



PLANNING AND REGULATORY COMMITTEE MEETING

AGENDA

6 DECEMBER 2016

Your attendance is required at a meeting of the Planning and Regulatory Committee to be held in the Council Chambers, 232 Bolsover Street, Rockhampton on 6 December 2016 commencing at 9.00 am for transaction of the enclosed business.

A handwritten signature in black ink that reads "R Cheesman".

ACTING CHIEF EXECUTIVE OFFICER
30 November 2016

Next Meeting Date: 17.01.17

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

2 PRESENT

Members Present:

Councillor C E Smith (Chairperson)
The Mayor, Councillor M F Strelow
Councillor C R Rutherford
Councillor M D Wickerson

In Attendance:

Mr M Rowe – General Manager Community Services (Executive Officer)

3 APOLOGIES AND LEAVE OF ABSENCE

Councillor Neil Fisher has tendered his apology and will not be in attendance.

4 CONFIRMATION OF MINUTES

Minutes of the Planning and Regulatory Committee held 15 November 2016

5 DECLARATIONS OF INTEREST IN MATTERS ON THE AGENDA

6 BUSINESS OUTSTANDING

Nil

7 PUBLIC FORUMS/DEPUTATIONS

7.1 D/151-2016 - DEPUTATION REPORT FOR A DEVELOPMENT APPLICATION FOR OPERATIONAL WORKS FOR AN ADVERTISING DEVICE (BILLBOARD SIGN)

File No: D151-2016
Attachments: Nil
Authorising Officer: Tarnya Fitzgibbon - Coordinator Development Assessment
Steven Gatt - Manager Planning & Regulatory Services
Michael Rowe - General Manager Community Services
Author: Anton de Klerk - Senior Planner

SUMMARY

Council in receipt of an application for a Development Application for Operational Works for an Advertising Device (billboard sign), made by Vision Surveys, on behalf of Bishopp Outdoor Advertising, on land described as Lot 1 on RP608458, Parish of Rockhampton, located at 36 East Street, Rockhampton City.

The application is to be presented to the Planning and Regulatory Committee at it's meeting of 6 December 2016.

Nick McAlpine from Bishopp Outdoor Advertising (the applicant) has requested the opportunity to have a deputation with the Council at the Planning and Regulatory Committee meeting to provide a brief overview of the project and some advertising potential.

OFFICER'S RECOMMENDATION

THAT the deputation, by Nick McAlpine from Bishopp Outdoor Advertising, be 'received'.

8 OFFICERS' REPORTS

8.1 D/151-2016 - DEVELOPMENT APPLICATION FOR OPERATIONAL WORKS FOR AN ADVERTISING DEVICE (BILLBOARD SIGN)

File No: D/151-2016

Attachments:

1. Locality Plan
2. East Street Elevation
3. Fitzroy Street Elevation
4. Photoshopped Image

Authorising Officer: Tarnya Fitzgibbon - Coordinator Development Assessment
Steven Gatt - Manager Planning & Regulatory Services
Michael Rowe - General Manager Community Services

Author: Anton de Klerk - Acting Coordinator Development Assessment

SUMMARY

Development Application Number: D/151-2016

Applicant: Bishopp Outdoor Advertising C/- Vision Surveys

Real Property Address: Lot 1 on RP608458, Parish of Rockhampton

Common Property Address: 36 East Street, Rockhampton City

Area of Site: 1,993 square metres

Planning Scheme: Rockhampton Region Planning Scheme 2015

Planning Scheme Zone: Principal Centre Zone

Planning Scheme Overlays: Not Applicable

Existing Development: Office Building

Existing Approvals: Office Building

Approval Sought: Development Permit for Operational Works for an Advertising Device (billboard sign)

Level of Assessment: Code Assessable

Submissions: Not Applicable

Referral Agency(s): Nil

Infrastructure Charges Area: Charge Area 2

Application Progress:

<i>Application Lodged:</i>	21 September 2016
<i>Application Properly Made:</i>	26 September 2016
<i>Council request for additional time (until 22 November 2016):</i>	20 October 2016
<i>Government Agency Response (as an advice agency, requested by Council):</i>	12 October 2016
<i>Last receipt of information from applicant:</i>	1 November 2016
<i>Council request for additional time (until 20 December 2016):</i>	15 November 2016
<i>Statutory due determination date:</i>	20 December 2016

OFFICER'S RECOMMENDATION

THAT in relation to the application for a Development Permit for Operational Works for an Advertising Device (billboard), made by Bishopp Outdoor Advertising c/- Vision Surveys on behalf of Smith Bros. Investments Pty Ltd, on land described as Lot 1 on RP608458, Parish of Rockhampton, located at 36 East Street, Rockhampton City, Council resolves to Approve the application subject to the following conditions:

1.0 ADMINISTRATION

- 1.1 The Developer and his employee, agent, contractor or invitee is responsible for ensuring compliance with the conditions of this development approval.
- 1.2 Where these Conditions refer to "Council" in relation to requiring Council to approve or to be satisfied as to any matter, or conferring on the Council a function, power or discretion, that role may be fulfilled in whole or in part by a delegate appointed for that purpose by the Council.
- 1.3 All conditions of this approval must be undertaken and completed to the satisfaction of Council, at no cost to Council.
- 1.4 The following further Development Permits must be obtained prior to the commencement of any works associated with their purposes:
 - 1.4.1 Building Works.
- 1.5 All works must be designed, constructed and maintained in accordance with the relevant Council policies, guidelines and standards, unless otherwise stated.

2.0 APPROVED PLANS AND DOCUMENTS

- 2.1 The approved development must be completed and maintained generally in accordance with the approved plans and documents, except where amended by the conditions of this permit:

<u>Plan/Document Name</u>	<u>Plan Number</u>	<u>Dated</u>
Level 2 Floor Plan	SK 01, Amendment A	27 October 2016
Fitzroy Street Elevation	SK 02, Amendment A	27 October 2016
East Street Elevation & Details	SK 03, Amendment A	27 October 2016
Unnamed (a photoshopped image illustrating the proposed sign on the building)	Unnumbered	Undated

- 2.2 A set of the above approved plans are returned to you as the Consultant. The Consultant is to supply one (1) Approved set to the contractor to be retained on site at all times during construction.
 - 2.3 Where there is any conflict between the conditions of this approval and the details shown on the approved plans and documents, the conditions of approval must prevail.
 - 2.4 Where conditions require the above plans or documents to be amended, the revised document(s) must be submitted for endorsement by Council prior to the submission of a Development Application for Building Works.
- 3.0 DIGITAL SCREEN DISPLAY FEATURES**
- 3.1 The digital display screen of the Advertising Device must incorporate an automatic error detection system which will turn off the screen display or display a blank screen should the Advertising Device malfunction.
 - 3.2 The Advertising Device display screen must incorporate a minimum of two (2) automated ambient light sensors capable of supporting a minimum of five (5) levels of stepped dimming to ensure display screen luminance can adjust automatically in response to surrounding ambient light conditions from dark of night to fully sunlit

conditions.

- 3.3 The Advertising Device display screen must provide for on site control, operation, configuration and diagnosis of the screen display.
- 3.4 Messages must remain static for a minimum dwell time of nine (9) seconds, and are not to scroll across the screen or incorporate flashing, blinking, revolving, pulsating, high contrast or rotating effects animation.
- 3.5 Each change of advertisement is to be completed instantaneously (i.e. within 0.1 of a second).

4.0 DIGITAL SCREEN ADVERTISEMENTS AND MOVEMENT

- 4.1 The Advertising Device display screen must not be split to display multiple advertisements on the one display screen.
- 4.2 Advertisements must not display text, photographs or symbols depicting, mimicking or that could be reasonably interpreted as a traffic control device.
- 4.3 Advertisements must not invite traffic to move contrary to any traffic control device, or turn where there is fast moving traffic.
- 4.4 Advertisements must only promote a single, self-contained advertising message that is clear, succinct, legible and easily understood at a glance. The use of text components in a sequential manner, whereby text refers to or is reliant on previous or successive screen displays in order to convey an advertising message is not permitted.

Note: An advertising message refers to the main point the advertisement is attempting to convey to its target audience. This condition seeks to ensure that drivers in particular are not required to spend an excessive amount of time reading and interpreting advertisements.

- 4.5 Changeover animation effects such as 'fade', 'zoom', or 'fly-in' between advertisements must not be used.
- 4.6 A blank black, white, or any coloured screen must not be displayed between advertisements.
- 4.7 Advertisement that comprise of, or incorporate moving visual images, such as videos or animations must not be displayed.

Note: Video refers to a recording or the streaming of moving visual images captured by or using a video camera. Animation refers to a simulation of movement created by displaying a series of pictures or frames either digitally or otherwise.

- 4.8 The Advertising Device must not be capable of playing audio nor synchronised with any outdoor sound system utilised for advertising purposes.

5.0 ILLUMINANCE AND LUMINANCE

- 5.1 Any lighting devices associated with the signage, such as sensory lighting, must be positioned on the site and shielded so as not to cause glare or other nuisance to nearby residents or motorists. Night lighting must be designed, constructed and operated in accordance with '*Australian Standard AS4282 – Control of the obtrusive effects of outdoor lighting*'.
- 5.2 Luminance levels of the Advertising Device must not exceed the applicable levels listed in *Table 1* below.

Table 1: Luminance levels Advertising Device

			All Colours		Bailey's Sign Nit Setting	
Ambient Condition Description	Dimming Level	Advertising Device Illuminance Vertical Component (lx)	Screen Luminance (Cd/m ²) Max	Screen Luminance (Cd/m ²) Min	Max (nit)	Min (nit)
Sunny Day	5	40,000	6,300	2,800	6,000	2,800
Cloudy Day	4	4,000	1,100	500	1,100	500
Twilight	3	400	480	260	480	260
Dusk	2	40	380	120	380	120
Night	1	< 4	340	80	270	80

Note: Illuminance refers to the intensity of light falling at a given place on a lighted surface when measured by a lux meter and expressed as luminous flux per unit area (otherwise known as lux (lx)). Luminance refers to the intensity of light per unit area of its source when measured by a luminance meter and expressed as candela per square metre (cd/m²). It is often used to describe the perceived brightness of a light source.

6.0 ASSET MANAGEMENT

- 6.1 Any alteration necessary to electricity, telephone, water mains, sewerage mains, and/or public utility installations resulting from the development or in connection with the development, must be at full cost to the Developer.

7.0 OPERATING PROCEDURES

- 7.1 When requested by Council, a lighting investigation must be undertaken by a qualified person to investigate any complaint of light nuisance, and the results notified within twenty-eight (28) days to Council.
- 7.2 The lighting investigation must be carried out generally in accordance with the relevant test methods contained section 5 of 'Australian Standard AS4282 – Control of the obtrusive effects of outdoor lighting' and Appendix A of 'Australian Standard AS4852.2:2009: Variable Message Signs - Portable Signs' as applicable to determine whether or not the illuminance and luminance levels listed within this Permit have been exceeded.

8.0 ADVERTISING DEVICE CONSTRUCTION AND MAINTENANCE

- 8.1 Council reserves the right for uninterrupted access to the site at all times during construction.
- 8.2 All Construction work and other associated activities are permitted only between 0630 hours and 1800 hours Monday to Saturday. No work is permitted on Sundays or public holidays. All requirements of the *Environmental Protection Act 1994* and *Environmental Protection Regulations 2008* must be observed at all times.
- 8.3 All construction materials, waste, waste skips, machinery and contractors' vehicles must be located and stored or parked within the site.
- 8.4 Any proposed works within the vicinity (or zone of influence) of existing Council infrastructure will not adversely affect the integrity of the infrastructure. Any restoration works required on existing Council infrastructure as a result of proposed works will be at developer's expense.

- 8.5 The Advertising Device (Digital Billboard Sign) must be designed and certified by a Registered Professional Engineer of Queensland and constructed in accordance with the requirements of the Queensland Development Code and the Building Code of Australia.
- 8.6 All conduits, wiring, switches or other control apparatus installed on an Advertising Device must be concealed from general view, with control apparatus secured in a manner to prevent unauthorised entry and display setting tampering.
- 8.7 All electrical services and systems must comply with '*Australian and New Zealand Standard AS/NZS 3000:2007 - Electrical Installations*'.
- 8.8 The Advertising Device, including its display screen and supporting structure, must meet applicable wind loading requirements as specified in '*Australian Standard AS 1170.2: 2011 - Structural Design Actions Part 2 - Wind Actions*'.
- 8.9 The Advertising Device must be installed in such a fashion so that in the event that the advertising device is removed, the underlying wall surface is able to be made good. Upon removal of the Advertising Device, the wall surface must be restored to an original condition.
- 8.10 All signage must be maintained at all times on the premises by the owner of the premises to the same standard as it was when it was installed.
- 8.11 The Advertising Device (Digital Billboard Sign) must be maintained in a safe, clean, tidy and sightly condition at all times.

ADVISORY NOTES

NOTE 1. Aboriginal Cultural Heritage

It is advised that under section 23 of the *Aboriginal Cultural Heritage Act 2003*, a person who carries out an activity must take all reasonable and practicable measures to ensure the activity does not harm Aboriginal cultural heritage (the "cultural heritage duty of care"). Maximum penalties for breaching the duty of care are listed in the Aboriginal cultural heritage legislation. The information on Aboriginal cultural heritage is available on the Department of Aboriginal and Torres Strait Islander and Multicultural Affairs website www.datsima.qld.gov.au.

NOTE 2. General Environmental Duty

General environmental duty under the *Environmental Protection Act 1994* prohibits unlawful environmental nuisance caused by noise, aerosols, particles, dust, ash, fumes, light, odour or smoke beyond the boundaries of the development site during all stages of the development including earthworks, construction and operation.

NOTE 3. General Safety Of Public During Construction

The *Work Health and Safety Act 2011* and *Manual of Uniform Traffic Control Devices* must be complied with in carrying out any construction works, and to ensure safe traffic control and safe public access in respect of works being constructed on a road.

BACKGROUND

PROPOSAL IN DETAIL

The proposal is for the erection of a new advertising device (billboard sign) on top of the second storey balcony of an existing office building fronting onto East Street and Fitzroy Street. The proposed digital advertising sign will be approximately 12.7 metres long and 3.35 metres high with a surface area of approximately 42.5 square metres.

The proposed development seeks to establish a high quality, state of the art third party advertising device, anticipated to advertise not only international businesses but also small and medium local businesses that operate within twenty (20) kilometre radius of the

billboard. Eighty per cent (80%) of Bishopp's advertising content is used to promote local businesses.

The visibility of the sign will focus on Fitzroy Street (off the Fitzroy bridge), the intersection of East Street with Fitzroy Street.

SITE AND LOCALITY

The subject site is located within the Principal Centre Zone of Rockhampton, occupying numerous businesses. The subject site is bounded by East Street towards the east, Fitzroy Street to the south, East Lane to the west and existing / established commercial development to the north.

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.

Development Engineering Comments – 24 October 2016

Object to the proposed development due to the intersection being a high risk for incidences and crashes under the High Risk Roads project. The advertising device is likely to create a danger to traffic through an additional distraction element to drivers contributing towards the safety risks.

Public and Environmental Health Comments – 7 October 2016

Support, subject to conditions.

Strategic Planning Comments – 11 October 2016

Support, subject to conditions.

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 2016

This policy came into effect on 2 December 2013 (amended in July 2014 and April 2016) 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.

