



PLANNING & DEVELOPMENT COMMITTEE MEETING

AGENDA

11 AUGUST 2015

Your attendance is required at a meeting of the Planning & Development Committee to be held in the Council Chambers, 232 Bolsover Street, Rockhampton on 11 August 2015 commencing at 1:30pm for transaction of the enclosed business.

A handwritten signature in black ink, appearing to be "C. R.", is positioned above the title of the Chief Executive Officer.

CHIEF EXECUTIVE OFFICER
6 August 2015

Next Meeting Date: 25.08.15

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

2 PRESENT

Members Present:

The Mayor, Councillor M F Strelow (Chairperson)
Councillor C E Smith
Councillor C R Rutherford
Councillor G A Belz
Councillor S J Schwarten
Councillor A P Williams
Councillor R A Swadling
Councillor N K Fisher

In Attendance:

Mr E Pardon – Chief Executive Officer

3 APOLOGIES AND LEAVE OF ABSENCE

4 CONFIRMATION OF MINUTES

Minutes of the Planning & Development Committee held 28 July 2015

5 DECLARATIONS OF INTEREST IN MATTERS ON THE AGENDA

6 BUSINESS OUTSTANDING

6.1 BUSINESS OUTSTANDING TABLE FOR PLANNING AND DEVELOPMENT COMMITTEE

File No: 10097

Attachments: 1. Business Outstanding Table for Planning and Development Committee

Authorising Officer: Evan Pardon - Chief Executive Officer

Author: Evan Pardon - Chief Executive Officer

SUMMARY

The Business Outstanding table is used as a tool to monitor outstanding items resolved at previous Council or Committee Meetings. The current Business Outstanding table for the Planning and Development Committee is presented for Councillors' information.

OFFICER'S RECOMMENDATION

THAT the Business Outstanding Table for the Planning and Development Committee be received.

BUSINESS OUTSTANDING TABLE FOR PLANNING AND DEVELOPMENT COMMITTEE

Business Outstanding Table for Planning and Development Committee

Meeting Date: 11 August 2015

Attachment No: 1

Date	Report Title	Resolution	Responsible Officer	Due Date	Notes
28 April 2015	Montgomerie Street	THAT the previous report regarding Montgomerie Street be presented to the next Planning and Development Committee meeting for Councillors information.	Robert Holmes	12/05/2015	
14 July 2015	D/222-2014 - Development Application for a Material Change of Use for a Caretaker's Residence	That the matter lay on the table pending further discussions to return to the Planning and Development Committee in August 2015.	Corina Hibberd	28/07/2015	

7 PUBLIC FORUMS/DEPUTATIONS

7.1 DEPUTATION - D/4-2015 - APPLICATION UNDER THE DEVELOPMENT INCENTIVES POLICY FOR DEVELOPMENT PERMIT FOR A MATERIAL CHANGE OF USE FOR INDOOR SPORT AND RECREATION

File No: D/4-2015

Attachments: Nil

Authorising Officer: Petrus Barry - Acting Manager Development and Planning
Robert Holmes - General Manager Regional Services

Author: Amanda O'Mara - Senior Planning Officer

SUMMARY

Simon Price has requested an opportunity to attend a meeting of Council's Planning and Development Committee to discuss the application under the Development Incentives Policy for a Development Permit for a Material Change of Use for Indoor Sport and Recreation over 10 Derby Street, Rockhampton - Lot 12 on R2652 (Development Application D/4-2015).

OFFICER'S RECOMMENDATION

THAT the deputation by Simon Price be received.

8 OFFICERS' REPORTS

8.1 D/4-2015 APPLICATION UNDER THE DEVELOPMENT INCENTIVES POLICY FOR DEVELOPMENT PERMIT FOR A MATERIAL CHANGE OF USE FOR INDOOR SPORT AND RECREATION

File No: D/4-2015
Attachments: 1. Locality Plan
Authorising Officer: Tarnya Fitzgibbon - Manager Development and Building
Robert Holmes - General Manager Regional Services
Author: Amanda O'Mara - Senior Planning Officer

SUMMARY

Development Application Number: D/4-2015
Applicant: Simon Price
Real Property Address: Lot 12 on R2652, Parish of Rockhampton
Common Property Address: 10 Derby Street, Rockhampton
Rockhampton City Plan Area: Central Business District Commercial Area, Precinct 1 - Commercial Precinct, Central Business District Retail Core
Type of Approval: Development Permit for a Material Change of Use for Indoor Sport and Recreation
Date of Decision: 25 February 2015
Application Lodgement Fee: \$2,359.00
Infrastructure Charges: \$30,590.00
Infrastructure charges incentive: CBD Precinct 1 unchanged GFA – 100%
Incentives sought: Infrastructure Charges Concession
Refund of Development Application Fees

OFFICER'S RECOMMENDATION

THAT in relation to the application under the Development Incentives Policy for a Development Permit for a Material Change of Use for Indoor Sport and Recreation, on Lot 12 on R2652, Parish of Rockhampton, located at 10 Derby Street Rockhampton, Council resolves to refuse the request to waive the infrastructure charges of \$30,590.00 and the refund of the development application fee of \$2,359.00.

BACK GROUND

Project outcomes anticipated by applicant:

Positive Existence Personal Training has been granted approval to establish an Indoor Sport and Recreation facility.

New jobs and investment:

The relocation of the business to Derby Street did not result in additional employment and the applicant spent a minimal amount refurbishing the building as they were able to make do with the existing fit-out.

Benefits of project for applicant's business:

The business based in the Central Business District will guarantee longevity, assist in growth and in addition will provide a safe and secure place for their clients to train.

Benefits of project to Rockhampton Regional economy:

The relocation of the business to Derby Street resulted in very little benefit to the Rockhampton Region economy.

Rockhampton CBD activation:

The relocation of the applicant's business will likely result in increased activity in the Central Business District. Some clients of the business will obtain other services while they are in the Central Business District, having a positive effect on the surrounding businesses.

COMMENTS FROM RELEVANT UNITS**Infrastructure Operations Unit's Comments – 24 April 2015**

Support, subject to comments.

Economic Development Unit's Comments – 27 May 2015

Refuse.

CONCLUSION

The development does not meet the eligibility criteria under the Development Incentives Policy. The relocation of the business has resulted in little economic benefit to the Rockhampton Region, therefore the request is recommended to be refused.

