CAIRNS REGIONAL COUNCIL

ORDINARY MEETING

28 SEPTEMBER 2016

9:04 A.M.

PRESENT: Cr B Manning (Chairperson)
Cr R Bates
Cr L Cooper
Cr T James
Cr B Moller
Cr B Olds
Cr M O'Halloran
Cr J Richardson
Cr J Schilling
Cr C Zeiger

OFFICERS:

J Andrejic	A/Chief Executive Officer
R Plasto	A/General Manager Infrastructure Services
C Posgate	General Manager Human Resources and Organisational Change
P Boyd	A/General Manager Planning & Environment
G O'Byrne	General Manager Water & Waste
L Kirchner	General Manager Community, Sport & Cultural Services
R Holmes	Manager Marketing &Communications
L Guy	Media Coordinator
N Quinn	Executive Manager Mayor's Office
B Spencer	Manager Parks & Leisure
K Still	Manager Libraries & Community Development
P Cohen	A/Manager Strategic Planning & Approvals
S Godkin	Minute Secretary

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CONFLICT OF INTEREST / MATERIAL PERSONAL INTEREST

Cr Cooper declared that a perceived conflict of interest in Item 3, Material Change of Use (Impact) Service Station and Food & Drink outlet – 246-250 Mulgrave Road, Westcourt – Division 5, could exist (as per Section 173 of the *Local Government Act 2009*), due to her knowing the applicant, but that she had considered her position and was firmly of the opinion she could participate in debate and vote on this matter in the public interest.

Cr Cooper declared a real conflict of interest (as per Section 173 of the *Local Government Act 2009*) in Item 2 Closed Session, Contractual Matter – Contract 2563 – Provision of Cleaning Services for Cairns Libraries, due to her knowing one of the tenderers, and left the meeting room, taking no part in the debate or decision of the meeting.

PURPOSE OF MEETING

To consider the matters listed on the agenda.

CONFIRMATION OF MINUTES OF ORDINARY MEETING 24/8/16

SCHILLING / MOLLER

That the Minutes of the Ordinary Meeting held on Wednesday, 24 August 2016 be confirmed.

carried

CONFIRMATION OF THE MINUTES OF THE PLANNING & ENVIRONMENT COMMITTEE MEETING – 14/9/16

JAMES / SCHILLING

That the Minutes of the Planning and Environment Committee Meeting held on Wednesday, 14 September 2016 be confirmed.

carried

CONSIDERATION OF REPORTS AND RECOMMENDATIONS CONTAINED IN MINUTES OF THE WATER & WASTE COMMITTEE MEETING – 21/9/16

BATES / O'HALLORAN

That the reports and recommendations of the Water & Waste Committee held on Wednesday, 21 September 2016 be adopted.

carried

CONSIDERATION OF REPORTS AND RECOMMENDATIONS CONTAINED IN MINUTES OF THE INFRASTRUCTURE SERVICES COMMITTEE MEETING – 21/9/16

SCHILLING / ZEIGER

That the reports and recommendations of the Infrastructure Services Committee held on Wednesday, 21 September 2016 be adopted.

carried

CONSIDERATION OF REPORTS AND RECOMMENDATIONS CONTAINED IN MINUTES OF THE GOVERNANCE COMMITTEE MEETING – 21/9/16

MOLLER / RICHARDSON

That the reports and recommendations of the Governance Committee held on Wednesday, 21 September 2016 be adopted.

carried

CONSIDERATION OF REPORTS AND RECOMMENDATIONS CONTAINED IN MINUTES OF THE SPORT AND COMMUNITY SERVICES COMMITTEE MEETING – 21/9/16

ZEIGER / OLDS

That the reports and recommendations of the Sport and Community Services Committee held on Wednesday, 21 September 2016 be adopted.

carried

CONSIDERATION OF REPORTS AND RECOMMENDATIONS CONTAINED IN MINUTES OF THE CULTURAL SERVICES COMMITTEE MEETING – 21/9/16

COOPER / RICHARDSON

That the reports and recommendations of the Cultural Services Committee held on Wednesday, 21 September 2016 be adopted.

carried

1. REVISED ESPLANADE MANAGEMENT POLICY 4
L. Kirchner | 79/4/1 | #5193685v2

JAMES / SCHILLING

That Council adopts the revised Esplanade Management Policy and Council recognises the Indigenous Land Use Agreements in place and the Traditional Owners of Cairns Esplanade.

carried with Councillor Bates voting against the motion

2. REVISED ARTS AND CULTURAL FACILITIES POLICIES 12
L. Kirchner | 79/4/1 | #5193629

COOPER / SCHILLING

That Council adopts the revised Arts and Cultural Facilities Policy.

carried

3. MATERIAL CHANGE OF USE (IMPACT) SERVICE STATION AND FOOD & DRINK OUTLET – 246-250 MULGRAVE ROAD, WESTCOURT – DIVISION 5 17
Michelle Henderson | 8/8/1452 SEDA | #5216163

Cr Cooper declared that a perceived conflict of interest in this matter could exist (as per Section 173 of the *Local Government Act 2009*), due to her knowing the applicant, but that she had considered her position and was firmly of the opinion she could participate in debate and vote on this matter in the public interest. Cr Cooper did not leave the meeting

SCHILLING / BATES

A. That Council approves the development application for Service Station and Food and Drink Outlet over land described as Lots 1-3 on RP709091, located at 246-250 Mulgrave Road Westcourt, subject to the following:

APPROVED DRAWING(S) AND / OR DOCUMENT(S)
The term 'approved drawing(s) and / or document(s)' or other similar expressions means:

Drawing or Document	Reference	Date
Site Plan	**CA Architects – Drawing 982_SK A-101 Rev 2 (Council ref no 5148095)**	**01/06/2016**
Ground Floor Plan	**CA Architects – Drawing 982_SK A-102 Rev 3 (Council ref no 5148095)**	**24/06/2016**
Roof Plan	**CA Architects – Drawing 982_SK A-104 Rev 2 (Council ref no 5148095)**	**01/06/2016**
Elevations	**CA Architects – Drawing 982_SK A-105 Rev 2 (Council ref no 5148095)**	**01/06/2016**
Elevations	**CA Architects – Drawing 982_SK A-106 Rev 2 (Council ref no 5148095)**	**01/06/2016**
Sections	**CA Architects – Drawing 982_SK A-107 Rev 2 (Council ref no 5148095)**	**01/06/2016**
3D Perspective	**CA Architects – Drawing 982_SK A-108 Rev 2 (Council ref no 5148095)**	**01/06/2016**
3D Views	**CA Architects – Drawing 982_SK A-109 (Council ref no 5148095)**	**01/06/2016**
19m Semi Fuel Tanker Access	**CivilWalker Engineering and Project Management - Drawing No 136-001-SK1, Rev 4 (Council ref no 5178462)**	**01/08/2016**

