



**Redland**  
CITY COUNCIL

# **MINUTES**

## **GENERAL MEETING**

**Wednesday, 22 March 2017**

The Council Chambers  
35 Bloomfield Street  
CLEVELAND QLD

---

## Table of Contents

---

Item	Subject	Page No
1	DECLARATION OF OPENING .....	1
2	RECORD OF ATTENDANCE AND LEAVE OF ABSENCE.....	1
3	DEVOTIONAL SEGMENT.....	2
4	RECOGNITION OF ACHIEVEMENT.....	2
5	RECEIPT AND CONFIRMATION OF MINUTES.....	3
5.1	GENERAL MEETING MINUTES 8 MARCH 2017 .....	3
6	MATTERS OUTSTANDING FROM PREVIOUS COUNCIL MEETING MINUTES.....	3
7	PUBLIC PARTICIPATION.....	3
8	PETITIONS AND PRESENTATIONS.....	4
8.1	PETITION – CR MITCHELL – REQUEST TO CONTINUE FREE EXERCISE PROGRAM (YOGA) IN BLOOMFIELD PARK, CLEVELAND.....	4
9	MOTION TO ALTER THE ORDER OF BUSINESS .....	4
9.1	MOTION TO ACCEPT LATE ITEM.....	4
10	DECLARATION OF MATERIAL PERSONAL INTEREST OR CONFLICT OF INTEREST ON ANY ITEMS OF BUSINESS .....	5
11	REPORTS TO COUNCIL .....	6
11.1	OFFICE OF CEO.....	6
11.1.1	ADOPTION OF ASSET MANAGEMENT PROJECT PLAN AND DEVELOPMENT MANDATE FOR ASSET MANAGEMENT GOVERNANCE MODEL.....	6
11.1.2	FEBRUARY 2017 MONTHLY FINANCIAL REPORT .....	9
11.2	COMMUNITY & CUSTOMER SERVICES .....	12
11.2.1	DECISIONS MADE UNDER DELEGATED AUTHORITY FOR CATEGORY 1, 2 &3 DEVELOPMENTS.....	12
11.2.2	PLANNING AND ENVIRONMENT COURT MATTERS CURRENT AS AT 9 MARCH 2017 .....	14

---

11.2.3	MC008414 – REQUEST TO EXTEND THE RELEVANT PERIOD – BIOMASS POWER PLANT 70-96 HILLVIEW ROAD, MOUNT COTTON .....	19
<b>11.3</b>	<b>INFRASTRUCTURE &amp; OPERATIONS .....</b>	<b>30</b>
11.3.1	MOBILE GENERATOR REPLACEMENT .....	30
<b>12</b>	<b>MAYORAL MINUTE .....</b>	<b>33</b>
<b>13</b>	<b>NOTICES OF MOTION TO REPEAL OR AMEND RESOLUTIONS .....</b>	<b>33</b>
<b>14</b>	<b>NOTICES OF MOTION.....</b>	<b>33</b>
<b>15</b>	<b>URGENT BUSINESS WITHOUT NOTICE .....</b>	<b>33</b>
<b>16</b>	<b>CONFIDENTIAL ITEMS .....</b>	<b>34</b>
<b>16.1</b>	<b>OFFICE OF CEO.....</b>	<b>34</b>
16.1.1	DEEDS OF INDEMNITY .....	34
<b>16.2</b>	<b>COMMUNITY &amp; CUSTOMER SERVICES .....</b>	<b>35</b>
16.2.1	RESUMPTION OF LAND.....	35
16.2.2	LOCAL GOVERNMENT INFRASTRUCTURE PLAN AMENDMENT AND NETSERV PLAN MAJOR AMENDMENT .....	36
<b>17</b>	<b>MEETING CLOSURE .....</b>	<b>37</b>

## 1 DECLARATION OF OPENING

The Mayor declared the meeting open at 9.31am and acknowledged the Quandamooka people, who are the traditional custodians of the land on which Council meets.

The Mayor also paid Council's respect to their elders, past and present, and extended that respect to other indigenous Australians who are present.

## 2 RECORD OF ATTENDANCE AND LEAVE OF ABSENCE

### MEMBERS PRESENT:

Cr K Williams	Mayor
Cr W Boglary	Deputy Mayor and Councillor Division 1
Cr P Mitchell	Councillor Division 2
Cr P Gollé	Councillor Division 3 - entered at 9.38am
Cr L Hewlett	Councillor Division 4
Cr M Edwards	Councillor Division 5
Cr J Talty	Councillor Division 6
Cr M Elliott	Councillor Division 7 – entered at 9.38am
Cr T Huges	Councillor Division 8
Cr P Gleeson	Councillor Division 9
Cr P Bishop	Councillor Division 10

### EXECUTIVE LEADERSHIP TEAM:

Mr B Lyon	Chief Executive Officer
Mrs L Rusan	General Manager Community & Customer Services
Mr A Ross	Acting General Manager Organisational Services
Mr P Best	General Manager Infrastructure & Operations
Mrs D Corbett-Hall	Chief Financial Officer
Ms A Daly	Head of Human Resources

### MINUTES

Mrs E Striplin	Corporate Meetings & Registers Coordinator
----------------	--

### LEAVE OF ABSENCE – MAYOR K WILLIAMS

### COUNCIL RESOLUTION

Moved by: Cr P Bishop  
Seconded by: Cr P Mitchell

**That Leave of Absence be granted for Mayor Karen Williams who is attending the Council of Mayors (SEQ) delegation in Canberra.**

**CARRIED 8/0**

Crs Mitchell, Hewlett, Edwards, Huges, Talty, Gleeson, Bishop and Boglary voted FOR the motion.

Crs Elliott and Gollé were not present when the motion was put.

Cr Williams was absent from the meeting.

**COUNCILLOR ABSENCES DURING THE MEETING**

Cr Talty left the meeting at 10.10am and returned at 1.12am during Item 11.1.1

Cr Huges left the meeting at 11.33am and returned at 11.39am during Item 11.2.3

Cr Huges left the meeting at 11.40am and returned at 11.43am during Items 12-16.2.1.

Cr Talty left the meeting at 11.39am and returned at 11.44am during Items 12-16.2.1

**3 DEVOTIONAL SEGMENT**

Pastor Sharryn Rasmussen of Harvest City Church, Capalaba and member of the Ministers' Fellowship led Council in a brief devotional segment.

**4 RECOGNITION OF ACHIEVEMENT****BILL LYON – CHIEF EXECUTIVE OFFICER**

Deputy Mayor Boglary acknowledged today as being Chief Executive Officer Bill Lyon's last General Meeting.

Bill, who joined Council in late-2012, finishes with Council on 20 April to pursue other opportunities.

During his time at the helm Bill has steered a dramatic transformation of Redland City Council.

Under his leadership we are now leaner, more efficient, more effective, and much more responsive to the people than the organisation you inherited in 2012.

There is less red tape and the people – our community and our officers – are our top priorities.

It is said that any organisation is only as good as its people.

Bill has worked with councillors and senior management to instil pride in Council officers – pride in doing the job to the best of their ability; pride in achievement; pride in serving their community.

Officers tell me they feel a much more active part of the organisation, because their options are valued and they are more involved in decision-making.

They feel empowered.

Our Corporate Policy mission statement says it all: Make a difference. Make it count.

We see examples of this every day.

Our Mayor and CEO Excellence Awards recognise the quality of our people and are highly sought after.

Gone is the risk averse attitudes of years past. In its place is the confidence for people to make decisions, to take responsibility for what they do and to do it to the best of their ability.

Redland City Council is the envy of many others.

I am proud to have been part of a team of councillors that has worked with the CEO and the Mayor to help cushion the cost of living impacts on Redlanders.

Working together we have been able to restrict rates increases for the past four years to keep them within the cumulative CPI – lower than other SEQ councils.

We have helped business do business with a new economic development policy and policies developed with the aim of growing important business sectors.

We have actively sought investment in our city because investment brings jobs for Redlanders.

We have encouraged new educational facilities to join our quality schools and colleges.

We have overcome challenges to enjoying a financial position we can be proud of.

We have delivered successive budget surpluses after years of deficits.

We have identified millions of dollars in savings, to the benefit of ratepayers and without any decrease in service delivery.

We have lower debt and strong cash reserves that we will invest in the future of our city.