**D/4-2015 APPLICATION UNDER THE
DEVELOPMENT INCENTIVES POLICY
FOR DEVELOPMENT PERMIT FOR A
MATERIAL CHANGE OF USE FOR
INDOOR SPORT AND RECREATION**

Locality Plan

Meeting Date: 11 August 2015

Attachment No: 1



8.2 D/222-2014 - DEVELOPMENT APPLICATION FOR A MATERIAL CHANGE OF USE FOR A CARETAKER'S RESIDENCE

File No: D/222-2014

Attachments:

1. Locality Plan
2. Site Plan
3. Floor Plan
4. Elevations

Authorising Officer: Tarnya Fitzgibbon - Manager Development and Building
Robert Holmes - General Manager Regional Services

Author: Corina Hibberd - Planning Officer

SUMMARY

Development Application Number: D/222-2014

Applicant: MV and EJ Neale

Real Property Address: Lot 77 on LN112, Lot 71 on R2613, Lot 437 on R2613, Lot 2 on RP605363 and Lot 3 on RP606792, Parish of Rockhampton

Common Property Address: 20 Fiddes Street, Port Curtis

Area of Site: 46.2317 hectares

Planning Scheme: Rockhampton City Plan 2005

Rockhampton City Plan Area: South Rockhampton Rural Area

Planning Scheme Overlays: Q100 Flood Prone Land – Floodway High Hazard
Environmentally Sensitive Location – Wetlands (RRC)

Existing Development: Vacant farm land

Existing Approvals: Nil

Approval Sought: Development Permit for a Material Change of Use for a Caretakers Residence

Level of Assessment: Impact Assessable

Submissions: Twenty-six (26) properly made submissions

Referral Agency(s): Nil

Adopted Infrastructure Charges Area: Charge Area Three

Application Progress:

<i>Application Lodged:</i>	2 August 2014
<i>Acknowledgment Notice issued:</i>	8 August 2014
<i>Request for Further Information sent:</i>	19 September 2014
<i>Request to Extend Information Request response period</i>	11 March 2015
<i>Request for Further Information responded to:</i>	1 April 2015
<i>Submission period commenced:</i>	2 April 2015
<i>Submission period end:</i>	24 April 2015
<i>Last receipt of information from applicant:</i>	14 May 2015

<i>Request to Extend Decision Making Period</i>	<i>22 June 2015 (extended to 22 July 2015)</i>
<i>Committee meeting date:</i>	<i>14 July 2015 (laid on the table)</i>
<i>Request to Extend Decision Making Period:</i>	<i>20 July 2015 (to 19 August 2015)</i>
<i>Committee meeting date</i>	<i>11 August 2015</i>
<i>Statutory due determination date:</i>	<i>19 August 2015</i>

OFFICER'S RECOMMENDATION

RECOMMENDATION A

That in relation to the application for a Development Permit for a Material Change of Use for a Caretaker's Residence, made by Flinders Hyder on behalf of MV and EJ Neale, located at 20 Fiddes Street, Port Curtis, described as Lot 77 on LN112, Lot 71 on R2613, Lot 437 on R2613, Lot 2 on RP605363 and Lot 3 on RP606792, Parish of Rockhampton, Council resolves to Refuse the application for the following reasons:

- 1.0 Intensification of residential uses in a high hazard flood area is not supported by the current scheme or in the draft strategic framework for the proposed planning scheme;
- 2.0 Access to the site is cut off in a range of flood events. All access roads are completely inundated in a range of flood events, isolating the subject site and causing a risk to persons and property, also putting strain on emergency services and Council. Local disaster recovery is more expensive than prevention; which has been indicated in recent floods, including 2008, 2011, and 2013 events;
- 3.0 The site is not connected to reticulated water infrastructure and has no available sewer infrastructure connections. Onsite sewer infrastructure has the potential to affect the health of the riverine water in a flood event;
- 4.0 The proposal is in direct conflict with the area intent for the South Rockhampton Rural Area, which expressly states that where the need for additional residential uses are required, the land must be flood free with flood free access;
- 5.0 The proposal is for a caretaker's residence, however the design and scale indicates that its function is a large dwelling house on a rural lot;
- 6.0 The proposal cannot demonstrate compliance with State Planning Policy 2014 (in relation to flood hazard), the Flood Prone Land Code or the Flood Plain Management Planning Policy 14 within the *Rockhampton City Plan 2005*, as well as other applicable codes; and
- 7.0 The proposal directly compromises the achievement of eight (8) Desired Environmental Outcomes within the *Rockhampton City Plan 2005*.

BACKGROUND

PROPOSAL IN DETAIL

The application was presented to the Planning and Development Committee on 14 July 2015, and was recommended for refusal. At this meeting, the planning consultant and land owner made a deputation which outlined their reasons for approval in their particular circumstances. The Committee debated the matter, resulting in the application being laid on the table to enable further discussions to occur. The planning consultant and Council officers met on 21 July 2015 to discuss the proposed development. Both parties are not willing to change their position or recommendation at this stage. Alternatives discussed were:

- If the application is refused, the applicant may purchase a house that adjoins the site (which would have existing use rights); and

- If the application is approved, the size of the residence should be decreased significantly.

No alternative is proposed. The application remains to be recommended for refusal, as per the reasons outlined below.

The proposal is for a caretakers residence to be constructed on the south-western corner of the property. The caretakers residence is associated with an existing rural activity (grazing) on the site. The proposal includes five (5) bedrooms, two (2) bathrooms, a study, kitchen, large living area and multiple verandahs. A two (2) space carport, a boat docking station and large water tanks are also proposed. The access is via Depot Street. The building has a floor area of approximately 370 square metres and a maximum height of nine (9) metres. The building will be on stumps, with the floor height being three (3) metres from natural ground surface.

SITE AND LOCALITY

The subject site is located in a rural area, about 1.8 kilometres south of the Rockhampton Central Business District and is 46.2317 hectares in area. The site has proposed access to Depot Street.

The area is severely flood prone and is designated as a high hazard flood area under the Flood Hazard Map of the *Rockhampton City Plan 2005*. The site is inundated in a range of flood events, and is completely isolated in a Q100 event, where all access from the site is cut off. The site also contains wetlands and lagoons.

The site is not connected to any reticulated sewer or water infrastructure.

The area is characterised predominantly by rural uses, some historic existing residential uses and some industrial uses to the west. The Fitzroy River is approximately 1.3 kilometres north-east of the subject site.

PLANNING ASSESSMENT

MATTERS FOR CONSIDERATION

This application has been assessed by relevant Council planning, engineering, environmental health, and other technical officers as required. The assessment has been in accordance with the Integrated Development Assessment System provisions of the *Sustainable Planning Act 2009*, based on consideration of the relevant State Planning Policy; State Government guidelines; the Council's Town Planning Scheme, Planning Policies and other general policies and procedures, as well as other documents as considered relevant.

Infrastructure Operations Unit's Comments – 22 May 2015

Recommend Refusal.