Drawing or Document	Reference	Date
AS 2890.1 B99Vehicle Swept Paths	CivilWalker Engineering and Project Management - Drawing No 136-001-SK2, Rev 4 (Council ref no 5178462)	01/08/2016
Refuse Bin Access	CivilWalker Engineering and Project Management - Drawing No 136-001-SK3, Revision 4 (Council ref no 5178462)	01/08/2016
TMR Layout Plan	Queensland Government Transport and Main Roads - Reference TMR16-17671 (500 - 1018), Issue B. (Council ref no 5178462)	19/08/2016

Assessment Manager Conditions

1. **Carry out the approved development generally in accordance with the approved drawing(s) and/or document(s), and in accordance with:-**

   a. **The specifications, facts and circumstances as set out in the application submitted to Council;**

   b. **The following conditions of approval and the requirements of Council's Planning Scheme and the FNQROC Development Manual.**

      Except where modified by these conditions of approval

Timing of Effect

2. **The conditions of the Development Permit must be effected prior to Commencement of Use, except where specified otherwise in these conditions of approval.**

Notice of Intention to Commence Use

3. **Prior to commencement of the use on the site, written notice must be given to Council that the development fully complies with this Development Permit. Please return the attached "Notice of Intention to Commence Use" form when the use has commenced (attached at Appendix 2).**

Operational Works

4. **An Operational Works Approval is required for the; internal and external earthworks, on-street works (including parking and lane marking and street signage), sewer and water works, landscaping and drainage works. Such works must be completed to the satisfaction of the Chief Executive Officer prior to Commencement of Use.**

Sediment and Erosion Control

5. Soil and water management measures must be installed / implemented prior to discharge of water from the site, such that no external stormwater flow from the site adversely affects surrounding or downstream properties (in accordance with the requirements of the Environmental Protection Act 1994, and the FNQROC Development Manual).

Lawful Point of Discharge

6. All stormwater from the property must be directed to a lawful point of discharge, such that it does not adversely affect surrounding properties or properties downstream from the development, all to the requirements and satisfaction of the Chief Executive Officer.

Water Supply and Sewerage Works Internal

7. Undertake the following water supply and sewerage works internal to the subject land:

a. The development must be serviced by a single internal water and sewerage connection made clear of any buildings or structures;

b. Any redundant sewer property connection and water connection shall be decommissioned and removed;

c. The owner is to take ownership of the existing sewer from manhole R1209/5 located immediately inside the boundary such that the balance of the sewer can be decommissioned and taken over by the owner as a private sewer;

d. The applicant/owner must provide written acceptance to take ownership of existing sewer upstream of manhole as private sewer;

e. An easement in favour of Council for sewerage purposes is to be registered over the manhole.

All the above works must be designed and constructed in accordance with the FNQROC Development Manual. All works must be carried out in accordance with the approved plans, to the requirements and satisfaction of the Chief Executive Officer prior to Commencement of Use or issue of a Compliance Certificate for the Plan of Survey, whichever occurs first.

Sewer Easement

8. Create an easement in favour of Council over the existing manhole within the site to the requirements and satisfaction of the Chief Executive Officer. A copy of the easement document must be submitted to Council for the approval by Council's solicitors at no cost to Council.

The approved easement document must be submitted at the same time as seeking compliance assessment of the Plan of Survey and must be lodged and registered with the Department of Natural Resources and Mines in conjunction with the Plan of Survey.

Refuse Storage

9. The development must be designed to be serviced by bulk bins. A bulk bin enclosure must be provided in accordance with Council's requirements.

Details of the bulk bin enclosures must be shown on the plan of works and must be approved by the Chief Executive Officer prior to issue of a Development Permit for Building Works. The bin enclosure must be constructed in accordance with the approved plans prior to the commencement of use.

Refuse collection must be conducted during normal business hours unless otherwise approved by the Chief Executive Officer.

Liquid Waste Disposal

10. Trade waste discharge to sewer must meet the requirements of Cairns Water and Waste's Trade Waste Environmental Management Plan (TWEMP). Detailed Hydraulic Plans must be provided accompanied by a report which demonstrates that the facility complies with the TWEMP and must be approved by Council prior to the issue of a Development Permit for Building Work. All measures for pre-treatment in accordance with the approved plans must be installed prior to Commencement of Use.

Traffic Impact Study

11. A Traffic Impact Study must be undertaken by an appropriately qualified professional with respect to the impacts of the development on the local road network and compliance with Austroads Queensland Streets and the FNQROC Development Manual. The study is to include but not be limited to the following:

a. Volume of traffic generated by the development with a particular emphasis on traffic impacts from local traffic movement on Ascot Avenue;

b. Site access or street carriageway augmentation or other mitigation measures necessary to avoid, limit or discourage localised traffic on Ascot Avenue to and from the site;

The Traffic Impact Study report must be submitted and endorsed by the Chief Executive Officer prior to issue of a Development Permit for Operational Works. Such works recommended by the approved report must be constructed in accordance with the approved plans to the satisfaction of the Chief Executive Officer prior to the Commencement of Use.