We are geared for a bright future, and we are planning for that future.

You will leave a legacy you can be proud of.

You have left Council a much better organisation than the one you inherited four years ago.

## **5 RECEIPT AND CONFIRMATION OF MINUTES**

### **5.1 GENERAL MEETING MINUTES 8 MARCH 2017**

#### **COUNCIL RESOLUTION**

**Moved by: Cr T Huges**

**Seconded by: Cr M Elliott**

**That the minutes of the General Meeting of Council held 8 March 2017 be confirmed.**

**CARRIED 10/0**

Crs Mitchell, Gollé, Hewlett, Edwards, Elliott, Huges, Talty, Gleeson, Bishop and Boglary voted FOR the motion.

Cr Williams was absent from the meeting.

## **6 MATTERS OUTSTANDING FROM PREVIOUS COUNCIL MEETING MINUTES**

Nil

## **7 PUBLIC PARTICIPATION**

### **MOTION TO ADJOURN MEETING AT 9.42AM**

**Moved by: Cr P Bishop**

**Seconded by: Cr J Talty**

That Council adjourn the meeting for a 15 minute public participation segment.

**CARRIED 10/0**

Crs Mitchell, Gollé, Hewlett, Edwards, Elliott, Huges, Talty, Gleeson, Bishop and Boglary voted FOR the motion.

Cr Williams was absent from the meeting.

1. Mr Bruce Hennessey, resident of Cleveland addressed Council regarding the Item 11.2.3 *MCU008414 – Request to Extend the Relevant Period – Biomass Power Plant 70-96 Hillview Road, Mount Cotton*
2. Ms J Grosvenor, resident of Redland bay addressed Council regarding the Item 11.2.3 *MCU008414 – Request to Extend the Relevant Period – Biomass Power Plant 70-96 Hillview Road, Mount Cotton*

### **MOTION TO RESUME MEETING AT 9.59AM**

Moved by: Cr P Bishop  
Seconded by: Cr M Elliott

That the meeting proceedings resume.

CARRIED 10/0

Crs Mitchell, Gollé, Hewlett, Edwards, Elliott, Huges, Talty, Gleeson, Bishop and Boglary voted FOR the motion.

Cr Williams was absent from the meeting.

## **8 PETITIONS AND PRESENTATIONS**

### **8.1 PETITION – CR MITCHELL – REQUEST TO CONTINUE FREE EXERCISE PROGRAM (YOGA) IN BLOOMFIELD PARK, CLEVELAND**

#### **COUNCIL RESOLUTION**

Moved by: Cr P Mitchell  
Seconded by: Cr P Gollé

That a petition from residents, requesting that Council continue the free exercise program in Bloomfield Park, Cleveland, be received and that Council resolves that it is of an operational nature and be referred to the Chief Executive Officer for consideration.

CARRIED 10/0

Crs Mitchell, Gollé, Hewlett, Edwards, Elliott, Huges, Talty, Gleeson, Bishop and Boglary voted FOR the motion.

Cr Williams was absent from the meeting.

## **9 MOTION TO ALTER THE ORDER OF BUSINESS**

### **9.1 MOTION TO ACCEPT LATE ITEM**

#### **COUNCIL RESOLUTION**

Moved by: Cr P Mitchell  
Seconded by: Cr M Edwards

That a late confidential Item – *Donald Simpson Community Centre Funding Agreement* – be received and discussed as Item 16.2.3.

LOST 5/5 (on the casting vote of the Chair)

Crs Gleeson, Mitchell, Edwards, Huges and Talty voted FOR the motion.

Crs Gollé, Hewlett, Elliott, Bishop and Boglary voted AGAINST the motion.

Cr Williams was absent from the meeting.

**10 DECLARATION OF MATERIAL PERSONAL INTEREST OR CONFLICT OF INTEREST ON ANY ITEMS OF BUSINESS**

Cr Huges declared a Material Personal interest in Item 11.2.3 *Request to Extend the Relevant Period – Biomass Power Plant 70-96 Hillview Road, Mount Cotton.* (See item for details.)



---

## 11 REPORTS TO COUNCIL

### 11.1 OFFICE OF CEO

#### 11.1.1 ADOPTION OF ASSET MANAGEMENT PROJECT PLAN AND DEVELOPMENT MANDATE FOR ASSET MANAGEMENT GOVERNANCE MODEL

**Objective Reference:** A2216230

**Attachment:** [Asset Management Project – Project Plan](#)

**Responsible/Authorising Officer:**



**Deborah Corbett-Hall  
Chief Financial Officer**

**Report Author:**

**Tony Rogers  
Asset Management Project Manager**

---

### PURPOSE

The purpose of this report is to formally adopt (following Council endorsement) the Asset Management Project Plan and to seek from Council a mandate to develop an Asset Management Governance Model.

### BACKGROUND

The Asset Management Project - Project Plan requires the development of an Asset Management Governance Model. The primary purpose of the Asset Management Governance Model is to demonstrate the framework comprising the policies, guidelines, relationships and processes whereby authority within Redland City Council is exercised and maintained over assets.

Currently the mandate from Council vesting the authority to manage assets on behalf of Redland City Council is uncertain, such that governance and compliance could be seen to be compromised.

### ISSUES

Council is currently required to sanction various components of the Asset Management Governance Model, via policy documents, without the benefit of an over-arching model that succinctly articulates the authority and parameters that Council expects will be exercised and maintained over public assets.

Without such a mandate, Council Officers make decisions, and operate within parameters, that they consider appropriate. Although these decisions may pass a reasonableness test,

Council is potentially exposed to allegations that the custodianship of public assets has been compromised as the boundaries for such decisions, have not been set.

For the Asset Management Project (previously endorsed by Council) to achieve its goals, it is necessary for the project to have clearly established boundaries within which the deliverables of the project will operate. Good governance practice requires these boundaries to be established by Council.

---

## **STRATEGIC IMPLICATIONS**

### **Legislative Requirements**

The Asset Management Project - Project Plan requires the development of an Asset Management Governance Model that will display adherence to good governance practice, as required and described in the *Local Government Act 2009*, the *Local Government Regulation 2012* and Financial Management (Sustainability) Guideline 2013.

### **Risk Management**

The Asset Management Project - Project Plan requires the development of an Asset Management Governance Model. The Model will represent to Council a method to govern asset management processes with the ultimate aim to mitigate the following corporate risks:

- CIT-09      Ineffective or inadequate asset management including inability to deliver on asset management plans
- CIT-10      Inability to deliver on strategic, operational and legislative plans
- CIT-22      Failure to meet customer expectations
- RWW-03      Failure of assets
- RWW-04      Asset capabilities don't meet the needs of customers
- RWW-10      Treatment failure due to mechanical or electrical breakdown
- CIT-117      Inadequate facilities due to ageing and/or inadequate maintenance

### **Financial**

No impact, as the purpose of the report is the formal adoption of the Asset Management Project - Project Plan and to mandate the development only of an Asset Management Governance Model, which is within scope of the current funding of the Asset Management Project.

### **People**

No impact, as the purpose of the report is the formal adoption of the Asset Management Project - Project Plan and to mandate the development only of an Asset Management Governance Model.

### **Environmental**

No impact, as the purpose of the report is the formal adoption of the Asset Management Project - Project Plan and to mandate the development only of an Asset Management Governance Model.

### **Social**

No impact, as the purpose of the report is the formal adoption of the Asset Management Project Plan - Project Plan and to mandate the development only of an Asset Management Governance Model.

### **Alignment with Council's Policy and Plans**

This report has a direct relationship with the following items of the Corporate Plan:

8.      Inclusive and ethical governance  
Deep engagement, quality leadership at all levels, transparent and accountable democratic processes and a spirit of partnership between the community and Council

will enrich residents' participation in local decision-making to achieve the community's Redlands 2030 vision and goals.

- 8.1 Council's Information Management Strategy and technology systems are engineered to increase efficiency and provide excellent customer service outcomes.
- 8.2 Council produces and delivers against sustainable financial forecasts as a result of best practice Capital and Asset Management Plans that guide project planning and service delivery across the city.
- 8.3 Implementation of the Corporate Plan is well coordinated across Council and through a delivery mechanism that provides clear line of sight, accountability and performance measurement for all employees.

