipment used in the operation of the prescribed activity must be in good working order and condition; and be in a clean and sanitary condition,
- The advertising or associating the approval holder with advertising in conjunction with any performance is not permitted,
- The use of amplification devices are not permitted,
- The direct collection or soliciting for donations is not permitted,
- The sale or offering to expose for sale any articles for commodity other than CD's consisting of the approval holders own work is not permitted,
- Authorised Council Officers may at any time withdraw an approval.

How to apply for an approval

To apply for a busking approval, you will simply need to submit a completed Commercial Use of Roads Application Form – Busking with supporting documentation.

Applications will be approved at the time of lodgement should there be no further information required.

An application form can be obtained from one of Council's Customer Service Centres, downloaded from Council's website or by phoning 4932 9000.

Contact us

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Planning and Regulatory Services

P: 07 4932 9000 or 1300 22 55 77

E: enquiries@rrc.qld.gov.au

W: www.rrc.qld.gov.au



11.7 MOUNT ARCHER ACTIVATION - PUBLIC EXHIBITION OF CONCEPT PLANS FOR FRASER PARK

File No: 5918
Attachments: Nil
Authorising Officer: Vincent Morrice - Acting Manager Parks
Author: Christine Bell - Parks Planning and Land Management Officer

SUMMARY

The Mount Archer Activation Master Plan identified a range of key actions to restore and expand the facilities at Fraser Park. An overarching concept design incorporated each of these elements and proposed restoration via a four-stage process. The Council meeting on 13 December 2016 resolved to approve the concept design for Fraser Park. It is proposed that these concept designs be displayed at Fraser Park as part of the official Mount Archer opening in January 2017.

OFFICER'S RECOMMENDATION

THAT Council approves public exhibition of concept plans for the Fraser Park Restoration Project.

BUDGET IMPLICATIONS

The Mount Archer Activation Master Plan project has a budget allocation of \$250,000 for three years commencing 2016/2017.

This work will be completed within the existing budget allocation at a cost of approximately \$5,000.

11.8 AUSTRALIAN GOVERNMENT INCUBATOR SUPPORT INITIATIVE

File No: 1018
Attachments: 1. Proposed Smart Hub Trade Activation Project: Fact Sheet
Authorising Officer: Ross Cheesman - Deputy CEO
Author: Penelope-Jane Fry - Grants Officer

SUMMARY

The Australian Government is offering funding through 'Incubator Support Initiative', which is now open for applications and relevant to the plans for the Smart Hub. The application process requires a resolution from Council.

OFFICER'S RECOMMENDATION

THAT Council submits an application under the 'New and Existing Incubators' support funding category of the 'Incubator Support Initiative' to fund the 'Smart Hub Trade Activation Project'.

COMMENTARY

The Australian Government released its 'Incubator Support Initiative' funding program on 20 September 2016, which offers up to \$500,000 per project over a maximum period of 24 months through a substantial application process. The process also requires Council's project endorsement and a co-contribution commitment of at least 50%.

The objective of the fund is to help develop new incubators in regions or sectors with high potential for success in international trade and to boost the effectiveness of high performing incubators, including funding support to expand their services and/or develop the innovation ecosystem.

The focus of the fund is on supporting operational costs required to achieve the objective, but eligible project expenditure includes "acquiring technology" and "reasonable fitout expenditure directly related to the project".

This aligns well with the impending fitout of the Smart Hub and launch of programs and offers an opportunity to double the technical capability and event budgets planned, in order to incorporate trade activation measures.

A project fact sheet is attached to provide an overview of the project proposed, which would deliver this outcome through \$380,000 in capital and operational funding sought from the 'Incubator Support Initiative' funding program. This would require an equivalent co-contribution to be committed from the capital and operational budget for the Smart Hub.

CONCLUSION

In conclusion it is recommended that Council endorse and resolve support for the funding application under the the 'Incubator Support Initiative'.

AUSTRALIAN GOVERNMENT INCUBATOR SUPPORT INITIATIVE

Proposed Smart Hub Trade Activation Project: Fact Sheet

Meeting Date: 10 January 2017

Attachment No: 1



Smart Hub Trade Activation Project: Fact Sheet

PROJECT OVERVIEW

Rockhampton Regional Council is considering partnering with the Commonwealth Government "[Incubator Support Initiative – New and Existing Incubators](#)" program to seek funding to support the ongoing development of the Smart Working Hub.

The funding would enable the services and developments to the innovation ecosystem to be expanded and improved, to activate the region's high potential for success in international trade.

This will be a 'game changer' that builds and opens new doors to enable start-ups in the region to realise their economic potential faster than they otherwise would.

PROJECT DELIVERABLES

This project will provide access for innovative start-ups to new resources (specialised technical equipment) to promote and facilitate international trade, and will assist innovative start-ups to leverage these resources to develop the capabilities required to achieve commercial success in international and domestic markets. This facility and programme will be the first of its kind in Australia. Deliverables include:

- ✓ A cinematic-quality and media production studio 'green room' technological fit-out.
- ✓ Technological fit-out of the open-plan 2nd floor to enable TedX, trade talks & coaching events.
- ✓ A 20 month operational programme to connect start-ups with opportunities through the technology.

KEY FACTS

- **Total Project Cost:** \$0.76 million (Trade Program Events, Salaries & Fit-out requirements)
- **Current Funds:** \$0.38 million
- **Funding Needed:** \$0.38 million
- **Timeframe:** July 2017 – July 2019 (4mths Fit-Out + 20mths Events)

ALIGNMENT TO THE FUND OBJECTIVES & FEDERAL AGENDA

The approach to date provides solid foundations to up-scale future plans for the start-up ecosystem and this developing Hub. From winner of the Economic Development Australia 2016 Awards for Excellence in the category of Digital Entrepreneurs to the host for the Prime Minister & Cabinet Round Table on Smart Cities in September 2016, the Rockhampton Region is a recognised innovator in this space.

The growing momentum of Hub membership and wider business community involvement is built around a collective value of human ingenuity, collaboration and innovation. The hub builds on the local start-up culture that has proven results in commercialising ideas, and aims to establish the facilities and programs needed to leverage from that commercialisation into international markets. This is a viable prospect, but requires the catalytic investment sought through this funding application.

In November 2016, a delegation to Singapore and China led by the Mayor of Rockhampton Regional Council was joined by business and educational representatives to promote opportunities in the region. This isn't new. Singapore has a history of 26 years of successful investment, tourism and military activity in the Rockhampton Region, secured for the future with the [\\$2.25 billion 25 year deal](#) that Singapore recently signed with the Federal Government to commit to continuing and expanding this activity.

When it comes to trade, we mean business. It's time to equip and connect our start-up ecosystem too.



11.9 APPOINTMENT OF CONTRACTORS FOR ROCKHAMPTON CBD SMART TECHNOLOGIES PROJECT

File No:	12472
Attachments:	Nil
Authorising Officer:	Tracy Sweeney - Acting General Manager Corporate Services
Author:	Brendan Hooper - Acting Manager Corporate and Technology Services

SUMMARY

In order to deliver the outcomes of the successful Building Our Regions – Rockhampton CBD Smart Technologies submission, approval is sought to engage the existing contractors that have provided goods and services in the implementation of the Riverside Precinct Revitalisation. Council has utilised three (3) local contractors being Anderson Consulting Engineers Pty Ltd, Pierce Engineering Pty Ltd and Stankey Electrics Contracting Pty Ltd in the delivery of the smart technology solutions.

OFFICER'S RECOMMENDATION

THAT Council approves the appointment of Anderson Consulting Engineers Pty Ltd, Pierce Engineering Pty Ltd and Stankey Electrics Contracting Pty Ltd for the delivery of goods and services for the Rockhampton CBD Smart Technologies project.

COMMENTARY

Council has previously engaged three (3) local contractors in Anderson Consulting Engineers Pty Ltd, Pierce Engineering Pty Ltd and Stankey Electrics Contracting Pty Ltd, to design, supply and install smart technology solutions for the riverside precinct. Council has created a good working relationship with these contractors and has been satisfied with the results to date. In addition, these contractors are 100% local and have an in-depth knowledge of the requirements of solutions being implemented.

As the Rockhampton Smart CBD Technologies project will be an expansion of the existing solutions implemented, it would be impractical and disadvantageous to council to change contractors at this stage. This engagement will be done via the existing contracts/agreements in place outlined below.

CONTRACTOR	SUPPLY OF	ENGAGE UNDER
Anderson Consulting Engineers Pty Ltd	Electrical/Smart Technology Design	Consultancy Panel SO12294
Pierce Engineering	Fabrication and Delivery of Street Poles	Existing Standing offer arrangement Contract 12052 - Fabrication and Delivery of Street Poles
Stankey Electrics Contracting Pty Ltd	Supply and installation of electrical and technology solutions	Variation to existing Contract 11875 - Rockhampton Riverside Precinct - Electrical Services Package Stage 1 - Upper Bank

BACKGROUND

The Building our Regions - Rockhampton CBD Smart Technologies project will deliver \$4.04million in 'Riverfront and Smart CBD Technologies' infrastructure. This is a key element of the Rockhampton Region: the Smart Way Forward Strategy that will enable the region to become a Smart Regional Centre.

These technologies include smart CCTV cameras; free public Wi-Fi, digital signage, smart light poles (with LED lights, wayfinding and built-in speakers), and smart parking sensors.

The smart technologies (excluding smart parking sensors) have been delivered as part of the tender for Rockhampton Riverside Precinct - Electrical Services Package Stage 1 - Upper Bank (Contract 11875). This tender was awarded to Stankey Electrics Contracting Pty Ltd and provides the electrical, networking and smart technologies for the Riverside Precinct. Stankey Electrics Contracting Pty Ltd has subsequently been endorsed as the nominated subcontractor for the Electrical Package Stage 2 of the Riverside Precinct.

Anderson Consulting Engineers Pty Ltd was engaged to design and develop the Electrical Services Packages used in the Tenders for Stages 1 and 2 of the Riverside Precinct.

Pierce Engineering Pty Ltd was awarded the Fabrication and Delivery of Street Poles being utilised in stage 1 under a standing offer arrangement (Contract 12052).

The Smart Parking Sensor Technology is being procured through Contract 12164.

PREVIOUS DECISIONS

Council resolved in the Ordinary Meeting held on 8 August 2016 to submit the Rockhampton CBD Smart Technologies and Working Hub for funding application to the Building our Regions (Round 2) Regional Capital Fund.

Council resolved in the Ordinary Meeting held on 21 September 2016 to approve the nomination of Stankey Electrics Contracting Pty Ltd as a selected Subcontractor for electrical works trade package in the tender for Stage 2 of the Rockhampton Riverbank Precinct Project.

LEGISLATIVE CONTEXT

Reference is made to Chapter 6 Contracting clauses of the Local Government Regulation 2012.

Section 235 – Other Exceptions

A local government may enter into a medium-sized contractual arrangement or large-sized contractual arrangement without first inviting written quotes or tenders

if—

(a) the local government resolves it is satisfied that there is only 1 supplier who is reasonably available; or

(b) the local government resolves that, because of the specialised or confidential nature of the services that are sought, it would be impractical or disadvantageous for the local government to invite quotes or tenders; or

(c) a genuine emergency exists; or

(d) the contract is for the purchase of goods and is made by auction; or

(e) the contract is for the purchase of second-hand goods; or

(f) the contract is made with, or under an arrangement with, a government agency.