Rockhampton Region Planning Scheme 2015

Principal Centre Zone

The subject site is situated within the Principal Centre Zone under the *Rockhampton Region Planning Scheme 2015*. The purpose of the Principal Centre Zone identifies that: -

- (1) *The purpose of the principal centre zone code is to provide for the largest and most diverse mix of uses and activities that forms the core of an urban settlement. It includes concentrations of high-order retail, commercial, employment, residential, health services, administrative, community, cultural, recreational, entertainment and other uses that are in accordance with the designated precincts and capable of servicing the planning scheme area.*

(2) *The local government purpose of the zone code is to:*

(a) *facilitate the development of the principal centre which:*

- (i) *is the primary business centre for the wider region with the highest concentration of commercial, retail, entertainment and cultural uses;*
- (ii) *is developed with high density residential development (above ground floor level or behind ground story retail, commercial or community related activities), tourist and short-term accommodation (except within the Denison Street precinct);*
- (iii) *includes on and off-street parking, continuous commercial facades, shaded footpaths, street trees and other pedestrian facilities;*
- (iv) *is the primary destination and interchange hub for all modes of road and local area public transport;*
- (v) *is well designed, safe and highly accessible;*
- (vi) *is well served with all urban infrastructure; and*
- (vii) *retains important character and heritage values.*

This application is considered being consistent with the purpose of the Zone.

Rockhampton Regional Planning Scheme Codes

The following codes are applicable to this application: -

- Principal Centre Zone Code; and
- Advertising Device Code.

An assessment has been made against the requirements of the abovementioned codes and the proposed development generally complies with the relevant Performance outcomes and Acceptable outcomes. An assessment of the Performance outcome/s which the application is in conflict with, is outlined below:

Advertising Devices Code		
	Performance Outcome/s	Officer's Response
PO1	<p>The advertising device is designed and sited in a manner that:</p> <ul style="list-style-type: none"> (a) results in a size that does not adversely impact on: <ul style="list-style-type: none"> (i) the visual amenity and character of a building, streetscape, locality or natural landscape setting; (ii) the safety of a road or footpath; (iii) the operations of an airport; and (iv) the visual amenity of a main transport entrance into an urban area or township; (b) is integrated with the design of other development on the premises; (c) does not visually dominate the premises, streetscape, locality 	<p>The Advertising Devices Planning Scheme Policy (forming part of the <i>Rockhampton Region Planning Scheme 2015</i>), provides a way of calculating the maximum recommended total sign face area for advertising devices at any given site by either using the boundary length calculation method or the building elevation calculation method, whichever is the greater.</p> <p>In this instance, the boundary length method calculates a maximum size of approximately thirty-nine (39) square metres, and the building elevation method calculates a maximum size of approximately 76.5 square metres. The proposed sign will have a total advertising area of approximately 42.5 square metres which is compliant to the building elevation calculation method.</p> <p>Furthermore, there is a small number of advertising devices in this area and the proposed sign will not adversely impact on</p>

	<p>or natural landscape setting;</p> <p>(d) is constructed of durable materials;</p> <p>(e) does not impede vehicle or pedestrian movements or reduce safety levels;</p> <p>(f) does not resemble traffic or road signs; and</p> <p>(g) does not result in the proliferation of unnecessary advertising.</p>	<p>the surrounding area, and will not contribute to the visual clutter of advertising signs along Fitzroy Street and East Street.</p> <p>The proposed advertising device will be orientated towards East Street and the Fitzroy Bridge being visible to traffic passing through the major intersection of East Street and Fitzroy Street. There are some concerns that the proposed advertising sign could potentially distract motorists within this major intersection and therefore contribute to a higher accident rate. There is however no conclusive evidence linking advertising devices with accident rates and most studies stipulate that further research is required. <i>"In Australia, digital billboards are beginning to be permitted at roadside. There are concerns from a road safety perspective that these signs may have more potential to distract drivers than static billboards. Since the existing international research on digital billboards and driver distance is inconclusive, an on-road study was conducted to compare drivers' eye fixations and driving performance when advertising signs (static billboards, digital billboards and on-premises signs) were present."</i>¹</p> <p>The level / quality of technology and content will therefore be conditioned, ensuring the visual impact will not impede upon traffic and safety. The advertising material will be limited to still images only. No animation, movements or flashing lights will be allowed.</p>
PO2	<p>The illumination of an advertising device does not detract from the character and amenity of an area and does not cause a visual nuisance to any adjoining premises or roads.</p>	<p>Table 9.4.2.3.4 within the <i>Rockhampton Region Planning Scheme 2015</i> does specify a maximum luminance of 500 candelas per square metres. The proposed advertising device will however be required to have a higher luminance than 500 candelas during bright sunny days.</p> <p>To put this in perspective, most indoor LCD display screens are between 300 and 350 candelas. An outdoor display must be at least 400 candelas if located within a shadowed, protected location, like under an eave or only receiving morning sun. An advertising device located within a sunny location, receiving lots of direct sun, must be at least 700 to 2,000 candelas. It must</p>

¹ Samsa, C. 2015, *Digital Billboards 'Down Under'. Are they distracting to drivers and can industry and regulators work together for a successful road safety outcome?*, 4th International Driver Distraction and Inattention Conference, Sydney, New South Wales.

		<p>be noted, the candelas is not a direct ratio. In other words, 2,000 candelas is not three times brighter than 700 candelas. The dramatic difference will be between 400 and 700 candelas.</p> <p>Therefore, it will be conditioned that the proposed advertising device follows the advertising sign assessment guidelines for road safety and maximum luminance levels.</p>
Preferred Sign Types and Outcomes – Billboard Sign		
	<p>(a) only locate in the following zones:</p> <ul style="list-style-type: none"> (i) principal centre zone; (ii) major centre zone; (iii) district centre zone; (iv) specialised centre zone; (v) medium impact industry zone; (vi) high impact industry zone; (vii) special industry zone; and (viii) rural zone. <p>(b) only one (1) billboard sign (double or single sided) is located at any one (1) premise, except when in the rural zone;</p> <p>(c) the sign has a face area that does not exceed twenty (20) square metres per side;</p> <p>(d) the sign is located to ensure that the back of the sign is not exposed to, or visible from, any public place;</p> <p>(e) the sign is supported on single or multiple pylons to avoid unsightly back bracing;</p> <p>(f) where visible to a public place, the area below the sign is landscaped with plants that have a mature height less than the height of the bottom of the sign above ground;</p> <p>(g) the sign is separated from any other billboard sign located on any premise in an urban zoned area by a minimum distance of 100 metres;</p> <p>(h) the sign has a maximum height that does not exceed five (5) metres; and</p>	<p>The proposal is for the erection of a new advertising device (billboard sign) on top of the second storey balcony of an existing office building fronting onto East Street and Fitzroy Street, located within the Principal Centre Zone. The proposed digital advertising sign will be approximately 12.7 metres long and 3.35 metres high with a surface area of approximately 42.5 square metres.</p> <p>Although the recommended billboard sign size is limited to twenty (20) square metres per side, the sign does comply with the building elevation calculation method (in accordance with the Advertising Devices Planning Scheme Policy), which allows the subject building to have a maximum accumulative advertising size of approximately 76.5 square metres.</p>

	(i) the sign is set back from any property boundary by a minimum of three (3) metres or half the height of the sign, whichever is the greater.	
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Based on a performance assessment of the above mentioned codes, it is determined that the proposal is acceptable and generally complies with the relevant Performance outcomes and where there is deviation from the codes, sufficient justification has been provided.

CONSULTATION

The proposal was not subject to undertake public notification as per the requirements of the *Sustainable Planning Act 2009*.

REFERRALS

The proposal did not trigger any referral agency as per the requirements of the *Sustainable Planning Regulations 2009*.

CONCLUSION

The proposed advertising device is considered to be in keeping with the intent of the Principal Centre Zone. Furthermore, the proposal generally complies with the provisions included in the applicable codes and where there is deviation from the codes, sufficient justification has been provided. The proposal is, therefore, recommended for approval in accordance with the approved plans and subject to the conditions outlined in the recommendation.

**D/151-2016 - DEVELOPMENT
APPLICATION FOR OPERATIONAL
WORKS FOR AN ADVERTISING
DEVICE (BILLBOARD SIGN)**

Locality Plan

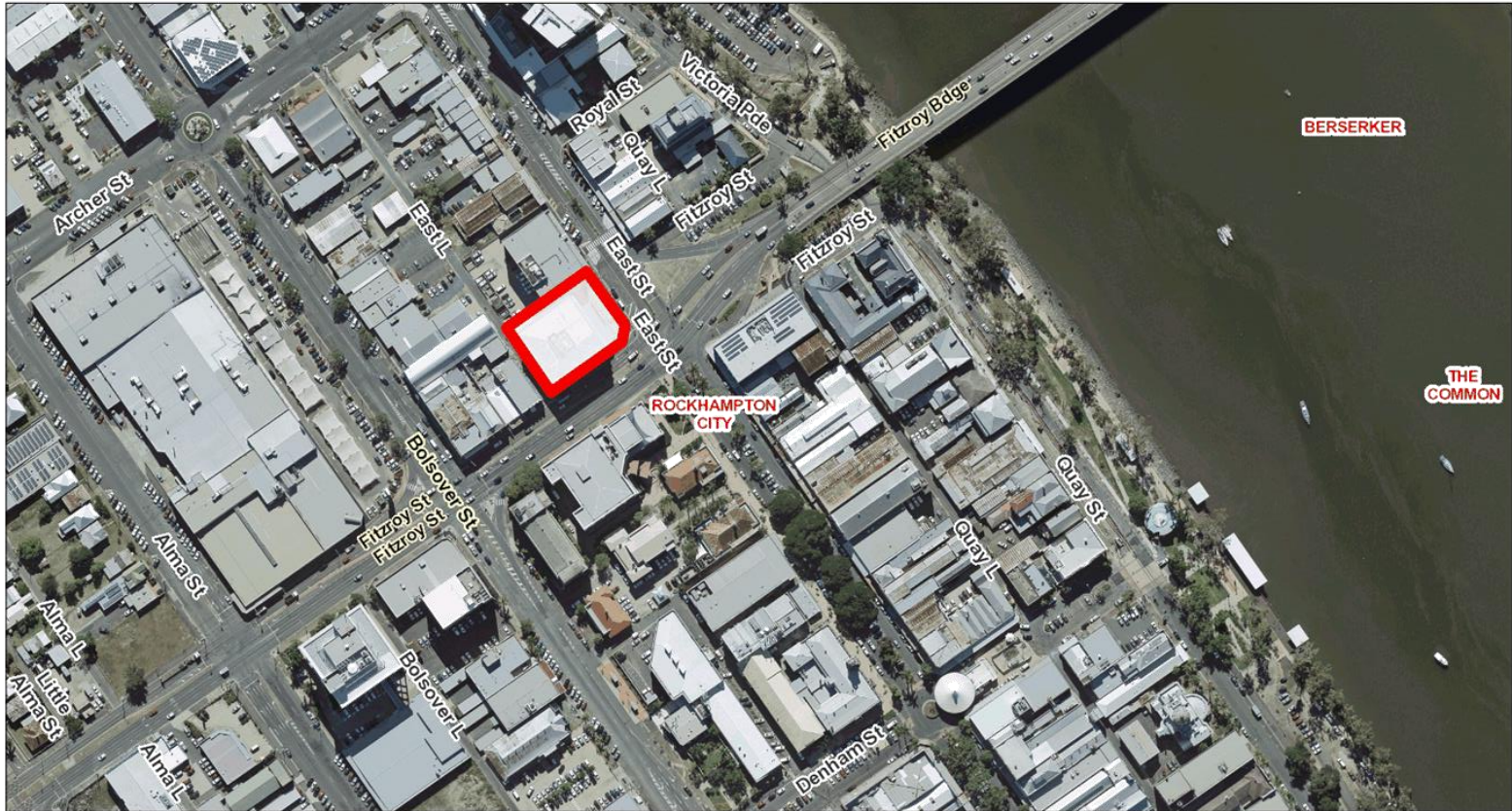
Meeting Date: 6 December 2016

Attachment No: 1

D/151-2016 - Locality Plan



A4 Page scale at 1: 2,849.64
Printed from GeoCortex on 23/11/2016



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**D/151-2016 - DEVELOPMENT
APPLICATION FOR OPERATIONAL
WORKS FOR AN ADVERTISING
DEVICE (BILLBOARD SIGN)**

East Street Elevation

Meeting Date: 6 December 2016

Attachment No: 2

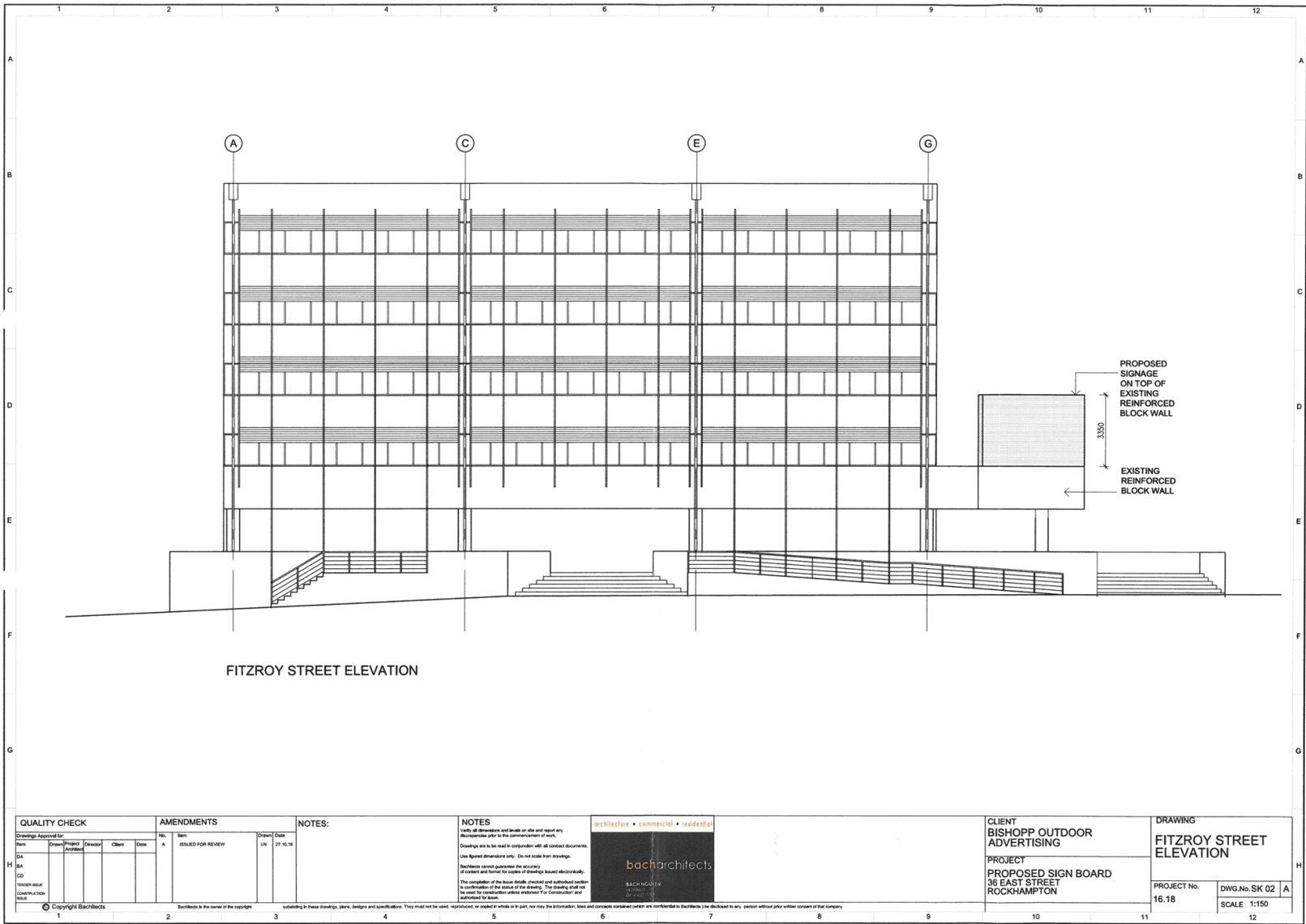


**D/151-2016 - DEVELOPMENT
APPLICATION FOR OPERATIONAL
WORKS FOR AN ADVERTISING
DEVICE (BILLBOARD SIGN)**

Fitzroy Street Elevation

Meeting Date: 6 December 2016

Attachment No: 3



**D/151-2016 - DEVELOPMENT
APPLICATION FOR OPERATIONAL
WORKS FOR AN ADVERTISING
DEVICE (BILLBOARD SIGN)**

Photoshopped Image

Meeting Date: 6 December 2016

Attachment No: 4



8.2 REQUEST TO EXTEND THE RELEVANT PERIOD TO DEVELOPMENT PERMIT D/533-2008 FOR A MATERIAL CHANGE OF USE FOR MULTI UNIT DWELLINGS (FOUR UNITS)

File No: D/533-2008
Attachments: 1. Locality Plan
Authorising Officer: Anton de Klerk - Acting Coordinator Development Assessment
Steven Gatt - Manager Planning & Regulatory Services
Michael Rowe - General Manager Community Services
Author: Alyce James - Planning Officer

SUMMARY

Development Application Number: D-R/533-2008
Applicant: R G Cooper
Real Property Address: Lot 43 on RP603342
Common Property Address: 369 Paterson Avenue, Koongal
Area of Site: 1,196 square metres
Current Planning Scheme: Rockhampton Region Planning Scheme 2015
Current Planning Scheme Zone: Low Density Residential Zone
Superseded Planning Scheme: Rockhampton City Plan 2005
Superseded Planning Scheme Zone/Area: Lakes Creek Residential Area
Planning Scheme Overlays: Nil
Existing Development: Dual Occupancy
Approval Sought: Extension to the Relevant Period to Development Permit D/533-2008 for a Material Change of Use for Multi Unit Dwellings (four units)
Referral Agency(s): Nil
Infrastructure Charges Area: Charge Area 1

OFFICER'S RECOMMENDATION**RECOMMENDATION A1**

THAT in relation to the request to extend the relevant period for Development Permit D-R/533-2008 for a Material Change of Use for Multi Unit Dwellings (four units), made by R G Cooper, on land described as Lot 43 on RP603342, Parish of Archer located at 369 Paterson Avenue, Koongal, Council resolves that:

1. Condition 1.8 be amended by replacing the following condition:

"This approval is valid for a period of eight (8) years from the day the approval takes effect. If the use has not commenced in accordance with the approved conditions within eight (8) years the approval will lapse."