External Works

12. Undertake the following works external to the land at no cost to Council:

a. Provision of concrete commercial crossovers and aprons to Mulgrave Road and Ascot Avenue, in accordance with FNQROC Development Manual Standard Drawing 1015 Rev C (attached at Appendix 3);

b. Upgrade the Ascot Avenue frontage with a minimum two (2) metre wide footpath the full length of the site in accordance with FNQROC Development Manual Standard Drawing 1035A. The footpath must contain kerb ramps at the intersection of Ascot Avenue and Mulgrave Road on both sides of the road in accordance with FNQROC Development Manual Standard Drawing 1016A to facilitate pedestrians crossing Ascot Avenue;

c. Upgrade the street lighting to comply with requirements of the FNQROC Development Manual;

d. Make good redundant kerbs and crossovers;

e. Upgrade the kerb and channel to the frontages of the site. ;

f. The modifications to the island on the southern corner of the intersection to facilitate large vehicle entry should be undertaken at no cost to Council; and

g. Design and provision of the vehicle access off Ascot Avenue such that vehicles are allowed a right turn in, left turn out only to access/depart the site. Road treatments and signage should enable vehicle access from the south (Mulgrave Road through to Ascot Avenue), while restricting vehicle access from the north (Earl Street through to Ascot Avenue); and

h. Repair any damage to existing kerb and channel, footway or roadway (including removal of concrete slurry from footways, roads, kerb and channel and stormwater gullies and drain lines) that may occur during and works carried out in association with the construction of the approved development.

All works in the road reserve need to be properly separated from pedestrians and vehicles, with any diversions adequately signed and guarded. Particular attention must be given to providing safe passage for people with disabilities i.e. the provision of temporary kerb ramps if pedestrian diversions are necessary.

The external works outlined above require an Operational Works approval from Council. Such work must be constructed in accordance with the Operational Works approval to the satisfaction of the Chief Executive Officer prior to Commencement of Use.

Note: Written approval is required from the Department of Transport and Main Roads to carry out road works on a state-controlled road, in accordance with the Concurrence Agency Response.

Vehicle Parking

13. The amount of vehicle parking must be a minimum of ten (10) car parking spaces. The car parking layout must comply with the Australian Standard AS2890.1 2004 Parking Facilities – off-street car parking and be constructed in accordance with Austroads and good engineering design. In addition, all parking, driveway and vehicular manoeuvring areas must be imperviously sealed, drained and line marked.

Landscaping Plan

14. The site must be landscaped in accordance with details included on a Landscaping Plan prepared by a suitably qualified landscape architect/designer. In particular the landscaping plan must show:

a. Landscaped areas adjoining the new hardstand area must be protected by a 150mm high vertical concrete kerb or similar obstruction. The kerb must be set back from the garden edge sufficiently to prevent vehicular encroachment and damage to plants by vehicles;

b. Dense screen planting along the side and rear boundaries;

c. Feature landscaping within the front setback on Mulgrave Road and Ascot Street to provide an attractive streetscape;

d. Details of the acoustic fencing required by Condition 14; and

e. Inclusion of any other relevant conditions included in this Development Permit. A copy of this Development Approval must be given to the applicant's Landscape Architect/Designer.

The landscaping works outlined above is required to be included in an Operational Works approval from Council. The approval and completion of all landscaping works must be undertaken in accordance with the endorsed Landscape Plan prior to the issue of a Certificate of Classification or Commencement of Use whichever occurs first. Landscaped areas must be maintained at all times to the satisfaction of the Chief Executive Officer.

Acoustic Treatments

15. A double-boarded screen fence of a minimum height of two (2) metres must be provided and/or retained along the northern boundary of the proposed Service Station and Food and Drink Outlet (adjoining Lot 6 RP709091 and Lot 13 on RP709091).

The fence must be designed to protect the amenity of adjoining residential uses and assist with noise attenuation, to the satisfaction of the Chief Executive Officer. Details of the fence are to be included in the Landscape Plan prepared for the development.

16. The Food and Drink Outlet and associated drive-through facility must be designed to ensure no speakers or other amplified noise devices are required or used external to the building.

17. External and roof top mechanical plant is to be acoustically screened with openings that face south.

Plan of Drainage Works

18. The subject land must be drained to the satisfaction of the Chief Executive Officer. In particular:

a. Drainage infrastructure in accordance with the FNQROC Development Manual;

b. The drainage system from the development must incorporate a gross pollutant trap(s) or equivalent measure(s), meeting the following Council specifications for stormwater quality improvement devices (SQID), namely:

i. End-of-line stormwater quality improvement devices (SQID) shall be of a proprietary design and construction and shall carry manufacturer's performance guarantees as to removal of foreign matter from stormwater and structural adequacy of the unit.

ii. SQIDs shall remove at least ninety-five per cent of all foreign matter with a minimum dimension of three (3) mm and shall be configured to prevent re-injection of captured contaminants. The SQID treat all first flush runoff, which shall be defined as that volume of water equivalent to the runoff from the three (3) month ARI storm event. The location of SQIDs within the drainage system shall be planned to ensure that the first flush waters from all parts of the (developed) catchment are treated.

iii. The design of the SQID shall not compromise the hydraulic performance of the overall drainage system.

iv. SQIDs shall be positioned so as to provide appropriate access for maintenance equipment.

Minimum Fill and Floor Levels: CBD and Environs Area – Zone 2

19. All floor levels in all buildings must be located a minimum of 300 mm above the Q100 flood immunity level of 3.2 metres AHD, in accordance with FNQROC Development Manual, the CBD Environs Drainage Management Plan and Planning Scheme requirements.

The development of the site must not consume more than sixty (60) per cent of the existing flood storage volume of the site and must be conducted so as not to impede or hinder the surface water flow onto or off the subject land.

A plan of site works, with supporting flood storage volume calculations, must be submitted to and be endorsed by the Chief Executive Officer prior to issue of a Development Permit for Operational Works.

Street Lighting

20. Street lighting is to be upgraded to Lighting Category V5 along the Ascot Avenue frontage. The new Rate 2 street lighting is to be designed in accordance with Section D8 of FNQROC Development Manual and the relevant Road Lighting Standard AS/NZS 1158. Lighting columns are to be of steel construction with Metal Halide Aeroscreen luminaires and underground service.

Lighting

21. All lighting installed upon the premises, including car parking areas, must be certified by Ergon Energy (or such other suitably qualified person). The vertical illumination at a distance of 1.5 metres outside the boundary of the subject land must not exceed eight (8) lux measured at any level upwards from ground level. All lighting must also comply with AS 4282-1997 Control of the obtrusive effects of outdoor lighting.