## CONSULTATION

The Asset Management Project Plan, that includes an Asset Management Governance Mandate within its scope, has been presented to, and endorsed by the Executive Leadership Team, the Operational Leadership Group, and a portion of councillors.

## OPTIONS

1. Council resolves to formally adopt the Asset Management Project Plan and mandates the development of an Asset Management Governance Model specifically excluding the implementation of the model and presenting the model for Council approval before implementation.
2. Council requests further information.
3. Council resolves not to formally adopt the Asset Management Project Plan and does not mandate an Asset Management Governance Model, instead, resolving to utilize current funding purely for the replacement of existing asset management software.
4. Council resolves not to formally adopt the Asset Management Project Plan removing the need for a mandate of an Asset Management Governance Model, instead, resolving to discontinue the Asset Management Project.

## OFFICER'S RECOMMENDATION/ COUNCIL RESOLUTION

Moved by: Cr P Mitchell  
Seconded by: Cr M Edwards

**That Council resolves to formally adopt the Asset Management Project Plan and mandates the development of an Asset Management Governance Model specifically excluding the implementation of the model and presenting the model for Council approval before implementation.**

**CARRIED 10/0**

Crs Mitchell, Gollé, Hewlett, Edwards, Elliott, Huges, Talty, Gleeson, Bishop and Boglary voted FOR the motion.

Cr Williams was absent from the meeting.

**11.1.2 FEBRUARY 2017 MONTHLY FINANCIAL REPORT**

**Objective Reference:** A2180347  
Reports and Attachments

**Attachment:** [February 2017 Monthly Financial Report](#)

**Authorising Officer:**   
Deborah Corbett-Hall  
Chief Financial Officer

**Responsible Officer:** Leandri Brown  
Finance Manager Corporate Finance

**Report Authors:** Udaya Panambala Arachchilage  
Corporate Financial Reporting Manager  
Quasir Nasir  
Corporate Accountant

---

**PURPOSE**

The purpose of this report is to note the year to date financial results as at 28 February 2017.

**BACKGROUND**

Council adopts an annual budget and then reports on performance against the budget on a monthly basis. This is not only a legal requirement but enables the organisation to periodically review its financial performance and position and respond to changes in community requirements, market forces or other outside influences.

**ISSUES*****Final Budget Review 2016-2017 and development of Budget 2017-2018***

Council is working towards a final budget review for 2016-2017 to be completed early in the fourth quarter of the financial year. This final budget review should also factor in carry forward projects (of a capital nature) and be consistent with the 2017-2018 budget submissions that officers are currently compiling. The attached February 2017 results will help inform officers with their final budget review submissions.

***Interim audit for financial year 2016-2017***

The Queensland Audit Office (QAO) is commencing the 2016-2017 interim external audit on 13 March 2017. As per previous years, this visit affords the opportunity for interim reviews to be undertaken on Council's system of controls, transactions and balances in preparation for the end of the financial year.

**STRATEGIC IMPLICATIONS**

Council continued to report a strong financial position and favourable operating result at the end of February 2017.

---

Council has either achieved or favourably exceeded the following key financial stability and sustainability ratios as at the end of February 2017:

- Operating surplus ratio;
- Net financial liabilities;
- Level of dependence on general rate revenue;
- Ability to pay our bills – current ratio;
- Ability to repay our debt – debt servicing ratio;
- Cash balance;
- Cash balances – cash capacity in months;
- Longer term financial stability – debt to asset ratio;
- Operating performance ratio; and
- Interest coverage ratio.

The asset sustainability ratio did not meet the target at the end of February 2017.

Council's asset sustainability ratio target is an average long term target and at the end of February 2017, Council's renewal spend on infrastructure assets was \$18.29M compared to depreciation expense on infrastructure assets of \$32.62M for the financial year to date. Although Council continues to focus on renewal capital works to move this long term measure upwards towards the target zone, it should be noted that the upward revaluation of infrastructure asset classes increases the depreciation expense on infrastructure assets, without an impact to renewal spend. Further capital spending on non-renewal projects impacts the renewal ratio directly through increasing depreciation expense once the assets are installed and indirectly by redirecting funds from renewal activities. The overall impact is higher depreciation, lower renewal spend and therefore a lower asset sustainability ratio.

### **Legislative Requirements**

The February 2017 financial results are presented in accordance with the legislative requirement of section 204(2) of the *Local Government Regulation 2012*, requiring the Chief Executive Officer to present the financial report to a monthly Council meeting.

### **Risk Management**

The February 2017 financial results have been noted by the Executive Leadership Team and relevant officers who can provide further clarification and advice around actual to budget variances.

### **Financial**

There is no direct financial impact to Council as a result of this report; however it provides an indication of financial outcomes at the end of February 2017.

### **People**

Nil impact expected as the purpose of the attached report is to provide financial information to Council based upon actual versus budgeted financial activity.

### **Environmental**

Nil impact expected as the purpose of the attached report is to provide financial information to Council based upon actual versus budgeted financial activity.

### **Social**

---

Nil impact expected as the purpose of the attached report is to provide financial information to Council based upon actual versus budgeted financial activity.

### **Alignment with Council's Policy and Plans**

This report has a relationship with the following items of the 2015-2020 Corporate Plan:

#### **8. Inclusive and ethical governance**

Deep engagement, quality leadership at all levels, transparent and accountable democratic processes and a spirit of partnership between the community and Council will enrich residents' participation in local decision-making to achieve the community's Redlands 2030 vision and goals.

8.2 Council produces and delivers against sustainable financial forecasts as a result of best practice Capital and Asset Management Plans that guide project planning and service delivery across the city.

### **CONSULTATION**

Council departmental officers, Financial Services Group officers and the Executive Leadership Team are consulted on financial results and outcomes throughout the period.

### **OPTIONS**

1. That Council resolves to note the financial position, results and ratios for February 2017 as presented in the attached Monthly Financial Report.
2. That Council requests additional information.

### **OFFICER'S RECOMMENDATION/ COUNCIL RESOLUTION**

**Moved by: Cr P Mitchell**  
**Seconded by: Cr M Edwards**

**That Council resolves to note the financial position, results and ratios for February 2017 as presented in the attached Monthly Financial Report.**

**CARRIED 10/0**

Crs Mitchell, Gollé, Hewlett, Edwards, Elliott, Huges, Talty, Gleeson, Bishop and Boglary voted FOR the motion.


Cr Williams was absent from the meeting.

---

**11.2 COMMUNITY & CUSTOMER SERVICES****11.2.1 DECISIONS MADE UNDER DELEGATED AUTHORITY FOR CATEGORY 1, 2 & 3 DEVELOPMENTS**

**Objective Reference:** A2228053  
Reports and Attachments (Archives)

**Attachment:** [Decisions Made Under Delegated Authority 19.02.2017 to 04.03.2017](#)

**Authorising Officer:**   
Louise Rusan  
General Manager Community & Customer Services

**Responsible Officer:** David Jeanes  
Group Manager City Planning & Assessment

**Report Author:** Debra Weeks  
Senior Business Support Officer

---

**PURPOSE**

The purpose of this report is for Council to note that the decisions listed below were made under delegated authority for Category 1, 2 and 3 development applications.

This information is provided for public interest.

**BACKGROUND**

At the General Meeting of 27 July, 2011, Council resolved that development assessments be classified into the following four Categories:

Category 1 – Minor Complying Code Assessments and Compliance Assessments and associated administrative matters, including correspondence associated with the routine management of all development applications;

Category 2 – Complying Code Assessments and Compliance Assessments and Minor Impact Assessments;

Category 3 – Moderately Complex Code & Impact Assessments; and

Category 4 – Major and Significant Assessments

The applications detailed in this report have been assessed under:-

- Category 1 criteria - defined as complying code and compliance assessable applications, including building works assessable against the planning scheme, and other applications of a minor nature, including all accelerated applications.
  - Category 2 criteria - defined as complying code assessable and compliance assessable applications, including operational works, and Impact Assessable applications without submissions of objection. Also includes a number of process related delegations, including issuing planning certificates, approval of
-

works on and off maintenance and the release of bonds, and all other delegations not otherwise listed.

- Category 3 criteria that are defined as applications of a moderately complex nature, generally mainstream impact assessable applications and code assessable applications of a higher level of complexity. Impact applications may involve submissions objecting to the proposal readily addressable by reasonable and relevant conditions. Both may have minor level aspects outside a stated policy position that are subject to discretionary provisions of the Planning Scheme. Applications seeking approval of a plan of survey are included in this category. Applications can be referred to General Meeting for a decision.