As demonstrated in the comments below, the application does not comply with the Flood Prone Land Code and as such the Infrastructure Operations Unit (IOU) recommends the application be refused. The Infrastructure Operations Unit has assessed the above mentioned application and advises that the proposed development conflicts with the intentions of the *Rockhampton City Plan 2005* and the Flood Prone Land Code (in particular, it does not comply with Performance Criteria P1 and P2, as well as P4, P8, P9 and P10). Performance Criterion P1 states "The capacity and function of flood ways and flood storage areas are preserved in high and low hazard areas." Acceptable solution A1.1 states that no building works occur in a floodway. The proposal cannot satisfy this solution, and it is Council's view that the development puts life and property at high risk and is not located appropriately for a residential use where the maximum depth of water over the site would be approximately 2.25 metres (based on a Q100 riverine flood of 7.785 metres).

Performance Criteria P2 states "Safe access from the development site to the CBD or the Gracemere Township is available during the defined flood event." As the flood depth during a Q50 and Q100 flood event is over two (2) metres, safe access and egress is not possible, therefore this application cannot be approved, noting that Council cannot condition that

tenants must evacuate at a certain time. The applicant's response to Council's Information Request did not adequately address Council's concerns with respect to the above mentioned performance criteria. It was stated the flooding impacts can be managed; however it is Council's position that the use will endanger lives and property.

Furthermore, the site is not connected to Council's reticulated water and sewer networks. This infrastructure is not readily available in this area, as it is a Rural Zone and not intended for residential uses (when there is flood free land elsewhere), as per the planning response below. The site and surrounding area is outside the Priority Infrastructure Area (PIA) and therefore there are no plans for Council to provide reticulated services to this area in the next fifteen (15) years.

Public and Environmental Health Comments – (5 September 2014)

No comment.

Strategic Planning Comments - (31 October 2014)

Recommend Refusal.

The site at 20 Fiddes Street, Port Curtis is located in the South Rockhampton Rural Area under the *Rockhampton City Plan 2005*. The intent for this area is that it continues to be used for agricultural purposes, including grazing, livestock and cropping. However, the area is unsuitable for other forms of development as the majority of the land is subject to flooding, with some parts far more prone to flooding than others. In particular the intent states:

“As this is a rural area, there should be limited need for additional houses, however, where a need can be demonstrated, the land will be flood free and flood free access will be available to the land.”

The land the development is proposed on is not flood free (being up 2.25 metres in depth during a flood event) and does not have flood free access. The subject land is located in a Floodway - High Hazard under the *Rockhampton City Plan 2005* flood hazard map. The Fitzroy River Flood Study 2011 flood modelling classifies the flood hazard level for the subject land as extreme hazard (ARI 100). Further intensification of residential uses within this area in a high/extreme hazard flood area does not comply with the current scheme or with the draft strategic framework for the proposed planning scheme, which states the following:

“Development maximises flood immunity by avoiding high or extreme hazard areas and is not to increase flood impacts within existing areas.

Development within the defined flood event inundation area is avoided in high or extreme areas unless it can be demonstrated that the risk has been mitigated to an acceptable level, including impacts on other areas.

Significant areas of Rockhampton are already established within the Fitzroy River floodplain. Within these areas, the flood risk will be managed by avoiding the intensification of development and the subdivision of land in high or extreme hazard areas. “

The development would be non-compliant with all of the requirements of the proposed planning scheme's draft Flood Hazard Overlay Code. This overlay code appropriately reflects the latest state interests for natural hazards; where the State Planning Policy (SPP) requires development to:

(1) Avoid natural hazard areas or mitigate the risk of the natural hazard.

The proposed development is in conflict with the as the development is not avoiding or mitigating the risk of the natural hazard; it is in fact increasing the risk and located in a known natural hazard area.

(2) Supports, and does not unduly burden, disaster management response or recovery capacity and capabilities.

The proposed development is in conflict with the S as the development will increase the burden on disaster management response and recovery capacity and capabilities.

(3) Directly, indirectly and cumulatively avoids an increase in the severity of the natural hazard and the potential for damage on the site or to other properties.

The proposed development may directly and cumulatively increase the severity of the natural hazard and the potential for damage to the site and other properties. It is hard to manage the storage of outside goods or equipment once the development is approved. There is a real chance goods or equipment stored outside may contribute to damage, or impact adversely on surrounding properties during a flood event.

The proposed development is to be located in proximity to a mapped wetland identified by the state government as a Matter of State Environmental Significance (MSES) – Wetlands. It is noted in the planning report that the proposed development is to be located within 30 metres of the Matter of State Environmental Significance Wetland. The model code provisions under the State Planning Policy Biodiversity guidance material AO3.1 state:

AO3.1 *A buffer for an area of state environmental significance (wetland protection area) has a minimum width of:*

(a) 200 m where the area is located outside an urban area or

(b) 50 m where the area is located within an urban area

OR

AO3.2 *A buffer for an area of state environmental significance is applied and maintained, the width of which is supported by an evaluation of the environmental values, including the function and threats to matters of environmental significance.*

The proposed planning scheme biodiversity overlay code supports the state guidelines and facilitates the protection of environmentally significant wetlands by including wetland buffers where development must be located 100 metres either side of the mapped wetland. The development is considered non-compliant with the intent of the State Planning Policy Biodiversity regarding protection of wetlands, regardless of a referral not being required.

The State Planning Policy and the current and proposed planning scheme seek to restrict development in areas adversely affected by flooding and reduce the intensity of existing development on flood prone land. Allowing a caretakers residence within this rural area is in conflict with Council's and the State Planning Policy desired outcome of reducing the impacts of flooding on people, property and emergency services.

TOWN PLANNING COMMENTS

Central Queensland Regional Plan 2013

The *Central Queensland Regional Plan 2013* is a statutory document which came into effect on 18 October 2013. The development is not required to be assessed against the regional plan if this document is appropriately reflected in the local planning scheme. It is considered that the regional plan is appropriately reflected in the current local planning scheme.

State Planning Policy 2014

This policy came into effect in July 2014 and replaced all former State Planning Policies. This policy requires development applications to be assessed against its requirements until the identified state interests have been appropriately reflected in the local planning scheme.

Liveable communities

Does Not Comply. The site is not located within an urban area and is therefore an inconsistent use given the flooding issues.

Mining and extractive resources

Not Applicable. The application is not for an extractive resource industry and is not within a Key Resource Area.

Biodiversity

Does Not Comply. The development is considered non-compliant with the intent of the State Planning Policy Biodiversity regarding protection of wetlands.

Coastal environment

Not Applicable. The site is not within a coastal management district.

Water quality

Not Applicable. The site is not related to any receiving waters or water supply catchment in South East Queensland.

Emissions and hazardous activities

Not Applicable. The proposal does not include a sensitive land use within a management area.