It is determined that the engagement of Stankey Electrics Contracting Pty Ltd, Pierce Engineering Pty Ltd and Andersons Consulting Engineers Pty Ltd as the selected contractors for the Rockhampton CBD Smart Technologies project is based on item b of section 235 of the Act.

The specialised and technical nature of integration of the Smart Technology further into the CBD area is crucial to the overall project's success and the future expansion and maintenance of the smart systems for the CBD.

Council have worked closely with these contractors to develop functional and compatible IT systems along with the underlying infrastructure. It would be considered both impractical and disadvantageous for the partnership between Council and Stankey Electrics Contracting Pty Ltd, Pierce Engineering and Andersons Consulting Engineers Pty Ltd not to continue.

As outlined above, Stankey Electrics Contracting Pty Ltd has been selected as the nominated subcontractor for the Electrical Package on Stage 2 for the Riverbank Precinct. They are also on Council's prequalified trade supplier arrangement 11871- Trade Services panel.

Andersons Consulting Engineers Pty Ltd is also on prequalified consultancy panel with Council under Consultancy Panel SO12294.

Council has a Standing offer arrangement Contract 12052 - Fabrication and Delivery of Street Poles with Pierce Engineering Pty Ltd.

All three (3) contractors are 100% local as defined by council's Local Preference Policy.

CONCLUSION

It is recommended that the Council approves Stankey Electrics Contracting Pty Ltd, Pierce Engineering and Andersons Consulting Engineers Pty Ltd as selected contractors for the Rockhampton CBD Smart Technologies Project

11.10 COUNCIL DELEGATIONS TO CHIEF EXECUTIVE OFFICER

File No:	4107
Attachments:	<ol style="list-style-type: none">1. Instrument of Delegation - Mineral and Energy Resources (Common Provisions) Act 20142. Instrument of Delegation - Mineral Resources Act 19893. Instrument of Delegation - Waste Reduction and Recycling Regulation 20114. Instrument of Delegation - Environmental Protection Act 1994
Authorising Officer:	Tracy Sweeney - Manager Workforce and Strategy Ross Cheesman - Deputy CEO/General Manager Corporate Services
Author:	Travis Pegrem - Coordinator Industrial Relations and Investigations

SUMMARY

This report seeks Council's approval for delegations under State legislation to the position of Chief Executive Officer.

OFFICER'S RECOMMENDATION

THAT:

- Council resolves as per section 257 of the *Local Government Act 2009* to delegate to the Chief Executive Officer, the exercise of powers contained in schedule 1 of the Instruments attached to this report:
 - Mineral and Energy Resources (Common Provisions) Act 2014*; and
 - Mineral Resources Act 1989*
 - Waste Reduction and Recycling Regulation 2011*
- Council resolves as per section 518(1)(b) of the *Environmental Protection Act 1994* to delegate its powers as the 'administering authority' to the Chief Executive Officer, the exercise of powers contained in schedule 1 of the Instrument of Delegation attached to this report:
 - Environmental Protection Act 1994*
- Council resolves as per section 518(2)(b) of the *Environmental Protection Act 1994* to permit the sub-delegation of the 'administering authority's' power to Council officers.
- These powers must be exercised subject to any limitations contained in schedule 2 of the Instruments of Delegation attached to this report.

COMMENTARY

MacDonnells Law has identified new powers under the Acts listed within the Officer's Recommendation. Subsequently, the Instruments of Delegation containing the new legislative updates for the Acts have been prepared for Council's consideration and are attached to this report.

Listed below are the titles of the Acts and the relevant sections that have been identified as either new or additional delegable powers to be delegated from Council to the position of the Chief Executive Officer (CEO) in the Instruments of Delegation.

New Legislation Added**Attachment 1 – *Mineral and Energy Resources (Common Provisions) Act 2014***

MacDonnells Law has identified powers under the *Mineral and Energy Resources (Common Provisions) Act 2014*. The *Mineral and Energy Resources (Common Provisions) Act 2014* provides a simplified common framework for managing resource authorities in order to optimise development and use of mineral and energy resources.

Changes to Existing Delegable Powers**Attachment 2 – *Mineral Resources Act 1989***

Recent amendments to the resources legislation framework in Queensland has resulted in amendments to the *Mineral Resources Act 1989*. Addition of sections 71(1), 71A(1), 260(1), 260(4), 335F(1), 335F(2)(a), 335G(1), 335G(2), 335H(1), 335L(1), Schedule 1 – 2(1)(a), 3(1)(a), 3(3) and 4. Removal of sections 19(4), 129(1)(a)(ii), 163(2), 164(1)(b), 164(3)(a), 169(1)(a), 181(4)(b)(ii), 181(11), 211(2), 212(1)(b), 212(3)(a), 217(1)(a), 238(2)(a), 254(1)(a), 260(2), 318EQ(1), 318ET(1), 318EX(1)(b) and 318EX(2).

Attachment 3 – *Waste Reduction and Recycling Regulation 2011*

The sunset date on Part 2A – Designation of Areas by Local Governments for General or Green Waste Collection has been extended to 1 July 2017. A footnote has been added to the Instrument of Delegation to confirm this date, no amendment has been made to the power.

Attachment 4 – *Environmental Protection Act 1994*

Minor amendments have been made to remove references to sections to be fixed by proclamation, as all sections introduced by the *Environmental Protection and Other Legislation Amendment Act 2014* have now been proclaimed. No amendments have been made to the powers.

Saving and transitional provisions of the *Environmental Protection Act 1994* introduced by the *State Development, Infrastructure and Planning (Red Tape Reduction) and Other Legislation Amendment Act 2014* have expired and therefore sections 715B(5) and 715B(5) have been removed.

Once Council has resolved to delegate to the CEO, the exercise of powers contained in schedule 1 of the Instruments of Delegation attached to this report, subject to any limitations contained in schedule 2, the sub-delegates will be given specific delegations according to their respective areas of responsibility subject to the same general conditions and, where appropriate, specific limitations. Without such powers and delegations, officers would be unable to complete work activities related to their position under required Acts without reference to Council.

BACKGROUND

Without powers being delegated to the CEO and subsequently sub-delegated to relevant positions, Council operations would be impeded significantly as separate resolutions would be required to allow decisions to be made for a vast number of operational activities that are undertaken on a daily basis.

In relation to the legislation listed, Council's legal advisor, MacDonnells Law, provides a regular service of updates/amendments for relevant state legislation to Council. The information provided herein is as recommended by MacDonnells Law.

PREVIOUS DECISIONS

The previous Instruments of Delegation for the Acts listed within this report was last considered and approved by Council at the following meeting:

Legislation	Meeting Date
<i>Mineral and Energy Resources (Common Provisions) Act 2014</i>	N/A – New
<i>Mineral Resources Act 1989</i>	10 August 2010
<i>Waste Reduction and Recycling Regulation 2011</i>	10 December 2013
<i>Environmental Protection Act 1994</i>	8 September 2015

LEGISLATIVE CONTEXT

Section 257 of the *Local Government Act 2009* allows Council to delegate its powers to one or more individuals or standing committees, including to the CEO. Pursuant to section 257(4) of the *Local Government Act 2009* a delegation to the CEO must be reviewed annually by Council.

To further streamline the decision making process, section 259 of the *Local Government Act 2009* allows the CEO to sub-delegate the powers (including those delegated to him by Council) to another Council employee where appropriate.

Section 518 of the *Environmental Protection Act 1994* allows Council to delegate its powers to an appropriately qualified entity, being the Mayor, standing committee or chairperson of a standing committee, CEO or an employee having the qualifications, experience or standing appropriate to exercise the power.

To further streamline the decision making process, section 518 of the *Environmental Protection Act 1994* allows the CEO to sub-delegate the powers (including those delegated to him by Council) to another Council employee where appropriate.

LEGAL IMPLICATIONS

Important legal principles which apply to the delegation proposal set out in this report are:-

- Council at all times retains power to revoke the delegation. Accordingly, Council retains ultimate control.
- Council, as delegator, has responsibility to ensure that the relevant power is properly exercised. Council will therefore continue to supervise and oversee the exercise of its powers.
- A delegation of power by Council may be subject to any lawful conditions which Council wishes to impose. The imposition of conditions enables Council to impose checks and balances on its delegations. However, the delegated power cannot be unduly fettered.
- The delegate must exercise a delegated power fairly and impartially, without being influenced by or being subject to the discretion of other individuals.

CONCLUSION

This report includes Instruments of Delegation for the relevant legislative Acts incorporating sections to be delegated from the Council to the CEO.

Once Council has resolved to delegate to the CEO, the exercise of powers contained in schedule 1 of the Instruments of Delegation attached to this report subject to any limitations contained in schedule 2 of the Instruments of Delegation, the sub-delegates will be given specific delegations according to their respective areas of responsibility subject to the same general conditions and, where appropriate, specific limitations.

COUNCIL DELEGATIONS TO CHIEF EXECUTIVE OFFICER

Instrument of Delegation – Mineral and Energy Resources (Common Provisions) Act 2014

Meeting Date: 10 January 2017

Attachment No: 1



INSTRUMENT OF DELEGATION

Mineral and Energy Resources (Common Provisions) Act 2014

Under section 257 of the *Local Government Act 2009*, **Rockhampton Regional Council** resolves to delegate the exercise of the powers contained in Schedule 1 to the Chief Executive Officer.

These powers must be exercised subject to the limitations contained in Schedule 2.

All prior resolutions delegating the same powers to the Chief Executive Officer are repealed.

Schedule 1

Mineral and Energy Resources (Common Provisions) Act 2014 ("MERA")

Note: The provisions identified in the table below commence on a date to be fixed by proclamation.

CHAPTER 3 – LAND ACCESS**Part 2 - Private Land****Division 2 – Entries for authorised activities and access requires entry notice**

Entity power given to	Section of MERA	Description
Owner or Occupier of land	39(3)(b)	Power to agree to a shorter period.
Owner or Occupier of land	42(1)	Power to give a waiver of entry notice

Division 3 – Entries for advance activity requires agreement

Entity power given to	Section of MERA	Description
Owner or Occupier of land	44(1)	Power to enter into an agreement (a deferral agreement) with a resource authority holder that a conduct and compensation agreement can be entered into after the entry to the land.
Owner or Occupier of land	45(1)	Power to enter into an opt-out agreement with a resource authority holder.
Owner or Occupier of land	45(2)	Power to elect to opt out of a conduct and compensation agreement in certain circumstances.
Party to an Opt-Out Agreement	45(3)	Power to give notice unilaterally terminating the agreement.

Division 4 – Access to private land outside authorised area**Subdivision 2 – Access rights and access agreements**

Entity power given to	Section of MERA	Description
Owner or Occupier of land	47(1)(a)(i)	Power to agree orally or in writing to the resource authority holder exercising an access right over the access land.
Occupier of the land	47(1)(a)(ii)	Power to agree orally or in writing to the resource authority holder exercising an access right over the access land.
Owner or Occupier of land	48(2)	Power to ask for agreement to be subject to reasonable and relevant conditions offered by the owner or the occupier.