### **OFFICER'S RECOMMENDATION/ COUNCIL RESOLUTION**

**Moved by: Cr P Bishop**

**Seconded by: Cr T Huges**

**That Council resolves to note this report.**

**CARRIED 10/0**


Crs Mitchell, Gollé, Hewlett, Edwards, Elliott, Huges, Talty, Gleeson, Bishop and Boglary voted FOR the motion.

Cr Williams was absent from the meeting.



**11.2.2 PLANNING AND ENVIRONMENT COURT MATTERS CURRENT AS AT  
9 MARCH 2017**

**Objective Reference:** A2228189  
Reports and Attachments (Archive)

**Authorising Officer:**   
Louise Rusan  
General Manager, Community & Customer  
Services

**Responsible Officer:** David Jeanes  
Group Manager, City Planning & Assessment

**Report Author:** Emma Martin  
Acting Senior Planner, Planning Assessment

---

**PURPOSE**

The purpose of this report is for Council to note the current appeals.

**BACKGROUND**

Information on appeals may be found as follows:

**1. Planning and Environment Court**

- a) Information on current appeals and declarations with the Planning and Environment Court involving Redland City Council can be found at the District Court web site using the "Search civil files (eCourts) Party Search" service: <http://www.courts.qld.gov.au/esearching/party.asp>
- b) Judgements of the Planning and Environment Court can be viewed via the Supreme Court of Queensland Library web site under the Planning and Environment Court link: <http://www.sclqld.org.au/qjudgment/>

**2. Department of Infrastructure, Local Government and Planning (DILGP)**

The DILGP provides a Database of Appeals (<http://www.dlg.qld.gov.au/resources/tools/planning-and-environment-court-appeals-database.html>) that may be searched for past appeals and declarations heard by the Planning and Environment Court.

The database contains:

- A consolidated list of all appeals and declarations lodged in the Planning and Environment Courts across Queensland of which the Chief Executive has been notified.
  - Information about the appeal or declaration, including the appeal number, name and year, the site address and local government.
-

**APPEALS**

<b>1.</b>	<b>File Number:</b>	Appeal 3641 of 2015 - (MCU012812)
<b>Applicant:</b>		<b>King of Gifts Pty Ltd and HTC Consulting Pty Ltd</b>
<b>Application Details:</b>		Material Change of Use for Combined Service Station (including car wash) and Drive Through Restaurant 604-612 Redland Bay, Road, Alexandra Hills
<b>Appeal Details:</b>		Applicant appeal against refusal.
<b>Current Status:</b>		Appeal filed in Court on 16 September 2015. Without Prejudice meeting held December 2015. Direction orders obtained on 24 August 2016. New minor change application due to be heard in court 10 March 2017. Hearing set down for May 2017.

<b>2.</b>	<b>File Number:</b>	Appeal 4541 of 2015 - (ROL005873)
<b>Applicant:</b>		<b>Loncor Properties Pty Ltd</b>
<b>Application Details:</b>		Reconfiguring a Lot (1 into 43 lots) 35-41 Wrightson Road, Thornlands
<b>Appeal Details:</b>		Applicant appeal against refusal.
<b>Current Status:</b>		Judgment delivered 28 February 2017. Appeal dismissed.

<b>3.</b>	<b>File Number:</b>	Appeals 4940 of 2015, 2 of 2016 and 44 of 2016 - (MCU013296)
<b>Applicant:</b>		<b>Lipoma Pty Ltd, Lanrex Pty Ltd and Victoria Point Lakeside Pty Ltd</b>
<b>Application Details:</b>		Preliminary Approval for Material Change of Use for Mixed Use Development and Development Permit for Reconfiguring a Lot (1 into 2 lots) 128-144 Boundary Road, Thornlands
<b>Appeal Details:</b>		Submitter appeals against approval.
<b>Current Status:</b>		Appeals filed in Court on 18 December 2015, 4 January 2016 and 6 January 2016. Directions orders obtained 19 February 2016. Trial held 27-30 September 2016. Final submissions 7 October 2016. Awaiting Judgment.

<b>4.</b>	<b>File Number:</b>	Appeal 4004 of 2016 - (BD155692)
<b>Applicant:</b>		<b>Michelle Maree Webb</b>
<b>Application Details:</b>		Dwelling House at 236-246 Queen Street, Cleveland Building works (deemed material change of use in accordance with s265 of the <i>Sustainable Planning Act 2009</i> )
<b>Appeal Details:</b>		Applicant appeal against Council refusal
<b>Current Status:</b>		Appeal filed 5 October 2016.

<b>5.</b>	<b>File Number:</b>	Appeal 4807 of 2016 - (MCU013719)
<b>Applicant:</b>		<b>IVL Group Pty Ltd and Lanrex Pty Ltd</b>
<b>Application Details:</b>		Car Park at 32A Teak Lane, Victoria Point (Lot 12 on SP147233)
<b>Appeal Details:</b>		Applicant appeal against Council refusal
<b>Current Status:</b>		Appeal filed 6 December 2016. Experts being briefed. Court review scheduled for 24 March 2017.

<b>6.</b>	<b>File Number:</b>	Appeal BD617 of 2017 - (MCU013477)
<b>Applicant:</b>		<b>Roycorp Pty Ltd</b>
<b>Application Details:</b>		Multiple Dwelling (x 141) at 11 Rachow Street, Thornlands (Lot 8 on RP84253)
<b>Appeal Details:</b>		Applicant appeal against Council refusal
<b>Current Status:</b>		Appeal filed 20 February 2017. Experts being briefed.

#### **OTHER PLANNING & ENVIRONMENT COURT MATTERS/PROCEEDINGS**

<b>7.</b>	<b>File Number:</b>	2771, 2772 and 2774 of 2016
<b>Applicant:</b>		<b>KFA Investments Pty Ltd</b>
<b>Development:</b>		Unlawful filling at 91-101, 91-141 and 115 Rocky Passage Road, Redland Bay (Lot 1, Lot 2 and Lot 4 on SP117632)
<b>Appeal Details:</b>		Appeals against Enforcement Notices
<b>Current Status:</b>		Appeals 2772 and 2771 were discontinued by the Appellant on 16 February 2017. Appeal 2774 is to be reviewed on 30 March 2017.

<b>8.</b>	<b>File Number:</b>	3075 of 2016
<b>Applicant:</b>		<b>Michelle Maree Webb</b>
<b>Development:</b>		Dwelling House at 236-246 Queen Street, Cleveland (Lot 20 on SP175602)
<b>Proceeding Details:</b>		Council application for declarations that the Building Works approval (BD155692) be set aside, a Material Change of Use be applied for, the premises be revegetated and associated orders
<b>Current Status:</b>		Proceedings filed in Court on 5 August 2016. Court ordered mediation to occur before 14 March 2017.

<b>9.</b>	<b>File Number:</b>	3870 of 2016
<b>Applicant:</b>		<b>Redland City Council</b>
<b>Respondent:</b>		<b>John Alexander Anderson</b>
<b>Development:</b>		Outdoor storage of goods, machinery, and vehicles) at 79 and 81 Harvey Street, Russell Island
<b>Appeal Details:</b>		Unlawful use
<b>Current Status:</b>		Draft orders proposed. Response due Council to list documents and lodge affidavits 10 November 2016. Mr Anderson to lodge affidavit material by 16 December 2016. Hearing scheduled for 16, 17 and 22 March 2017.

<b>10.</b>	<b>File Number:</b>	3871 of 2016
<b>Applicant:</b>		<b>Redland City Council</b>
<b>Respondent:</b>		<b>John Alexander Anderson</b>
<b>Development:</b>		Outdoor storage of goods, machinery, containers and vehicles) at 24 Pia Street, Russell Island
<b>Appeal Details:</b>		Unlawful use
<b>Current Status:</b>		Council to list documents and lodge affidavits 10 November 2016. Mr Anderson to lodge affidavit material by 16 December 2016. Hearing scheduled for 16, 17 and 22 March 2017.