Electrical & Telecommunications

22. All existing overhead electricity and telecommunication services along Ascot Avenue and Mulgrave Road must be placed underground to the full extent of the development's frontage. Such works are to be undertaken by Ergon Energy or its approved contractor at the applicant's expense

23. Where the electrical load of the development requires a network supply upgrade by Ergon Energy provision must be made for a padmount transformer on site. The padmount must be located so that it does not detract from the appearance of the streetscape and must be clear of footpath areas. The existing pole mount transformer must be recovered by Ergon. If a network supply upgrade is not necessary an underground service connection from a pillar installed by Ergon Energy at the property boundary is required.

24. Where Ergon Energy requires the installation of a substation to augment their network, a padmount type is to be incorporated within the development and positioned so that it does not detract from the appearance of the streetscape and must be clear of footpath areas. Details of the electrical substation positioning must be endorsed by the Chief Executive Officer prior to the issue of Development Permit for Building Work.

25. The above conditions relating to electricity supply must be provided to Ergon Energy at the same time as the application for Network Connection Services.

Air-Conditioning, Plant and Machinery Screens

26. Air-conditioning, plant and machinery units located above ground level and visible from external properties and the street, must be screened with appropriate materials to improve the appearance of the building. Such screening must be completed prior to the Commencement of Use.

Storage of Machinery and Plant

27. The storage of any machinery, material and vehicles must not cause a nuisance to surrounding properties, to the satisfaction of the Chief Executive Officer.

Stockpiling and Transportation of Fill Material

28. Soil used for filling, or spoil from the excavation, is not to be stockpiled in locations that can be viewed from adjoining premises or a road frontage. This stockpiling cannot be for any longer than one (1) month from the Commencement of Works.

Transportation of fill or spoil to and from the site must not occur within:

a. peak traffic times;
b. before 7:00 am or after 6:00 pm Monday to Friday;
c. before 7:00 am or after 1:00 pm Saturdays; or
d. on Sundays or Public Holidays.

Dust

29. Dust emissions or other air pollutants, including odours, must not extend beyond the boundary of the site and cause a nuisance to surrounding properties.

Crime Prevention Through Environmental Design

30. All lighting and landscaping requirements are to comply with Council's Planning Scheme Policy for Crime Prevention Through Environmental Design (CPTED).

Amalgamation of Lots Required

31. The applicant/owner is to ensure that the subject lots are held together as one site for the duration of the approved land use. This can be achieved by either:

a. The registration, at the applicant's/owner's cost, of a Covenant under Section 97A(3)(c) of the Land Titles Act 1994 on the titles for each of the subject sites, the covenant is to be worded to prevent the transfer of one of the titles without the other. Evidence of the registration of the covenants is to be provided to the Chief Executive Officer prior to the Commencement of Use.

or,

b. Amalgamation of Lots 1, 2 and 3 on RP709091 into one lot. The Plan of Survey must be registered with the Department of Natural Resources and Mines and a new certificate of title issued at the applicant's/owner's cost prior to Commencement of Use.

Acid Sulfate Soils

32. The excavation for the construction of the building may result in disturbance of potential acid sulfate soils (PASS). Prior to excavation, an acid sulfate soil investigation must be undertaken. The investigation must be performed in accordance with the latest 'Guidelines for Sampling and Analysis of Lowland Acid Sulfate Soils in Queensland' produced by the Department of Natural Resources and Mines ('DNRM'), and in accordance with the State Planning Policy: State interests – emissions and hazardous activities: Guidance on acid sulfate soils and the Queensland Acid Sulfate Soils Technical Manual and must be prepared by a suitably qualified and experienced person. Where it is found that PASS exist, treatment of soil must be undertaken on-site to neutralise acid, prior to disposal as fill, in accordance with the DNRM 'Queensland Acid Sulfate Soil Technical Manual'.

Damage to Infrastructure

33. In the event that any part of Council's existing sewer, water or road or drainage infrastructure is damaged as a result of construction activities occurring on the site, including but not limited to, mobilisation of heavy earthmoving equipment, stripping and grubbing, the applicant/owner must notify the Cairns Regional Council immediately of the affected infrastructure and have it repaired or replaced by Cairns Regional Council, at the developer/builder/owner's cost, prior to the Commencement of Use.

CONCURRENCE AGENCY CONDITIONS & REQUIREMENTS

Concurrency Agency	Concurrence Agency Reference	Date	Council Electronic Reference
DILGP	SDA-0716-0315892	26 August 2016	#5200536

Refer to Appendix 4: Concurrence Agency Requirements. (Please note that these conditions / requirements may be superseded by subsequent negotiations with the relevant referral agencies).

ADVICE

1. **This approval, granted under the provisions of the Sustainable Planning Act 2009, shall lapse four (4) years from the day the approval takes effect in accordance with the provisions of Section 339 and 341 of the Sustainable Planning Act 2009.**

2. **All building site managers must take all action necessary to ensure building materials and / or machinery on construction sites are secured immediately following the first cyclone watch and that relevant emergency telephone contacts are provided to Council Officers, prior to commencement of works.**

3. **Noise associated with fuel delivery or loading activities, and noise from air conditioning units, service equipment or other mechanical equipment must not emanate from the subject land to a degree that would, in the opinion of the Chief Executive Officer, create an environmental nuisance having regard to the provisions of the Environmental Protection Act 1994, Environmental Protection (Noise) Policy 1997 and Environmental Protection Regulation 1998 (Part 2A - Environmental Nuisance).**

4. **Premises intended to be used for the storage, preparation, handling, packing and/or service of food must comply with the requirements of the Food Act 2006 and the Food Standards Code.**

5. **Prior to construction or alteration of any premises used for storage, preparation, handling, packing and/or service of food, application for such must be made with Council's Public Health Unit.**

6. **An application for the construction or alteration of any food premises must be accompanied by two (2) copies of plans drawn to a scale not smaller than 1:100. Such plans are to include details of ventilation (including mechanical exhaust ventilation systems), finishes to walls, floors and ceilings, details of the proposed layout and materials to be used in the construction of all fixtures, fittings and equipment. The plans should include detailed cross sections of all areas to be included in the construction or alteration. All works must be carried out in accordance with the requirements of the Food Act 2006, Food Safety Standards and AS 4674 – 2004 – Design, construction and fit-out of food premises.**

7. **Prior to operation of the food business, the operator must hold a current Food Licence issued by Council's Public Health Unit under the Food Act 2006. Every licensed food business is required to have a Food Safety Supervisor who has met specified competencies and is reasonably available at all times the business is operating. Contact the Council's Public Health Unit for further information.**

8. This approval does not negate the requirement for compliance with all other relevant Local Laws and other statutory requirements.