With

This approval is valid for a period of ten (10) years from the day the approval takes effect. If the use has not commenced in accordance with the approved conditions within ten (10) years the approval will lapse.

2. Condition 9.1 be deleted;

"Contributions must be paid to Council prior to the issue of a Development Permit for Building Works."

3. Condition 9.2 be deleted; and

"The contributions must be paid in accordance with the Council Policy rates at the date of payment. The following table sets out the contributions required to be paid:

Policy	Contribution	Current Total*
LPP5	Water Supply Headworks	\$1,852.00
LPP5	Sewerage Headworks	\$2,178.00
PSP5	Park Contribution	\$2,350.00
	Footpath	\$2,988.25

**The sums of money quoted will remain firm for a period of twelve (12) months, after which time, Council reserves the right to review same in accordance with the policies and rates and charges current at the time of payment."*

4. Note 5 be added:

"This application is subject to infrastructure charges in accordance with Council policies. The charges are presented on an Infrastructure Charges Notice."

5. Council issue an Infrastructure Charges Notice for the amount of \$42,000.00.

RECOMMENDATION A2

That to reflect the above changes to conditions, R G Cooper, be issued with an Amended Decision Notice for Development Permit D-R/533-2008 for a Material Change of Use for Multi Unit Dwellings (four units).

ADMINISTRATION

- 1.1 The approved use and development must be completed and maintained generally in accordance with the approved drawings and documents, except where amended by the conditions of this permit:

Plan/Document Name	Plan Number	Dated
Concept Landscape Plan	CF1001 DA Plan 1	06/2008
Planting Plan	CF1001 DA Plan 2	06/2008
Specifications	CF1001 DA Plan 3	06/2008
Details	CF1001 DA Plan 4	06/2008
Lower Floor Plan	M28007 Sheet 1	13/06/2008
Upper Floor Plan	M28007 Sheet 2	13/06/2008
Front and Right Elevation	M28007 Sheet 3	13/06/2008
Left and Rear Elevation	M28007 Sheet 4	13/06/2008
Site Plan	M28007 Sheet 5	13/06/2008
Vehicle Manoeuvring	M28007 Sheet 6	13/06/2008
Floor Plan	M28007 Sheet 7	13/06/2008
Existing Dwelling	M28007 Sheet 8	13/06/2008

- 1.2 Where there is any conflict between conditions of this decision notice and details shown on the approved plans, the conditions of approval must prevail.
- 1.3 Where these Conditions refer to "Council" in relation to requiring Council to approve or to be satisfied as to any matter, or conferring on the Council a function, power or

discretion, that role of the Council may be fulfilled in whole or in part by a delegate appointed for that purpose by the Council.

- 1.4 The Developer is responsible for ensuring compliance with this Approval and the Conditions of the Approval by an employee, agent, contractor or invitee of the Developer.
- 1.5 All conditions, works, or requirements of this approval must be undertaken and completed to the satisfaction of Council, prior to the commencement of the use or release of the building format plan, whichever occurs the sooner.
- 1.6 The following further development permits are required prior to the commencement of any works on the site:

1.6.1 Operational Works:

- (i) Access and Parking;
- (ii) Sewerage Works;
- (iii) Water Works;
- (iv) Stormwater Works;
- (v) Site Works; and
- (vi) Landscaping;

1.6.2 Plumbing and Drainage Works; and

1.6.3 Building Works.

- 1.7 All Development Permits for Operational Works and Plumbing and Drainage Works must be obtained prior to the issue of a Development Permit for Building Works.
- 1.8 This approval is valid for a period of ten (10) years from the day the approval takes effect. If the use has not commenced in accordance with the approved conditions within ten (10) years the approval will lapse.
- 1.9 Any outstanding rates, charges or expenses levied by the Council over the subject land must be paid prior to the issue of a Development Permit for Building Works.

2.0 ACCESS AND PARKING

- 2.1 A Development Permit for Operational Works (access and parking) must be obtained prior to the commencement of any works on the site.
- 2.2 All car parking and access areas must be paved or sealed to the satisfaction of Council. Design and construction must be in accordance with the provisions of a Development Permit for Operational Works (access and parking). The layout must be generally in accordance with the endorsed plans (refer to condition 1.1).

3.0 SEWERAGE WORKS

- 3.1 A Development Permit for Operational Works (sewerage works) must be obtained prior to the commencement of any works on the site.
- 3.2 The development must be connected to Council's reticulated sewerage network in accordance with the provisions of the *Water Act* and *Plumbing and Drainage Act*.
- 3.3 Construction works proposed in the vicinity of Council's existing sewer infrastructure must not adversely affect the integrity of the infrastructure.
- 3.4 The proposed units must discharge into the combined sewer line down stream of the existing building's connection point.
- 3.5 All sanitary drainage works must be in accordance with regulated work under the *Plumbing and Drainage Act*.

4.0 WATER WORKS

- 4.1 A Development Permit for Operational Works (water works) must be obtained prior to the commencement of any works on the site.
- 4.2 Construction works proposed in the vicinity of Council's existing water infrastructure must not adversely affect the integrity of the infrastructure.
- 4.3 The existing water connection point must be retained to service the proposed development.
- 4.4 In accordance with *Queensland Plumbing and Wastewater Code*, the proposed development must be provided with a master water meter at the property boundary and sub meters for each sole occupancy unit.
- 4.5 All plumbing works must be in accordance with regulated work under the *Plumbing and Drainage Act*.

5.0 STORMWATER WORKS

- 5.1 A Development Permit for Operational Works (stormwater works) must be obtained prior to the commencement of any works on the site.
- 5.2 All stormwater drainage works must be designed and constructed in accordance with the Queensland Urban Drainage Manual and the Capricorn Municipal Design Guidelines, and sound Engineering practice.
- 5.3 All stormwater runoff from the subject site, and roofwater and water from paved surfaces, must be collected within the site and directed to a lawful point of discharge (id est, the kerb and channel in Paterson Avenue), in accordance with Council's requirements. Design and construction must be in accordance with a Development Permit for Operational Works (stormwater works).

6.0 SITE WORKS

- 6.1 A Development Permit for Operational Works (site works) must be obtained prior to the commencement of any works on the site.
- 6.2 Any application for a Development Permit for Operational Works (site works) must be accompanied by an earthworks' plan which clearly identifies the following:
 - (i) the location of cut and/or fill;
 - (ii) the type of fill to be used and the manner in which it is to be compacted;
 - (iii) the quantum of fill to be deposited or removed and finished cut and/or fill levels;
 - (iv) details of any proposed access routes to the site which are intended to be used to transport fill to or from the site; and
 - (v) the maintenance of access roads to and from the site so that they are free of all cut and/or fill material and cleaned as necessary.
- 6.3 Any vegetation cleared or removed must be:
 - (i) mulched on-site and utilised on-site for landscaping purposes, in accordance with the landscaping plan approved by Council; or
 - (ii) removed for disposal at a location approved by Council;within sixty (60) days of clearing. Any vegetation removed must not be burnt

7.0 BUILDING

- 7.1 All external elements, such as air conditioners, must be adequately screened from public view, to Council's satisfaction. Noise from any external elements, such as air conditioners, must not exceed 5dB(A) above the background ambient noise level, measured at the boundaries of the subject site

7.2 Any lighting devices associated with the development, such as sensory lighting, must be positioned on the site and shielded so as not to cause glare or other nuisance to nearby residents and motorists. Night lighting must be designed, constructed and operated in accordance with '*Australian Standard AS4282 – Control of the obtrusive effects of outdoor lighting*'.

7.3 A waste bin compound must be provided in the nominated position as indicated on the approved plan (refer to condition 1,1).

7.3.1 The waste compound must be:

- (i) located at least three (3) metres from any road frontage;
- (ii) surrounded by a fence, minimum 1.8 metres in height, which obstructs from view the contents of the compound from any public place;
- (iii) of a minimum size to accommodate four standard domestic wheelie bins;
- (iv) kept in a clean, tidy condition; and
- (v) provided with impervious paved and drained washdown areas

7.3.2 The refuse containers must be:

- (i) stored within the bin compound area;
- (ii) securely covered at all times; and
- (iii) maintained in a clean condition and in good repair.

8.0 LANDSCAPING

8.1 A Development Permit for Operational Works (landscaping) must be obtained prior to the commencement of any works on the site.

8.2 Any application for a Development Permit for Operational Works (landscaping) must be in accordance with the Rockhampton City Plan Landscape Code and include, but is not limited to, the following:

8.2.1 A plan documenting the "Extent of Works" and supporting documentation which includes:

- (i) location and name of existing trees, including those to be retained (the location of the trees shall be overlayed or be easily compared with the proposed development design);
- (ii) the extent of soft and hard landscape proposed;
- (iii) important spot levels and/or contours. The levels of the trees to be retained shall be provided in relation to the finished levels of the proposed buildings and works;
- (iv) underground and overhead services;
- (v) typical details of critical design elements (eg stabilisation of batters, retaining walls, podium/balcony planters, trees in car park areas, fences);
- (vi) details of landscape structures including areas of deep planting; and
- (vii) specification notes on mulching and soil preparation.

8.2.2 A "Planting Plan" and supporting documentation which includes:

- (i) trees, shrubs and groundcovers to all areas to be landscaped;
- (ii) position and canopy spread of all trees and shrubs;
- (iii) the extent and type of works (i.e. paving, fences, garden bed edging etc). All plants shall be located within an edged garden; and

- (iv) a plant schedule with the botanic and common names, total plant numbers and pot sizes at the time of planting.

8.3 All fencing depicted on the approved plans along the western boundary must be of a solid construction, with no openings.

8.4 The landscaped areas must be subject to an ongoing maintenance and replanting programme (if necessary).

9.0 CONTRIBUTIONS/COSTS

9.1 Deleted.

9.2 Deleted.

9.3 Any alteration necessary to electricity, telephone, water mains, sewerage mains, and/or public utility installations resulting from the development or in connection with the development, must be at full cost to the developer.

9.4 'As constructed' information pertaining to assets to be handed over to Council and those which may have an impact on Council's existing and future assets must be provided prior to the commence of the use or the release of the Building Format Plan, whichever occurs the sooner.

10.0 ENVIRONMENTAL

10.1 Any application for a Development Permit for Operational Works or a Development Permit for Building Works must be accompanied by a detailed Environmental Management Plan, which addresses, but is not limited to, the following matters:

- (i) water quality and drainage;
- (ii) erosion and silt/sedimentation management;
- (iii) vegetation management and clearing;
- (iv) top soil management;
- (v) interim drainage plan during construction;
- (vi) construction programme;
- (vii) weed control;
- (viii) emergency vehicle access;
- (ix) noise and dust suppression; and
- (x) waste management.

10.2 Any application for a Development Permit for Operational Works or Development Permit for Building Works must be accompanied by an Erosion and Sediment Control Plan which addresses, but is not limited to, the following:

- (i) objectives;
- (ii) site location / topography;
- (iii) vegetation;
- (iv) site drainage;
- (v) soils;
- (vi) erosion susceptibility;
- (vii) erosion risk;
- (viii) concept;
- (ix) design; and

- (x) implementation, for the construction and post construction phases of work.

The erosion and sediment control plan must incorporate detailed plans, control measures, monitoring programmes and maintenance procedures to ensure appropriate development and management practices within and adjacent to the site.

- 10.3 The Environmental Management Plan and the Erosion and Sediment Control Plan approved as part of a Development Permit for Operational Works must be part of the contract documentation for the development works.

- 10.4 No works can commence on the site unless and until an Environmental Management Plan and an Erosion and Sediment Control Plan has been approved by Council as part of Development Permit for Operational Works.

11.0 OPERATING PROCEDURES

- 11.1 All construction materials, waste, waste skips, machinery and contractors' vehicles must be located and stored or parked within the site. No storage of materials, parking of construction machinery or contractors' vehicles will be permitted in Paterson Avenue.

NOTES

NOTE 1: Dust Control

It is the developer's responsibility to ensure compliance with Part 2A - Environmental Nuisance of the Environmental Protection Regulation 1998 which prohibits unlawful environmental nuisance caused by dust, ash, fumes, light, odour or smoke beyond the boundaries of the property during all stages of the development including earthworks and construction.

NOTE 2: Sedimentation Control

It is the developer's responsibility to ensure compliance with Section 32 of the Environmental Protection (Water) Policy 1997 to prevent soil erosion and contamination of the stormwater drainage system and waterways.

NOTE 3: Noise During Construction And Noise In General

It is the developer's responsibility to ensure compliance with Section 6S General Emission Criteria and Section 6T Noise Emission Criteria of the Environmental Protection Regulation 1998.

NOTE 4: General Safety Of Public During Construction

It is the principal contractor's responsibility to ensure compliance with Section 31 of the Workplace Health and Safety Act 1995. Section 31(1)(c) states that the principal contractor is obliged on a construction workplace to ensure that work activities at the workplace are safe and without risk of injury or illness to members of the public at or near the workplace.

It is the responsibility of the person in control of the workplace to ensure compliance with Section 30 of the Workplace Health and Safety Act 1995. Section 30(1)(c) states that the person in control of the workplace is obliged to ensure there is appropriate, safe access to and from the workplace for persons other than the person's workers.

NOTE 5: Infrastructure Charges Notice

This application is subject to infrastructure charges in accordance with Council policies. The charges are presented on an Infrastructure Charges Notice.

BACKGROUND

On 14 October 2008, Council approved Development Permit D/533-2008 for a Material Change of Use for a Multi Unit Dwelling (four units) over Lot 43 on RP603342, located at 369 Paterson Avenue, Koongal.

Council approved a two (2) year extension to the relevant period on 25 September 2012 and a further two (2) year extension on 18 March 2014. The applicant has requested to extend the relevant period by an additional two (2) years until 14 October 2018 pursuant to section 369 and 383 of the *Sustainable Planning Act 2009*.