Natural hazard, risk and resilience

Does Not Comply. The site is affected by the Q100 Flood Hazard overlay which is addressed in the *Rockhampton City Plan 2005*. Council is not satisfied that the Flood Prone Land Code has been adequately addressed by the applicant and the proposal is therefore in direct conflict with the State Planning Policy as well as the current and proposed planning schemes.

State transport infrastructure

Not Applicable. The site is not within 400 metres of a public or future public passenger transport facility.

Strategic airports and aviation facilities

Not Applicable. The proposal is not affected by a strategic airport.

Queensland Floods Commission of Inquiry – Final Report

After the 2011 floods throughout Queensland, the following information was released and recommendations made, by the Floods Commission of Inquiry in their Final Report:

*“The Standing Committee on Agriculture and Resource Management Report, Floodplain Management in Australia: Best Practice Principles and Guidelines, states that **residential development should be located in areas of low hazard, or medium hazard where justified by careful planning, design and construction which takes account of the potential flood damage and provides safe evacuation. The ‘hazard’ referred to is the loss of life, injury and economic loss which may be caused by future floods.***

This standard is given effect, at least in part, in State Planning Policy Guideline 1/03: Mitigating the Adverse Impacts of Flood, Bushfire and Landslide, which provides that planning schemes should discourage residential development in areas of high or medium hazard, unless the scheme includes a clear requirement that people and property be protected from the relevant hazard. It contains proposed solutions in support of this aim. In particular, the guideline suggests that houses be located so that habitable floor levels are above the defined flood event level. These solutions are mirrored in planning schemes across Queensland (and throughout Australia): flood related planning controls typically require that residential buildings be constructed so that their habitable floor levels are located at or above the level of a 1% AEP flood. An additional freeboard of (usually) between 300 millimetres and 500 millimetres may also be required.

But whether the 1% AEP flood constitutes an acceptable level of risk for development, and in particular residential development, is a vexed issue. The consequences of flooding are likely to be at their most disastrous for residents and homeowners. Floodplain Management in Australia recognises this: according to it, the community must play a role in determining what level of flood risk it is prepared to live with. The Commission endorses consideration being given to this issue. To determine what amounts to an acceptable level of risk for residential development, it is necessary to understand the

consequences associated with floods across the full range of probabilities. Only once this understanding has been gained is it appropriate to canvas what level of risk from flooding the community is prepared to tolerate.'

Port Curtis forms part of Rockhampton's flood plain, and is therefore one of the first areas of the region to be inundated, in a range of flood events. The flood hazard in a Q100 event (or 1% AEP) is 'high' under the current scheme (and 'extreme' under the proposed scheme). Access is cut from the site even in a Q10 flood event and therefore there is a real risk to the loss of life, injury and economic loss, caused by flooding. This has been demonstrated during previous floods in the region.

Rockhampton City Plan 2005

This application is situated within the rural designation under Council's Strategic Framework Map. The following Desired Environmental Outcomes, as identified within Chapter 2 of the *Rockhampton City Plan 2005* are applicable:

- (1) *Rockhampton continues to consolidate its 'Capital of Central Queensland' role in the region.*

Not applicable: A single dwelling (caretakers residence) will not affect Rockhampton's role in the Region.

- (2) *Valuable natural resources are conserved or, where required to support economic growth in Rockhampton, used sustainably.*

Not applicable: The proposed use will not impede the conservation of any valuable natural resources required for economic growth as operations will be wholly located within the subject site.

- (3) *Important natural assets are, as far as is practically possible, retained in a natural state to maximise biodiversity and to maintain their scenic and biological value.*

Does not Comply: While the development is located as far as practicable from the mapped wetlands, it is not compliant with the buffer areas required under the State Planning Policy for biodiversity.

- (4) *New development in Rockhampton City is designed and managed to minimise adverse impacts on the environment and biodiversity.*

Does Not Comply: The site is within a high hazard flood prone area, which is completely isolated in a flood event. A dwelling is likely to contribute to the displacement of water, add to debris hazard and cause a risk to persons and property. The use has the potential to cause impacts on the environment due to the nature of the activity.

- (5) *Commercial and retail development is accommodated in a hierarchy of centres throughout Rockhampton, which provide for a range of services, retail, commercial, entertainment and employment activities.*

Not Applicable: The proposal does not include commercial uses and is not located within a Commercial Area.

- (6) *Rockhampton's commercial centres are safe, attractive and readily accessible spaces for all members of the community.*

Not Applicable: The proposal does not include commercial uses and is not located within a Commercial Area.

- (7) *Rockhampton's industrial development is consolidated in identified industrial locations throughout the City.*

Not applicable: The proposal does not involve industrial activity.

- (8) *Rockhampton's cultural and urban heritage, both indigenous and post European, is retained and conserved for future generations.*

Complies: The proposal does not impede upon any known significant cultural or urban heritage values.

- (9) *Residential communities are attractive places to live, providing a range of housing types at different densities that positively contributes to the built environment, satisfies the needs of all members of the community in terms of life stages, lifestyle choices and affordability, are free from incompatible development and have access to a range of compatible urban services and facilities.*

Does Not Comply: The site is located in a high hazard flood area. This site is inundated and isolated in a range of flood events. The development is not considered to positively contribute to the built environment, being located in a flood prone area and increasing risk to life and damage to property. This is not a satisfactory outcome in providing housing options to the community. On-site sewerage facilities or connections to the reticulated sewer and water network will be costly and therefore does not contribute to affordability. The site does not have access to urban services, including reticulated water and sewer generally, or roads in a flood event.

- (10) *Rockhampton's important community uses and health care facilities are provided and maintained where they are readily accessible to all members of the community.*

Does Not Comply: In a range of flood events the site does not have trafficable access, whereby all adjoining and adjacent access routes are completely inundated. Therefore important community uses and health care facilities are not readily accessible to all members of the community.

- (11) *New residential land subdivision and development occurs in identified areas within the City where environmentally valuable features are retained and protected, and urban services, recreational opportunities and parks are provided, along with a range of allotment sizes.*

Does Not Comply: South Rockhampton Rural Area is designated for rural uses and is not identified as an appropriate area for new residential development due to the severe flooding that affects this region.

- (12) *Infrastructure is provided and augmented in a sequenced manner in Rockhampton, resulting in appropriate, efficient, affordable, reliable, timely and lasting infrastructure provision that is not compromised by new development and is sensitive to the environment.*

Does Not Comply: The site is not connected to Council's reticulated water and sewer infrastructure. On-site infrastructure may contribute to damage of property and water quality during a flood event.

- (13) *Safe, accessible, efficient and convenient transport systems are provided in Rockhampton.*

Does Not Comply: All access roads that adjoin or adjacent to this site are entirely cut off in a range of flood events, including Depot Street, Dunlop Street, Fiddes Street, O'Connell Street, Lucius Street and West Street. This area is flooded at a depth of approximately 2.5 metres during a Q100 event.