Subdivision 3 – Land Court resolution

Entity power given to	Section of MERA	Description
Owner or Occupier of land	52(1)	Power to apply to the Land Court for it to decide a matter mentioned in Section 49(1) of the <i>Mineral and Energy Resources (Common Provisions) Act 2014</i> .
Owner or Occupier of land	53(1)	Power to apply to the Land Court to vary an access agreement between a resource authority holder and an owner or occupier to land.
Owner of Occupier of land	53(4)	Power to agree to vary access agreement.

Part 3 - Public Land**Division 1 – Entry to public lands and particular uses of public roads**

Entity power given to	Section of MERA	Description
Public land authority	57(3)	Power to agree in writing to a longer period.
Public land authority	59(2)	Power to impose reasonable and relevant conditions on the recourse authority holder about entry to the public land or carrying out of the authorised activity.
Public land authority	59(4)(b)	Power to agree to a longer or shorter period for giving the notice.
Public land authority	59(7)	Power to vary any condition it imposes in certain circumstances.
Public land authority	60(1)	Power to give a waiver of entry notice for an entry made to the land.

Division 2 – Notifiable road use

Entity power given to	Section of MERA	Description
Public road authority	63(1)(b)(i)	Power to sign a compensation agreement as the public road authority.
Public road authority	63(1)(b)(ii)	Power to give written consent to the carrying out of the use.
Public road authority	64(1)	Power to give a reasonable direction (a road use direction) to the recourse authority holder about the way the holder may use the road for the notifiable road use.

Part 4 - Restricted Land**Division 1 – Preliminary****Subdivision 2 - Interpretation**

Entity power given to	Section of MERA	Description
Owner or Occupier of land	67(b)(iv)(A)	Power to agree in writing to the recourse authority holder crossing the land.

Division 2 – Entry for particular authorised activities requires consent

Entity power given to	Section of MERA	Description
Owner or Occupier of land	70(1)	Power to give consent to a recourse authority holder to enter restricted land for a resource authority and carry out a prescribed activity for the resource authority.
Prescribed Person	72(1)	Power to apply to the Land Court for an Order about the matters set out in Section 72(1)(a) or (b) of the Mineral and Energy Resources (Common Provisions) Act 2014.

Part 7 - Compensation and negotiated access**Division 2 – Provisions for conduct and compensation agreements****Subdivision 2 – Conduct and compensation agreement**

Entity power given to	Section of MERA	Description
Eligible Claimant	83(1)	Power to enter into a conduct and compensation agreement.

Subdivision 3 – Negotiation process

Entity power given to	Section of MERA	Description
Eligible Claimant	85(1)	Power to negotiate a conduct and compensation agreement or a deferral agreement.
A party to a conduct and compensation agreement	87(2)	Power to give notice terminating the agreement.
A party to a conduct and compensation agreement	88(2)(a)	Power to give an election notice to the other party and an authorised officer asking for an authorised officer to call a conference to negotiate a conduct and compensation agreement.
A party to a conduct and compensation agreement	88(2)(b)	Power to give an election notice to the other party to call upon the other party to agree to an alternative dispute resolution process to negotiate a conduct and compensation agreement.
A Party to a conference	89(4)	Power to agree (or to ask the other party to agree) to a longer period to finish the conference.
A Party to a conference	89(7)	Power to make and sign an agreement.
A Party to an ADR	90(4)	Power to agree (or to ask the other party to agree) to a longer period to finish the alternative dispute resolution process (ADR).
A Party to an ADR	90(7)	Power to make and sign an Agreement.
A party to a conference or ADR	91(2)	Power to apply to the Land Court for an order requiring the non attending party to pay the attending party's reasonable costs of attending.

Division 3 – Compensation for notifiable road uses

Entity power given to	Section of MERA	Description
Public road authority	94(1)	Power to enter into an agreement (a road compensation agreement) about the holder's compensation liability to the public road authority.

Division 5 – Land Court jurisdiction for compensation and conduct**Subdivision 1 – Negotiation Process**

Entity power given to	Section of MERA	Description
Eligible Party	96(2)	Power to apply to the Land Court for it to decide one of the matters set out in Section 96(2)(a) to (c) of the Mineral and Energy Resources (Common Provisions) Act 2014.

Subdivision 3 – Compensation for notifiable road use

Entity power given to	Section of MERA	Description
Public road authority	100(1)	Power to apply to the Land Court to decide a resource authority holder's compensation liability to a public road authority.

Subdivision 4 – Later review of compensation by Land Court

Entity power given to	Section of MERA	Description
Public road authority/ Eligible Claimant	101(2)	Power to apply to the Land Court for a review of the original compensation.

Schedule 2

Limitations to the Exercise of Power

1. Where Council in its budget or by resolution allocates an amount for the expenditure of Council funds in relation to a particular matter, the delegate in exercising delegated power in relation to that matter, will only commit the Council to reasonably foreseeable expenditure up to the amount allocated.
2. The delegate will not exercise any delegated power in relation to a matter which, to the delegate's knowledge adversely affects, or is likely to adversely affect, the Council's relations with the public at large.
3. The delegate will not exercise any delegated power contrary to a resolution or other decision of Council (including a policy decision relating to the matter).
4. The delegate will not exercise any delegated power in a manner, or which has the foreseeable affect, of being contrary to an adopted Council policy or procedure.
5. The delegate will only exercise a delegated power under this resolution in a manner which complies with the requirements of Council's Planning Scheme and any exercise of power which involves a departure from or variation of those requirements will only be undertaken by Council.
6. The delegate will not exercise any power which cannot lawfully be the subject of delegation by Council.

COUNCIL DELEGATIONS TO CHIEF EXECUTIVE OFFICER

Instrument of Delegation – Mineral Resources Act 1989

Meeting Date: 10 January 2017

Attachment No: 2



INSTRUMENT OF DELEGATION

Mineral Resources Act 1989

Under section 257 of the *Local Government Act 2009*, **Rockhampton Regional Council** resolves to delegate the exercise of the powers contained in Schedule 1 to the Chief Executive Officer.

These powers must be exercised subject to the limitations contained in Schedule 2.

All prior resolutions delegating the same powers to the Chief Executive Officer are repealed.

Schedule 1

*Mineral Resources Act 1989 ("MIRA")***CHAPTER 2 – PROSPECTING PERMITS****Part 1 - Prospecting Permit Categories and Entitlements**

Entity power given to	Section of MIRA	Description
Owner of a Reserve	19(1)	In the specified circumstances, the power to give written consent to a parcel prospecting permit holder entering the surface of a reserve for prospecting purposes.
Owner of Occupied Land	19(2)	In the specified circumstances, the power to give written consent to a district prospecting permit holder entering the surface of occupied land.
Owner of Occupied Land	19(3)	In the specified circumstances, the power to give written consent to a prospecting permit holder entering occupied land for hand mining only.
Owner of Restricted Land	19(4)	In the specified circumstances, the power to give written consent to a prospecting permit holder entering restricted land.
Occupier of Land	20(3)	In the specified circumstances, the power to give a prospecting permit holder consent to enter land.
Owner or Occupier of Land	20(6)	In the specified circumstances, the power to, by written notice given to a prospecting permit holder and the mining registrar, amend or withdraw a consent given for land.

Part 2 - Other Provisions About Prospecting Permits

Entity power given to	Section of MIRA	Description
Owner of any Land	26(3)	Power to apply in writing to the mining registrar to rectify damage referred to in section 26(1) of the <i>Mineral Resources Act 1989</i> that has been caused by an activity allegedly authorised under a prospecting permit in respect of the land.
Owner of Occupied Land	26(9)(a)(i)	In the specified circumstances, the power to give the mining registrar written approval to refund the security.
Owner of Land	32(2)	Power to accept a shorter time period within which notice must be given by a parcel prospecting permit holder before entry to the land.
Owner of Land	34(1)	In the specified circumstances, the power to report to the mining registrar of the mining district in which the land is situated <u>chief executive</u> .
Owner of Land	46(1)	In the specified circumstances, the power to demand that a person purporting to be upon land under the authority of a prospecting permit produce, or cause to be produced, proof of the person's authority for being on the land.
Owner of Occupied Land	47(1)	In the specified circumstances, the power to give written consent to a person, entitled to enter occupied land under a district prospecting permit, entering the land at night.
Owner of Occupied Land	47(2)	In the specified circumstances, the power to give written consent to a person, entitled to enter occupied land under a parcel prospecting permit, entering the land at night.
Occupier of Land	47(4)	In the specified circumstances, the power to give consent.

Instrument of Delegation
Mineral Resources Act 1989

Part-Chapter 43 – MINING CLAIMS

Entity power given to	Section of MIRA	Description
Owner of Restricted Land	51(2)(a)	In the specified circumstances, the power to give written consent to an application for a mining claim over the surface of restricted land being lodged.
Owner of Reserve	54(a)	In the specified circumstances, the power to give consent to the granting of a mining claim over a reserve.
Owner of Land	65(1)(a)	In the specified circumstances, the power to give the mining registrar chief executive a written request for a conference.
Relevant Local Government	71(1)	Lodge a written objection in the approved form to an application for a mining claim.
Owner of Land	71(2)	In the specified circumstances and within the specified time periods, the power to lodge an objection to an application for a mining claim.
Objector	71A(1)	To withdraw an objection to an application for a mining claim by giving a written notice of the withdrawal.
Owner of Land	85(1)(a)	In the specified circumstances, the power to agree with the applicant for a mining claim on an amount of compensation.
Owner of Land	125(9)(a)(i)	In the specified circumstances, the power to give written consent to an application under section 125 of the <i>Mineral Resources Act 1989</i> being lodged.
Owner of Land	125(10)	In the specified circumstances, the power to agree with a mining claim holder on compensation payable in respect of the proposed use of the land as access in respect of the mining claim.

Part 5Chapter 4 – EXPLORATION PERMITS**Part 1 - Preliminary**

Entity power given to	Section of MIRA	Description
Owner of Reserve	129(1)(a)(ii)	In the specified circumstances, the power to give consent to entry on any part of the land comprised in an exploration permit that is the surface area of a reserve for the purposes of facilitating that exploration.
Owner of Restricted Land	129(3)(a)	In the specified circumstances, the power to give written consent to a person entering the surface of the restricted land.
Owner of Reserve	129(6)	In the specified circumstances, the power to withdraw consent given under section 129(1)(a)(ii) of the <i>Mineral Resources Act 1989</i> by giving written notice to the chief executive.
Owner of Land	163(2)	Power to accept a shorter time period within which notice must be given by a exploration permit holder before entry to the land.
Owner of Land	164(1)(b)	In the specified circumstances, the power to give written consent to entry by an exploration permit holder being permitted for a period longer than 3 months.
Owner of Land	164(3)(a)	In the specified circumstances, the power to accept a shorter time period within which notice of renewal must be given.