The applicant cites the current economic downturn and associated impacts on the property market for extending the relevant period, along with Cyclone Marcia. Further to this, the applicant has been actively obtaining related approvals. This extension will allow the applicant sufficient time to proceed with the development.

During assessment of the application the applicant was given two (2) options from Council as follows:

- 1) Approve an extension for two (2) years, subject to the development attracting the full infrastructure charge as per Council's charges at the time of payment; or
- 2) Refuse the request to extend the relevant period.

The applicant advised on 31 October 2016 that they do not agree with either of the options, and request Council approve their extension without imposing the new infrastructure charges.

PLANNING ASSESSMENT**MATTERS FOR CONSIDERATION**

This request 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.

TOWN PLANNING COMMENTS

Section 388 of the *Sustainable Planning Act 2009* outlines matters which Council must have regard to in deciding a request to extend the relevant period:

- (1) *In deciding a request under section 383, the assessment manager must only have regard to—*
 - (a) *the consistency of the approval, including its conditions, with the current laws and policies applying to the development, including, for example, the amount and type of infrastructure contributions, or infrastructure charges payable under an infrastructure charges schedule; and*
 - (b) *the community's current awareness of the development approval; and*
 - (c) *whether, if the request were refused—*
 - (i) *further rights to make a submission may be available for a further development application; and*
 - (ii) *the likely extent to which those rights may be exercised; and*
 - (d) *the views of any concurrence agency for the approval.*

Current laws and policies

The original development application was assessed against the *Rockhampton City Plan 2005* and is consistent with the purpose of the Low Density Residential Zone under the *Rockhampton Region Planning Scheme 2015*.

Despite consistency with the current planning scheme, additional policies have come into effect since the time of the approval, including the *Adopted Infrastructure Charges Resolution (No. 5) 2015* which must be considered.

Under previous arrangements, a total contribution of **\$9,368.25** applied based on the below charges.

<u>Policy</u>	<u>Contribution</u>	<u>Current Total*</u>
PSP5	Parks	\$2,350.00
PSP11	Water Supply Headworks	\$1,852.00
PSP11	Sewerage Headworks	\$2,178.00
	Footpath	\$2,988.25

Under current laws and policies Council's *Adopted Infrastructure Resolution (No. 5) 2015*, residential development applies to the application, located within Charge Area 1. The new Adopted Infrastructure Charges for the proposed development are as follows:

Adopted Infrastructure Charges Resolution (No.5) 2015:

Column 1 Use Schedule	Column 2 Charge Area	Column 3 Adopted Infrastructure Charge for residential development (\$/dwelling unit)		Column 4 Unit	Calculated Charge
		1 or 2 bedroom dwelling	3 or more bedroom dwelling		
Residential	Area 1	15,000		per unit	\$30,000.00
Residential	Area 1		21,000	per unit	\$42,000.00
Total					\$72,000.00
Less credit					\$30,000.00
TOTAL CHARGE					\$42,000.00

This is based on the following calculation:

- A) \$30,000.00 – two, two-bedroom units;
- B) \$42,000.00 – two, three-bedroom units; and
- C) \$30,000.00 – for the existing two units.

A total contribution of **\$42,000.00** is payable and would be reflected in an Infrastructure Charges Notice for the development.

Therefore, if the proposed development is granted an additional two (2) year extension to the relevant period as per the request, Council will stand to suffer a financial loss of **\$32,361.75**. Furthermore, supporting an extension to the relevant period for this development would be inequitable for all new development applications, in that the permit at hand is not subject to current policies in accordance with section 388(1)(a) of the *Sustainable Planning Act 2009*. All new development applications are subject to the Adopted Infrastructure Charges Resolution, whereas this application would have a greater period of time to be completed at a reduced contribution rate.

Council's *Adopted Infrastructure Charges Resolution (No. 5) 2015* was introduced by Resolution in September 2015.

The resolution was adopted in line with the State Government legislative reform following industry uncertainty about the scale and consistency of local government charges throughout the state. Council's charges are considered to be a 'true cost' of development infrastructure and differences in charges are likely to cause financial burden to Council. Council must make a decision with regards to supporting development in the region whilst securing the necessary developer contributions towards infrastructure provision.

Community's current awareness

Having regard to section 388(1)(b) of the *Sustainable Planning Act 2009*, the request is not considered to affect the community's awareness as no changes to the original development / layout is proposed. It is considered reasonable to believe that there is some level of community expectation that the development will go ahead in a timely manner.

Submission rights

If the request was refused (as mentioned in section 388(1)(c) of the *Sustainable Planning Act 2009*), and the applicant submits a development application for the same development permit, it is not foreseen that the assessment of a subsequent application would result in a substantially different outcome if assessed against the current *Rockhampton Region Planning Scheme 2015*. Although such an application will trigger an Impact Assessable application and will be required to undergo public notification, it is not anticipated that the application will generate any additional submissions or be refused. The units are consistent with the Low Density Residential Zone.

Summary

Section 388 of the *Sustainable Planning Act 2009* is clear in that the assessment manager must only have regard to the four criteria it identifies (as listed above). No other facts or circumstances are to influence, nor impede, the assessment manager's deliberations.

Therefore, whilst the community's awareness of the development will not be affected and no referral agency will be triggered, the application is not able to be considered consistent with the infrastructure charging policies applicable to development in the region. Insofar as an assessment against section 388, it is considered that the request to extend the relevant period by two (2) years will result in development which conflicts with current infrastructure policies. Furthermore the applicant's ability to make further applications to similarly develop the site has not been restricted and, if such an application is submitted under the current planning scheme, it is likely to be approved.

Council has two options open to it in regard to deciding the request.

Option One:	Approve an extension for two (2) years, subject to the development attracting the full infrastructure charge as per Council's charges at the time of payment.
Option Two:	Refuse the request to extend the relevant period.

CONCLUSION

The proposed extension to the relevant period for two (2) years can be supported subject to amending Condition 1.8 of the Decision Notice, extending the relevant period to 14 October 2018. Condition 9.1 and 9.2 must be deleted (reflecting the superseded contributions) and a new Infrastructure Charges Notice must be issued highlighting the new charges in accordance with the *Adopted Infrastructure Charges Resolution (No. 5) 2015*.

**REQUEST TO EXTEND THE RELEVANT
PERIOD TO DEVELOPMENT PERMIT
D/533-2008 FOR A MATERIAL CHANGE
OF USE FOR MULTI UNIT DWELLINGS
(FOUR UNITS)**

Locality Plan

Meeting Date: 6 December 2016

Attachment No: 1



8.3 APPLICATIONS TO BE DECIDED UNDER DELEGATION

File No: 7028

Attachments: Nil

Authorising Officer: Steven Gatt - Manager Planning & Regulatory Services
Michael Rowe - General Manager Community Services

Author: Tarnya Fitzgibbon - Coordinator Development Assessment

SUMMARY

This report outlines the new development applications that have been received during October 2016 and how the applications will be decided.

OFFICER'S RECOMMENDATION

THAT this report be received.

BACKGROUND

Matters are referred to Committee for decision where:

- The application is being recommended for refusal;
- The development is inconsistent with the intent of the zone; and
- Submissions are received during the notification period.

The following applications were received during October 2016. They will be decided in the following manner:

Application type	Address	Decision
D/154-2016 – ROL (one into two lots)	239-241 German Street, Norman Gardens	Delegation
D/155-2016 – Operational Works for Advertising Device (Billboard Sign and Fascia Sign)	27 Ross Street, Allenstown	Delegation
D/156-2016 – MCU for Food and Drink Outlet, Bar, Shop and Function Facility and Operational Works for Road Works	116 and 118 William Street, Rockhampton City	Impact so might go to Committee
D/157-2016 – ROL (one lot into two lots)	Lot 300A Yeppoon Road, Norman Gardens	Delegation
D/158-2016 – MCU for Extractive Industry, High Impact Industry and Warehouse	263A Belmont Road, Parkhurst	Impact so might go to Committee
D/159-2016 – Operational Works for Road Works, Water Infrastructure, Drainage Works, Earthworks and Sewerage Infrastructure	58 Victoria Parade, Rockhampton City	Delegation
D/160-2016 – MCU for Undefined Use (Rum Distillery)	52 Gladstone Road, Allenstown	Impact so might go to Committee

Application type	Address	Decision
D/161-2016 – MCU for Indoor Sport and Recreation	1B Lion Creek Road, Wandal	Delegation
D/162-2016 – Compliance Assessment for Survey Plan	204 Bawden Street, Berserker	Delegation
D/163-2016 – MCU for Indoor Sport and Recreation	19 Dooley Street, Park Avenue	Delegation
D/164-2016 – ROL (three lots into three lots)	2300 Capricorn Highway, Stanwell	Delegation
D/165-2016 – Operational Works for Earthworks	102 Morgan Street, Mount Morgan	Delegation
D/166-2016 – MCU for Medium Impact Industry	265 Somerset Road, Gracemere	Delegation
D/167-2016 – Operational Works for Advertising Device (Pylon Sign)	67 Rundle Street, Wandal	Delegation
D/168-2016 – MCU for Service Station	Lot 2 Somerset Road, Gracemere	Delegation

For some matters it is not possible to determine if they will go to Committee until the notification period ends or the matter is into the assessment stage.

CONCLUSION

The above applications were lodged during October 2016 and will be decided as outlined above.

8.4 BUSKING FEE WAIVER

File No: 11359
Attachments: Nil
Authorising Officer: Michael Rowe - General Manager Community Services
Author: Steven Gatt - Manager Planning & Regulatory Services

SUMMARY

The Rockhampton CBD internal reference group has identified the process of applying for a busking permit as an area in need of improvement. Busking is viewed as an important vehicle that can be utilised to showcase the regions talent and diversity.

Currently the application process is unclear and expensive for a busker who often receives very little revenue. Encouraging busking in the Rockhampton CBD and other centres will add vibrancy and promote arts and culture within our community.

An evaluation of processes and fees applied by other local governments has been completed. The results found there is an opportunity to more effectively promote busking in our region.

It is recommended that fees and charges for busking be free and a policy for busking be developed.

OFFICER'S RECOMMENDATION

THAT Changes to Council policy in regard to busking are required. The following recommendations apply:

1. That any applicable changes be made to the Local Laws;
2. That a policy for busking be developed, to include permitted locations and a monthly busking permit which can be withdrawn at the sole discretion of Council;
3. That the renewal form be simplified so that it can be processed by customer service;
4. That the permit application fee and permit renewal fee be free;
5. That resourcing is improved, as per the suggestions outlined under resources; And
6. Changes to the fees and charges are undertaken to reflect permits are free.

COMMENTARY

The CBD internal reference group has identified busking as an area with potential for improvement. Busking is recognised as an important vehicle to draw people into centres for entertainment.

The busking application process is onerous and expensive and needs to be simplified to encourage busking as an activity in the Rockhampton CBD and other centres.

Application Process

Rockhampton Regional Council currently offers busking permits as a category of a *Commercial Use of Roads Permit*. This involves the applicant completing a Commercial Use of Road Application Form – Stationary Roadside Vending and submitting the form to Council with supporting documentation and the prescribed fee.

The applicant must obtain public liability insurance for a minimum of \$20 million dollars, provide consent from adjoining property owners and provide a site plan to enable the application to be considered by Council. .

The application process can take up to 30 days from date of submission to the final approval (listed on the relevant fact sheet).

Fees

Currently Rockhampton Regional Council charges \$149 for the first month and \$50 for every month thereafter, for a busking permit. There is no additional application fee.

Below is a table outlining busking fees applied by other Councils for the 2016/2017 financial year. It should be noted that no fee is applicable for half of the Councils referenced.

Brisbane City Council	Free Permit (auditions required for Queen Street Mall, Raddacliff Place or Valley Malls)
Ipswich City Council	Once Off \$29 Month \$60 Annual \$225
Sunshine Coast Regional Council	Financial Year \$78 (unlimited) minors half price
Toowoomba Regional Council	Free Permit (3 month permit)
Mackay Regional Council	Free Permit (1 month)
Livingstone Shire Council	Free Permit
Townsville City Council	Free Permit (unlimited time)
Tablelands Regional Council	\$25 3 months (no GST) \$93 3 months (no GST)

Assessment

Council has an obligation to ensure that the activity is carried out in a safe and effective manner. Assessment criteria are set in *Rockhampton Regional Council Subordinate Local Law 1.2 (Commercial Use of Local Government Controlled Areas and Roads) 2011*. Assessments are currently undertaken by Local Law Support Services.

Term of Approval

Councils of a comparable size to Rockhampton Regional Council condition their permit duration as below. Rockhampton Regional Council generally issues annual permits.

Continuing to issue annual permits would minimise variety of acts and deter traveling performers from working in the region. Monthly permits allow council to ensure suitability of performance standards and equitable access to all approved locations. Approval time needs to be drastically reduced, preferably on the spot approval given at Customer Service, to enable travelling buskers to obtain a permit.

Brisbane City Council	3 months
Ipswich City Council	Once off or annually
Sunshine Coast Regional Council	Financial Year
Toowoomba Regional Council	3 months
Mackay Regional Council	1 month
Gladstone Regional Council	Annually, up to 4 weeks, up to 12 weeks
Townsville City Council	Continues until withdrawn by Council

Safety and Liability

Council's current insurance policy does not cover this activity for parties that are not employed by Council. Therefore, buskers are required to provide their own public liability insurance to a value of \$20 million dollars.

Common Complaints

Council occasionally receives complaints regarding buskers; the main issues raised are:

- Children busking without adult supervision,
- Location of buskers (business and proximity to each other),

Harassment by buskers (donations),
Sobriety of buskers,
Cleanliness and presentation, and
Cost of permit application.

Conditions upon Approval

Appropriate conditioning of permits will be required to mitigate the above issues.

Council can limit the activity to a prescribed area. It is suggested that busking areas be allocated to each of the major town centres.

- **Rockhampton:** CBD being defined as the area bounded by the Fitzroy River, Albert Street, Stanley Street and Denison Street, Rockhampton City.
- **Gracemere:** Conaghan Park; 5 Lawrie Street, Gracemere
- **Mount Morgan:** Morgan Street, Mount Morgan, between Central and East Streets.

Council should condition the use of amplifying devices. Some areas of the CBD will provide amplified acoustics due to the nature and construction of the buildings. East Street from Fitzroy Street to William Street would be an example of an area where amplifying devices would not be necessary or advisable.

Renewals

Renewals should be free and the busker should be sent a renewal and encouraged to update their information.

Changes to the Local Law

The current Local Law provides a basic framework to monitor and licence activities on Council controlled land. Amendments to the Local Laws are being considered; however changes to policy and process are imperative.

Resources

There are limited resources to support the promotion of busking in the region and facilitate the licencing process. It is suggested that the following be developed to ensure that this activity is promoted and the application process is transparent and expedited:

- Frequently Asked Questions
- Application Form – Stand Alone Busking Application Form
- Policy Document
- Page on website dedicated to busking
- Standard letter to schools encouraging performances (funding for trips and competitions)
- Appropriate development of the licencing module to support the permit application and assessment process.

CONCLUSION

This report outlines the advantages of busking and provides a recommendation of an incentive program for busking within the CBD and other centres. This trial will encourage vibrancy through applying colorful use of activities to open space within the region.

8.5 FOOTPATH DINING FEE WAIVER**File No:** 11359**Attachments:** Nil**Authorising Officer:** Michael Rowe - General Manager Community Services**Author:** Steven Gatt - Manager Planning & Regulatory Services

SUMMARY

The Rockhampton CBD internal reference group has identified many towns and cities throughout Australia have introduced fee waivers for outdoor dining precincts (temporarily or permanently) to encourage vibrancy through a more prominent café culture.

To increase and encourage outdoor dining opportunities in the Rockhampton CBD and other centres it is proposed to trial an incentive program whereby footpath (outdoor) dining application fees are waived for a six month period for licenced food businesses in the region.