- (14) *Readily accessible and safe Open Space and facilities for active and passive recreational purposes are accommodated within Rockhampton City.*

Does Not Comply: The site is not in an area where residential uses are encouraged. There is no 'easy' access to public open spaces from this site.

The performance assessment of the proposal demonstrates that the development will compromise the *Rockhampton City Plan 2005* Desired Environmental Outcomes.

South Rockhampton Rural Area Intent

The subject site is situated within the South Rockhampton Rural Area under the *Rockhampton City Plan 2005*. The intent of the Area identifies that:

*It is intended that the Area continue to be used for agricultural purposes, including grazing livestock, and cropping. **The Area is unsuitable for other forms of development as the majority of land is subject to flooding, with some parts far more prone to flooding than others.** The only other uses consistent with the intent of the Area, include low impact uses such as rural activities, and outdoor sport and recreation uses. These uses are only consistent with the intent of the Area, where it can be demonstrated that the following impacts have been adequately addressed. **No other development, including commercial and industrial development, is consistent with the intent of the Area.** Any structures in this location have the potential to impede the flow of water across the land, which is undesirable. Commercial uses seeking highway exposure are more desirably located in the "South Rockhampton Highway Commercial Area", and industrial uses requiring large parcels of land to operate, are more desirably located at Parkhurst. **Residential uses, including Reconfiguring a Lot, which creates additional allotments or residential sized allotments, are not consistent with the intent of the Area either.** In fact, wherever possible, smaller land parcels will be encouraged to amalgamate into consolidated larger land parcels. **As this is a rural area, there should be limited need for additional houses, however, where a need can be demonstrated, the land will be flood free and flood free access will be available to the land.** This Area contains a number of lagoons, which are an ancient part of the Fitzroy River system. Some or all of these lagoons may have indigenous cultural heritage significance. In addition, these lagoons may contain areas of ecological significance and interference from development should, therefore, be avoided, to minimise impact on the water body and its surrounds.*

The use is not consistent in this Area. Development on this lot will not protect against loss of property in a flood event, interferes with the flood plain capacity in a high hazard flood area, and could contribute towards possible interruption of quality water supply (there is no reticulated sewer connections available).

The proposed use cannot be considered a consistent use within the South Rockhampton Rural Area. Council should note however, that pursuant to Section 326(1)(b) of the *Sustainable Planning Act 2009*, the assessment manager's decision may conflict with the Planning Scheme if there are sufficient grounds to justify the decision despite the conflict. In response to the above, the assessment of this application concludes that there are not considered to be 'sufficient grounds' in this instance, to justify Council approving the development despite its conflict with the Desired Environmental Outcomes and the Area Intent. The reasons for refusal are as follows:

- 1.0 Intensification of residential uses in a high hazard flood area is not supported by the current scheme or in the draft strategic framework for the proposed planning scheme;
- 2.0 As per the final report of the Queensland Floods Commission of Inquiry, Local Government has a duty to protect communities affected by an identified flood hazard, particularly as a high hazard flood area is not an acceptable location for residential uses;
- 3.0 Allowing any residential use to occur in one of Rockhampton's highest hazard flood areas encourages a community belief that Council will support other forms of development within the flood plain or in high hazard flood areas;
- 4.0 Council support for residential uses in high hazard flood areas which is in conflict with current and proposed planning schemes (and other statutory documents) does not reinforce good land use management or community focussed outcomes;
- 5.0 Access to the site is cut off in a range of flood events. All access roads are completely inundated in a range of flood events, isolating the subject site and causing a risk to persons and property, also putting strain on emergency services and Council. Local disaster recovery is more expensive than prevention; which has been indicated in recent floods, including 2008, 2011, 2013 and 2015 events;
- 6.0 The site is not connected to reticulated water infrastructure and has no available sewer infrastructure connections. Onsite sewer infrastructure has the potential to affect the health of the riverine water in a flood event;

- 7.0 The proposal is in direct conflict with the area intent for the South Rockhampton Rural Area, which expressly states that where the need for additional residential uses are required, the land must be flood free with flood free access;
- 8.0 The proposal is for a caretakers house, however the design and scale indicates that its function is rather a large dwelling house on a rural lot;
- 9.0 The proposal cannot demonstrate compliance with State Planning Policy 2014 (in relation to flood hazard), the Flood Prone Land Code or the Flood Plain Management Planning Policy 14 within the *Rockhampton City Plan 2005*, as well as other applicable codes; and
- 10.0 The proposal directly compromises the achievement of eight (8) Desired Environmental Outcomes within the *Rockhampton City Plan 2005*.

Rockhampton City Plan Codes

The following codes are applicable to this application: -

- Caretakers Residence Code;
- External Works and Servicing Code;
- Flood Prone Land Code;
- Parking and Access Code; and
- Water Quality and Quantity Code.

An assessment has been made against the requirement of the abovementioned codes and the proposed development does not comply with the relevant Performance Criteria and Acceptable Solutions. An assessment of the Performance Criteria which the application is in conflict with, is outlined below:

Caretakers Residence Code		
Performance Criteria		Officer's Response
P2	<p>A Caretakers Residence is;</p> <p>(a) integrated with the non residential use by locating it in close proximity to the main work area or building of the non residential use; and</p> <p>(b) of a scale and size that reflects its intended function; and</p> <p>(c) is not located in close proximity to non residential vehicle routes and non residential adjoining uses.</p>	<p>Does Not Comply</p> <p>While the house design is climate sensitive and visually appealing, it can be argued that it is not of a scale that reflects its function of being a caretakers residence. The floor area is approximately 370 square metres which is generally bigger than an average house in the region. Furthermore, a caretakers residence must be caretaking a use. If the rural use was to discontinue, then the caretakers residence would be unlawful, which also indicates that the use proposed is the scale of a a house. Nevertheless, Council will not support residential uses in a high hazard flood area.</p>
P6	<p>The Caretakers Residence:</p> <p>(a) is protected from adverse flooding and does not:</p> <p>(1) significantly interfere with the passage, storage or quality of stormwater or the natural functions of a waterway; and</p> <p>(2) put loss of life at risk; and</p> <p>(3) put life at risk of injury; and</p> <p>(4) put damage to property at</p>	<p>Does Not Comply</p> <p>The site is affected by the Q100 flood hazard overlay and is designated as being in a high hazard floodway as per the planning scheme mapping and extreme hazard under the proposed planning scheme. A high hazard area is subject to risk of loss of life and property in a Q100 event.</p> <p>Given that the depth of water exceeds two (2) metres in a Q100 event, there is considerable risk for any resident and the</p>

	high risk; and (b) complies with the requirements of the Flood Prone Land Code:	property.
P7	Habitable rooms, non habitable areas (eg utility areas, garage, laundry and storage room) and car parking do not significantly interfere with the passage or storage of stormwater or the natural functions of a waterway.	Does Not Comply Although the house is on stumps, it is still located within a high hazard flood way and therefore may interfere in the natural function of the Fitzroy River in a flood event.