<b>11.</b>	<b>File Number:</b>	3873 of 2016
<b>Applicant:</b>		<b>Redland City Council</b>
<b>Respondent:</b>		<b>Clint John McDonald and Lucas John McDonald</b>
<b>Development:</b>		Dwelling House or Warehouse at 3 Basil Court, Lamb Island
<b>Appeal Details:</b>		Unlawful use
<b>Current Status:</b>		Due to successful negotiations and action from the Respondents a Notice of discontinuance was filed on 3 March.

<b>12.</b>	<b>File Number:</b>	164 of 2017
<b>Applicant:</b>		<b>Redland City Council</b>
<b>Respondent:</b>		<b>Michelle Rodgers</b>
<b>Development:</b>		Unlawful Use of Premises – 9 Tascon Street, Ormiston
<b>Appeal Details:</b>		Appeal against Enforcement Notice
<b>Current Status:</b>		Appeal filed 18 January 2017

---

<b>13.</b>	<b>File Number:</b>	166 of 2017
<b>Applicant:</b>		<b>Redland City Council</b>
<b>Respondent:</b>		<b>Michelle Rodgers</b>
<b>Development:</b>		Unlawful Use of Premises – 11 Tascon Street, Ormiston
<b>Appeal Details:</b>		Appeal against Enforcement Notice
<b>Current Status:</b>		Appeal filed 18 January 2017

**OFFICER'S RECOMMENDATION/  
COUNCIL RESOLUTION**

**Moved by: Cr P Bishop**

**Seconded by: Cr T Huges**

**That Council resolves to note this report.**

**CARRIED 10/0**

Crs Mitchell, Gollé, Hewlett, Edwards, Elliott, Huges, Talty, Gleeson, Bishop and Boglary voted FOR the motion.

Cr Williams was absent from the meeting.



## BACKGROUND

The original application was lodged on 18 June 2004 and involved a Material Change of Use for a “Bio-mass Power Plant” (Undefined Use) and an Environmentally Relevant Activity (ERA) #17 – Fuel Burning. ERA #17 for fuel burning was a non-devolved activity, meaning that this aspect of the proposal was required to be assessed entirely by the Environmental Protection Agency (EPA) (now Department of Environment and Heritage Protection DEHP).

On 20 March 2007 a development permit, subject to conditions, was granted by Council at a Development Assessment Committee meeting.

An appeal against Council's decision was filed on 2 May 2007 by a submitter to the application. Without prejudice negotiations and discussions took place throughout 2007 between the parties involved in the appeal. A settlement was reached and the appeal was therefore dismissed by agreement of the parties. A Consent Order was issued by the Court on 7 November 2007, which upheld the approval of the application, subject to conditions.

Before the relevant period ended, the applicant lodged a request to extend the relevant period by 4 years. This was refused by Council in 2011. The reasons for refusal can be summarised as follows:

- Inconsistency with current laws and policies;
- Proposal does not achieve revegetation requirements;
- Insufficient evidence that the approved design will meet noise level criteria;
- Insufficient evidence that the approved design will meet air quality criteria;
- Community's awareness of proposal has subsided over time and new grounds of submission would exist.

The applicant appealed to the Planning and Environment (P&E) Court against Council's refusal. During the appeal, a number of matters were addressed via a permissible change lodged with the Court. The changes ensured consistency in the approved plans, additional monitoring requirements to ensure compliance with air quality criteria and more certain restrictions on fuel throughput.

The permissible change was approved on 28 February 2013 and the extension to the relevant period was then approved by the court on 20 March 2013.

In summary, the reasons for upholding the appeal were:

1. Whilst Council had decided not to oppose the appeal, the judge did not find this to be determinative. Rather, the judge concluded that if he could have taken the non-opposition of Council into account, this would have reinforced the other bases for his decision in allowing the appeal.
2. The judge concluded that the development approval was consistent with the current laws and policies and therefore complied with the test in s388(1)(a) of SPA.
3. The provision in s388(1) of SPA does not contemplate that any one of the four considerations is intended to prevail and it does not contemplate that a failure to comply with one of the criteria mandates refusal.
4. Whilst it is likely that submissions would be made for a new development application, this request to extend the approval should not be refused because:
  - Such submissions would not result in any new issues not already raised by the more than 300 submissions on the original application;

- The consistency of the approval with the planning documents would mean there must be a reasonable expectation from the community that a development of the kind approved may occur in the area; and
- There is little utility in forcing the developer to go through an impact assessment process to obtain a development approval that would be consistent with the existing development approval and which would be unlikely to provoke a submission raising new matters for consideration.

A second extension to the relevant period was requested by the applicant. Given the previous court case and Council's acceptance of that request, it was subsequently approved by Council on 6 May 2015.

The current and third request for an extension was lodged on 19 September 2016. In accordance with the *Sustainable Planning Act 2009* a decision on the current extension was initially due by 14 December 2016 and the request was therefore due to be decided by Council at the General Meeting of 13 December 2016.

Prior to the decision being made, the Applicant advised alternative design options were being considered for the plant and subsequently requested Council withdraw the application from the General Meeting agenda.

A new decision date of 22 March 2017 was agreed by Council to allow the applicant appropriate time to consider their design options. The applicant has since requested a further two months before Council decides the extension to the relevant period, however no justification or design information has been received to date. Given that any proposed changes to the design of the approved plant will need to be assessed separately to the request to extend the relevant period, it is considered there is no valid reason for Council to delay deciding the current request.

## ISSUES

### Development Proposal & Site Description

#### Site

The subject site is identified as Lot 2 on RP30611 and 70-96 Hillview Road, Mount Cotton. The land is zoned Conservation and Rural Non-Urban and contains a number of overlays including Bushfire Hazard, Habitat Protection, Extractive Resources, Flood Storm and Drainage Constrained Land, Landslide Hazard, Protection of Poultry Industry Overlay and the Waterways Wetlands and Moreton Bay Overlay.

The subject site has been used for poultry farming for several decades and currently accommodates four poultry sheds, a residential dwelling and a mobile phone tower. The buildings and associated use areas are contained within the northern half of the site. A dam exists on the eastern side of the site and it is understood that the south-eastern portion of the site has been used for intermittent grazing activities. The south-western portion of the site is heavily vegetated, steeply sloped and contains the highest elevations on the site.

The site itself is accessed from Hillview Road, which is a sealed bitumen road that accesses a number of rural properties and intersects with Mount Cotton Road to the east.



## Surrounding Area

The surrounding area is predominantly rural in nature. The Golden Cockerel chicken processing plant is located to the direct east of the site, with another poultry farm on the northern side of Hillview Road. To the south of the site are a contractor's depot and the Barro Quarry. A number of small to medium size rural lots exist in the locality, which are used for a mix of uses, varying from purely residential dwellings on large lots to hobby farms and conservation-style lots. To the far west of the site are large stretches of bushland, which dominate both sides of West Mount Cotton Road.

Mount Cotton State School is located approximately 800 metres to the north-east of the site. A park residential estate exists on the eastern side of Mount Cotton Road. The Mount Cotton village residential estate also exists to the south-east of the site, on the eastern side of Mount Cotton Road.

## Proposal

The approved development involves the operation of a power plant fuelled by chicken litter at 70-96 Hillview Road, Mount Cotton. The power plant comprises a power generator, chimney, dry fluid coolers, a large fuel storage hall and an associated car parking area. The burning of chicken waste supplied from poultry farms generates power which provides electricity to the adjoining Golden Cockerel processing plant and the electricity grid.

The plant infrastructure will replace the existing large rectangular poultry growing shed on the north-eastern side of the site. The following summarises the development:

- the fuel to be burnt is primarily chicken litter (with other start up fuels being smaller quantities of sawdust and gas);
- the plant will have a throughput of 66,000 tonnes of chicken litter per annum;
- the sources of the fuel are local Darwalla operated poultry farms, however, dependent upon supply of litter sources may include competitor's farms and Darwalla operated farms outside the local area;
- the activity is proposed to operate continuously and will involve the continuous monitoring of temperature and velocity at the stack exit;
- there will be 15 truck movements per day (105 per week);
- the fuel storage hall will be approximately 11 metres in height above the existing ground level and 3000m<sup>2</sup> in area (60m x 50m);
- maximum litter storage will be 700 tonnes (4 days fuel) at any one time;
- the power generation / distribution and pollution control equipment / infrastructure occupies an area of approximately 2040m<sup>2</sup> (60m x 34m) on the south-western side of the fuel storage hall. This plant area has a predominate height similar to the height of the fuel storage hall, with a chimney that extends to 30 metres;
- the approved plans indicate a rotating kiln, which burns at a temperature between 900°C and 1200°C. The heat from the burner heats water to generate steam which drives a turbine and the turbine drives an alternator which produces the electricity that is released to the grid and the Golden Cockerel processing plant to the east of the site;

- the EPA conditions restrict the power generation to approximately 5MW of electricity;
- emissions will be released to the air via a bag house filter, lime dosing system and a 30m high stack;
- waste ash will be cooled and collected for reuse by licensed waste transporters; and
- the disposal of waste heat is proposed to be via a dry fluid cooling system (fans).