Footpath (outdoor) dining fees are currently (2016/17) \$237 per year. The trial incentive program would include a fee waiver for all licenced food businesses to trial outdoor dining, particularly within the CBD and other centres. It is requested that the Rockhampton Regional Council Outdoor Dining Incentive Program commence on the 1 January 2017.

OFFICER'S RECOMMENDATION

THAT Council undertakes to waive footpath (outdoor) dining application fees for licenced food businesses in the region for six months until the new financial year.

COMMENTARY

The CBD internal reference group has identified outdoor dining as an important activity to encourage consumers to regularly patronise businesses in the CBD and other centres.

It is envisaged that the incentive program will encourage existing and new businesses to establish outdoor dining in the CBD and other centres. Outdoor dining in centres, as well as extended hours of operation, is imperative to shaping the CBD and other centres as a lively and attractive place to meet and socialise.

Relationship to CBD Revitalisation

CBD's in regional towns throughout Australia are suffering an economic downturn and are experiencing a loss in competitiveness and identity, while larger shopping centres built away from city centres are thriving. Pedestrian activity via outdoor dining precincts in a typical CBD is important in creating a vibrant city centre, encouraging healthy lifestyle, and creating a CBD identity.

The built environment has the power to activate the public realm, providing a comfortable and safe place for people. Street life is enabled and grown by local businesses, including cafes. This makes streets more attractive and welcoming to pedestrians, and ultimately shapes the street's identity to keep people returning again and again.

Many towns and cities throughout Australia have introduced fee waivers for outdoor dining precincts (temporarily or permanently) to encourage a more prominent café culture. Many regional towns have or are trialing a fee waiver for streets affected by revitalisation projects, including Mackay, Airlie Beach, and Cairns.

These trials have received positive feedback from local traders, and support from the media. A footpath (outdoor) dining application fee waiver trial in the CBD and other centres will enable Council to research the success of the program, as well as provide opportunity for business owners to assess any benefits without any costs.

At the end of the trial each commercial operator can decide the benefits and whether or not to continue to operate with an outdoor option. A number of Councils are currently trialing or considering waiving or reducing fees as part of revitalisation plans.

Adelaide City Council trialed a complete fee waiver from November 2015 – February 2016 in an effort to bring more people into the CBD, this received positive media attention.

Hurstville City Council are offering business owners a three year rent free agreement for outdoor dining on Forest Road as part of their Streetscape Project.

Cairns Regional Council waived outdoor dining and trade waste fees as part of a plan to fast track establishment of new businesses in the CBD. Cairns Regional Council was undertaking an upgrade of the CBD at the time of the fee reduction (March 2014). This received positive feedback from CBD traders and media.

Other Councils are also considering similar measures. Townsville Regional Council is currently under media pressure for the same issue.

Application Process

The current outdoor (footpath) dining application process requires the vendor to submit an application to Council, which includes:

- The application form (including owners consent, site plan, proposed seating plan and copy of public liability) and
- An initial fee of \$237, and a renewal fee of \$75 annually (2016/17)

The application is assessed by the Local Laws Unit at Council, and an approval or refusal is issued within 30 business days. The approval includes a formal letter and certificate, schedule of conditions and where applicable an information notice which must be available to be produced upon request by Council. The approval is required when outdoor dining is located on Council land, being the road reserve footpath, and therefore Council's insurance for public liability is applicable.

Fees

The fee for this application is currently \$237 (initial fee only) in accordance with the 2016/2017 fees and charges schedule. This fee is for the assessment of the application and is cost recovery only.

Below is a table comparing annual fees of other Queensland Councils (2016/2017):

Brisbane City Council <ul style="list-style-type: none"> ▪ Application fee ▪ Design fee ▪ CBD (excluding malls) Zone A ▪ Other eating precincts Zone B ▪ Queens Street Mall ▪ Other Malls ▪ All other areas Zone C 	\$108.65 \$665.65 \$434.95 per square meter \$208.00 per square meter \$698.00 per square meter \$214.00 per square meter \$125.00 per square meter
Mackay Regional Council <ul style="list-style-type: none"> ▪ New Application ▪ Casual fee (per day) ▪ Up to 15m² (5 tables) ▪ Up to 30m² (10 tables) ▪ Up to 45m² (15 tables) ▪ More than 45m² (more than 15 tables) 	\$188.00 \$25.00 \$300.00 \$500.00 \$850.00 \$850.00 plus \$50.00 for every 3m ² after 45m ²
Townsville Regional Council <ul style="list-style-type: none"> ▪ Application Fee ▪ Annual Licence Fee 	\$800.00 \$182.00

Gladstone Regional Council <ul style="list-style-type: none"> ▪ Application Fee ▪ Annual Approval Fee 	\$258.00 \$258.00 Note: fees waived 01/07/16 to 01/01/17
Sunshine Coast Regional Council <ul style="list-style-type: none"> ▪ Application Fee ▪ Up to 12m2 ▪ Per additional square meter above 12m2 ▪ Renewal fee 	\$399.00 \$97.00 \$97.00 \$115.00
Ipswich City Council <ul style="list-style-type: none"> ▪ Application Fee ▪ Central Traffic Area ▪ Other Areas ▪ Transfer Fee 	\$345.00 \$105.00 per square meter \$80.00 per square meter \$180.00
Toowoomba Regional Council <ul style="list-style-type: none"> ▪ Application or renewal 	\$430.00

Renewals

Currently the licence is required to be renewed annually. The recommended incentive is for a fee waiver of the footpath (outdoor) dining application fee. All vendors would then be required to pay the minimal renewal fee for the next financial year, once the trial is complete.

CONCLUSION

This report outlines the benefits of outdoor dining and provides a recommendation to trial a fee waiver incentive program for food businesses wishing to trial outdoor dining in the region. The trial incentive program would benefit both the community and the commercial operators. It is requested that the Rockhampton Regional Council Outdoor Dining Incentive Program commence on 1 January 2017.

8.6 AMENDMENT TO SUBORDINATE LOCAL LAW NO. 2 (ANIMAL MANAGEMENT) 2011**File No:** 7437, 1464**Attachments:**

1. Amended Subordinate Local Law No. 2 (Animal Management) 2011
2. Current Subordinate Local Law No. 2 (Animal Management) 2011

Authorising Officer: Michael Rowe - General Manager Community Services**Author:** Margaret Barrett - Manager Parks

SUMMARY

This report provides the results of recent public consultation on the establishment of additional dog off leash areas in Parks and recommends approval for an amended Subordinate Local Law No2 (Animal Management) 2011.

OFFICER'S RECOMMENDATION

THAT Council approve the amended Subordinate Local Law No. 2 (Animal Management) 2011 as attached to the report and proceed with the making of the subordinate local law with amendments as outlined in the report.

COMMENTARY

In November 2015 a report on the feasibility of additional dog off leash areas was presented to Council.

There are a number of designated dog off leash areas in the Region and a number of areas used for this purpose, but are not formally designated under the applicable Local Law.

The current designated dog off-leash areas are:

- Ted Price Park, Gracemere (access via Breakspear Street and Holgate Close but limited to the area designated as a dog off-leash area by signpost;
- Duthie Park, North Rockhampton (access via Thozet Road, Marsh Avenue, Lawrence Avenue and Wiggington Street) but limited to the area and times designated by signpost and, in any event, not while the area is being used by animals participating in an obedience trail supervised by a body recognised for section 12(3)(d) of the authorising local law by the local government;
- Rosel Park, South Rockhampton, opposite the Quay Street pound (access via Quay Street); and
- Victoria Park (Recreation Area), access via Lion Creek Road, Rockhampton, but limited to the area designated as a dog off-leash area by signpost.

Additional off-leash areas that are not designated but are currently known as being as off-leash areas include:

- Georgeson Oval, The Range (access via Meter Street, Normanby Terrace, Gardner Street, Hawkins Street and Pennycuik Street);
- Eddie Baker Park, Norman Gardens (access via Currawong Street and Rosella Court) but limited to the areas designated as a dog off leash area by signpost ;
- Kershaw Gardens, Park Avenue but limited to the area designated as a dog off-leash area by signpost, including agility park; and
- No. 7 Dam, Mount Morgan (access via Byrnes Parade).

BACKGROUND

On 20 July 2016, Parks Recreation and Sport Committee recommended advertising a proposed amendment to the Subordinate Local Law No2 Animal Management 2011 for the inclusion of Eddie Baker Park, Norman Gardens (access via Currawong Street and Rosella Court) but limited to the areas designated as a dog off leash area by signpost to the Schedule of designated dog off-leash areas.

This advertising concluded in November 2016, no submissions were received at the closing date.

The Subordinate Local Law No2 Animal Management has therefore been amended and the amended draft is attached for consideration and approval.

The amendments to be considered:

1. addition to Schedule 7 Dog off-leash areas of Eddie Baker Park, Norman Gardens (access via Currawong Street and Rosella Court) but limited to the areas designated as a dog off leash area by signpost.
2. Deletion from Schedule 7 Dog off-leash areas of locations within Livingstone Shire.

Eddie Baker Park

Once approved, the undesignated and fenced area of Eddie Baker Park will be extended with an additional fenced area to provide a second leash free area beside the current facility thereby providing two areas, separating small and large dogs.



LEGISLATIVE CONTEXT

Local Law 2 (Animal Management) 2011 allows Council, by subordinate local law, to designate an area within a public place as an area where a dog is not required to be on a leash (a dog off-leash area).

The areas described in Schedule 7 of Subordinate *Local Law 2 (Animal Management) 2011* are designated as dog off-leash areas.

The process to be followed in order for Council to make an amendment to the subordinate local law to include new off leash areas is now complete:

- Consult with the public for at least 21 days,
- Accept and consider every submission properly made to Council by the close of the Consultation Period,
- By resolution decide whether to:
 - proceed with the making of the subordinate local law with or without amendments, or
 - not proceed with making the proposed subordinate local law.

CONCLUSION

Progressing the establishment of an additional dog off leash area will address a Park area that is currently utilised for the purpose, but not designated as well as enable the installation of additional amenities for the local community.

**AMENDMENT TO SUBORDINATE
LOCAL LAW NO. 2
(ANIMAL MANAGEMENT) 2011**

**Amended Subordinate Local Law No. 2
(Animal Management) 2011**

Meeting Date: 6 December 2016

Attachment No: 1

Subordinate Local Law No. 2 (Animal Management) 2011

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Part 1 Preliminary

1 Short title

This subordinate local law may be cited as *Subordinate Local Law No. 2 (Animal Management) 2011*.

2 Purpose and how it is to be achieved

- (1) The purpose of this subordinate local law is to supplement *Local Law No. 2 (Animal Management) 2011*, which provides for regulation of the keeping and control of animals within the local government's area.
- (2) The purpose is to be achieved by providing for—
 - (a) the circumstances in which the keeping of animals is prohibited or requires approval; and
 - (b) requirements for keeping animals, including minimum standards, mandatory desexing, proper enclosures, koala conservation and identification; and
 - (c) the control of animals in public places; and
 - (d) matters regarding the impounding of animals and the sale or disposal of impounded animals; and
 - (e) the conditions to be complied with by persons who offer animals, or a particular species of animal, for sale; and
 - (f) the declaration of a species of animal as a declared dangerous animal and the criteria for declaration of a specific animal as a declared dangerous animal.

3 Authorising local law

The making of the provisions in this subordinate local law is authorised by *Local Law No. 2 (Animal Management) 2011* (the **authorising local law**).

4 Definitions

- (1) Particular words used in this subordinate local law have the same meaning as provided for in the authorising local law.
- (2) The dictionary in schedule 13 defines particular words used in this subordinate local law.

Part 2 Keeping of animals

5 Circumstances in which keeping animals prohibited—Authorising local law, s 5(1)

For section 5(1) of the authorising local law, keeping an animal or animals

mentioned in column 1 of schedule 1 is prohibited in the circumstances described in column 2 of schedule 1.

**6 Circumstances in which keeping animals requires approval—
Authorising local law, s 6(1)**

For section 6(1) of the authorising local law, keeping an animal or animals of the species or breed mentioned in column 1 of schedule 2 requires approval in the circumstances described in column 2 of schedule 2.

7 Animals that must be desexed—Authorising local law, s 7

For section 7 of the authorising local law, an animal of the species or breed mentioned in column 1 of schedule 3 must be desexed once it reaches the age specified in column 2 of schedule 3 except in the circumstances described in column 3 of schedule 3.

8 Minimum standards for keeping animals—Authorising local law, s 8(1)

- (1) For section 8(1) of the authorising local law, the minimum standards for the keeping of animals are set out in schedule 4.
- (2) For section 8(1) of the authorising local law, column 2 of schedule 5 sets out the minimum standards for keeping an animal of the species or breed mentioned in column 1 of schedule 5.

**9 Identification for cats and dogs in certain circumstances—
Authorising local law, s 9**

For section 9 of the authorising local law, the identification required for a cat or dog that is at a place other than the address stated in the registration notice for the cat or dog is the registration device mentioned in section 12(3) of the *Animal Management (Cats and Dogs) Act 2008*.

Part 3 Control of animals

10 Public places where animals are prohibited—Authorising local law, s 10(1)

For section 10(1) of the authorising local law, the species or breeds of animals mentioned in column 2 of schedule 6 are prohibited in the public places described in column 1 of schedule 6.

11 Dog off-leash areas—Authorising local law, s 11(1)

For section 11(1) of the authorising local law, the areas described in schedule 7 are designated as dog off-leash areas.

12 Animal faeces in public places—Authorising local law, s 13

For section 13 of the authorising local law, no other species of animal is prescribed as an animal whose faeces must be removed from a public place and disposed of in a sanitary way.

13 Requirements for proper enclosures for keeping animals—Authorising local law, s 14(2)

For section 14(2) of the authorising local law, column 2 of schedule 8 sets out the requirements for proper enclosures for an animal of the species or breed mentioned in column 1 of schedule 8.

14 Koala conservation—Authorising local law, s 15

- (1) For section 15(1) of the authorising local law, schedule 9 sets out the requirements for keeping a dog on land that is within a koala area.
- (2) For section 15(4) of the authorising local law, each area described in schedule 10 is designated as a koala area.

15 Criteria for declared dangerous animals—Authorising local law, s 19(1)

For section 19(1) of the authorising local law, the criteria for declaring an animal as a declared dangerous animal are set out in schedule 11.

Part 4 Seizure, impounding or destruction of animals

16 Place of care for impounded animals—Authorising local law, s 24

For section 24 of the authorising local law, the place of care for animals impounded by the local government will be operated by the local government.

17 Animals that may be disposed of without auction or tender—Authorising local law, s 32(1)(b)

For section 32(1)(b) of the authorising local law, the species, breeds or classes of animal that may be sold by private agreement, destroyed or disposed of in some other way are the following—

- (a) dogs; and
- (b) cats; and
- (c) other small domestic animals.

18 Register of impounded animals—Authorising local law, s 33(3)

For section 33(3) of the authorising local law, the register of impounded animals will be kept at the local government's public office.

Part 5 Appeals against destruction orders

This part in the authorising local law does not contain any matters to be provided for by subordinate local law.

Part 6 Miscellaneous

19 Conditions regarding sale of animals—Authorising local law, s 42(1)

For the purposes of section 42(1) of the authorising local law, persons who offer for sale an animal of a species or breed mentioned in column 1 of schedule 12 must comply with the conditions set out in column 2 of schedule 12.

20 Animals excluded from application of the local law—Authorising local law, schedule

For the purposes of the definition of “*animal*” in the schedule to the authorising local law, animals of the fish species are excluded from the application of the authorising local law.

21 Species that are declared dangerous animals—Authorising local law, schedule

For the purposes of the definition of “*declared dangerous animal*” in the schedule to the authorising local law, no species of animal is declared to be a declared dangerous animal.

22 Prescribed period for reclaiming animals—Authorising local law, schedule

For the purposes of the definition of “*prescribed period*” in the schedule to the authorising local law, the period within which an animal may be reclaimed is—

- (a) if the animal is a horse, cow, registered cat, registered dog or other identifiable animal—5 days; and
- (b) if the animal is an unregistered cat, unregistered dog or an animal which is not an identifiable animal—3 days.