Flood Prone Land Code		
Performance Criteria		Officer's Response
P1	The capacity and function of floodways and flood storage areas are preserved in high and low hazard areas.	Does Not Comply The site is affected by the Q100 flood hazard overlay and is designated as being in a high hazard floodway as per the planning scheme mapping. A high hazard area is subject to risk of loss of life and property in a Q100 flood event. The locality is completely isolated during a defined event with over two (2) metres of water inundating the subject site itself, according to Council's most up to date data. The maximum depth of water over the site would be approximately 2.25 metres based on a Q100 riverine flood of 7.785 metres. The acceptable solution states that development in a high hazard flood area does not occur. The development puts life and property at risk and is not an acceptable location for a residential use even when in connection to an existing rural use.
P2	Safe access from the development site to the Central Business District or the Gracemere township is available during the defined flood event. <i>Note: Development not on flood prone land must still comply with this Performance Criterion.</i>	Does Not Comply Access to the site is cut off during a range of flood events. Depot Street, Dunlop Street, Fiddes Street, and Port Curtis Road are inundated during a Q100 Fitzroy River Flood event. The access via these roads is also cut, up to and including a Q10 event (0.54 metres of water over the road, which exceeds the maximum for low hazard access). This Performance Criterion specifically requires that Type 1 access (maximum of 0.3 metres depth) is provided during a Q50 event. Council's most recent flooding data shows the depth of inundation at Depot Street, Dunlop Road and Fiddes Street during this event to be between 1.83 and 1.96 metres, which clearly exceeds the maximum for a Type 1 – Low Hazard

		<p>access.</p> <p>Therefore, trafficable access is not available during the Defined Flood Event as required in this Code.</p>
P4	<p>The proposal prevents the intensification of the overall flood impacts within the community by:</p> <p>(a) not significantly increasing the overall level of flood damage and community disruption in high hazard areas, and</p> <p>(b) not creating any unacceptable impacts on flood levels and flows in a high hazard area i.e. a zero net loss in flood storage; and</p> <p>(c) ensuring the outside storage of any goods or equipment will not contribute to the overall level of flood damage and community disruption in both high and low hazard areas.</p>	<p>Does Not Comply</p> <p>Development on this lot ultimately intensifies flood impacts within the community. Flood damage to the proposed use and community disruption is likely, given that access to the property is severed in a range of flood events for up to and over a week.</p> <p>The construction of the dwelling and future carport should not have any significant effects on flood levels or flows. However, it is difficult to ensure the outside storage of goods or equipment such as garden sheds, greenhouses, cars, boats or trailers, will not cause flood damage as these are the responsibility of the occupant at the time of the event. The applicant cannot ensure compliance with item (c) as there is no area on the subject site above the 1 in 100 Average Recurrence Interval (ARI) Flood Event to store goods.</p>
P8	<p>Flood damage, damage to property and social disruption to residential landowners and the community in general is avoided by using the appropriate design, location and construction techniques for buildings and structures within the floodplain.</p>	<p>Does Not Comply</p> <p>While the applicant has satisfied the acceptable solution respective to this performance criteria (being that the floor levels are at least 500 millimetres above the Q100 flood level), the performance criterion has not been addressed. It is not possible to guarantee compliance, as the flood classification is high hazard (classified as extreme under the proposed planning scheme based on the most recent flood modelling adopted by Council), and flood damage and social disruption is likely to occur during a Q100 flood event.</p>
P9	<p>New residential buildings and re-classifications of buildings or parts of a building from a non-residential use to a residential use do not exacerbate the impacts and consequences caused by flooding.</p>	<p>Does Not Comply</p> <p>As stated above, the applicant has not adequately addressed the performance criterion. It is not possible to guarantee compliance as the flood classification is high hazard (classified as extreme in the proposed planning scheme), and flood damage and social disruption is unavoidable in a range of flood events, including a Q100 event.</p> <p>It is Council Officer's position that there is a real risk to loss of life and damage to property, should a dwelling be approved at this site. The proposal does not comply with</p>

		any of the relevant acceptable solutions, being A9.1.1, A9.2, A9.3 and A9.6. Therefore, compliance with this performance criterion has not been met.
P10	<p>Development for a residential building in any Rural Area or Special Use Area is carried out, when unavoidably necessary, having proper regard to mitigating the effects, impacts and consequences of flooding.</p> <p><i>Note: The development will need to be carried out in accordance with an approved flood statement in accordance with Planning Scheme Policy No. 14 – Flood Plain Management</i></p>	<p>Does Not Comply</p> <p>The development does not comply with Acceptable Solution A10.1 of the Code.</p> <p>The velocity information resulted in a depth/velocity product in excess of 0.53 metres per second (0.53m/s), which when combined with an inundation depth greater than two (2) metres, demonstrates a non-compliance with A10.1.</p> <p>Design and construction of the house and carport to the appropriate Finished Floor Level and standard will mitigate some of the impacts of a 1 in 100 Average Recurrence Interval (ARI) flood event. However, it is pointed out that the parcel does not have flood free access, and flood plain and downstream damage could be caused if goods stored on the site are not removed prior to a flood and are washed away.</p>

Water Quality and Water Quantity Code		
Performance Criteria		Officer's Response
P2	Development maintains the natural values of waterways and wetlands.	<p>The proposed development is located in proximity to a mapped wetland identified by the state government as a Matter of State Environmental Significance– Wetlands. It is noted in the planning report that the proposed development is to be located within thirty (30) metres of the Matter of State Environmental Significance wetland. The model code provisions under the State Planning Policy Biodiversity guidance material AO3.1 states:</p> <p>AO3.1 A buffer for an area of state environmental significance (wetland protection area) has a minimum width of:</p> <p><u>(a) 200 m where the area is located outside an urban area or</u></p> <p><i>(b) 50 m where the area is located within an urban area</i></p> <p>OR</p> <p>AO3.2 A buffer for an area of state environmental significance is applied and maintained, the width of which is supported by an evaluation of the environmental values, including the function and threats to matters of environmental significance.</p>

		The proposed planning scheme biodiversity overlay code supports the state guidelines and facilitates the protection of environmentally significant wetlands, by including wetland buffers where development must be located 100 metres either side of the mapped wetland. The development is considered non-compliant with the intent of the State Planning Policy Biodiversity and this Code, regarding protection of wetlands, regardless of referral not being required.
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Based on a performance assessment of the above mentioned codes, it is determined that the proposal is not acceptable and does not comply with the relevant Performance Criteria.