Instrument of Delegation
Mineral Resources Act 1989

Part 4 – Other Provisions About Exploration Permit		
Owner of Land	167(1)	In the specified circumstances, the power to demand that a person purporting to be upon land under the authority of an exploration permit produce, or cause to be produced, proof of the person's authority for being on the land.
Owner of Land	169(1)(a)	In the specified circumstances, the power to give the mining registrar for the mining district written notice of any of the specified concerns.

Part Chapter 65 – MINERAL DEVELOPMENT LICENCES

Part 1 – Mineral Development Licences Generally

Entity power given to	Section of MIRA	Description
Owner of Land	181(4)(b)(ii)	In the specified circumstances, the power to give consent to entry on land comprised in a mineral development licence that is the surface area of a reserve for any purpose permitted or required under the mineral development licence or by the <i>Mineral Resources Act 1989</i> .
Owner of Restricted Land	181(8)(a)	In the specified circumstances, the power to give consent to a person entering the surface of land that was restricted land when the application for a mineral development licence was lodged.
Owner of Land	181(11)	In the specified circumstances, the power to withdraw consent given under section 181(4)(b)(ii) of the <i>Mineral Resources Act 1989</i> by giving written notice to the chief executive.
Owner of Land	190(7)	In the specified circumstances, the power to lodge a claim for rectification of actual damage to land caused under the authority, or purported authority, of a mineral development licence.
Owner of Land	190(8)(a)	In the specified circumstances, the power to certify that there is no actual damage to land that should be rectified.
Owner of Land	211(2)	Power to accept a shorter time period within which notice must be given by a mineral development licence holder before entering the land under the mineral development licence.
Owner of Land	212(1)(b)	In the specified circumstances, the power to give written consent to entry by a mineral development licence holder being permitted for a period longer than 3 months.
Owner of Land	212(3)(a)	In the specified circumstances, the power to accept a shorter time period within which notice of renewal must be given.
Owner of Land	216(1)	In the specified circumstances, the power to demand that a person purporting to be upon land under the authority of a mineral development licence produce, or cause to be produced, proof of the person's authority for being on the land.
Owner of Land	217(1)(a)	In the specified circumstances, the power to give the mining registrar for the mining district written notice of any of the specified concerns.

Part 7 Chapter 6 – MINING LEASES

Part 1 - Mining Leases Generally

Entity power given to	Section of MIRA	Description
Owner of Land	237(2)(d)(i)	In the specified circumstances, the power to consent to an application to conduct drilling and other activities on land not included in the surface area

Instrument of Delegation
Mineral Resources Act 1989

		covered under a mining lease.
Owner of Land	237(2)(d)(ii)	In the specified circumstances, the power to agree with the mining lease holder about the compensation payable for the activities.
Owner of Reserve Restricted Land	238(1)(a)	In the specified circumstances, the power to give written consent to the granting of a mining lease over the surface of a reserve application.
Owner of Restricted Land	238(2)(a)	In the specified circumstances, the power to give written consent to an application for a mining lease over the surface of land that was restricted land when the application for the lease was lodged.
Owner of Land	254(1)(a)	In the specified circumstances, the power to give the mining registrar a written request for a conference.
Affected Person	260(1)	Power to lodge an objection in writing in an approved form before the objection date for the application of a mining lease.
Objector	260(4)	Power to serve a copy of the objection lodged by the objector in respect of an application for a grant of a mining lease.
Owner of Land	260(2)	In the specified circumstances, the power to lodge an objection to an application for grant of a mining lease.
Owner of Land	261(1)	In specified circumstances, the power to withdraw an objection to an application for a grant of a mining lease.
Owner of Land	279(1)(a)	In the specified circumstances, the power to agree with a mining lease holder on compensation.
Owner of Land	280(1)	In the specified circumstances, the power to agree with the holder of a mining lease as to compensation for any damage caused to the surface of the land.
Owner of Land	283A(2)	In the specified circumstances, the power to agree to amend the original compensation (the amended agreement).
Owner of Land	317(10)	In the specified circumstances, the power to agree with the holder of a mining lease on compensation payable in respect of the proposed use of the land as access in respect of a mining lease.

Part 7A – Roads

Division 2- Notifiable road uses

Entity power given to	Section of MIRA	Description
Road Authority	318EQ(1)	In the specified circumstances, the power to, by written notice, give a mining tenement holder a direction (a road use direction) about the way the holder may use a road for notifiable road uses, being carried out, or proposed to be carried out, by the holder.

Division 3- Compensation for notifiable road uses

Entity power given to	Section of MIRA	Description
Road Authority	318ET(1)	Power to enter into an agreement (a compensation agreement) with a mining tenement holder about the holder's compensation liability to the road authority relating to a road.
Road Authority	318EX(1)(b)	Power to give written consent to the carrying out of a notifiable road use on a road.
Road	318EX(2)	Power to give written consent under section 318EX(1)(b) of the <i>Mineral</i>

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Authority	Resources Act 1989 for any renewal of a mining tenement.
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CHAPTER 13 – ADMINISTRATION AND JUDICIAL FUNCTIONS

Part 2 - Conferences with Eligible Claimants or Owners and Occupiers

Division 1 - Preliminary

Entity power given to	Section of MIRA	Description
Eligible Claimant	335F(1)	Power to give an election notice asking for a conference.
Owner / Occupier of Land	335F(2)(a)	<p>Power to give a notice of the following concerns:</p> <p>(i) that someone claiming to act under a mining tenement, or to have entered land on the tenement holder's instructions:</p> <p>(A) is not authorised to be on the land; or</p> <p>(B) is not complying with a provision of this Act or a condition of the mining tenement;</p> <p>(ii) activities being, or proposed to be, carried out on land apparently under a mining tenement (including when the activities are being, or are to be, carried out);</p> <p>(iii) the conduct on the land of someone apparently acting under a mining tenement;</p>

Division 2 – Calling Conference and Attendance

Entity power given to	Section of MIRA	Description
Eligible Claimant	335G(1)	Power to attend a conference.
Owner / Occupier of Land or other person with an interest in the concerns	335G(2)	Power to attend a conference.
Recipients of notice pursuant to s335G(1)	335H(1)	Power to attend and take part in a conference.

Division 3 - Conduct of Conference

Entity power given to	Section of MIRA	Description
Owner / Occupier of Land or other person with an interest in the concerns or given notice of the	335L(1)	Power to enter into an agreement.

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conference		
<u>CHAPTER 14 – MISCELLANEOUS</u>Part 11 – General		
Entity power given to	Section of MIRA	Description
Owner of Land	403(1)(e)	In the specified circumstances, the power to authorise a person to enter, be upon, use, occupy, or erect any building or structure on or make any other improvement to land.
<u>SCHEDULE 1 - Conditions of Carrying Out Activity for Boundary Definition Purposes</u>		
Entity power given to	Section of MIRA	Description
Owner of Occupier of Restricted Land	2(1)(a)	Power to give written consent to enter restricted land.
Owner of Land	3(1)(a)	Power to give written consent for a person to enter occupied land.
Occupier of Occupied Land	3(3)	In certain circumstances, power to give consent to a person to enter occupied land.
Owner of Reserve	4	Power to give written consent to a person to enter the surface of the reserve.

Schedule 2

Limitations to the Exercise of Power

1. Where Council in its budget or by resolution allocates an amount for the expenditure of Council funds in relation to a particular matter, the delegate in exercising delegated power in relation to that matter, will only commit the Council to reasonably foreseeable expenditure up to the amount allocated.
2. The delegate will not exercise any delegated power in relation to a matter which, to the delegate's knowledge adversely affects, or is likely to adversely affect, the Council's relations with the public at large.
3. The delegate will not exercise any delegated power contrary to a resolution or other decision of Council (including a policy decision relating to the matter).
4. The delegate will not exercise any delegated power in a manner, or which has the foreseeable affect, of being contrary to an adopted Council policy or procedure.
5. The delegate will only exercise a delegated power under this resolution in a manner which complies with the requirements of Council's Planning Scheme and any exercise of power which involves a departure from or variation of those requirements will only be undertaken by Council.
6. The delegate will not exercise any power which cannot lawfully be the subject of delegation by Council.

COUNCIL DELEGATIONS TO CHIEF EXECUTIVE OFFICER

Instrument of Delegation – Waste Reduction and Recycling Regulation 2011

Meeting Date: 10 January 2017

Attachment No: 3



INSTRUMENT OF DELEGATION

Waste Reduction and Recycling Regulation 2011

Under section 257 of the *Local Government Act 2009*, **Rockhampton Regional Council** resolves to delegate the exercise of the powers contained in Schedule 1 to the Chief Executive Officer.

These powers must be exercised subject to the limitations contained in Schedule 2.

All prior resolutions delegating the same powers to the Chief Executive Officer are repealed.

Schedule 1

Waste Reduction and Recycling Regulation 2011 ("WRRR")**Part 2A - Designation of Areas by Local Governments for General or Green Waste Collection**

Entity power given to	Section of WRRR	Description
Local Government	7(b) ¹	Power to decide the frequency of general waste or green waste collection in the designated areas.

¹ [Section 7A of the WRRR confirms that this section expires on 1 July 2017](#)

Schedule 2

Limitations to the Exercise of Power

1. Where Council in its budget or by resolution allocates an amount for the expenditure of Council funds in relation to a particular matter, the delegate in exercising delegated power in relation to that matter, will only commit the Council to reasonably foreseeable expenditure up to the amount allocated.
2. The delegate will not exercise any delegated power in relation to a matter which, to the delegate's knowledge adversely affects, or is likely to adversely affect, the Council's relations with the public at large.
3. The delegate will not exercise any delegated power contrary to a resolution or other decision of Council (including a policy decision relating to the matter).
4. The delegate will not exercise any delegated power in a manner, or which has the foreseeable affect, of being contrary to an adopted Council policy or procedure.
5. The delegate will only exercise a delegated power under this resolution in a manner which complies with the requirements of Council's Planning Scheme and any exercise of power which involves a departure from or variation of those requirements will only be undertaken by Council.
6. The delegate will not exercise any power which cannot lawfully be the subject of delegation by Council.

COUNCIL DELEGATIONS TO CHIEF EXECUTIVE OFFICER

Instrument of Delegation - Environmental Protection Act 1994

Meeting Date: 10 January 2017

Attachment No: 4



INSTRUMENT OF DELEGATION

Environmental Protection Act 1994

Under section 518(1)(b) of the *Environmental Protection Act 1994*, **Rockhampton Regional Council** resolves to delegate the exercise of the powers contained in Schedule 1 to the Chief Executive Officer.

These powers must be exercised subject to the limitations contained in Schedule 2.

All prior resolutions delegating the same powers to the Chief Executive Officer are repealed.

Schedule 1

Environmental Protection Act 1994 ("ENPA")**CHAPTER 5 – ENVIRONMENTAL AUTHORITIES FOR ENVIRONMENTALLY RELEVANT ACTIVITIES****Part 2 - Application Stage****Division 4 – Notices About Not Properly Made Applications**

Entity power given to	Section of ENPA	Description
Administering Authority	128(2)	In certain circumstances, the power to give the applicant a notice.
Administering Authority	129(2)	In certain circumstances, the power to agree to a further period with the applicant.