### **Application Assessment**

#### ***Sustainable Planning Act 2009***

This application has been made in accordance with Section 383 (Integrated Development Assessment System, IDAS) of the *Sustainable Planning Act 2009* (SPA) and constitutes a Request to Extend the Relevant Period.

Section 388 of SPA states that, in deciding the request, the Assessment Manager must only have regard to the following:

- (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 given under section 385.*

The above points are discussed below.

In considering this request, Council as assessment manager is bound to consider case law relevant to the matter. In this regard, the previous court judgement on the request to extend the relevant period is critical.

#### **Consistency of Approval with Current Laws and Policies**

- **SEQ Regional Plan 2009-2031**

The site is located within the Regional Landscape and Rural Production Area in the SEQ Regional Plan 2009-2031. Within this designation, “urban activities” are heavily discouraged and are required to demonstrate locational requirements and overriding need for the development in the public interest.

The definition of an “Urban Activity” under the Regional Plan Regulatory Provisions is:

*Urban activity means a residential, industrial, retail, or commercial activity. It does not include the following –*

- (h) water cycle, waste management, telecommunications and **electricity infrastructure** [emphasis added];*

It is considered that the proposal falls under the umbrella of electricity infrastructure, and therefore does not constitute an “urban activity”. Therefore the use, originally lodged as an Undefined Use in 2004, is consistent with the SEQ Regional Plan.

- **State Planning Policies**

Stormwater was addressed at the time of the original application. The original approval acknowledged that detailed stormwater quality design would not be available until the works stage (compliance assessment stage).

Given the small ratio (approximately 20 percent) of roofed / paved structures to total undeveloped land area of the site, it is unlikely that the SPP trigger level will be exceeded. That however, will not be known for certain until the detailed design is done at the works stage, as the original approval indicated.

In any case, design according to the concentration parameters named at the time would still be acceptable, and would comply with the SPP.

- **State Planning Regulatory Provisions**

The South East Queensland Koala Conservation State Planning Regulatory Provisions came into effect in May 2010. Table 6 of the SPRP is relevant to the current assessment. The site is designated under the current SPRP as Medium Value Rehabilitation, Medium Value Bushland, High Value Rehabilitation and High Value Bushland. Table 6 Column 2 Item 2 therefore applies. The actual location of the development is within the Medium Value Rehabilitation designation. This requires removal of any non-juvenile koala habitat trees to be offset either by replanting or a monetary contribution under the Environmental Offsets Act 2014. Comparison of the proposal plan with current aerial photography demonstrates that no habitat trees will be impacted by the power plant, storage shed, access road or any other component. Overall, the proposal complies with the current SPRP.

- **Redlands Planning Scheme**

This section assesses the consistency of the approval against the current Redlands Planning Scheme (Version 7.1). Under this Scheme, the subject site is within the Rural Non-Urban Zone and the use is defined as High Impact Industry, which would be an Impact Assessable development, as was the case when the application was lodged in 2004 under the now superseded Planning Scheme. It is worth noting also that the previous request to extend the relevant period, approved 19 May 2015, was assessed under v7 of the RPS. No significant changes to the Planning Scheme that affect the assessment of this request were made in the new version. Consequently, the development is considered to be consistent with the current scheme. The current Scheme has been considered nonetheless below.

Zoning and overlay Intent

The general zoning and intention for this land is relatively unchanged from the 1988 Town Plan and the 1998 Strategic Plan through to the current Redlands Planning Scheme. In all planning documents, the zoning or designation is Rural Non-Urban, with the intention being to provide for agriculture and other rural uses, aligned uses that support the on-going operation of these rural uses and to protect the poultry industry and ensure its survival within Redland City.

It is considered that, as per the previous assessment, the location of the use compliments primary industrial activities, specifically the nearby chicken farm.

No part of the development is within the Conservation Zone. The following Overlays have also been assessed:

- Bushfire Hazard Overlay - outside mapped hazard area;
- Habitat Protection Overlay - there is no proposed development within the Bushland Habitat designated area. Therefore the proposal complies with Specific Outcome S2.1(3) of the Habitat Protection Overlay Code. The balance of the site, including the power plant location, is within the designated Enhancement Area. Specific Outcome S2.1(7) of the Habitat Protection Overlay Code requires enhancement planting of habitat trees at a minimum rate of one tree per 200m<sup>2</sup> of the Enhancement Area. It is estimated that the site contains some 950 habitat trees, over the entire area designated Bushland Habitat and partially over the Enhancement Area. It is considered that the overlay code Specific Outcome is already met. It should also be noted that the original approval incorporates conditions for a Vegetation Management Plan and an Environmental Management Plan (incorporating a Fauna Management Plan);
- Extractive Resources Overlay - the use will be within a key regional resource buffer. However the proposal complies with the Specific Outcomes of the Code given it does not introduce any noise sensitive uses;
- Flood Storm and Drainage Constrained Land Overlay - the use is outside the mapped hazard area;
- Landslide Hazard Overlay - the proposal meets the requirements for development in the low landslide hazard area;
- Protection of Poultry Industry Overlay - the use is being constructed to complement the existing poultry farm;
- Waterways Wetlands and Moreton Bay Overlay - the use is also outside of the mapped waterway area.

### **Infrastructure Contributions**

For extensions to the relevant period of existing development approvals, sub-sections 976B(4)to(6) of the SPA Transitional Provisions allow a local government to issue an infrastructure charges notice (pursuant to their respective resolution) that supersedes planning scheme policy infrastructure conditions applied under IPA.

The purpose of these sub-sections is to ensure the provision to include extensions to relevant periods under sections 383 to 390 is captured. In particular, the test of consistency of the approval with the current laws and policies applying to the development, such as infrastructure contributions.

This does not adversely affect rights or impose obligations retrospectively as the extension is effectively reissuing the approval under the current charging framework.

The proposed development is subject to infrastructure charges in accordance with the State Planning Regulatory Provisions (adopted charges).

It is noted that the site is not connected to town water or the sewer system, so there is no Redland Water charge.

The total charge applicable to this development is:

**Total charge:           \$45,048.00**

This charge has been calculated as follows in accordance with Council's Adopted Infrastructure Charges Resolution (No. 2.3) August 2016.

<b>Notice #001490</b>	
<b>Non-Residential Component</b>	
2100m2 High Impact Industry X \$58.10 (no sewer)	\$122,010.00
<b>Stormwater Infrastructure</b>	
2100m2 Stormwater Impervious Area X \$10.10/m2	\$21,210.00
<b>Demand Credit</b>	
4860m2 High Impact Rural X \$20.20	\$98,172.00
<b>Total Council Charge:           \$45,048.00</b>	

### OFFSETS

There are no offsets that apply under Chapter 8 Part 2 of the *Sustainable Planning Act 2009*.

### REFUNDS

There are no refunds that apply under Chapter 8 Part 2 of the *Sustainable Planning Act 2009*.

Overall, a new Infrastructure Charges Notice for the above amount will be issued, should the extension to relevant period application be approved.

### **Community Awareness and Potential Submissions**

Part of the extension to relevant period test is considering the *community's current awareness of the development approval*. It is likely that there would be a moderate knowledge of the development application. The application was subject to two sets of public notification in 2004 and 2005, and attracted 333 submissions. There have been numerous newspaper articles and letters to the editor in the local newspapers, which are free of cost and circulated to the entire Redland City population, and public meetings regarding the development.

It is worth considering though that it has been a significant amount of time since the original approval in 2007. Over 200 new lots in the surrounding area (Mount Cotton estate) have been created since the original application was publically notified, which means there is potential for new owners to have no knowledge of the development. Changes in property ownership within the catchment during this time are also inevitable.