Schedule 1 Prohibition on Keeping animals

Section 5

	Column 1 Animal	Column 2 Circumstances in which keeping of animal or animals is prohibited
1	Dog	<p>(a) More than 3 dogs over the age of 12 weeks on any premises.</p> <p>(b) However, the prohibition in paragraph (a) does not apply to the keeping of a working dog.</p> <p>(c) Any of the following breeds, and a cross breed of any of the following breeds, anywhere in the local government area: American pit bull terrier or pit bull terrier; dogo Argentino; fila Brasileiro; Japanese tosa; Perro de Presa Canario or Presa Canario.</p>
2	Cat	More than 3 cats over the age of 12 weeks on any premises.
3	Horse or donkey (other than a racehorse or a stallion)	A horse or donkey (other than a racehorse or a stallion) on an allotment with an area less than 2,000m ² .
4	Cow or bull	A cow or bull on an allotment with an area less than 2,000m ² except where the cow or bull is kept within a 'town common' designated by the local government for grazing cattle under 'common rights'.
5	Birds	More than 20 birds of the same or different species on any premises.
6	Pig	A pig on an allotment with an area less than 4,000m ² .
7	Ostrich or emu	An ostrich or emu on an allotment with an area less than 4,000m ² .
8.	Racing pigeons	1 or more racing pigeons on an allotment with an area less than 800m ² .
9	Bees	A hive on an allotment with an area less than 400m ² ; (see Code of Practice for Urban Bee Keeping in Queensland 1998).
10	Greyhound	More than 2 greyhounds over the age of 12 weeks on an allotment with an area less than 800m ² .
11.	Racehorse	A racehorse on an allotment with an area less than 800m ² .

A prohibition prescribed in this schedule does not apply to the keeping of an animal or animals on premises if—

- (a) the animal or animals were kept on the premises before the commencement of the authorising local law; and
- (b) the keeping of the animal or animals on the premises immediately before the commencement of the authorising local law did not contravene any provision of a local law of the local government that was repealed contemporaneously with the making of the authorising local law.

Schedule 2 Requirement for approval to keep animal

Section 6

	Column 1 Species or breed of animal	Column 2 Circumstances in which keeping of animal or animals requires approval ¹
1	Dog	(a) 3 dogs over the age of 12 weeks (other than a working dog) on any premises. (b) 1 or more dogs on non-residential premises. (c) A guard dog on any premises. (d) A dog kept on residential premises— (i) temporarily; but (ii) for longer than 1 month.
2	Cat	3 cats over the age of 12 weeks on any premises.
3	Horse or donkey (other than a racehorse or a stallion)	More than 1 horse or donkey (other than a racehorse or a stallion) on an allotment with an area less than 20,000m ² .
4	Cow or bull	More than 1 cow or bull on an allotment with an area less than 20,000m ² , except where the cow or bull is kept within a 'town common' designated by the local government for grazing cattle under 'common rights'.
5	Sheep, goat, alpaca or llama	(a) More than 1 sheep, goat, alpaca or llama on an allotment with an area less than 20,000m ² . (b) Subject to paragraph (a), if the density of the animals kept on the allotment is greater than 1 animal per 800m ² .
6	Birds other than nuisance birds	More than 5, but not more than 20, birds on an allotment with an area less than 20,000m ² .
7	Nuisance bird	1 or more nuisance birds on an allotment with an area less than 20,000m ² .
8.	Racing pigeons	1 or more racing pigeons on an allotment with an area of 800m ² or more.
9	Bees	(a) More than 2 hives on an allotment with an area between 400 m ² and 1,000 m ² .

¹ See *Local Law No.1 (Administration) 2011* and *Subordinate Local Law No.1.5 (Administration) 2011* in relation to the requirements and processes for approvals (e.g. form of application for approval, documents and materials that must accompany applications, criteria for granting approval, conditions that must be imposed on approvals, conditions that will ordinarily be imposed on approvals, term of approval, third party certification of applications).

		(b) More than 5 hives on an allotment with an area between 1,001 m ² and 2,000 m ² (see Code of Practice for Urban Bee Keeping in Queensland 1998).
10.	Greyhound	<p>(a) 3, 4 or 5 greyhounds over the age of 12 weeks on an allotment with an area less than 10,000m².</p> <p>(b) 6,7 or 8 greyhounds over the age of 12 weeks on an allotment with an area between 10,000m² and 100,000m².</p> <p>(c) More than 8 greyhounds over the age of 12 weeks on an allotment with an area of more than 100,000m².</p>
11	Racehorse	1 or more racehorses in an urban area.
12	Stallion	A stallion on an allotment within a 50 kilometre radius of the public office of the local government unless the stallion is a racehorse kept pursuant to an approval granted by the local government under the authorising local law.

Schedule 3 Requirement to desex animal

Section 7

	Column 1 Species or breed of animal	Column 2 Age at which animal must be desexed	Column 3 Exemptions to the requirement for desexing
1	Dog	Refer to the exemption in column 3.	Desexing of dogs is required if more than 2 dogs over the age of 12 weeks are kept on premises unless the owner or responsible person for the dogs is— (a) a registered breeder; or (b) a recognised animal carer; or (c) registered to show dogs.
2	Cat	Refer to exemption in column 3.	Desexing of cats is required if more than 2 cats over the age of 12 weeks are kept on premises unless the owner or responsible person for the cats is— (a) a registered breeder; or (b) a recognised animal carer; or (c) registered to show cats.

Schedule 4 Minimum standards for keeping animals generally

Section 8(1)

A person who keeps an animal on premises must —

- (a) ensure that the animal is adequately identified so that the owner's name, address and telephone number are readily ascertainable; and
- (b) ensure that waste waters from enclosures are drained in a nuisance free manner and that run-off is kept off adjoining premises or as otherwise directed by an authorised person; and
- (c) ensure that excreta, food scraps and other material that is, or is likely to become, offensive is collected at least daily and, if not immediately removed from the premises, is kept in a waste container of a kind approved by an authorised person; and
- (d) ensure that any enclosure in which the animal is kept is properly maintained in—
 - (i) a clean and sanitary condition; and
 - (ii) an aesthetically acceptable condition; and
- (e) take all reasonable steps to prevent the animal from making a noise or disturbance that causes a nuisance or disturbance to the occupiers of—
 - (i) adjoining premises; or
 - (ii) premises in the vicinity of the land on which the animal is ordinarily kept; and
- (f) ensure that the area available to the animal kept on the premises is appropriately sized so that the animal can be effectively and comfortably kept.

Schedule 5 Minimum standards for keeping particular animals

Section 8(2)

	Column 1 Species or breed of animal	Column 2 Minimum standards for keeping animals
1	Greyhound	<p>Each owner of, and responsible person for, a greyhound must—</p> <ul style="list-style-type: none"> (a) ensure that the greyhound is kept— <ul style="list-style-type: none"> (i) without nuisance; and (ii) if a code of practice for the keeping of greyhounds has been approved by the Greyhound Racing Authority of Queensland—in accordance with the requirements of the code of practice; and (b) not bring into, or permit the greyhound to be in, a public place unless the greyhound is muzzled so as to prevent the greyhound from biting.
2	Horse, donkey, cow, bull, ox, deer and other domesticated animals of a similar size and sheep, goat, pig and other animals of a similar size	<p>Each owner of, and responsible person for, an animal specified in column 1, item 2 which is kept on premises must ensure that any enclosure in which the animal is kept is not located within a radius of 10m of—</p> <ul style="list-style-type: none"> (a) a residence on adjoining premises; or (b) a place used for the manufacture, preparation or storage of food intended for human consumption other than a domestic kitchen used solely for domestic purposes by the owner or responsible person for the animal; or (c) a place used for the storage of food (other than food kept in hermetically sealed packages).
3	Budgerigar, canary and other birds of a similar size and cockatiel and other birds of a similar size and cockatoo, galah and other birds of a similar size	<p>Each owner of, and responsible person for, a bird specified in column 1, item 3 must ensure that—</p> <ul style="list-style-type: none"> (a) the bird is kept without nuisance; and (b) the bird is contained within an enclosed cage or aviary; and (c) the bird's food is kept in a properly sealed, vermin proof container; and (d) the cage or aviary in which the bird is kept is thoroughly cleaned at least once each week; and

		(e) if a code of practice for the keeping of birds of a relevant species has been approved by the local government—the bird is kept in accordance with the requirements of the code of practice.
4	Pigeons	<p>Each owner of, and responsible person for, pigeons which are kept on premises must ensure that—</p> <ul style="list-style-type: none"> (a) the pigeons are kept without nuisance; and (b) the pigeons contained within an enclosed cage or aviary; and (c) the pigeon's food is kept in a properly sealed, vermin proof container; and (d) the cage or aviary in which the pigeons are kept is— <ul style="list-style-type: none"> (i) thoroughly cleaned at least once each week; and (ii) located at the rear of, and behind, any residence situated on the premises; and (e) if a code of practice for the keeping of pigeons has been approved by the local government—the pigeons are kept in accordance with the requirements of the code of practice.
5	Bees	<p>Each owner of, and responsible person for, bees which are kept on premises must ensure that—</p> <ul style="list-style-type: none"> (a) the bees are kept without nuisance; and (b) any beehive constructed for the purpose of keeping the bees is not located within a radius of 10m of— <ul style="list-style-type: none"> (i) a residence on adjoining premises; or (ii) a place used for the manufacture, preparation or storage of food intended for human consumption other than a domestic kitchen used solely for domestic purposes by the owner or responsible person for the bees; or (iii) a place used for the storage of food (other than food kept in hermetically sealed packages); and (c) each beehive constructed for the purpose of keeping bees is adequately identified so that the owner's name, address and telephone number are readily ascertainable; and (d) if a code of practice for the keeping of bees has been approved by the local government — the bees are kept in accordance with the requirements of the code of practice.

6	Duck, drake, goose, turkey, rooster, peacock, peahen, ostrich and emu	<p>Each owner of, and responsible person for, a bird identified in column 1 item 6 which is kept on premises must ensure that—</p> <ul style="list-style-type: none">(a) the bird is kept without nuisance; and(b) the bird is contained within an enclosure; and(c) the bird's food is kept in a properly sealed, vermin proof container; and(d) the enclosure in which the bird is kept is—<ul style="list-style-type: none">(i) thoroughly cleaned at least once each week; and(ii) located at the rear of, and behind, any residence situated on the premises; and(e) the enclosure in which the bird is kept is not located within a radius of 10m of—<ul style="list-style-type: none">(i) a residence on adjoining premises; or(ii) a place used for the manufacture, preparation or storage of food intended for human consumption other than a domestic kitchen used solely for domestic purposes by the owner or responsible person for the bird; or(iii) a place used for the storage of food (other than food kept in hermetically sealed packages); and(f) the enclosure in which the bird is kept is not located less than 1 m from the side or rear boundaries of the premises.
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Schedule 6 Prohibition of animals in public places

Section 10

	Column 1 Public place	Column 2 Species or breed of animals prohibited
1	Within 10m of— (a) any playground apparatus which is provided for the use of minors in a public place which is a local government controlled area; or (b) a designated playground area in a public place which is a local government controlled area; or (c) a barbecue or other cooking facility in a public place which is a local government controlled area.	Dogs

Schedule 7 Dog off-leash areas

Section 11

1. Duthie Park, North Rockhampton (access via Thozet Road, Marsh Avenue, Lawrence Avenue and Wigginton Street) but limited to the area and times designated by signpost and, in any event, not while the area is being used by animals participating in an obedience trial supervised by a body recognised for section 12(3)(d) of the authorising local law by the local government.
2. Eddie Baker Park, North Rockhampton (access via Currawong Street and Rosella Court) but limited to the areas designated as a dog off leash area by signpost.
3. Rosel Park, South Rockhampton, opposite the Quay Street pound (access via Quay Street).
4. Ted Price Park, Gracemere (access via Breakspear Street and Holgate Close) but limited to the area designated as a dog off-leash area by signpost.
5. Victoria Park Recreation Area, South Rockhampton (access via Lion Creek Road and Huish Drive) but limited to the area designated as a dog off-leash area by signpost.

Schedule 8 Requirements for proper enclosures for animals

Section 13

	Column 1 Species or breed of animal	Column 2 Requirements for proper enclosures
1	All animals regardless of species or breed	<p>(1) A proper enclosure is an area of the land on which the animal is kept, appropriately sized so as to be capable of effectively and comfortably housing the animal.</p> <p>(2) The area must be suitably fenced—</p> <ul style="list-style-type: none"> (a) appropriate to the species and breed of the animal to be enclosed; and (b) so as to effectively enclose the animal on the land on which it is kept at all times. <p>(3) For the purposes of this item 1 <i>suitably fenced</i> means enclosed by a fence —</p> <ul style="list-style-type: none"> (a) constructed of materials which are of sufficient strength to prevent the animal from escaping over, under or through the fence; and (b) of a height which is sufficient to prevent the animal jumping or climbing over the fence; and (c) where the animal has the ability to dig — which includes a barrier installed directly below the fence to prevent the animal digging its way out; and (d) where the animal has the ability to climb — designed and constructed in such a way as to prevent the animal from climbing over the fence; and (e) of which all gates are kept closed and latched except when in immediate use by a person entering or leaving the land on which the animal is kept.
2	Horse	<p>(1) A proper enclosure for the keeping of a horse must, in addition to the requirements specified in item 1 —</p> <ul style="list-style-type: none"> (a) effectively enclose the horse so that the horse can not reach over or through the fence to adjoining land or any public place; and (b) where the animal is a stallion—the enclosure must be constructed within an additional or second

		suitable and adequate fence or enclosure that is provided at the land on which the stallion is kept to a standard approved by an authorised person.
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**Schedule 9 Requirements for keeping a dog in a
koala area**

Section 14(1)

No requirements prescribed.

Schedule 10 Koala areas²

Section 14(2)

No area designated.

² “Koala areas” under section 15(4) of the authorising local law comprise the areas designated in this schedule plus “koala habitat areas” designated by a State planning instrument or a conservation plan made under the *Nature Conservation Act 1992*.

Schedule 11 Criteria for declared dangerous animals

Section 15

There is a high likelihood of the animal causing injury to a person or animal or damage to property, taking into account—

- (a) its prior history of attacking or causing fear to persons or animals or damaging property; and
- (b) the extent of injury or damage that could potentially be inflicted by an animal of its size and species or breed.

Schedule 12**Conditions for sale of animals**

Section 19

	Column 1 Species or breed of animal	Column 2 Conditions that must be complied with when offering animal for sale
1	Dogs and cats	<p>(1) A person who offers an animal of a species specified in column 1 item 1 for sale must keep and maintain a written register detailing —</p> <ul style="list-style-type: none"> (a) the particulars and description of each animal offered for sale including breed, name, date of birth, identifying tag and any other form of identification; and (b) a medical history for each animal listing vaccinations, inoculations and treatments that have been carried out; and (c) if the animal is sold or otherwise disposed of — the name and address of the new owner of the animal and the date of sale or disposal of the animal. <p>(2) If section 44 of the Animal Management Act applies to an animal which is offered for sale by the person—the person must comply with the requirements of the section before the sale of the animal by the person.</p> <p>(3) If section 44 of the Animal Management Act does not apply to the animal offered for sale by the person—the person must supply a register to the local government, at least monthly, giving full details of —</p> <ul style="list-style-type: none"> (a) all animals sold or otherwise disposed of including the name and address of the new owner of the animal; and (b) a full description of each animal sold or otherwise disposed of; and (c) the date of sale or disposal of each animal. <p>(4) A person must not offer an animal of a species specified in column 1 item 1 for sale unless the animal has received all necessary vaccinations, inoculations and treatments which are appropriate according to the age of the animal.</p>

Schedule 13 Dictionary

Section 4

allotment means a single parcel of land, or several contiguous parcels of land where all of the contiguous parcels of land are in —

- (a) the same ownership; or
- (b) the same occupation.

animal welfare agency means—

- (a) the Royal Society for the Prevention of Cruelty to Animals Queensland Incorporated; and
- (b) the Animal Welfare League of Queensland Incorporated.