Division 5 – Joint Applicants

Entity power given to	Section of ENPA	Description
Administering Authority	130(3)	In certain circumstances, the power to: <ul style="list-style-type: none"> (a) give a notice or other document relating to the application to all the applicants, by giving it to the principal applicant nominated in the application; or (b) make a requirement under this chapter relating to the application of all the applicants, by making it of the principal applicant nominated in the application.

Division 6 – Changing Applications**Subdivision 1 – Preliminary**

Entity power given to	Section of ENPA	Description
Administering Authority	131(d)	In certain circumstances, power to be satisfied that a change would not adversely affect the ability of the authority to assess the changed application.

Subdivision 3 – Changed Applications – Effect on Assessment Process

Entity power given to	Section of ENPA	Description
Administering Authority	133(1)(b)	Power to agree in writing to the change.
Administering Authority	134(4)	In certain circumstances, the power to be satisfied that the change would not be likely to attract a submission objecting to the thing the subject of the change, if the notification stage were to apply to the change.

Part 3 - Information Stage**Division 2 – Information Requests**

Entity power given to	Section of ENPA	Description
Administering	140(1)	Power to ask the applicant, by written request (an <i>information request</i>), to

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Authority		give further information needed to assess the application.
Administering Authority	143(2)	In certain circumstances, the power to include in an information request a requirement that the applicant provide an EIS for the application.
Administering Authority	145(1)	Power to, by written notice given to the applicant and without the applicant's agreement, extend the information request period by not more than 10 business days.
Administering Authority	145(3)	Power to request a further extension of the information request period.
Administering Authority	147(3)	Power to, within 5 business days after receiving the request: (a) decide whether to agree to the extension; and (b) give an information notice of the decision.

Part 4 - Notification Stage**Division 1 – Preliminary**

Entity power given to	Section of ENPA	Description
Administering Authority	150(1)(d) [‡]	In certain circumstances, the power to be satisfied that the change would not be likely to attract a submission objecting to the thing the subject of the change, if the notification stage were to apply to the change.

Division 2 – Public Notice

Entity power given to	Section of ENPA	Description
Administering Authority	152(3)	Power to: (a) give the applicant an information notice about the decision before the application notice is given; and (b) decide an additional or substituted way to give or publish the application notice.
Administering Authority	159(2)	In certain circumstances, power to decide whether to allow the application to proceed under this part as if the noncompliance had not happened.
Administering Authority	159(3)	In certain circumstances, power to be satisfied that there has been substantial compliance with the public notice requirements.
Administering Authority	159(4)	In certain circumstances, power to within 10 business days after the decision is made, give the applicant written notice of the decision.
Administering Authority	159(5)(b)(i)	In certain circumstances, power to: (a) fix a substituted way to give or publish the application notice; and (b) give the applicant written notice of the substituted way.
Administering Authority	159(5)(b)(ii)	In certain circumstances, power to: (a) fix a new submission period for the application; and (b) give the applicant written notice of the period.
Administering Authority	159(5)(b)(iii)	In certain circumstances, power to give the applicant an information notice about the decision.

[‡] ~~The Environmental Protection and Other Legislation Amendment Act 2014 changes the section reference from s. 150(1)(c) to s. 150(1)(d). This amendment will be made on a day to be fixed by proclamation (but it has not yet proclaimed).~~

Division 3 – Submissions About Applications

Entity power given to	Section of ENPA	Description
An Entity	160	Power to, within the submission period, make a submission to the administering authority about the application.
Administering Authority	161(3)	Power to accept a written submission even if it is not a properly made submission.
An Entity	162(1)	In certain circumstances, power to, by written notice, amend or replace a submission.

Part 5 - Decision Stage**Division 2 – Deciding an Application****Subdivision 1 – Decision Period**

Entity power given to	Section of ENPA	Description
Administering Authority	168(2)	In certain circumstances, the power to, by written notice given to the applicant and without the applicant's agreement, extend the period mentioned in subsection 168(1) by not more than 20 business days.
Administering Authority	168(4)	Power to request a further extension of the decision period.

Subdivision 2 – Decision

Entity power given to	Section of ENPA	Description
Administering Authority	170(2)(a)	In certain circumstances, the power to decide that that the application be approved subject to the standard conditions for the relevant activity or authority.
Administering Authority	170(2)(b)	In certain circumstances, the power to decide that the applicant be issued an environmental authority on conditions that are different to the standard conditions for the activity or authority.
Administering Authority	171(2)(a)	In certain circumstances, the power to decide that the application be approved subject to conditions that are different to the standard conditions for the activity or authority.
Administering Authority	171(2)(b)	In certain circumstances, the power to decide that the applicant be issued an environmental authority subject to the standard conditions for the activity or authority.
Administering Authority	172(2)	In certain circumstances, the power to decide that the application: (a) be approved subject to conditions; or (b) be refused.
Administering Authority	173(1)	Power to refuse an application if the applicant is not a registered suitable operator.
Administering Authority	173(3)	Power to refuse an application for an environmental authority.

Division 4 – Steps After Deciding Application

Entity power given to	Section of ENPA	Description
Administering Authority	195	In certain circumstances, power to issue an environmental authority to the applicant.
Administering Authority	198(2)	In certain circumstances, power to give the application an information notice about the decision.
Administering Authority	198(4)	In certain circumstances, power to give any submitter for the application an information notice about the decision.

Division 6 – Conditions

Entity power given to	Section of ENPA	Description
Administering Authority	203(1)	Power to impose a condition on an environmental authority or draft environmental authority if: (a) it considers the condition is necessary or desirable; and (b) if the authority is for an application to which section 115 applies - the condition relates to the carrying out of the relevant prescribed ERA.
Administering Authority	203(2)	In certain circumstances, power to impose a condition on an environmental authority or draft environmental authority.
Administering Authority	204(2)	In certain circumstances, power to impose on the authority a condition requiring the holder of the authority to take all reasonable steps to ensure the relevant activity complies with the eligibility criteria for the activity.
Administering Authority	209(4)	Power to enter into an agreement to establish obligations, or secure the performance, of a party to the agreement about a condition.

Part 6 - Amending Environmental Authorities by Administering Authority**Division 1 – Amendments**

Entity power given to	Section of ENPA	Description
Administering Authority	211	In certain circumstances, power to amend an environmental authority to correct a clerical or formal error.
Administering Authority	212(2)	Power to amend the environmental authority to ensure compliance with conditions included in a determination made by the NNTT under the Commonwealth Native Title Act, section 38(1)(c).
Administering Authority	212(3)	Power to give written notice of the amendment to the environmental authority holder.
Administering authority	212A(2)	Power to amend the environmental authority to ensure it is consistent with the regional interests development approval.
Administering authority	212A(3)	Power to give written notice the amendment to the environmental authority holder.
Administering Authority	213(2)	In certain circumstances, power to amend the existing authority to replace the existing standard conditions with the new standard conditions.
Administering Authority	213(3)	In certain circumstances, power to give written notice of the amendment to the environmental authority holder.
Administering Authority	214(2)	In certain circumstances, power to amend the environmental authority.

Administering Authority	214(3)	In certain circumstances, power to give: (a) an information notice about the amendment to the holder of the environmental authority; and (b) written notice of the amendment to the assessment manager for the development application.
Administering Authority	215(1)	In certain circumstances, power to amend an environmental authority.
Administering Authority	215(1)(a)	Power to consider the amendment is necessary or desirable because of a matter mentioned in subsection (2) and the procedure under division 2 is followed.

Division 2 – Procedure for Particular Amendments

Entity power given to	Section of ENPA	Description
Administering Authority	216	Power to propose to amend an environmental authority
Administering Authority	217	Power to give the environmental authority holder a written notice (the proposed amendment notice).
Administering Authority	218	Power to consider any written representation made within the period stated in the proposed amendment notice by the holder of the environmental authority.
Administering Authority	219(1)	In certain circumstances, power to believe a ground exists to make the proposed amendment, and to make the amendment.
Administering Authority	219(3)	Power to give the holder written notice of the decision.
Administering Authority	220	Power to give the environmental authority holder an information notice about the decision.

Division 3 – Steps for Amendments

Entity power given to	Section of ENPA	Description
Administering Authority	221(2)(b)	In certain circumstances, power to issue the amended environmental authority to the holder.

Part 7 - Amendment of Environmental Authorities by Application

Division 2A – Provision for Particular Amendment Applications

Entity power given to	Section of ENPA	Description
Administering Authority	227A(2)	Power to refuse application within 10 business days after receiving the amendment application.
Administering Authority	227A(3)	Power to require the holder of the environmental authority to make a site-specific application for a new environmental authority.
Administering Authority	227A(5)	Power to give written notice of any refusal.

Division 3 – Assessment Level Decisions

Entity power given to	Section of ENPA	Description
Administering Authority	228(1)	Power to decide whether the proposed amendment is a major or minor amendment.
Administering Authority	229	Power to give the applicant a written notice.
Administering Authority	230(2)	In certain circumstances, power to be satisfied that: <ul style="list-style-type: none"> (a) there is likely to be a substantial increase in the risk of environmental harm under the amended environmental authority; and (b) the risk is the result of a substantial change in: <ul style="list-style-type: none"> (i) the quantity or quality of contaminant permitted to be released into the environment; or (ii) the results of the release of a quantity or quality of contaminant permitted to be released into the environment.

Division 4 – Process if Proposed Amendment is a Major Amendment

Entity power given to	Section of ENPA	Description
Administering Authority	233(3)	In certain circumstances, power to: <ul style="list-style-type: none"> (a) decide another way of publishing the notice for subsection (2)(b)(ii); and (b) give the applicant an information notice about the decision before the notice is published.
Administering Authority	237(1)(b)	Power to agree in writing to the change.
Administering Authority	238(3)(a)	In certain circumstances, power to within 10 business days after notice of the change is received, ask the applicant to give further information needed to assess the application
Administering Authority	238(7)	In certain circumstances, power to be satisfied the change would not be likely to attract a submission objecting to the thing the subject of the change, if the notification stage were to apply to the change.

Division 5 – Process if Proposed Amendment is Minor Amendment

Entity power given to	Section of ENPA	Description
Administering Authority	240(1)	Power to decide either to approve or refuse the application: <ul style="list-style-type: none"> (a) for a condition conversion – within 10 business days after the application is received (for a condition conversion); or (b) otherwise, within 10 business days after notice of the assessment level decision is given to the applicant.
Administering Authority	240(2)	Power to be satisfied the proposed amendment is necessary or desirable.
Administering Authority	240(3)	In certain circumstances, power to make any other amendments to the conditions of the environmental authority it considers: <ul style="list-style-type: none"> (a) relate to the subject matter of the proposed amendment; and (b) are necessary or desirable.

Division 6 – Steps After Deciding Amendment Application

Entity power given to	Section of ENPA	Description
Administering Authority	242(1)(b)	In certain circumstances, power to issue the amended environmental authority to the applicant.
Administering Authority	242(3)	Power to within 5 business days after the decision is made, give the applicant an information notice about the decision.