The second part of the test is *whether, if the request were refused further rights to make a submission may be available for a further development application; and the likely extent to which those rights may be exercised*.

If the request was refused and a new Material Change of Use application was to be lodged, it is likely that a large number of submissions would be received, as was the case with the original application.

Three hundred and thirty-three (333) submissions were received on the original development application and three hundred and thirty-two (332) of those submissions were objections to the proposal.

However, this test was considered in the previous court order and it was concluded that:

- The Order states that failure of any part of section 388 (in this instance the right to object) does not mandate a refusal of the extension request;
- The Order states that it was unlikely any new grounds of submission would be raised;
- The application was originally approved in accordance with the planning scheme, and there should be an expectation from new residents in the area along those lines; and
- There is little benefit in forcing the applicant to re-lodge essentially the same application, which for all intents and purposes is consistent with the existing development.

Given the interpretation by the Judge on Council's previous refusal, the current request for an extension to the relevant period is considered to comply with the relevant tests under SPA.

### **Concurrence Agencies**

SARA (State Assessment Referral Agency) (via the Department of Main Roads and Transport and the Department of Environment and Heritage Protection) in their correspondence, dated 5 October 2016, advised that no objection was raised to the request to extend the relevant period.

### **Assessment Summary**

In assessing this request, Council must consider Section 388 of the *Sustainable Planning Act* as a whole. This approach is consistent with that taken by the P & E Court in deciding the previous extension request.

As discussed above, while it is almost certain that objecting submissions would be received if the application were re-lodged, it is considered that the submissions are unlikely to raise new issues not already considered as part of the original application and subsequent Court appeal. This is strengthened by the premise that there have been no significant changes to laws and policies that have a specific impact on this development. In this regard, and considering the Judgment in the previous extension request, it is concluded that a reason would be difficult to defend.

### **Conclusion**

The request to extend the relevant period has been assessed against the relevant provisions of the *Sustainable Planning Act*, the current Redlands Planning Scheme and other applicable planning instruments. In this regard, it is recommended that the request to extend the relevant period be approved.

## **STRATEGIC IMPLICATIONS**

### **Legislative Requirements**

In accordance with the *Sustainable Planning Act 2009* this development application has been assessed against the Redlands Planning Scheme V7.1 and other relevant planning instruments. The decision is due on 14 December 2016.

**Risk Management**

In accordance with the *Sustainable Planning Act 2009* the applicant may appeal to the Planning and Environment Court against a decision to refuse.

**Financial**

If approved, Council will collect infrastructure contributions in accordance with the State Planning Regulatory Provisions (adopted charges) and Council's Adopted Infrastructure Charges Resolution.

If the development is refused, there is potential that an appeal will be lodged and subsequent legal costs may apply.

**People**

Not applicable. There are no implications for staff.

**Environmental**

Environmental implications are detailed within the assessment in the "issues" section of this report.

**Social**

Social implications are detailed within the assessment in the "issues" section of this report.

**Alignment with Council's Policy and Plans**

The assessment and officer's recommendation align with Council's policies and plans as described within the "issues" section of this report.

**CONSULTATION**

The assessment manager has consulted with other internal assessment teams where appropriate. Advice has been received from relevant officers and forms part of the assessment of the application. Legal advice has been sought from General Counsel.

**OPTIONS****Option One**

That Council resolves as follows:

1. That an approval be issued for a 22 month extension to the relevant period for the approved Bio-mass Power Plant (Undefined Use) and ERA #17 on the land known as 70-96 Hillview Road Mount Cotton; and
2. That the relevant period therefore remains current up to and including 20 July 2018.

**Option Two**

That Council resolves to refuse the application.

**OFFICER'S RECOMMENDATION**

That Council resolves as follows:

1. That an approval be issued for a 22 month extension to the relevant period for the approved Bio-mass Power Plant (Undefined Use) and ERA #17 on the land known as 70-96 Hillview Road Mount Cotton; and

2. That the relevant period therefore remains current up to and including 20 July 2018.

### **COUNCIL RESOLUTION**

Moved by: Cr J Talty  
Seconded by: Cr M Edwards

1. That the Officer's Recommendation not be accepted;
2. That the request to extend the relevant period of the Biomass Power Plant (Undefined use) and ERA #17 on the land known as 70-96 Hillview Road Mount Cotton be refused on the following grounds:
  - (a) that the now population of Mt Cotton, its surrounds and Redland City itself has grown significantly since the original application was lodged in June 2004 and the first approval for the plant was in March 2007. A number of new estates and change of ownership in Mt. Cotton, Thornlands, Victoria Point and Redland Bay have been established in this time. Therefore there is a fair degree of non-awareness of the development approval within the surrounding community, which is evidenced by the following:
    - The latest public notification period for the development application was in 2005, which means that over 12 years has passed; and
    - A number of key elements of the development changed since the time of the latest public notification, including the burner and the cooling system. Therefore, there would be clearly no or limited awareness within the community of the final characteristics of the development.
  - (b) That the applicant has failed to deliver on condition 9.1 and 9.2 in the February 2013 court order regarding the Social Issues Management; and
  - (c) The extension would remove the rights to make submissions for further development application, which would be applicable should the request be refused.

**CARRIED 9/0**

Crs Mitchell, Gollé, Hewlett, Edwards, Elliott, Talty, Gleeson, Bishop and Boglary voted FOR the motion.

Cr Huges was not present when the motion was put.

Cr Williams was absent from the meeting.

### **MEETING SUSPENDED**

At the completion of this item, the majority of councillors left the room at 11.39am and the meeting lost quorum and was therefore suspended.

### **MEETING RESUMED**

The majority of the Councillors returned at 11.42am and the meeting resumed.



### 11.3 INFRASTRUCTURE & OPERATIONS

#### 11.3.1 MOBILE GENERATOR REPLACEMENT

**Objective Reference:** A124442  
Reports and Attachments (Archives)

**Authorising Officer:**   
Peter Best  
General Manager Infrastructure & Operations

**Responsible Officer:** Kevin McGuire  
Group Manager Water & Waste Operations

**Report Author:** Matthew Worrall  
Service Manager Operations Maintenance

---

#### PURPOSE

Redland City Council's (RCC's) Water & Waste Operations group is seeking Council approval for the trade-in of its nine existing trailer-mounted mobile generator sets. These existing units have reached the end of their useful service life and are due for replacement with new, more modern units.

Trade-in values for the generators have been obtained from industry and provide a much higher monetary return to Redland City Council than other methods of sale (e.g. sale through Pickles Auctions). The higher returns from trade-ins will be used to offset the purchase price of the new mobile generator sets.

#### BACKGROUND

Council currently owns, operates and maintains seven wastewater treatment plants and 165 sewerage pumping stations across the city. The sustained and efficient operation of these sites is essential to maintain Council's municipal wastewater treatment obligations.

To minimise disturbance to normal operations in the event of an equipment malfunction or power failure, Council owns, operates and maintains a fleet of nine trailer-mounted mobile generator sets.

#### ISSUES

RCC's mobile generator fleet currently consists of nine trailer-mounted, diesel powered mobile generators, of which eight are 17 years old and one is 10 years old. The age of the fleet is increasing the risk of mechanical and/or electrical failure and is resulting in increased maintenance costs. Additionally, should a generator fail in the field, Council faces the increased risk of environmental damage, resulting from a sewerage surcharge or overflow.

Council's Portfolio Management Office (PMO) approved a program for the scoping, procurement and purchase of new trailer-mounted generator assets, with replacement of the current fleet over three financial years commencing FY16/17. Total budget allocation is \$450,000, spread over three financial years at the amount of \$150,000 per year.

---

The Council Mechanical and Electrical team has undertaken an industry-wide open tender process, which contained an option for tenderers to provide trade-in prices for the existing mobile generator sets, allowing tenderers to purchase, refurbish and on-sell traded units. Trade-in revenue would be used to offset the purchase costs of Council's new generator fleet.

Council has received trade-in offers from the marketplace as a result of the tender activity, with the highest offer of \$75,500 being in excess of the offer of \$22,000 received from Pickles Auctions, who are currently used by Council's Fleet Services to auction Council's traded-in plant and equipment.