Animal Management Act see *Animal Management (Cats and Dogs) Act 2008*.

bathing reserve means a part of the seashore and adjacent land and sea placed under the control of the local government as a bathing reserve under section 26 of the *Local Government (Operations) Regulation 2010*.

building has the meaning given in the *Building Act 1975*.

cat—

- (a) has the meaning given in section 11 of the Animal Management Act; and
- (b) includes a kitten regardless of age.

designated playground area means an area which is—

- (a) physically defined; and
- (b) constructed by the local government for recreational use by minors; and
- (c) provided with 1 or more items of playground apparatus.

Example—

A designated playground area may be an area which is—

- (a) enclosed by a fence or some other barrier; and
- (b) covered by bark chips or similar material; and
- (c) equipped with a swing, see-saw or similar playground

apparatus. **destroy**, an animal, includes causing it to be destroyed. **dog**—

- (a) has the meaning given in section 11 of the Animal Management Act; and
- (b) includes a puppy regardless of age.

domestic purposes means the purposes of—

- (a) human consumption; or
- (b) food preparation; or
- (c) washing; or
- (d) other normal domestic duties.

environmental harm has the meaning given in the *Environmental Protection Act 1994*.

environmental nuisance has the meaning given in the *Environmental Protection Act 1994*.

foreshore means foreshore placed under the control of the local government under section 25 of the *Local Government (Operations) Regulation 2010*.

guard dog means—

- (a) a dog released by a person on residential premises or non-residential premises without a handler for the primary purpose of acting as a deterrent to intruders; and
- (b) a dog released by a person on residential premises or non-residential premises without a handler if the dog has been trained to attack for the purpose of guarding either persons or property.

horse includes a pony and a miniature horse.

identifiable animal means an animal—

- (a) wearing an identifying tag issued by the local government; or
- (b) otherwise identified so that the local government is able to ascertain the owner of the animal.

keep (an animal)—

- (a) includes board, breed and train; and
- (b) in the absence of evidence to the contrary, a person is presumed to keep an animal on land if the person —
 - (i) feeds and cares for the animal on the land; and
 - (ii) the animal is observed by an authorised person on the land on more than 1 occasion during a month.

land has the meaning given in the *Sustainable Planning Act 2009*.

multi-residential premises means each of —

- (a) a residence which forms part of a group of 2 or more residences in circumstances where 2 or more of the residences of the group are directly adjacent to each other and share—
 - (i) a common wall; or
 - (ii) a ceiling in circumstances where 1 residence is directly under the floor of another residence; and
- (b) a residence situated on a lot which forms part of a community titles scheme as defined in the *Body Corporate and Community Management Act 1997*.

Examples of multi-residential premises —

Flats, boarding houses, tenement buildings, home units, townhouses and duplexes.

non-residential premises means premises other than residential premises.

nuisance bird means—

- (a) a rooster, goose, cockatoo, galah or peacock; and
- (b) another bird kept on premises which makes an audible noise which causes environmental harm or environmental nuisance to an occupier of other premises.

occupier, of premises—

- (a) means the person who has the control or management of the premises; and
- (b) includes the owner of the premises where there is no person in apparent occupation of the premises.

premises means any land, building or structure and includes any part thereof.

racehorse means a horse bred and trained for racing.

recognised animal carer means a person who is recognised as a carer of—

- (a) dogs by the Canine Control Council (Queensland); or
- (b) cats by the Queensland Feline Association Inc.; or
- (c) animals by an animal welfare agency; or
- (d) animals by another incorporated association which is recognised (as a body capable of recognition of animal carers) by the local government for the purposes of this definition.

registered has the meaning given in the Animal Management Act.

registered breeder means a person who is—

- (a) registered as a breeder of—
 - (i) dogs with the Canine Control Council (Queensland); or
 - (ii) cats with the Queensland Feline Association Inc.; or
- (b) recognised (as a registered breeder) by the local government for the purposes of this definition.

residence means a building, or part of a building, that is—

- (a) fixed to land; and
- (b) a self-contained unit used by, or intended for the exclusive residential use of, one household.

residential premises means premises used, or intended to be used, predominantly as a place of residence.

sale includes—

- (a) to sell; and
- (b) offer, or expose for sale; and
- (c) agree or attempt to sell; and
- (d) dispose of for negligible or no consideration; and
- (e) barter.

stallion means an uncastrated adult male horse.

structure has the meaning given in the *Local Government Act 2009*.

urban area means an area used, or intended to be used, predominantly as a place for the location of residential premises.

working dog has the meaning given in the Animal Management Act.

**AMENDMENT TO SUBORDINATE
LOCAL LAW NO. 2
(ANIMAL MANAGEMENT) 2011**

**Current Subordinate Local Law No. 2
(Animal Management) 2011**

Meeting Date: 6 December 2016

Attachment No: 2

Subordinate Local Law No. 2 (Animal Management) 2011

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Part 1 Preliminary

1 Short title

This subordinate local law may be cited as *Subordinate Local Law No. 2 (Animal Management) 2011*.

2 Purpose and how it is to be achieved

- (1) The purpose of this subordinate local law is to supplement *Local Law No. 2 (Animal Management) 2011*, which provides for regulation of the keeping and control of animals within the local government's area.
- (2) The purpose is to be achieved by providing for—
 - (a) the circumstances in which the keeping of animals is prohibited or requires approval; and
 - (b) requirements for keeping animals, including minimum standards, mandatory desexing, proper enclosures, koala conservation and identification; and
 - (c) the control of animals in public places; and
 - (d) matters regarding the impounding of animals and the sale or disposal of impounded animals; and
 - (e) the conditions to be complied with by persons who offer animals, or a particular species of animal, for sale; and
 - (f) the declaration of a species of animal as a declared dangerous animal and the criteria for declaration of a specific animal as a declared dangerous animal.

3 Authorising local law

The making of the provisions in this subordinate local law is authorised by *Local Law No. 2 (Animal Management) 2011* (the **authorising local law**).

4 Definitions

- (1) Particular words used in this subordinate local law have the same meaning as provided for in the authorising local law.
- (2) The dictionary in schedule 13 defines particular words used in this subordinate local law.

Part 2 Keeping of animals

5 Circumstances in which keeping animals prohibited—Authorising local law, s 5(1)

For section 5(1) of the authorising local law, keeping an animal or animals

mentioned in column 1 of schedule 1 is prohibited in the circumstances described in column 2 of schedule 1.

**6 Circumstances in which keeping animals requires approval—
Authorising local law, s 6(1)**

For section 6(1) of the authorising local law, keeping an animal or animals of the species or breed mentioned in column 1 of schedule 2 requires approval in the circumstances described in column 2 of schedule 2.

7 Animals that must be desexed—Authorising local law, s 7

For section 7 of the authorising local law, an animal of the species or breed mentioned in column 1 of schedule 3 must be desexed once it reaches the age specified in column 2 of schedule 3 except in the circumstances described in column 3 of schedule 3.

8 Minimum standards for keeping animals—Authorising local law, s 8(1)

- (1) For section 8(1) of the authorising local law, the minimum standards for the keeping of animals are set out in schedule 4.
- (2) For section 8(1) of the authorising local law, column 2 of schedule 5 sets out the minimum standards for keeping an animal of the species or breed mentioned in column 1 of schedule 5.

**9 Identification for cats and dogs in certain circumstances—
Authorising local law, s 9**

For section 9 of the authorising local law, the identification required for a cat or dog that is at a place other than the address stated in the registration notice for the cat or dog is the registration device mentioned in section 12(3) of the *Animal Management (Cats and Dogs) Act 2008*.

Part 3 Control of animals

10 Public places where animals are prohibited—Authorising local law, s 10(1)

For section 10(1) of the authorising local law, the species or breeds of animals mentioned in column 2 of schedule 6 are prohibited in the public places described in column 1 of schedule 6.

11 Dog off-leash areas—Authorising local law, s 11(1)

For section 11(1) of the authorising local law, the areas described in schedule 7 are designated as dog off-leash areas.

12 Animal faeces in public places—Authorising local law, s 13

For section 13 of the authorising local law, no other species of animal is prescribed as an animal whose faeces must be removed from a public place and disposed of in a sanitary way.

13 Requirements for proper enclosures for keeping animals—Authorising local law, s 14(2)

For section 14(2) of the authorising local law, column 2 of schedule 8 sets out the requirements for proper enclosures for an animal of the species or breed mentioned in column 1 of schedule 8.

14 Koala conservation—Authorising local law, s 15

- (1) For section 15(1) of the authorising local law, schedule 9 sets out the requirements for keeping a dog on land that is within a koala area.
- (2) For section 15(4) of the authorising local law, each area described in schedule 10 is designated as a koala area.

15 Criteria for declared dangerous animals—Authorising local law, s 19(1)

For section 19(1) of the authorising local law, the criteria for declaring an animal as a declared dangerous animal are set out in schedule 11.

Part 4 Seizure, impounding or destruction of animals

16 Place of care for impounded animals—Authorising local law, s 24

For section 24 of the authorising local law, the place of care for animals impounded by the local government will be operated by the local government.

17 Animals that may be disposed of without auction or tender—Authorising local law, s 32(1)(b)

For section 32(1)(b) of the authorising local law, the species, breeds or classes of animal that may be sold by private agreement, destroyed or disposed of in some other way are the following—

- (a) dogs; and
- (b) cats; and
- (c) other small domestic animals.

18 Register of impounded animals—Authorising local law, s 33(3)

For section 33(3) of the authorising local law, the register of impounded animals will be kept at the local government's public office.

Part 5 Appeals against destruction orders

This part in the authorising local law does not contain any matters to be provided for by subordinate local law.

Part 6 Miscellaneous

19 Conditions regarding sale of animals—Authorising local law, s 42(1)

For the purposes of section 42(1) of the authorising local law, persons who offer for sale an animal of a species or breed mentioned in column 1 of schedule 12 must comply with the conditions set out in column 2 of schedule 12.

20 Animals excluded from application of the local law—Authorising local law, schedule

For the purposes of the definition of “*animal*” in the schedule to the authorising local law, animals of the fish species are excluded from the application of the authorising local law.

21 Species that are declared dangerous animals—Authorising local law, schedule

For the purposes of the definition of “*declared dangerous animal*” in the schedule to the authorising local law, no species of animal is declared to be a declared dangerous animal.

22 Prescribed period for reclaiming animals—Authorising local law, schedule

For the purposes of the definition of “*prescribed period*” in the schedule to the authorising local law, the period within which an animal may be reclaimed is—

- (a) if the animal is a horse, cow, registered cat, registered dog or other identifiable animal—5 days; and
- (b) if the animal is an unregistered cat, unregistered dog or an animal which is not an identifiable animal—3 days.

Schedule 1 Prohibition on keeping animals

Section 5

	Column 1 Animal	Column 2 Circumstances in which keeping of animal or animals is prohibited
1	Dog	<p>(a) More than 3 dogs over the age of 12 weeks on any premises.</p> <p>(b) However, the prohibition in paragraph (a) does not apply to the keeping of a working dog.</p> <p>(c) Any of the following breeds, and a cross breed of any of the following breeds, anywhere in the local government area: American pit bull terrier or pit bull terrier; dogo Argentino; fila Brasileiro; Japanese tosa; Perro de Presa Canario or Presa Canario.</p>
2	Cat	More than 3 cats over the age of 12 weeks on any premises.
3	Horse or donkey (other than a racehorse or a stallion)	A horse or donkey (other than a racehorse or a stallion) on an allotment with an area less than 2,000m ² .
4	Cow or bull	A cow or bull on an allotment with an area less than 2,000m ² except where the cow or bull is kept within a 'town common' designated by the local government for grazing cattle under 'common rights'.
5	Birds	More than 20 birds of the same or different species on any premises.
6	Pig	A pig on an allotment with an area less than 4,000m ² .
7	Ostrich or emu	An ostrich or emu on an allotment with an area less than 4,000m ² .
8.	Racing pigeons	1 or more racing pigeons on an allotment with an area less than 800m ² .
9	Bees	A hive on an allotment with an area less than 400m ² ; (see Code of Practice for Urban Bee Keeping in Queensland 1998).
10	Greyhound	More than 2 greyhounds over the age of 12 weeks on an allotment with an area less than 800m ² .
11.	Racehorse	A racehorse on an allotment with an area less than 800m ² .

A prohibition prescribed in this schedule does not apply to the keeping of an animal or animals on premises if—

- (a) the animal or animals were kept on the premises before the commencement of the authorising local law; and
- (b) the keeping of the animal or animals on the premises immediately before the commencement of the authorising local law did not contravene any provision of a local law of the local government that was repealed contemporaneously with the making of the authorising local law.

Schedule 2 Requirement for approval to keep animal

Section 6

	Column 1 Species or breed of animal	Column 2 Circumstances in which keeping of animal or animals requires approval ¹
1	Dog	(a) 3 dogs over the age of 12 weeks (other than a working dog) on any premises. (b) 1 or more dogs on non-residential premises. (c) A guard dog on any premises. (d) A dog kept on residential premises— (i) temporarily; but (ii) for longer than 1 month.
2	Cat	3 cats over the age of 12 weeks on any premises.
3	Horse or donkey (other than a racehorse or a stallion)	More than 1 horse or donkey (other than a racehorse or a stallion) on an allotment with an area less than 20,000m ² .
4	Cow or bull	More than 1 cow or bull on an allotment with an area less than 20,000m ² , except where the cow or bull is kept within a 'town common' designated by the local government for grazing cattle under 'common rights'.
5	Sheep, goat, alpaca or llama	(a) More than 1 sheep, goat, alpaca or llama on an allotment with an area less than 20,000m ² . (b) Subject to paragraph (a), if the density of the animals kept on the allotment is greater than 1 animal per 800m ² .
6	Birds other than nuisance birds	More than 5, but not more than 20, birds on an allotment with an area less than 20,000m ² .
7	Nuisance bird	1 or more nuisance birds on an allotment with an area less than 20,000m ² .
8.	Racing pigeons	1 or more racing pigeons on an allotment with an area of 800m ² or more.
9	Bees	(a) More than 2 hives on an allotment with an area between 400 m ² and 1,000 m ² .

¹ See *Local Law No.1 (Administration) 2011* and *Subordinate Local Law No.1.5 (Administration) 2011* in relation to the requirements and processes for approvals (e.g. form of application for approval, documents and materials that must accompany applications, criteria for granting approval, conditions that must be imposed on approvals, conditions that will ordinarily be imposed on approvals, term of approval, third party certification of applications).

		(b) More than 5 hives on an allotment with an area between 1,001 m ² and 2,000 m ² (see Code of Practice for Urban Bee Keeping in Queensland 1998).
10.	Greyhound	<p>(a) 3, 4 or 5 greyhounds over the age of 12 weeks on an allotment with an area less than 10,000m².</p> <p>(b) 6,7 or 8 greyhounds over the age of 12 weeks on an allotment with an area between 10,000m² and 100,000m².</p> <p>(c) More than 8 greyhounds over the age of 12 weeks on an allotment with an area of more than 100,000m².</p>
11	Racehorse	1 or more racehorses in an urban area.
12	Stallion	A stallion on an allotment within a 50 kilometre radius of the public office of the local government unless the stallion is a racehorse kept pursuant to an approval granted by the local government under the authorising local law.

Schedule 3 Requirement to desex animal

Section 7

	Column 1 Species or breed of animal	Column 2 Age at which animal must be desexed	Column 3 Exemptions to the requirement for desexing
1	Dog	Refer to the exemption in column 3.	Desexing of dogs is required if more than 2 dogs over the age of 12 weeks are kept on premises unless the owner or responsible person for the dogs is— (a) a registered breeder; or (b) a recognised animal carer; or (c) registered to show dogs.
2	Cat	Refer to exemption in column 3.	Desexing of cats is required if more than 2 cats over the age of 12 weeks are kept on premises unless the owner or responsible person for the cats is— (a) a registered breeder; or (b) a recognised animal carer; or (c) registered to show cats.