Part 8 - Amalgamating Environmental Authorities**Division 2 – Deciding Amalgamation Application**

Entity power given to	Section of ENPA	Description
Administering Authority	247(1)	Power to, within 20 business days after the day the amalgamation application is received, decide to: (a) approve the application; or (b) if the application is for an amalgamated local government authority or amalgamated project authority—refuse the application.
Administering Authority	247(2)(c)	Power to be satisfied there is an appropriate degree of integration between the activities.
Administering Authority	247(3)	Power to be satisfied the relevant activities for the existing environmental authorities are being carried out as a single integrated operation.

Division 3 – Miscellaneous Provisions

Entity power given to	Section of ENPA	Description
Administering Authority	248(b)	In certain circumstances, power to issue to the applicant: (a) if the application is for an amalgamated corporate authority – an amalgamated corporate authority; or (b) if the application is for an amalgamated local government authority – an amalgamated local government authority; or (c) if the application is for an amalgamated project authority – an amalgamated project authority.
Administering Authority	249	Power to, within 10 business days after refusing an amalgamation application, give the applicant an information notice about the decision.

Division 4 – De-amalgamating Environmental Authorities

Entity power given to	Section of ENPA	Description
Administering Authority	250C(a)	Power to de-amalgamate the relevant authority within 15 business days after receiving a de-amalgamation application that complies with section 250B.

Part 9 - Transferring Environmental Authorities for Prescribed ERAs

Entity power given to	Section of ENPA	Description
Administering Authority	254(1)	Power to consider each transfer application and decide to: (a) approve the transfer; or (b) refuse the transfer.

Administering Authority	255(1)(b)	In certain circumstances, power to issue the amended environmental authority (the transferred environmental authority) to each holder.
Administering Authority	255(2)	In certain circumstances, power to, within 10 business days after the decision is made, give the existing holder and the proposed holder written notice of the decision.

Part 10 - Surrender of Environmental Authorities

Division 1 – Preliminary

Entity power given to	Section of ENPA	Description
Administering Authority	258(2)	In certain circumstances, power to by written notice (a surrender notice), require the holder of the environmental authority to make a surrender application.
Administering Authority	261(2)	In certain circumstances, power to approve a surrender application for part of the environmental authority.

Division 3 – Final Rehabilitation Reports

Entity power given to	Section of ENPA	Description
Administering Authority	264(2)(a)	Power to agree to a methodology.

Division 4 – Requests for Information

Entity power given to	Section of ENPA	Description
Administering Authority	265	Power to ask the applicant, by written request, to give further information needed to assess the surrender application.

Division 5 – Deciding Surrender Applications

Entity power given to	Section of ENPA	Description
Administering Authority	266(1)	Power to decide to: (a) approve the surrender application; or (b) refuse the surrender application.
Administering Authority	269(a)	Power to be satisfied the conditions of the environmental authority have been complied with.
Administering Authority	269(b)(i)	Power to be satisfied the land on which each relevant activity for the environmental authority has been carried out has been satisfactorily rehabilitated.
Administering Authority	269(b)(ii)	Power to be satisfied the land will be satisfactorily rehabilitated under a transitional environmental program.
Administering Authority	269(c)	Power to be satisfied of another circumstance prescribed by regulation.

Division 8 – Miscellaneous Provisions

Entity power given to	Section of ENPA	Description
Administering Authority	275(a)(ii)	In certain circumstances, power to give the applicant written notice of the decision.
Administering Authority	275(b)	In certain circumstances, power to give the applicant an information notice about the decision.

Part 11 - Cancellation or Suspension of Environmental Authorities**Division 1 – Preliminary**

Entity power given to	Section of ENPA	Description
Administering Authority	278(1)	In certain circumstances, power to cancel or suspend an environmental authority.

Division 2 – Procedure for Cancellation or Suspension by Administering Authority

Entity power given to	Section of ENPA	Description
Administering Authority	280(1)	Power to give the environmental authority holder a written notice.
Administering Authority	281	Power to consider any written representation made within the stated period by the environmental authority holder.
Administering Authority	282(1)	In certain circumstances, power to believe a ground exists to take the proposed action.
Administering Authority	282(1)(a)	In certain circumstances, power to suspend the environmental authority for no longer than the proposed suspension period.
Administering Authority	282(1)(b)	In certain circumstances, power to either cancel the environmental authority or suspend it for a fixed period.
Administering Authority	282(3)	Power to decide not to take the proposed action and, if so, give the environmental authority holder written notice of the decision.
Administering Authority	283(1)	Power to give the environmental authority holder an information notice about the decision.
Administering Authority	283(2)	In certain circumstances, power to give written notice of the decision to the chief executive administering the resource legislation.

Part 11A - General Provisions**Division 3 – Deciding Suspension Applications**

Entity power given to	Section of ENPA	Description
Administering Authority	284C	Power to decide whether to approve the application or refuse the application.
Administering Authority	284F(1)(a)(ii)	In certain circumstances, power to give the holder of the environmental authority written notice of the decision.
Administering Authority	284F(1)(b)	In certain circumstances, power to give the holder an information notice about the decision.

Part 12 - General Provisions**Division 1 – Plan of Operations for Environmental Authority Relating to Mining Lease or Petroleum Lease**

Entity power given to	Section of ENPA	Description
Administering Authority	287	Power to agree with the holder in writing to a shorter period.

Division 2 – Financial Assurance**Subdivision 1 – Requiring Financial Assurance**

Entity power given to	Section of ENPA	Description
Administering Authority	292(1)	Power to, by condition of an environmental authority, require the holder of the environmental authority to give the administering authority financial assurance.
Administering Authority	292(2)	Power to be satisfied the condition is justified.
Administering Authority	292(3)	Power to require a financial assurance to remain in force until satisfied no claim is likely to be made on the assurance.

Subdivision 2 – Amount and Form of Financial Assurance

Entity power given to	Section of ENPA	Description
Administering Authority	295(1)	Power to decide the amount and form of financial assurance required under a condition of an environmental authority.
Administering Authority	295(2)(c)	Power to agree with the holder of the environmental authority to a further period.
Administering Authority	295(4)	Power to form an opinion as to the amount that represents the total of likely costs and expenses that may be incurred taking action to rehabilitate or restore and protect the environment because of environmental harm that may be caused by the activity.
Administering Authority	296	Power to, within 5 business days after making a decision under section 295(1), give an information notice about the decision to the holder of the environmental authority.

Subdivision 3 – Claiming or Realising Financial Assurance

Entity power given to	Section of ENPA	Description
Administering Authority	299(2)	Power to must give written notice to the entity who gave the financial assurance.
Administering Authority	300	Power to consider any written representations made within the stated period by the entity who gave the financial assurance.
Administering Authority	301(1)	Power to decide whether to make a claim on or realise the financial assurance.
Administering Authority	301(2)	In certain circumstances, power to give the entity an information notice about the decision.

Subdivision 4 – Amending or Discharging Financial Assurance

Entity power given to	Section of ENPA	Description
Administering Authority	304(1)	Power to, by written notice, require the applicant to give it a compliance statement for the financial assurance before deciding the application.
Administering Authority	305(1)(a)	Power to approve or refuse the application.
Administering Authority	305(1)(b)	In certain circumstances, power to give the applicant an information notice about the decision.
Administering Authority	305(3)	Power to be satisfied no claim is likely to be made on the assurance.
Administering Authority	305(5)	Power to withhold making a decision under subsection (1).
Administering Authority	306(1)	In certain circumstances, power to, at any time, require the holder of an environmental authority or small scale mining tenure for which financial assurance has been given to change the amount of the financial assurance.
Administering Authority	306(3)	Power to give written notice to the holder of the environmental authority or small scale mining tenure.
Administering Authority	306(6)	In certain circumstances, power to consider any written submissions made by the holder within the stated period.

Division 3 – Annual Fees and Returns**Subdivision 1 – Annual Notices**

Entity power given to	Section of ENPA	Description
Administering Authority	308(2)	In certain circumstances, power to give the environmental authority holder a written notice complying with subsection (3) (an annual notice).
Administering Authority	310(1)	In certain circumstances, power to change the anniversary day, for an environmental authority for which an annual fee is prescribed under a regulation, to another day (the new day).
Administering Authority	311	Power to decide whether or not to change the anniversary day to the new day.
Administering Authority	312	Power to give the holder: (a) if the decision is to change the day – written notice of the decision; or (b) if the decision is not to change the day – an information notice about the decision.

Division 4 – Non-Compliance with Eligibility Criteria

Entity power given to	Section of ENPA	Description
Administering Authority	314(2)	In certain circumstances, power to require the holder of the environmental authority to: (a) make a site-specific application for a new environmental authority under part 2; or (b) make an amendment application for the authority under part 7.
Administering Authority	314(3)	Power to give written notice of the proposed requirement to the holder of the environmental authority.

Administering Authority	314(5)	Power to consider any representations made by the holder within the stated period.
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Division 5 – Miscellaneous Provisions

Entity power given to	Section of ENPA	Description
Administering Authority	315(1)	Power to ask any entity for advice, comment or information about an application made under this chapter at any time.

CHAPTER 7 – ENVIRONMENTAL MANAGEMENT

Part 1 - Environmental Duties

Division 2 – Duty to Notify of Environmental Harm

Subdivision 3B – Duty of Local Government ²

Entity power given to	Section of ENPA	Description
Local Government	320DB(1)	Power to give the administering authority written notice of the activity.
Local Government	320DB(2)	Power to give the administering authority written notice of <ul style="list-style-type: none"> (a) the nature of the event or change in the condition and the circumstances in which the event or change happened or is happening; or (b) within 24 hours after becoming aware of the event or change in condition of the land.

Part 2 - Environmental Evaluations

Division 2 – Environmental Audits

Subdivision 1 – Audit Requirements

Entity power given to	Section of ENPA	Description
Administering Authority	322(1)	In certain circumstances, power to, by written notice, require the holder of an environmental authority to: <ul style="list-style-type: none"> (a) conduct or commission an audit (an <i>environmental audit</i>) about a stated matter concerning a relevant activity; and (b) give the administering authority an environmental report on the audit.
Administering Authority	322(2)	Power to be reasonably satisfied the audit is necessary or desirable.
Administering Authority	323(1)	Power to be satisfied that: <ul style="list-style-type: none"> (a) a person is, or has been, contravening a regulation, an environmental protection policy, a transitional environmental program or an enforceable undertaking; or (b) a person is, or has been, contravening any of the following provisions: <ul style="list-style-type: none"> (i) section 363E; (ii) section 440Q;

² ~~The Environmental Protection and Other Legislation Amendment Act 2014 introduces new s. 320DB. This amendment will be made on a day to be fixed by proclamation (but it has not yet proclaimed).~~

		(iii) section 440ZG; (iv) a provision of chapter 8, part 3D, 3E or 3F.
Administering Authority	323(2)	Power to, by written notice (also an audit notice), require the person to: (a) Conduct or commission an audit (also an environmental audit) about the matter; and (b) give the administering authority an environmental report about the audit.