9. For information relating to the Sustainable Planning Act 2009 log on to www.dilgp.qld.gov.au. To access FNQROC Manual, Local Laws and other applicable Policies log on to www.cairns.qld.gov.au.

10. Advertising devices including pylon signs require an application for Operational Works (Advertising devices).

Infrastructure Charges Notice

11. A charge levied for the supply of trunk infrastructure is payable to Council towards the provision of trunk infrastructure in accordance with the Adopted Infrastructure Charges Notice, a copy of which is attached for reference purposes only. The original Adopted Infrastructure Charges Notice will be provided under cover of a separate letter.

The amount in the Adopted Infrastructure Charges Notice has been calculated according to Council's Adopted Infrastructure Charges Resolution.

Please note that this Decision Notice and the Adopted Infrastructure Charges Notice are stand-alone documents. The Sustainable Planning Act 2009 confers rights to make representations and appeal in relation to a Decision Notice and an Adopted Infrastructure Charges Notice separately.

The amount in the Adopted Infrastructure Charges Notice is subject to index adjustments and may be different at the time of payment. Please contact the Development Assessment Team at council for review of the charge amount prior to payment.

The time when payment is due is contained in the Adopted Infrastructure Charges Notice.

B. The following notation will be placed on Council's future rates record:

1. Refuse storage and collection is to be serviced by bulk bins.

LAND USE DEFINITIONS*

In accordance with CairnsPlan 2016 the approved land use of Service Station and Food and Drink Outlet are defined as:

Service Station:

Premises used for the sale of fuel including petrol, liquid petroleum gas, automotive distillate and alternative fuels.

The use may include, where ancillary, a shop, food and drink outlet, maintenance, repair servicing and washing of vehicles, the hire of trailers, and supply of compressed air.

Food and Drink Outlet:

Premises used for preparation and sale of food and drink to the public for consumption on or off the site. The use may include the ancillary sale of liquor for consumption on site.

***These definitions are provided for convenience only. This Development Permit is limited to the specifications, facts and circumstances as set out in the application submitted to Council and is subject to the abovementioned conditions of approval and the requirements of Council's Planning Scheme and the FNQROC Development Manual.**

carried

4. MATERIAL CHANGE OF USE (FOOD & DRINK OUTLET AND OFFICE) & PRELIMINARY APPROVAL FOR BUILDING WORK (LOCAL HERITAGE PLACE) AND FIXED OUTDOOR DINING STRUCTURE AT 17 - 19A & 21 SPENCE STREET, CAIRNS CITY – DIVISION 5 64
I Elliott-Smith | 8/30/223 | #5219811v2

BATES / SCHILLING

A. That Council approves the Development Application for a Material Change of Use (Food and Drink Outlet and Office) over land at 17 - 19A and 21 Spence Street, Cairns City being Lots 1 and 2 on RP706479 subject to the following:

APPROVED DRAWING(S) AND / OR DOCUMENT(S)
The term 'approved drawing(s) and / or document(s)' or other similar expressions means:

Drawing or Document	Reference	Date
Earl Court Additions & Alterations Site Plan Proposed	**Dwg. No. 16.0093.11 Sheet No. SK21 Revision 3 Prepared by Thomson Adsett**	**17.06.2016**
Earl Court Additions & Alterations Ground Floor Plan Proposed	**Dwg. No. 16.0093.11 Sheet No. SK22 Revision 2 Prepared by Thomson Adsett**	**09.06.2016**
Earl Court Additions & Alterations Level 1 Proposed	**Dwg. No. 16.0093.11 Sheet No. SK23 Revision 2 Prepared by Thomson Adsett**	**09.06.2016**

Drawing or Document	Reference	Date
Earl Court Additions & Alterations Roof Plan Proposed	**Dwg. No. 16.0093.11 Sheet No. SK24 Revision 2 Prepared by Thomson Adsett**	**09.06.2016**
Earl Court Additions & Alterations Elevations Proposed (NW & SE)	**Dwg. No. 16.0093.11 Sheet No. SK25 Revision 2 Prepared by Thomson Adsett**	**09.06.2016**
Earl Court Additions & Alterations Elevations Proposed (SW & SW – Lake St)	**Dwg. No. 16.0093.11 Sheet No. SK26 Revision 2 Prepared by Thomson Adsett**	**09.06.2016**

Assessment Manager Conditions

1. Carry out the approved development generally in accordance with the approved drawing(s) and/or document(s), and in accordance with:

a. The specifications, facts and circumstances as set out in the application submitted to Council;

b. The following conditions of approval and the requirements of Council's Planning Scheme and the FNQROC Development Manual.

Except where modified by these conditions of approval.

Timing of Effect

2. The conditions of the Development Permit must be satisfied prior to Commencement of Use, except where specified otherwise in these conditions of approval.

Notice of Intention to Commence Use

3. Prior to the Commencement of Use, the Applicant shall provide written notice to Council that the development fully complies with the conditions of the Development Permit.

Location of Outdoor Dining Structure

4. The outdoor dining structure area must be located a minimum 1.5 metres away from existing Council water and sewer infrastructure within Lake Street.

A minimum 3 metre wide pedestrian clear space must be provided between the existing building and the outdoor dining structure. The space must remain free of obstruction to permit the free passage of pedestrians using the footpath. Seating is not permitted to be located within this area.

Use of Outdoor Dining Area

5. The outdoor dining area must only be used in conjunction with the carrying out of a Food and Drink Outlet within Lot 1 RP706479.

Use of Easement A RP706480

6. The use of Easement A RP706480 by the burdened tenement i.e. Lot 1 on RP706479 must not compromise the ability of the benefitted tenement to use the easement for the purpose for which it was established. Prior to the Commencement of Use, the Applicant shall provide written evidence to Council that the benefitted tenement i.e. Lot 2 RP706479 consents to the use of the easement.