Schedule 4 Minimum standards for keeping animals generally

Section 8(1)

A person who keeps an animal on premises must —

- (a) ensure that the animal is adequately identified so that the owner's name, address and telephone number are readily ascertainable; and
- (b) ensure that waste waters from enclosures are drained in a nuisance free manner and that run-off is kept off adjoining premises or as otherwise directed by an authorised person; and
- (c) ensure that excreta, food scraps and other material that is, or is likely to become, offensive is collected at least daily and, if not immediately removed from the premises, is kept in a waste container of a kind approved by an authorised person; and
- (d) ensure that any enclosure in which the animal is kept is properly maintained in—
 - (i) a clean and sanitary condition; and
 - (ii) an aesthetically acceptable condition; and
- (e) take all reasonable steps to prevent the animal from making a noise or disturbance that causes a nuisance or disturbance to the occupiers of—
 - (i) adjoining premises; or
 - (ii) premises in the vicinity of the land on which the animal is ordinarily kept; and
- (f) ensure that the area available to the animal kept on the premises is appropriately sized so that the animal can be effectively and comfortably kept.

Schedule 5 Minimum standards for keeping particular animals

Section 8(2)

	Column 1 Species or breed of animal	Column 2 Minimum standards for keeping animals
1	Greyhound	<p>Each owner of, and responsible person for, a greyhound must—</p> <ul style="list-style-type: none"> (a) ensure that the greyhound is kept— <ul style="list-style-type: none"> (i) without nuisance; and (ii) if a code of practice for the keeping of greyhounds has been approved by the Greyhound Racing Authority of Queensland—in accordance with the requirements of the code of practice; and (b) not bring into, or permit the greyhound to be in, a public place unless the greyhound is muzzled so as to prevent the greyhound from biting.
2	Horse, donkey, cow, bull, ox, deer and other domesticated animals of a similar size and sheep, goat, pig and other animals of a similar size	<p>Each owner of, and responsible person for, an animal specified in column 1, item 2 which is kept on premises must ensure that any enclosure in which the animal is kept is not located within a radius of 10m of—</p> <ul style="list-style-type: none"> (a) a residence on adjoining premises; or (b) a place used for the manufacture, preparation or storage of food intended for human consumption other than a domestic kitchen used solely for domestic purposes by the owner or responsible person for the animal; or (c) a place used for the storage of food (other than food kept in hermetically sealed packages).
3	Budgerigar, canary and other birds of a similar size and cockatiel and other birds of a similar size and cockatoo, galah and other birds of a similar size	<p>Each owner of, and responsible person for, a bird specified in column 1, item 3 must ensure that—</p> <ul style="list-style-type: none"> (a) the bird is kept without nuisance; and (b) the bird is contained within an enclosed cage or aviary; and (c) the bird's food is kept in a properly sealed, vermin proof container; and (d) the cage or aviary in which the bird is kept is thoroughly cleaned at least once each week; and

		(e) if a code of practice for the keeping of birds of a relevant species has been approved by the local government—the bird is kept in accordance with the requirements of the code of practice.
4	Pigeons	<p>Each owner of, and responsible person for, pigeons which are kept on premises must ensure that—</p> <ul style="list-style-type: none"> (a) the pigeons are kept without nuisance; and (b) the pigeons contained within an enclosed cage or aviary; and (c) the pigeon's food is kept in a properly sealed, vermin proof container; and (d) the cage or aviary in which the pigeons are kept is— <ul style="list-style-type: none"> (i) thoroughly cleaned at least once each week; and (ii) located at the rear of, and behind, any residence situated on the premises; and (e) if a code of practice for the keeping of pigeons has been approved by the local government—the pigeons are kept in accordance with the requirements of the code of practice.
5	Bees	<p>Each owner of, and responsible person for, bees which are kept on premises must ensure that—</p> <ul style="list-style-type: none"> (a) the bees are kept without nuisance; and (b) any beehive constructed for the purpose of keeping the bees is not located within a radius of 10m of— <ul style="list-style-type: none"> (i) a residence on adjoining premises; or (ii) a place used for the manufacture, preparation or storage of food intended for human consumption other than a domestic kitchen used solely for domestic purposes by the owner or responsible person for the bees; or (iii) a place used for the storage of food (other than food kept in hermetically sealed packages); and (c) each beehive constructed for the purpose of keeping bees is adequately identified so that the owner's name, address and telephone number are readily ascertainable; and (d) if a code of practice for the keeping of bees has been approved by the local government — the bees are kept in accordance with the requirements of the code of practice.

6	Duck, drake, goose, turkey, rooster, peacock, peahen, ostrich and emu	<p>Each owner of, and responsible person for, a bird identified in column 1 item 6 which is kept on premises must ensure that—</p> <ul style="list-style-type: none">(a) the bird is kept without nuisance; and(b) the bird is contained within an enclosure; and(c) the bird's food is kept in a properly sealed, vermin proof container; and(d) the enclosure in which the bird is kept is—<ul style="list-style-type: none">(i) thoroughly cleaned at least once each week; and(ii) located at the rear of, and behind, any residence situated on the premises; and(e) the enclosure in which the bird is kept is not located within a radius of 10m of—<ul style="list-style-type: none">(i) a residence on adjoining premises; or(ii) a place used for the manufacture, preparation or storage of food intended for human consumption other than a domestic kitchen used solely for domestic purposes by the owner or responsible person for the bird; or(iii) a place used for the storage of food (other than food kept in hermetically sealed packages); and(f) the enclosure in which the bird is kept is not located less than 1 m from the side or rear boundaries of the premises.
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Schedule 6 Prohibition of animals in public places

Section 10

	Column 1 Public place	Column 2 Species or breed of animals prohibited
1	Within 10m of— (a) any playground apparatus which is provided for the use of minors in a public place which is a local government controlled area; or (b) a designated playground area in a public place which is a local government controlled area; or (c) a barbecue or other cooking facility in a public place which is a local government controlled area.	Dogs

Schedule 7 Dog off-leash areas

Section 11

1. Ted Price Park, Gracemere (access via Breakspear Street and Holgate Close) but limited to the area designated as a dog off-leash area by signpost.
2. Duthie Park, North Rockhampton (access via Thozet Road, Marsh Avenue, Lawrence Avenue and Wigginton Street) but limited to the area and times designated by signpost and, in any event, not while the area is being used by animals participating in an obedience trial supervised by a body recognised for section 12(3)(d) of the authorising local law by the local government.
3. Rosel Park, South Rockhampton, opposite the Quay Street pound (access via Quay Street).
4. The bathing reserve at Farmborough beach, Yeppoon but only from the Bangalee boat ramp, Hinz Avenue, south to Barwells creek (access via Hinz Avenue) but only from Monday to Friday, excluding public holidays.
5. The bathing reserve at Fisherman's Beach, Emu Park, but only from the north beach access at Bell Park to Tanby Point (access via Hill Street) and only from Monday to Friday, excluding public holidays.
6. Subject to items 4 and 5, all bathing reserves and foreshore placed under the control of the local government, but only before 8.00am and after 4.00pm daily.
7. Victoria Park (Recreation Area), access via Lion Creek Road, Rockhampton, but limited to the area designated as a dog off-leash area by signpost.

Schedule 8 Requirements for proper enclosures for animals

Section 13

	Column 1 Species or breed of animal	Column 2 Requirements for proper enclosures
1	All animals regardless of species or breed	<p>(1) A proper enclosure is an area of the land on which the animal is kept, appropriately sized so as to be capable of effectively and comfortably housing the animal.</p> <p>(2) The area must be suitably fenced—</p> <ul style="list-style-type: none"> (a) appropriate to the species and breed of the animal to be enclosed; and (b) so as to effectively enclose the animal on the land on which it is kept at all times. <p>(3) For the purposes of this item 1 <i>suitably fenced</i> means enclosed by a fence —</p> <ul style="list-style-type: none"> (a) constructed of materials which are of sufficient strength to prevent the animal from escaping over, under or through the fence; and (b) of a height which is sufficient to prevent the animal jumping or climbing over the fence; and (c) where the animal has the ability to dig — which includes a barrier installed directly below the fence to prevent the animal digging its way out; and (d) where the animal has the ability to climb — designed and constructed in such a way as to prevent the animal from climbing over the fence; and (e) of which all gates are kept closed and latched except when in immediate use by a person entering or leaving the land on which the animal is kept.
2	Horse	<p>(1) A proper enclosure for the keeping of a horse must, in addition to the requirements specified in item 1 —</p> <ul style="list-style-type: none"> (a) effectively enclose the horse so that the horse can not reach over or through the fence to adjoining land or any public place; and (b) where the animal is a stallion—the enclosure must be constructed within an additional or second

		suitable and adequate fence or enclosure that is provided at the land on which the stallion is kept to a standard approved by an authorised person.
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**Schedule 9 Requirements for keeping a dog in a
koala area**

Section 14(1)

No requirements prescribed.

Schedule 10 Koala areas²

Section 14(2)

No area designated.

² “Koala areas” under section 15(4) of the authorising local law comprise the areas designated in this schedule plus “koala habitat areas” designated by a State planning instrument or a conservation plan made under the *Nature Conservation Act 1992*.

Schedule 11 Criteria for declared dangerous animals

Section 15

There is a high likelihood of the animal causing injury to a person or animal or damage to property, taking into account—

- (a) its prior history of attacking or causing fear to persons or animals or damaging property; and
- (b) the extent of injury or damage that could potentially be inflicted by an animal of its size and species or breed.

Schedule 12 Conditions for sale of animals

Section 19

	Column 1 Species or breed of animal	Column 2 Conditions that must be complied with when offering animal for sale
1	Dogs and cats	<p>(1) A person who offers an animal of a species specified in column 1 item 1 for sale must keep and maintain a written register detailing —</p> <ul style="list-style-type: none"> (a) the particulars and description of each animal offered for sale including breed, name, date of birth, identifying tag and any other form of identification; and (b) a medical history for each animal listing vaccinations, inoculations and treatments that have been carried out; and (c) if the animal is sold or otherwise disposed of — the name and address of the new owner of the animal and the date of sale or disposal of the animal. <p>(2) If section 44 of the Animal Management Act applies to an animal which is offered for sale by the person—the person must comply with the requirements of the section before the sale of the animal by the person.</p> <p>(3) If section 44 of the Animal Management Act does not apply to the animal offered for sale by the person—the person must supply a register to the local government, at least monthly, giving full details of —</p> <ul style="list-style-type: none"> (a) all animals sold or otherwise disposed of including the name and address of the new owner of the animal; and (b) a full description of each animal sold or otherwise disposed of; and (c) the date of sale or disposal of each animal. <p>(4) A person must not offer an animal of a species specified in column 1 item 1 for sale unless the animal has received all necessary vaccinations, inoculations and treatments which are appropriate according to the age of the animal.</p>

Schedule 13 Dictionary

Section 4

allotment means a single parcel of land, or several contiguous parcels of land where all of the contiguous parcels of land are in —

- (a) the same ownership; or
- (b) the same occupation.

animal welfare agency means—

- (a) the Royal Society for the Prevention of Cruelty to Animals Queensland Incorporated; and
- (b) the Animal Welfare League of Queensland Incorporated.

Animal Management Act see *Animal Management (Cats and Dogs) Act 2008*.

bathing reserve means a part of the seashore and adjacent land and sea placed under the control of the local government as a bathing reserve under section 26 of the *Local Government (Operations) Regulation 2010*.

building has the meaning given in the *Building Act 1975*.

cat—

- (a) has the meaning given in section 11 of the Animal Management Act; and
- (b) includes a kitten regardless of age.

designated playground area means an area which is—

- (a) physically defined; and
- (b) constructed by the local government for recreational use by minors; and
- (c) provided with 1 or more items of playground apparatus.

Example—

A designated playground area may be an area which is—

- (a) enclosed by a fence or some other barrier; and
- (b) covered by bark chips or similar material; and
- (c) equipped with a swing, see-saw or similar playground

apparatus. **destroy**, an animal, includes causing it to be destroyed. **dog**—

- (a) has the meaning given in section 11 of the Animal Management Act; and
- (b) includes a puppy regardless of age.

domestic purposes means the purposes of—

- (a) human consumption; or
- (b) food preparation; or
- (c) washing; or
- (d) other normal domestic duties.

environmental harm has the meaning given in the *Environmental Protection Act 1994*.

environmental nuisance has the meaning given in the *Environmental Protection Act 1994*.

foreshore means foreshore placed under the control of the local government under section 25 of the *Local Government (Operations) Regulation 2010*.

guard dog means—

- (a) a dog released by a person on residential premises or non-residential premises without a handler for the primary purpose of acting as a deterrent to intruders; and
- (b) a dog released by a person on residential premises or non-residential premises without a handler if the dog has been trained to attack for the purpose of guarding either persons or property.

horse includes a pony and a miniature horse.

identifiable animal means an animal—

- (a) wearing an identifying tag issued by the local government; or
- (b) otherwise identified so that the local government is able to ascertain the owner of the animal.

keep (an animal)—

- (a) includes board, breed and train; and
- (b) in the absence of evidence to the contrary, a person is presumed to keep an animal on land if the person —
 - (i) feeds and cares for the animal on the land; and
 - (ii) the animal is observed by an authorised person on the land on more than 1 occasion during a month.

land has the meaning given in the *Sustainable Planning Act 2009*.

multi-residential premises means each of —

- (a) a residence which forms part of a group of 2 or more residences in circumstances where 2 or more of the residences of the group are directly adjacent to each other and share—
 - (i) a common wall; or
 - (ii) a ceiling in circumstances where 1 residence is directly under the floor of another residence; and
- (b) a residence situated on a lot which forms part of a community titles scheme as defined in the *Body Corporate and Community Management Act 1997*.

Examples of multi-residential premises —

Flats, boarding houses, tenement buildings, home units, townhouses and duplexes.

non-residential premises means premises other than residential premises.

nuisance bird means—

- (a) a rooster, goose, cockatoo, galah or peacock; and
- (b) another bird kept on premises which makes an audible noise which causes environmental harm or environmental nuisance to an occupier of other premises.

occupier, of premises—

- (a) means the person who has the control or management of the premises; and
- (b) includes the owner of the premises where there is no person in apparent occupation of the premises.

premises means any land, building or structure and includes any part thereof.

racehorse means a horse bred and trained for racing.

recognised animal carer means a person who is recognised as a carer of—

- (a) dogs by the Canine Control Council (Queensland); or
- (b) cats by the Queensland Feline Association Inc.; or
- (c) animals by an animal welfare agency; or
- (d) animals by another incorporated association which is recognised (as a body capable of recognition of animal carers) by the local government for the purposes of this definition.

registered has the meaning given in the Animal Management Act.

registered breeder means a person who is—

- (a) registered as a breeder of—
 - (i) dogs with the Canine Control Council (Queensland); or
 - (ii) cats with the Queensland Feline Association Inc.; or
- (b) recognised (as a registered breeder) by the local government for the purposes of this definition.

residence means a building, or part of a building, that is—

- (a) fixed to land; and
- (b) a self-contained unit used by, or intended for the exclusive residential use of, one household.

residential premises means premises used, or intended to be used, predominantly as a place of residence.

sale includes—

- (a) to sell; and
- (b) offer, or expose for sale; and
- (c) agree or attempt to sell; and
- (d) dispose of for negligible or no consideration; and
- (e) barter.

stallion means an uncastrated adult male horse.

structure has the meaning given in the *Local Government Act 2009*.

urban area means an area used, or intended to be used, predominantly as a place for the location of residential premises.

working dog has the meaning given in the Animal Management Act.

9 NOTICES OF MOTION

Nil

10 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.

11 CLOSURE OF MEETING