Division 3 – Environmental Investigations

Entity power given to	Section of ENPA	Description
Administering Authority	326B(1)	Power to be satisfied on reasonable grounds that: (a) an event has happened causing environmental harm while an activity was being carried out; or (b) an activity or proposed activity is causing, or is likely to cause environmental harm.
Administering Authority	326B(2)	Power to, by written notice (an investigation notice), require the person who has carried out, is carrying out or is proposing to carry out the activity to: (a) conduct or commission an investigation (an environmental investigation) about the event or activity; and (b) submit an environmental report about the investigation to the authority.
Administering Authority	326BA(1) ³	Power to be satisfied that circumstances contained in subsection (a) – (c) apply to the land.
Administering Authority	326BA(2)	Power to give written notice (an investigation notice) requiring a prescribed responsible person for the land to: (a) conduct or commission an investigation; and (b) give the administering authority an investigation report.

Division 5 – Steps After Receiving Environmental Reports

Entity power given to	Section of ENPA	Description
Administering Authority	326F(2)	Power to, by written notice, ask the recipient to give further information needed to decide whether to approve the environmental report.
Administering Authority	326G(4)	Power to decide to accept the report or to refuse to accept the report.
Administering Authority	326G(5)	Power to be satisfied that the report does not adequately address the relevant matters for the environmental investigation to which the report relates.
Administering Authority	326G(7)	In certain circumstances, power to extend the period mentioned in subsection (6) for making the decision.
Administering Authority	326G(7)(a)	Power to be satisfied that there are special circumstances for extending the time.
Administering Authority	326G(8)	Power to give the recipient written notice of the decision within 5 business days after making the decision.
Administering Authority	326H	Power to do one or more of the following: (a) require the recipient to prepare and submit a transitional environmental

³ ~~The Environmental Protection and Other Legislation Amendment Act 2014 introduces new s. 326BA. This amendment will be made on a day to be fixed by proclamation (but it has not yet proclaimed).~~

		<p>program to it;</p> <p>(b) if the recipient is the holder of an environmental authority – amend the conditions of the authority;</p> <p>(c) serve an environmental protection order on the recipient; or</p> <p>(d) take any other action it considers appropriate.</p>
Administering Authority	326I(2)	Power to require the recipient to conduct or commission another environmental investigation and submit a report on the investigation to it.
Administering Authority	326I(3)	Power to give written notice to the recipient.

Part 3 - Transitional Environmental Programs

Division 2 - Submission and Approval of Transitional Environmental Programs

Entity power given to	Section of ENPA	Description
Administering Authority	332(1)	Power to require a person or public authority to prepare and submit for approval a draft transitional environmental program: <ul style="list-style-type: none"> (a) as a condition of an environmental authority; or (b) as a development condition of a development approval.
Administering Authority	332(2)	In the specified circumstances, the power to require a person or public authority to prepare and submit for approval a draft transitional environmental program.
Administering Authority	334A(1)	Power to, by written notice, ask the person or public authority that submitted the draft transitional environmental program to give further information needed to decide whether to approve the draft program.
Administering Authority	336(1)	Power to invite a person or public authority that has submitted a draft transitional environmental program and another person who has made a submission under section 335 of the Environmental Protection Act 1994 about the transitional environmental program, to a conference to help in deciding whether or not to approve the program.
Administering Authority	336(2)	Power to give written notice to all persons invited to attend a conference of when and where the conference is to be held.
Administering Authority	336(3)	If its considered impracticable to give notice to all persons invited to attend a conference, the power to give notice of the conference by publishing a notice in the newspapers you decide.
Administering Authority	336(4)	In the specified circumstances, the power to appoint an independent person to mediate a conference.
Administering Authority	336A(1)	Power to ask any person for advice, comment or information about a submission for approval of a transitional environmental program at any time.
Administering Authority	337(1)	In the specified circumstances, the power to decide whether to approve a draft transitional environmental program within the specified time period.
Administering Authority	337(2)	In certain circumstances, power to extend the period mentioned in subsection (1) for making the decision.
Administering Authority	337(2)	Power to gives an information notice about the decision to extend to the person or public authority that submitted the program and any submitters.
Administering Authority	338(1)	In deciding whether to approve or refuse to approve a draft program or the conditions (if any) of the approval, the power to: <ul style="list-style-type: none"> (a) comply with any relevant regulatory requirement; and (b) subject to paragraph (a), consider the specified criteria.
Administering	339(1)	Power to:

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Authority		(a) approve a draft transitional environment program: (i) as submitted; or (ii) as amended at the request, or with the agreement, of the administering authority; or (b) refuse to approve a draft transitional environmental program.
Administering Authority	339(2)	Power to impose on an approval of a draft transitional environmental program: (a) any conditions the authority must impose under a regulatory requirement; (b) a condition requiring the holder of the approval to give an amount of financial assurance as security for compliance with the transitional environmental program and any conditions of the program; and (c) any other conditions the administering authority considers appropriate.
Administering Authority	340(1)	Power to, within 8 business days after making a decision under section 339, give the person or public authority that submitted the program a written notice about the decision.
Administering Authority	340(2)(b)	If the program is approved, power to state any conditions imposed on the approval by the administering authority.
Administering Authority	340(2)(c)	If the program is approved, power to state the day the approval ends.
Administering Authority	340(3)	If the program is refused, or approved with conditions, power to give an information notice.
Administering Authority	342(2)	In the specified circumstances, the power to consider and decide whether to approve a draft transitional environmental program if satisfied there has been substantial compliance with the Environmental Protection Act 1994.
Administering Authority	343A(2)(B)	In certain circumstances, power to give the holder of the environmental authority a copy of the environmental authority including the note.

Division 3A – Financial Assurances

Entity power given to	Section of ENPA	Description
Administering Authority	344(3)	In the specified circumstances, the power to approve an amendment of an approval for a transitional environmental program for an environmentally relevant activity.
Administering Authority	344(4)	Without limiting the matters to be considered in deciding an application, the power to have regard to the specified criteria.
Administering Authority	344A(2)	Power to may recover the reasonable costs or expenses of taking the action by making a claim on or realising the financial assurance or part of it.
Administering Authority	344A(3)	Power to give written notice to the person who gave the financial assurance.
Administering Authority	344B	Power to consider any written representations made within the stated period by the person who gave the financial assurance.
Administering Authority	344C(1)	Power to, within 10 business days after the end of the stated period, decide whether to make a claim on or realise the financial assurance.
Administering Authority	344C(2)	Power to, within 5 business days after making the decision, give the person an information notice about the decision.

Division 3B – Cancellation of Approval for Transitional Environmental Programs

Entity power given to	Section of ENPA	Description
Administering Authority	344E(1)	Power to cancel the approval for a transitional environmental program for the reasons provided in that subsection.
Administering Authority	344E(1)(b)	Power to be satisfied the approval holder has: (i) disposed of the place or business to which the program relates; or (ii) ceased the activity to which the program relates.
Administering Authority	344E(2)(a)	Power to give a notice stating the details of the cancellation to the approval holder.
Administering Authority	344F(2)(a)	Power to withdraw the notice by another written notice.
Administering Authority	344G(2)	Power to give the holder of the environmental authority a copy of the authority that does not include the note.

Part 4 - Special Provisions about Voluntary Submission of Transitional Environmental Programs

Entity power given to	Section of ENPA	Description
Administering Authority	352(1)	In the specified circumstances, the power to give written notice to a person of: (a) receiving a program notice; and (b) the day by which a draft transitional environmental program dealing with the activity must be submitted for approval.
Administering Authority	355(1)	In certain circumstances, power to apply to the Court for an order that section 353(1) does not apply to the person for any continuation of the original offence.

Part 4A - Temporary Emissions Licences

Entity power given to	Section of ENPA	Description
Administering Authority	357E(1)	Power to: (a) grant the application for a temporary emissions licence: (i) as submitted; (ii) on different terms than have been requested in the application; or (b) refuse to grant the application for a temporary emissions licence.
Administering Authority	357E(2)	Power to impose conditions on the temporary emissions licence it considers are necessary or desirable.
Administering Authority	357F	Power to give the applicant an information notice about the decision if the decision is to: (a) grant the application on different terms than have been requested in the application: or (b) refuse the application.
Administering Authority	357J	In certain circumstances, power to amend, cancel or suspend a temporary emissions licence.

Part 5 - Environmental Protection Orders

Entity power given to	Section of ENPA	Description
Administering Authority	358	In the specified circumstances, the power to issue an order (an environmental protection order) to a person.
Administering Authority	359	Before deciding to issue an environmental protection order, the power to consider the standard criteria.

CHAPTER 9 – INVESTIGATION AND ENFORCEMENT**Part 1 - Administration Generally**

Entity power given to	Section of ENPA	Description
As delegate of the Chief Executive of the Environmental Protection Agency: 516(1)(b) and 517	463 (1)(c) ⁴	In the specified circumstances, the power to appoint an authorised person.
As delegate of the Chief Executive of the Environmental Protection Agency: 516(1)(b) & 517.	448 ⁵	In the specified circumstances, the power to issue an identity card to each authorised person appointed.
Administering Authority	451(1)	In the specified circumstances, the power to give a notice under section 451 of the Environmental Protection Act 1994 to a person requiring the person to give information relevant to the administration and enforcement of the

⁴ The power is subject to the following limitations as per the instrument of delegation of the Chief Executive of the Environmental Protection Agency dated 7 February 2008 (copy attached).

1. The only powers under the *Environmental Protection Act 1994* the authorised person who is appointed by the Local Govt is to exercise are:
 - (a) Sections 440J, 452, 453, 455, 456, 457, 459, 460, 461, 462, 463A, 463, 464, 465 and 466 of the *Environmental Protection Act 1994*; and
 - (b) Only to be used in relation to those matters referred to in s.440D of the *Environmental Protection Act 1994*; and
2. That the certificates issued pursuant to s.490 of the *Environmental Protection Act 1994* are only used in respect of Court proceedings in relation to those matters referred to in s.440D of the *Environmental Protection Act 1994*.

⁵ The power is subject to the following limitations as per the instrument of delegation of the Chief Executive of the Environmental Protection Agency dated 7 February 2008 (copy attached).

1. The only powers under the *Environmental Protection Act 1994* the authorised person who is appointed by the Local Govt is to exercise are:
 - (a) Sections 440J, 452, 453, 455, 456, 457, 459, 460, 461, 462, 463A, 463, 464, 465 and 466 of the *Environmental Protection Act 1994*; and
 - (b) Only to be used in relation to those matters referred to in s.440D of the *Environmental Protection Act 1994*; and
2. That the certificates issued pursuant to s.490 of the *Environmental Protection Act 1994* are only used in respect of Court proceedings in relation to those matters referred to in s.440D of the *Environmental Protection Act 1994*.

	Environmental Protection Act 1994.
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Part 2 - Powers of Authorised Persons for Places and Vehicles

Entity power given to	Section of ENPA	Description
Administering Authority	454(1)	Power to believe on reasonable grounds land is contaminated land
Administering Authority	454(3)(b)	Power to give written notice to the owner and occupier.
Administering Authority	458(2)	In the specified circumstances, the power to give written notice of an application made under section 458(1) of the Environmental Protection Act 1994 to: <ul style="list-style-type: none"> (a) the owner of the land; and (b) if the owner is not the occupier of the land - the occupier; and (c) if the application is for an order to carry out work mentioned in section 458(1)(a) of the Environmental Protection Act 1994: <ul style="list-style-type: none"> (i) the environmental authority holder; or (ii) transitional environmental program approval holder; or (iii) the registered operator. (d) if the application is for an order to take actions required under a clean-up notice – the recipient of the notice.
As delegate of the Chief Executive of the Environmental Protection Agency: 516(1)(b) and 517.	490	In the specified circumstances, the power to issue a certificate.