Landscape Works

7. The Applicant shall submit for Operational Works approval a Detailed Landscape Plan prepared by a suitably qualified and experienced Landscape Architect/Landscape Designer illustrating the following:

a. Planting design to both road frontages utilising species consistent with those utilised within the City Centre Alive upgrade of Lake Street and without detracting from the Local Heritage Place;

b. Planting design to the surrounds of the outdoor dining structure;

c. Footpath treatments to the frontage of the site which are consistent with those implemented as part of the City Centre Alive upgrade of Lake Street, with only works on Lake Street to be constructed;

d. Any existing landscape treatments, either hardscape or softscape, street furniture, infrastructure or assets that are proposed to be removed, relocated or retained;

e. inclusion of any other relevant conditions included in this Development Permit. A copy of this Development Permit must be given to the Landscape Architect/Landscape Designer responsible for the preparation of the Detailed Landscape Plan.

One (1) A3 copy and one (1) electronic copy (in pdf format) of the Detailed Landscape Plan must be submitted to Council for Approval prior to the commencement of construction activities associated with the approved development.

All landscaping works must be undertaken in accordance with the Approved Plan(s) and established prior to the Commencement of Use. Landscaped areas must be maintained at all times to the satisfaction of the Chief Executive Officer.

Note:
The Applicant should consult with Council's City Centre Alive project team in relation to any proposed landscape treatments, species selection or street furniture. For instance, the bin on the corner, if it is to be removed or relocated, should be replaced with a design similar to that which has been provided on the corner outside the Bolands Centre.

Defects Liability Period for Public Works

8. Upon completion of the works carried out within the road reserve as depicted on the Detailed Landscape Plan required by Condition 7, the Applicant shall notify Council to arrange an on-site meeting with Council's Environment Officer prior to the commencement of the defects liability period. The defects liability period however shall not commence prior to the outdoor dining structure being constructed.

The defects liability period shall comprise a period of not less than six (6) months during which the Applicant shall be responsible for the maintenance of the landscape works within the road reserve, the rectification of any defects arising from substandard workmanship and the replacement of any dead/dying species.

Upon completion of the defects liability period, the Applicant shall notify Council to arrange a further on-site meeting for acceptance of the landscape works within the road reserve by Council and the issue of a final works acceptance.

Liquid Waste Disposal

9. Trade waste discharged to sewer must meet the requirements of Cairns Water and Waste's Trade Waste Environmental Management Plan (TWEMP). The existing 1,000L grease arrestor will be required to be upgraded where unable to comply with current TWEMP requirements.

Detailed Hydraulic Plans must be provided and accompanied by a report which demonstrates that the facility complies with the TWEMP. The plans and report must be submitted to and approved by Council prior to the issue of a Development Permit for Building Work. All measures for pre-treatment in accordance with the approved plans must be installed prior to the commencement of use.

Road Permit

10. The Applicant must obtain a Road Permit from Cairns Regional Council for the area of the proposed outdoor dining structure.

Lighting

11. All lighting installed upon the premises including but not limited to car parking areas, laneways and outdoor dining areas must be certified by Ergon Energy (or other such suitably qualified person). The vertical illumination at a distance of 1.5 metres outside the boundary of the site

Refuse Storage

12. The development is required to be serviced by bulk bins. Detailed design of the bulk bin storage area, including bunding and waste outlet incorporating a bucket trap must be shown on a plan of works to be submitted and approved by Council prior to the issue of a Development Permit for Building Works. The storage area must be constructed and available for use prior to the Commencement of Use.

Advertising Signage

13. Signage on the site must conform to the relevant provisions of Local Law No. 4 (Advertising Devices) and CairnsPlan 2016 requirements, to the satisfaction of the Chief Executive Officer.

Lawful Point of Discharge

14. All stormwater from the property must be directed to a lawful point of discharge such that it does not adversely affect surrounding properties or properties downstream from the development, all to the requirements and satisfaction of the Chief Executive Officer.

Stormwater Management

15. The design of the outdoor dining structure and associated landscaping and footpath works must be carried out so as to not interfere with the existing stormwater flow capacity of the roadway and not create water pooling or ponding within the road lanes.

Existing Infrastructure/Assets

16. Where the proposed development will result in interference or a need to relocate existing infrastructure or assets i.e. NBN, Telstra, Traffic Light Controls, Parking Ticket Stations, Information/Directional Signage and the like, the Applicant shall liaise with the relevant owner of such infrastructure or asset prior to any interference or relocation occurring.

The Applicant shall provide written evidence to Council that where any infrastructure or asset has been interfered with or relocated, that the consent of the relevant infrastructure owner has been obtained. Such evidence shall be provided prior to the Commencement of Use.

Damage to Infrastructure

17. In the event that any part of Cairns Regional Council's existing infrastructure is damaged as a result of construction activities occurring on the site or within the adjacent road reserve, the Applicant must notify Cairns Regional Council immediately of the affected infrastructure and have it repaired or replaced at the Applicant's cost prior to the Commencement of Use.

Sediment and Erosion Control

18. Soil and water management measures must be installed / implemented prior to discharge of water from the site, such that no external stormwater flow from the site adversely affects surrounding or downstream properties (in accordance with the requirements of the *Environmental Protection Act 1994,* and the FNQROC Development Manual) and *Best Practice Erosion & Sediment Control* – IECA Australasia, November 2008).

Construction Signage

19. Prior to the commencement of any construction works associated with the development, a sign detailing the project team must be placed on the road frontage of the site and must be located in a prominent position. The sign must detail the relevant project coordinator for the works being undertaken on the site, and must list the following parties (where relevant) including telephone contacts:

a. Developer;

b Project Coordinator;

c. Architect / Building Designer;

d. Builder;

e. Civil Engineer;

f. Civil Contractor;

g. Landscape Architect

The sign must be retained on the frontage of the site for the duration of construction activities.

Construction Management Plan

20. A Construction Management Plan must be submitted to, and endorsed by the Chief Executive Officer prior to the issue of a Development Permit for Building Work. The Construction Management Plan must address all activities/operations associated with construction including, but not limited to:

a. Hours of construction;

b. Parking of vehicles (including site employees and delivery vehicles);

c. Traffic management (including loading and unloading) prepared in accordance with the Manual for Uniform Traffic Control Devices;

d. Maintenance of safe pedestrian access across the site's frontage (including access by persons with a disability);

e. Building waste storage and disposal;

f. On-site dust and noise management, so as to not cause a nuisance to the amenity of the surrounding area;

g. Location and details of construction signage including any signage that is to be illuminated;

The endorsed Construction Management Plan must be complied with and a copy kept on site at all times during construction of the development.