Planning Scheme Policies

Planning Scheme Policy	Staff Comment
14 – Flood Plain Management	<p>Does Not Comply</p> <p>The subject site is located within the Q100 Flood area and is further classified as a High Hazard area under the Flood Prone Land Code. An assessment of the proposal by Council engineers has indicated the predicted 1 in 100 Average Recurrence Interval (ARI) level at the site to be 7.785 metres Australian Height Datum, which is up to and above 2.25 metres of inundation. The applicant has provided a response to the Planning Scheme Policy however this relies solely on relocation of equipment off-site during an event and contains little mitigation for non-removable items on site. None of the site is above the 1 in 100 Average Recurrence Interval (ARI) flood level.</p>

As evident from the above assessment, the proposal does not comply with the requirements of the applicable planning scheme policy.

INFRASTRUCTURE CHARGES

Adopted Infrastructure Charges Resolution (No. 4) 2014 for residential development applies to the application and it falls within Charge Area 3. The land use does not attract an infrastructure charge.

Therefore, an Infrastructure Charges Notice will not be issued for the development.

CONSULTATION

The proposal was the subject of public notification between 2 April 2015 and 24 April 2015, as per the requirements of the *Sustainable Planning Act 2009*, and twenty-six (26) properly made submissions were received.

Twenty-four (24) of the submissions received are an identical template, which support the development. Two (2) of the submissions are in objection to the development.

The following is a summary of the submissions lodged in objection to the development, with Council Officer comments:

Issue	Officer's Response
The site and surrounding area is extremely flood affected; allowing intensification of development in this	Council does not support residential uses in areas that are constrained by natural hazard, in particular flood hazard. In this instance, the

Issue	Officer's Response
area does not achieve good community outcomes.	site is within a floodway high hazard area which is the highest risk category of flooding, with a depth for a Q100 event being 2.25 metres. The depth and velocity of the water creates an extremely high risk situation for people and property. This area can remain flooded for up to and over 1 - 2 weeks during a Q100 event, which displaces the household and puts pressure on emergency and recovery resources.
Allowing development in areas that are prone to natural disaster does not align with the Regions Disaster Management objectives, and further places additional strain on emergency resources during the event.	The dwelling floor height is proposed as 2.6 metres from natural ground level, due to the water being approximately 2.25 metres in a Q100 event. The household would be required to evacuate in a range of flood events as this area is one of the first in the region to be inundated, being a flood plain. Flood damage to the proposed use and community disruption is likely, given that access to the property is severed in a range of flood events. The current and proposed planning schemes both outline that residential development 'does not occur' in an extreme/high flood risk area, in this case it is highly likely that the development will be an additional burden on the community, Council and emergency services during a flood event. Furthermore, safe access for evacuation is considered to be 0.3 metres of water or less.
The evacuation point is designated at the highest point of the land, however even this point is inundated in a minor event.	Councils flood model shows that the site floods at a depth of 2.25 metres during a Q100 flood event and an approximate level of 0.75 metres during a Q10 event. The road used for an evacuation route is flooded with a depth of 0.54 metres in a Q10 event, and 2.15 metres in a Q100 event. Therefore, any evacuation points on the site, as well as all evacuation routes are inundated and inaccessible in a range of flood events. This is not an acceptable outcome for a residential use, considering that Port Curtis is flooded frequently.
Allowing dwellings on land which is constrained will encourage 'development creep' and set a precedent in the community for development to go ahead in these areas.	By allowing the approval of one residential dwelling in an extremely dangerous flood area, the community may have an expectation that Council supports this type of development. Based on recent events, it can be assumed that if this dwelling is approved, Council is likely to receive comparable applications in the immediate area for the same or similar use. The current and proposed schemes are very clear that Council does not intend to expand residential uses into high risk flood areas.
The site contains wetlands and special habitat for water birds, providing	The proposed development is located in proximity to a mapped wetland identified by the

Issue	Officer's Response
breeding areas, food sources and shelter, in particular the Endangered Australian Painted Snipe and therefore the land should remain as rural and not subject to the placement of dwellings.	state government as a Matter of State Environmental Significance– Wetlands. It is noted in the planning report that the proposed development is to be located within thirty (30) metres of the Matter of State Environmental Significance Wetland. The proposed planning scheme biodiversity overlay code supports the state guidelines and facilitates the protection of environmentally significant wetlands by including wetland buffers where development must be located 100 metres either side of the mapped wetland. The development is considered non-compliant with the intent of the State Planning Policy Biodiversity regarding protection of wetlands, regardless of referral not being required.

REFERRALS

The application did not require referral to any Advice or Concurrence Agencies.

CONCLUSION

The application for a Material Change of Use for a Caretakers Residence cannot be considered a consistent use within the South Rockhampton Rural Area. Furthermore, the subject site is flood affected and property and life cannot be entirely protected from the impacts of a flood event. As such, the assessment of this application resulted in it being recommended for refusal, as the proposal conflicts with the Planning Scheme, and it is considered that there are insufficient grounds to justify approving the application.