CHAPTER 10 – LEGAL PROCEEDINGS

Part 3 - Legal Proceedings

Entity power given to	Section of ENPA	Description
Administering Authority	502A(2)	Power to carry out work or take any other action reasonably necessary to fulfil the requirements of an order made against a person under section 502.

Part 5 - Enforceable Undertakings⁶

Entity power given to	Section of ENPA	Description
Administering Authority	507(1)	Power to accept an enforceable undertaking.
Administering Authority	507(3)	Power to give written notice of: <ul style="list-style-type: none"> (a) administering authority's decision to accept or reject the enforceable undertaking; and

⁶ ~~The Environmental Protection and Other Legislation Amendment Act 2014 introduces a new Part 5 (Enforceable undertakings). These new provisions will come into effect on a day to be fixed by proclamation (but it has not yet been proclaimed), and once devolved to Council by the State.~~

		(b) the reasons for the decision.
Administering Authority	507(4)	Power to form a reasonable belief that the undertaking will: (a) secure compliance with the Act; and (b) enhance the protection of the environment.
Administering Authority	509(1)	Power to give written agreement to: (a) withdraw the undertaking; or (b) vary the undertaking.
Administering Authority	510	Power to amend an enforceable undertaking with the written agreement of the person who made the undertaking.
Administering Authority	511	Power to: (a) amend an enforceable undertaking to correct a clerical or formal error; and (b) give written notice of the amendment to the enforceable undertaking.
Administering Authority	512(1)	Power to amend or suspend an enforceable undertaking if the administering authority is satisfied of the requirements in paragraphs (a) – (d).
Administering Authority	512(2)	Power to give a notice stating proposed action in respect of the enforceable undertaking.
Administering Authority	512(4)	Power to consider written representations.
Administering Authority	512(5)	Power to decide to take action under the section.
Administering Authority	512(6)	Power to give an information notice about the decision within 10 business days after making the decision.
Administering Authority	512(7)	Power to give written notice of a decision not to take action.
Administering Authority	513(2)	Power to apply to the Magistrates Court for an order about contravention of enforceable undertaking.

Part 3 - Review of Decisions and Appeals

Division 2 – Internal Review of Decisions

Entity power given to	Section of ENPA	Description
Administering Authority	521(2)(a)(ii)	In the specified circumstances, the power to allow a longer period within which an application for a review of an original decision must be made.
Administering Authority	521(5)	In the specified circumstances, the power to, within the decision period for a review of an original decision: (a) review the original decision; and (b) consider any submissions properly made by a recipient of a review notice; and (c) make a decision (the review decision) to: (i) confirm or revoke the original decision; or (ii) vary the original decision in a way considered appropriate.
Administering Authority	521(8)	Within 10 business days after making a review decision, the power to give written notice of the review decision to the applicant and persons who were given notice of the original decision.

Division 3 – Appeals**Subdivision 2 – Appeals to Court**

Entity power given to	Section of ENPA	Description
Dissatisfied person	531(1)	In certain circumstances, power to may appeal against the decision to the Court.

CHAPTER 12 – MISCELLANEOUS**Part 3A - Auditors****Division 1 – Preliminary**

Entity power given to	Section of ENPA	Description
Auditor	568	Power to, subject to the terms of an approval under division 2: <ul style="list-style-type: none"> (a) conduct environmental audits and prepare environmental reports about audits under chapter 7, part 2, division 2; and (b) evaluate site investigation reports, validation reports, draft site management plans and draft amendments of site management plans prepared under chapter 7, part 8 against criteria prescribed under a regulation (the prescribed criteria) and: <ul style="list-style-type: none"> (i) if the report or plan does not comply with the prescribed criteria—prepare a report about the evaluation; or (ii) if the report or plan complies with the prescribed criteria—provide written certification that it complies with the criteria; and (c) audit or evaluate another matter or thing prescribed under a regulation and prepare a report or written certification about the audit or evaluation.

CHAPTER 13 – SAVINGS, TRANSITIONAL AND RELATED PROVISIONS**Part 5 - Transitional provisions for *Environmental Protection Legislation Amendment Act 2003***

Entity power given to	Section of ENPA	Description
Administering Authority	620(2)	In the specified circumstances, the power to change or cancel a condition of a environmental authority.
Administering Authority	620(5)(b)	In the specified circumstances, if a condition has changed or cancelled, the power to, within the specified time period, give the registered operator: <ul style="list-style-type: none"> (i) a copy of the development conditions as applying after the change or cancellation; and (ii) a registration certificate.
Administering Authority	621(1)	Power to, for an activity being carried out under an environmental authority mentioned in section 619(1) of the Environmental Protection Act 1994, give to the person carrying out the activity: <ul style="list-style-type: none"> (a) if the activity was carried out at 1 location - a development approval for the location; or (b) if the activity was carried at more than 1 location and is not a mobile and temporary environmentally relevant activity - a development approval for each location; or (c) if the activity is a mobile and temporary environmentally relevant

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		activity - a development approval for a mobile and temporary environmentally relevant activity.
Administering Authority	621(2)	If the person carrying out the activity does not have a registration certificate for the activity, the power to also give the person a registration certificate for the activity.
Administering Authority	621(4)	If you act under section 621(1) or (2) of the Environmental Protection Act 1994, the power to give the person carrying out the activity an information notice about your decision to give the approval or approval and certificate.
Administering Authority	623(2)	In the specified circumstances, the power to give a registered operator a notice stating that you are satisfied that the risk of environmental harm from carrying out the activity is no longer insignificant.
Administering Authority	626(3)(a)	In the specified circumstances, the power to, by written notice, ask an applicant to give a stated document or information relevant to an application.

Part 6 - Transitional Provisions for *Petroleum and Other Legislation Amendment Act 2004*

Entity power given to	Section of ENPA	Description
Administering Authority	634(1)	In the specified circumstances, the power to amend a condition about financial assurance imposed under Part 7, Chapter 13 of the Environmental Protection Act 1994 to require the giving of replacement financial assurance, in a form and amount decided by you.

Part 17 - Transitional provisions for the *Environmental Protection and Other Legislation Amendment Act 2011*

Entity power given to	Section of ENPA	Description
Administering Authority	671(2)	Power to consider, or continue to consider, the draft transitional environment program and decide whether to approve an existing draft transitional environment program under the unamended Act.

Part 18 - Transitional provisions for *Environmental Protection (Greentape Reduction) and Other Legislation Amendment Act 2012*

Division 5 – Transitional Authorities for Environmentally Relevant Activities

Entity power given to	Section of ENPA	Description
Administering Authority	697(1)	Power to decide whether to approve the application or refuse the application.
Administering Authority	698(1)	In certain circumstances, power to: (a) amend the environmental authority to give effect to the conversion; and (b) issue the amended environmental authority to the applicant.
Administering Authority	698(2)	In certain circumstances, power to give the applicant an information notice about the decision.

Division 5A – Suspended Activities

Entity power given to	Section of ENPA	Description
Administering Authority	698B	Power to approve an application to convert the surrendered registration certificate to an environmental authority that has been suspended under chapter 5, part 11A (a <i>conversion application</i>).

Division 6 – Financial Assurance

Entity power given to	Section of ENPA	Description
Administering Authority	699(4)	Power to amend the environmental authority to impose a condition about financial assurance.
Administering Authority	699(5)	Power to give written notice of the amendment.

Division 8 – Provisions About Environmental Management Plans

Entity power given to	Section of ENPA	Description
Administering Authority	701(2)	Power to amend the new authority to impose conditions consistent with the environmental management plan.

Part 21 – ~~Saving and Transitional Provisions for State Development, Infrastructure and Planning (Red Tape Reduction) and Other Legislation Amendment Act 2014~~

Entity power given to	Section of ENPA	Description
Administering Authority	715B(4)	Power to amend an existing environment authority to replace a condition that relates to a former item if the new condition imposes requirements that are equivalent to the replaced condition.
Administering Authority	715B(5)	Power to give written notice of the amendment to the environmental authority holder.⁷

⁷ ~~Section 715B expires one year after commencement.~~

Schedule 2

Limitations to the Exercise of Power

1. Where Council in its budget or by resolution allocates an amount for the expenditure of Council funds in relation to a particular matter, the delegate in exercising delegated power in relation to that matter, will only commit the Council to reasonably foreseeable expenditure up to the amount allocated.
2. The delegate will not exercise any delegated power in relation to a matter which, to the delegate's knowledge adversely affects, or is likely to adversely affect, the Council's relations with the public at large.
3. The delegate will not exercise any delegated power contrary to a resolution or other decision of Council (including a policy decision relating to the matter).
4. The delegate will not exercise any delegated power in a manner, or which has the foreseeable affect, of being contrary to an adopted Council policy or procedure.
5. The delegate will only exercise a delegated power under this resolution in a manner which complies with the requirements of Council's Planning Scheme and any exercise of power which involves a departure from or variation of those requirements will only be undertaken by Council.
6. The delegate will not exercise any power which cannot lawfully be the subject of delegation by Council.

12 NOTICES OF MOTION

Nil

13 QUESTIONS ON NOTICE

Nil

14 URGENT BUSINESS/QUESTIONS

Urgent Business is a provision in the Agenda for members to raise questions or matters of a genuinely urgent or emergent nature, that are not a change to Council Policy and can not be delayed until the next scheduled Council or Committee Meeting.

15 CLOSED SESSION

In accordance with the provisions of section 275 of the *Local Government Regulation 2012*, a local government may resolve to close a meeting to the public to discuss confidential items, such that its Councillors or members consider it necessary to close the meeting.

RECOMMENDATION

THAT the meeting be closed to the public to discuss the following items, which are considered confidential in accordance with section 275 of the *Local Government Regulation 2012*, for the reasons indicated.

16.1 2018 Beef Australia - Principal Partnership Agreement

This report is considered confidential in accordance with section 275(1)(e), of the *Local Government Regulation 2012*, as it contains information relating to contracts proposed to be made by it.

16 CONFIDENTIAL REPORTS

16.1 2018 BEEF AUSTRALIA - PRINCIPAL PARTNERSHIP AGREEMENT

File No: 10486

Attachments: 1. 2018 Beef Australia Principal Partnership Proposal

Authorising Officer: Evan Pardon - Chief Executive Officer

Author: Scott Waters - Acting Executive Manager Regional Development

This report is considered confidential in accordance with section 275(1)(e), of the *Local Government Regulation 2012*, as it contains information relating to contracts proposed to be made by it.

SUMMARY

Council has received correspondence from Beef Australia Ltd regarding an opportunity to become a principal partner for Beef Australia 2018 being held in May 2018.

17 CLOSURE OF MEETING