B. That Council approves the Development Application for a Preliminary Approval for Building Work (Local Heritage Place) over land at 17-19A and 21 Spence St, Cairns City being Lots 1 and 2 on RP706479 subject to the following:

Assessment Manager Conditions

1. Carry out the approved development generally in accordance with the approved drawing(s) and/or document(s), and in accordance with:-

a. The specifications, facts and circumstances as set out in the application submitted to Council; and

b. The following conditions of approval and the requirements of Council's Planning Scheme and the FNQROC Development Manual.

Except where modified by these conditions of approval

Timing of Effect

2. The conditions of the Development Permit must be effected prior to Commencement of Use, except where specified otherwise in these conditions of approval.

Building Colours

3. The exterior colours and finishes must be complimentary to the historical style and character of the existing building. Details of the proposed colours and materials are to be submitted to Council for endorsement prior to the issue of a Development Permit for Building Work.

C. Provides consent to the making of the building application in the road reserve subject to the following:

APPROVED DRAWING(S) AND / OR DOCUMENT(S)

The term 'approved drawing(s) and / or document(s)' or other similar expressions means:

Drawing or Document	Reference	Date
Earl Court Additions & Alterations Site Plan Proposed	**Dwg. No. 16.0093.11 Sheet No. SK21 Revision 3** Prepared by Thomson Adsett	17.06.2016
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Land Owner Conditions

1. **Carry out the approved development generally in accordance with the approved drawing(s) and/or document(s), and in accordance with:-**

   a. **The specifications, facts and circumstances as set out in the application submitted to Council;**

   b. **The following conditions, the requirements of Council's Planning Scheme, Local Laws and the FNQROC Development Manual.**

Timing of Effect

2. **The conditions of consent must be effected prior to the issue of a Development Permit for Building Works, except where specified otherwise in these conditions.**

Infrastructure

3. **Plan(s) or engineering drawing(s) must be submitted to:**

   a. **confirm location of all infrastructure in the footpath, footing design for the proposed structure so as to not cause any adverse impacts on the footpath, infrastructure and buildings;**

   b. **detail the construction, protection and excavation methods, restrictions on various types of construction and compaction equipment, including maximum sizes of machines;**

   c. **confirm the final levels and finishes of the footpath, and the location, finished level of infrastructure and proposed structures; and**

   d. **confirm any impact of the proposed structure within the road reserve on CCTV sight lines and where impacted, provide recommendations for rectification.**

   Plan(s), drawing(s) and supporting information must be submitted to demonstrate the above to the satisfaction of the Chief Executive Officer.

4. **For each part of Council's infrastructure impacted by construction work a note shall be included on the relevant engineering/project drawing prior to the commencement of work on site specifying the restriction on the use of various types of construction and compaction equipment including maximum sizes of machines. Particular care should be taken in the vicinity of the existing 150AC water main, so as not to cause damage.**

5. **The final cover over the existing infrastructure is to be not of a lesser standard, size or quality than the existing cover, unless approved by the Chief Executive Officer prior to commencement of construction.**

6. **In the event that any part of Council's existing infrastructure is damaged as a result of construction activities occurring, including but not limited to, mobilization of heavy earthmoving equipment, stripping and grubbing, the applicant/owner must notify Cairns Regional Council immediately of the affected infrastructure and have it repaired or replaced by Cairns Regional Council, at the cost of the land owner**

7. **If existing hydrants, valves or manholes are found to be within an area of concrete the surround is to be set in the concrete with a compressible layer between it and the new concrete to allow removal for maintenance. All cover boxes and surrounds are to be replaced at the new levels in accordance with FNQROC Development Manual.**

FURTHER ADVICE

1. **This approval, granted under the provisions of the Sustainable Planning Act 2009, shall lapse four (4) years from the day the approval takes effect in accordance with the provisions of section 339 and section 341 of the Sustainable Planning Act 2009.**

2. **All building site managers must take all action necessary to ensure building materials and / or machinery on construction sites are secured immediately following the first cyclone watch and that relevant emergency telephone contacts are provided to Council Officers, prior to commencement of works.**

3. **This approval does not negate the requirement for compliance with all other relevant Local Laws and other statutory requirements.**

Infrastructure Charges Notice

4. **A charge levied for the supply of trunk infrastructure is payable to Council towards the provision of trunk infrastructure in accordance with the Adopted Infrastructure Charges Notice, a copy of which is attached for reference purposes only. The original Adopted Infrastructure Charges Notice will be provided under cover of a separate letter.**

   The amount in the Adopted Infrastructure Charges Notice has been calculated according to Council's Adopted Infrastructure Charges Resolution.

   Please note that this Decision Notice and the Adopted Infrastructure Charges Notice are stand-alone documents. The Sustainable Planning Act 2009 confers rights to make representations and appeal in relation to a Decision Notice and an Adopted Infrastructure Charges Notice separately.

   The amount in the Adopted Infrastructure Charges Notice is subject to index adjustments and may be different at the time of payment. Please contact the Development Assessment Team at council for review of the charge amount prior to payment.

The time when payment is due is contained in the Adopted Infrastructure Charges Notice.

5. **For information relating to the Sustainable Planning Act 2009 log on to www.dilgp.qld.gov.au. To access FNQROC Manual, Local Laws and other applicable Policies log on to www.cairns.qld.gov.au.**

LAND USE DEFINITIONS*

In accordance with CairnsPlan 2016 the approved land uses of Food and Drink Outlet and Office are defined as*:

Food and Drink Outlet
Premises used for preparation and sale of food and drink to the public for consumption on or off the site. The use may include the ancillary sale of liquor for consumption on site.

Examples of the use include Bistro, Café, Coffee Shop, Drive-through Facility, Kiosk, Milk Bar, Restaurant, Snack Bar, Take-away, Tea Room.