## **STRATEGIC IMPLICATIONS**

### **Legislative Requirements**

Council is required to ensure the uninterrupted and efficient operation of its wastewater treatment plants and sewerage pumping stations in order to maintain compliance with environmental legislation, service delivery standards and community expectations. Council's fleet of generators are essential in response to a power failure or plant breakdown.

### **Risk Management**

The advanced age of the existing assets is increasing the risk of mechanical and/or electrical breakdowns, which in turn increases the risk of an uncontrolled sewerage surcharge or overflow to the environment.

### **Financial**

The requirement for ongoing preventative and/or breakdown maintenance will increase as the existing units continue to age.

### **People**

Any increase in maintenance will directly affect the Council Mechanical and Electrical team through increased servicing and maintenance requirements, or through breakdowns in the field both during and out of standard operating hours.

### **Environmental**

Council operates under strict environmental legislation and any sewerage surcharge or overflow causing environmental damage places Council at risk of enforcement actions or financial penalties from the Department of Environment and Heritage Protection.

### **Social**

Any sewerage surcharge or overflow into the environment has the potential to damage Council's reputation in the community.

### **Alignment with Council's Policy and Plans**

Disruption to continuous operation of Council's wastewater treatment plants and pumping stations may cause non-compliance with Redland Water's and Council's customer service standards.

## CONSULTATION

Consultation has occurred with the following during preparation of this report:

- General Manager – Infrastructure & Operations;
- Group Manager – Water & Waste Operations;
- Service Manager – Operations Maintenance;
- Fleet Manager;
- Senior Procurement Officer;
- Procurement Officer;
- Mechanical Fitters; and
- Business Partnering Unit.

## OPTIONS

1. Approval of the request to trade-in Council's current fleet of trailer mounted mobile generator sets, as part of the current tender process, in order to significantly offset the cost of the replacement units.
2. Decline the request to trade-in Council's current fleet of trailer mounted mobile generators, resulting in approximately \$53,000 additional cost to complete the generator set replacement project.

## OFFICER'S RECOMMENDATION/ COUNCIL RESOLUTION

Moved by: Cr P Mitchell  
Seconded by: Cr M Edwards

**That Council resolves to approve the trade-in of the existing trailer-mounted mobile generator fleet at the time of purchasing new assets as part of the current procurement action, in order to offset the cost of the replacement assets, taking advantage of the high trade-in offers from industry, and enabling the delivery of this project in the most prudent financial manner.**

**CARRIED 8/0**

Crs Mitchell, Gollé, Hewlett, Edwards, Elliott, Gleeson, Bishop and Boglary voted FOR the motion.

Crs Huges and Talty were not present when the motion was put.

Cr Williams was absent from the meeting.

**12 MAYORAL MINUTE**

Nil

**13 NOTICES OF MOTION TO REPEAL OR AMEND RESOLUTIONS**

Nil

**14 NOTICES OF MOTION**

Nil

**15 URGENT BUSINESS WITHOUT NOTICE**

Nil

**16 CONFIDENTIAL ITEMS****16.1 OFFICE OF CEO****16.1.1 DEEDS OF INDEMNITY**

**Objective Reference:** A2189236  
Reports and Attachments

**Authorising Officer:**



**Bill Lyon**  
Chief Executive Officer

**Responsible Officer:** Peter Kelley  
Chief Executive Officer, Redland Investment Corporation

**Report Author:** Anca Butcher  
Redland Investment Corporation

---

**EXECUTIVE SUMMARY**

A confidential report from the Chief Executive Officer was presented to Council for consideration.

**OFFICER'S RECOMMENDATION/  
COUNCIL RESOLUTION**

**Moved by:** Cr M Elliott  
**Seconded by:** Cr P Gleeson

**That Council resolves as follows:**

1. To delegate to the Chief Executive Officer pursuant to section 257(1)(b) of the *Local Government Act 2009* to make, amend or discharge the Deeds of Indemnity as attached; and
2. That this report and attachments remain confidential until the matter is finalised.

**CARRIED 9/0**

Crs Mitchell, Gollé, Hewlett, Edwards, Elliott, Huges, Gleeson, Bishop and Boglary voted FOR the motion.

Cr Talty was not present when the motion was put.

Cr Williams was absent from the meeting.

---

## 16.2 COMMUNITY & CUSTOMER SERVICES

### 16.2.1 RESUMPTION OF LAND

**Objective Reference:** A2230691  
Reports and Attachments (Archives)

**Authorising Officer:**



**Louise Rusan**  
General Manager Community and Customer  
Services

**Responsible Officer:**

**Graham Simpson**  
Acting Group Manager Environment and  
Regulation

**Report Author:**

**Merv Elliott**  
Principal Property Consultant

---

### EXECUTIVE SUMMARY

A confidential report from the General Manager Community & Customer Services was presented to Council for consideration.

### OFFICER'S RECOMMENDATION/ COUNCIL RESOLUTION

**Moved by:** Cr M Elliott  
**Seconded by:** Cr P Gleeson

**That Council resolves as follows:**

1. That the objections to the resumption have been considered are dismissed as invalid;
2. That continuance of resumption action proceeds;
3. That the Chief Executive Officer be authorised (under s.257(1)(b) of the *Local Government Act 2009*) to sign all necessary documents to give effect to the above recommendation; and
4. That report and attachment remain confidential until such time as the matter is finalised.

**CARRIED 9/0**

Crs Mitchell, Gollé, Hewlett, Edwards, Elliott, Huges, Gleeson, Bishop and Boglary voted FOR the motion.


Cr Talty was not present when the motion was put.

Cr Williams was absent from the meeting.

---

**16.2.2 LOCAL GOVERNMENT INFRASTRUCTURE PLAN AMENDMENT AND  
NETSERV PLAN MAJOR AMENDMENT**

**Objective Reference:** A2208537  
Reports and Attachments (Archives)

**Authorising Officer:**   
Louise Rusan  
General Manager Community and Customer  
Services

**Responsible Officer:** David Jeanes  
Group Manager City Planning and Assessment

**Report Author:** Giles Tyler  
Principal Advisor Infrastructure Planning and  
Charging Unit

---

**EXECUTIVE SUMMARY**

A confidential report from General Manager Community & Customer Services was presented to Council for consideration.

**PROCEDURAL MOTION**

Moved by: Cr P Bishop

Seconded by: Cr M Elliott

That standing orders be suspended to allow discussion on this item.

CARRIED 10/0

Crs Mitchell, Gollé, Hewlett, Edwards, Elliott, Huges, Talty, Gleeson, Bishop and Boglary voted FOR the motion.

Cr Williams was absent from the meeting.

**PROCEDURAL MOTION**

Moved by: Cr P Bishop

Seconded by: Cr P Gleeson

That standing orders be resumed.

CARRIED 10/0

Crs Mitchell, Gollé, Hewlett, Edwards, Elliott, Huges, Talty, Gleeson, Bishop and Boglary voted FOR the motion.

Cr Williams was absent from the meeting.

**OFFICER'S RECOMMENDATION/  
COUNCIL RESOLUTION**

Moved by: Cr M Elliott  
Seconded by: Cr P Bishop

That Council resolves to:

1. Proceed with the draft Local Government Infrastructure Plan amendment;
2. Submit the draft Local Government Infrastructure Plan amendment to the Department of Infrastructure Local Government and Planning seeking agreement from the Minister to publicly consult the proposed amendment;
3. Proceed with public consultation upon agreement from the Minister and where no conditions are imposed that materially affects the content of the Draft Local Government Infrastructure Plan Amendment;
4. Proceed with the draft Netserv Plan amendment and endorse this as being consistent with the planning assumptions of the Council;
5. Submit the draft Netserv Plan to the Department of Infrastructure Local Government and Planning seeking endorsement from the Minister that this is consistent with the South East Queensland Regional Plan;
6. Proceed with public consultation of the draft NetServ Plan upon endorsement from the Minister; and
7. That this report and attachments remain confidential until such time as public consultation commences.

**CARRIED 10/0**

Crs Mitchell, Gollé, Hewlett, Edwards, Elliott, Huges, Talty, Gleeson, Bishop and Boglary voted FOR the motion.

Cr Williams was absent from the meeting.

## 17 MEETING CLOSURE

There being no further business, the Mayor declared the meeting closed at 11.49am.

**Signature of Chairperson:** \_\_\_\_\_

**Confirmation date:** \_\_\_\_\_