**D/222-2014 - DEVELOPMENT
APPLICATION FOR A MATERIAL
CHANGE OF USE FOR A
CARETAKER'S RESIDENCE**

Locality Plan

Meeting Date: 11 August 2015

Attachment No: 1

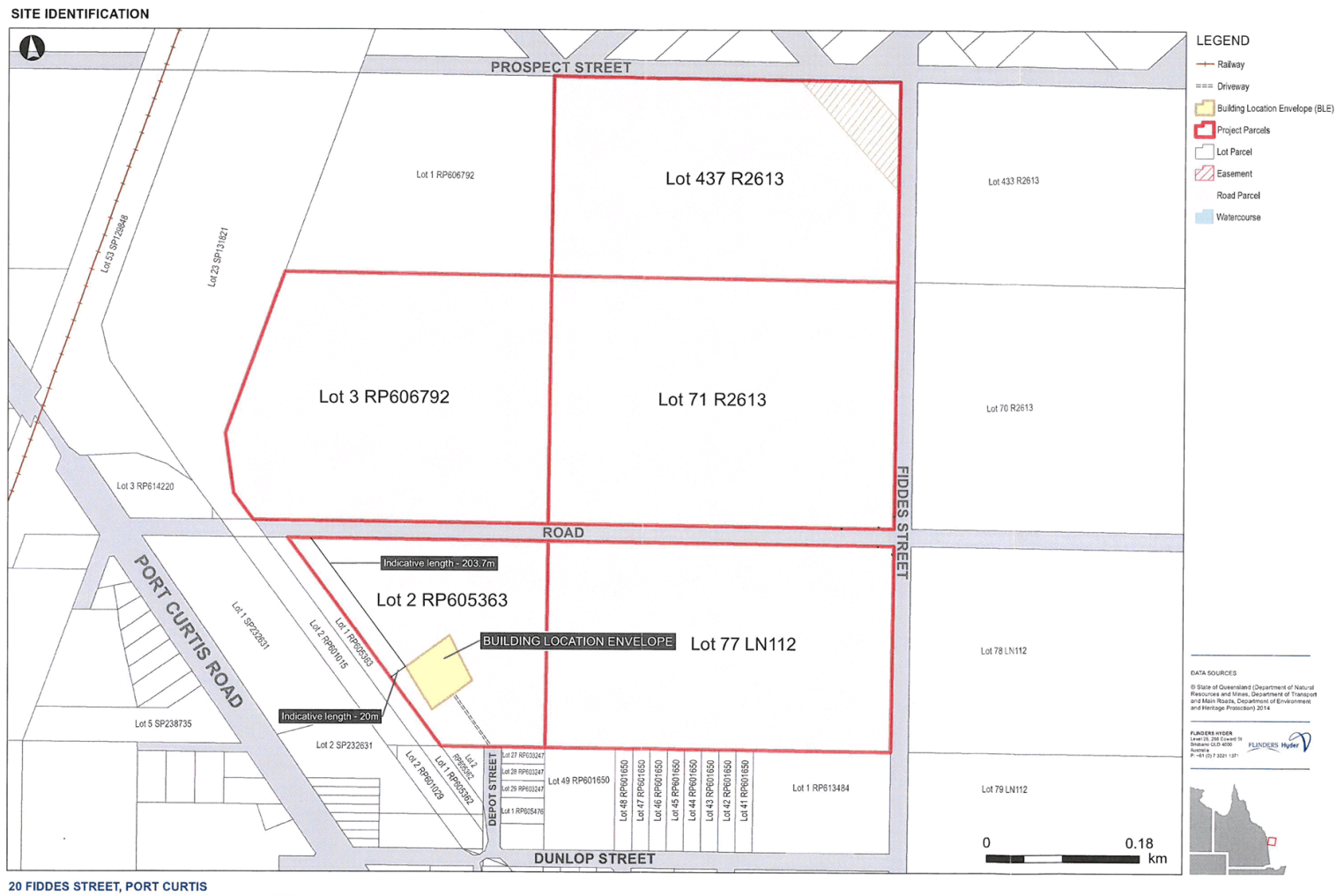


**D/222-2014 - DEVELOPMENT
APPLICATION FOR A MATERIAL
CHANGE OF USE FOR A
CARETAKER'S RESIDENCE**

Site Plan

Meeting Date: 11 August 2015

Attachment No: 2



**D/222-2014 - DEVELOPMENT
APPLICATION FOR A MATERIAL
CHANGE OF USE FOR A
CARETAKER'S RESIDENCE**

Floor Plan

Meeting Date: 11 August 2015

Attachment No: 3

20 Fiddes St.
HO-014
30/08/2014.



**D/222-2014 - DEVELOPMENT
APPLICATION FOR A MATERIAL
CHANGE OF USE FOR A
CARETAKER'S RESIDENCE**

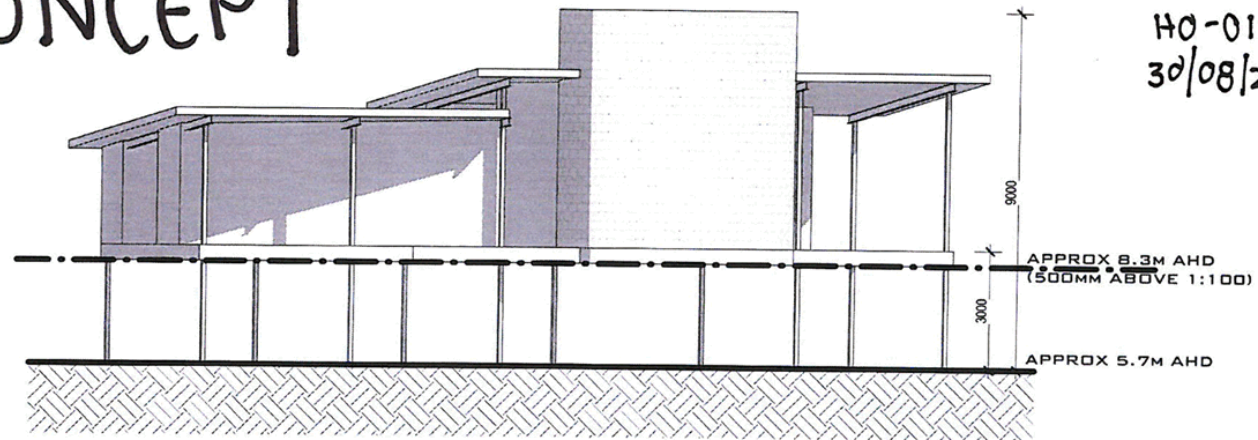
Elevations

Meeting Date: 11 August 2015

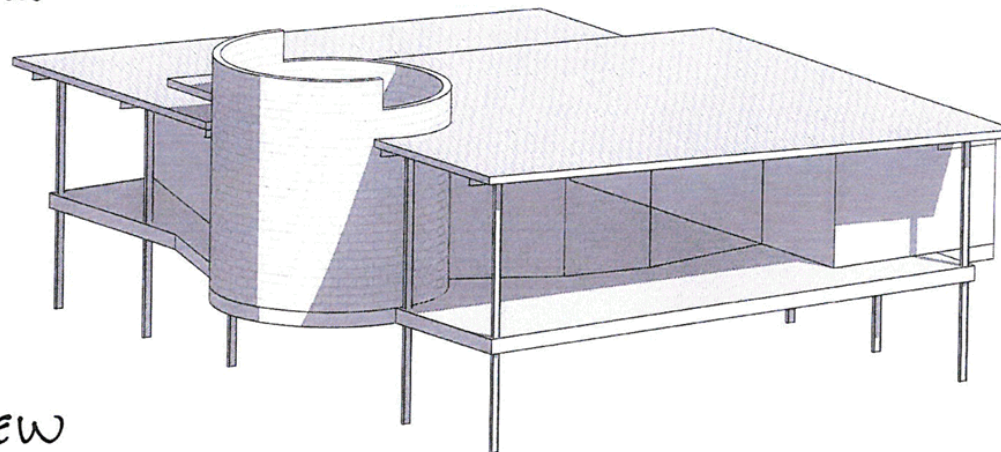
Attachment No: 4

CONCEPT

20 Fiddes St.
HO-014
30/08/2014



ELEVATION



3D VIEW



9 STRATEGIC REPORTS

Nil

10 NOTICES OF MOTION

Nil

11 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.

12 CLOSURE OF MEETING