Office
Premises used for an administrative, secretarial or management service or the practice of a profession, where no goods or materials are made, sold or hired and where the principal activity provides for the following:

- **business or professional advice;**
- **services of goods that are not physically on the premises;**
- **office based administrative functions of an organisation**

Examples of the use include Bank, Real Estate Agent, Administration Building

***These definitions are provided for convenience only. This Development Permit is limited to the specifications, facts and circumstances as set out in the application submitted to Council and is subject to the abovementioned conditions of approval and the requirements of Council's Planning Scheme and the FNQROC Development Manual.**

carried

5. 2016-17 GRANTS AND SUBSIDIES PROGRAM 95
T. Armit | 17/9/5-06 | #5222522

COOPER / BATES

That Council endorses applications for funding under the State Government's 2016-17 Grants and Subsidies Program for the following list of projects:

1. **Shields Street Heart Stage 3**
2. **Logomeir Road, Edmonton Stage 2**
3. **Jaye Street, Edge Hill Drainage**
4. **Construction of Rising Main T1**
5. **Construction of New Clarifier, Edmonton Waste Water Treatment Plant**
6. **Kamerunga Road Trunk Water Main**

carried

6. FEES AND CHARGES AND RELATED MATTERS..... 100
J. Ritchie | 79/4/1 | #5169476

JAMES / MOLLER

That this item be deferred to a future meeting.

carried with Councillors Richardson and O'Halloran voting against the motion.

7. ACTING CHIEF EXECUTIVE OFFICER'S STRATEGIC MONTHLY REPORT..... 105
John Andrejic | 1/3/37 | #4439510V22

RICHARDSON / OLDS

That Council notes the report.

carried

GENERAL BUSINESS

1. PETITION – CAR PARK POSSUM STREET TRINITY BEACH

OLDS / RICHARDSON

That petition (#5224784) from residents objecting to repairs to on street car park at the end of Possum Street Trinity Beach and requesting that it be made a no standing zone instead, be received and referred to officers for consideration and a report back to Council. (13 Petitioners)

carried

2. REQUEST FOR PRESENTATION FROM JCU ON FLUORIDATION

BATES - There was no seconder therefore the motion lapsed

That Cairns Regional Council requests a presentation from the Faculty of Dentistry at JCU to advise and inform councillors on the scientific evidence relating to fluoridation.

CLOSED SESSION

BATES / OLDS

COUNCIL RESOLVED TO GO INTO CLOSED SESSION TO DISCUSS THE FOLLOWING MATTERS AS LISTED IN THE AGENDA:

1. CONTRACTUAL MATTER – CONTRACT 2546 LEASE AND OPERATION OF SUGARWORLD WATERPARK 3
   Kristy Nicolaou | 63/1/55-01 | #5212875

2. CONTRACTUAL MATTER – CONTRACT 2563 – PROVISION OF CLEANING SERVICES FOR CAIRNS LIBRARIES..... 10
   Genevieve Lehmann | 1/53/1-10 | #5213464v4

carried

Cr Cooper declared a real conflict of interest (as per Section 173 of the *Local Government Act 2009*) in Item 2 Closed Session, Contractual Matter – Contract 2563 – Provision of Cleaning Services for Cairns Libraries, due to her knowing one of the tenderers, and left the meeting room, taking no part in the debate or decision of the meeting.

Cr Cooper left meeting 10:13 a.m.
Cr Cooper returned 10:14 a.m.

OUT OF CLOSED SESSION

COUNCIL RESOLVED TO MOVE OUT OF CLOSED SESSION

O'HALLORAN / SCHILLING

carried

RESOLUTIONS ARISING FROM MATTERS DISCUSSED IN CLOSED SESSION.

1. CONTRACTUAL MATTER – CONTRACT 2546 LEASE AND OPERATION OF SUGARWORLD WATERPARK 3
Kristy Nicolaou | 63/1/55-01 | #5212875

RICHARDSON / O'HALLORAN

That Council:

1. Awards Contract 2546 to Belgravia Health and Leisure Group Pty Ltd t/as Belgravia Leisure (lessee) subject but not limited to the following conditions:

a. for a term of ten (10) years with 1 x 10 year option to renew;
b. for a fixed rental of $50,000 (GST excl) per annum and subject to annual review in accordance with the Brisbane All Groups Consumer Index (CPI);
c. for a variable rental equal to 10% of gross revenue derived directly from the mini golf venture;
d. the lessee providing audited financials to validate gross revenue from mini golf for the first term;
e. if the lessee exercises the option for a further ten (10) year term, the base rent for year one of the term will be the sum of the base rent at the end of year 10 plus 3% of the average gross turnover of the last three years of the first term and will subject to annual review in accordance with the Brisbane All Groups Consumer Index (CPI);
f. the lessee delivering capital investment of $300,000(GST excl), in the refurbishment of the entry building and food and beverage and construction of mini golf course;
g. the lessee accepting the terms and conditions of the lease and capital works agreement except for those discussed during the tender period;
h. the lessee agreeing to maintain the current operators position relating to food and beverage restrictions;

i. **an approved application for Ministerial Exemption in terms of section 236(1)(e) of the *Local Government Regulation 2012* from complying with section 227 of the *Local Government Act* from tendering for the disposal of interest in land of the new Edmonton aquatic facility; and**

j. **Approval of Council's Development Application for boundary realignments and for a term that exceeds ten years under the *Sustainable Planning Act 2009.***

2. Delegates authority to the Chief Executive Officer in accordance with the *Local Government Act 2009* to negotiate and finalise any and all matters relating to Contract 2546, including the application for Ministerial Exemption from tendering for the new aquatic facility and the future leases.

carried

Cr Cooper left the meeting 10:17 a.m.

2. CONTRACTUAL MATTER – CONTRACT 2563 – PROVISION OF CLEANING SERVICES FOR CAIRNS LIBRARIES..... 10
Genevieve Lehmann | 1/53/1-10 | #5213464v4

Cr Cooper declared a real conflict of interest (as per Section 173 of the *Local Government Act 2009*) in the following item due to her knowing one of the tenderers, and left the meeting room, taking no part in the debate or decision of the meeting.

MOLLER / O'HALLORAN

That Council awards Contract No.2563 for the Provision of Cleaning Services for Cairns Libraries to TJS Services (FNQ) Pty Ltd ACN 135 566 666 for the lump sum of $517,201 (ex GST) for a period of three (3) years in accordance with the tender conditions.

carried

Cr Cooper returned 10:18 a.m.

THE MEETING CLOSED AT 10:18 AM

CONFIRMED THIS 26th DAY OF OCTOBER 2016

…… ……

MAYOR A/CHIEF EXECUTIVE OFFICER