



AGENDA

Coordination Committee Meeting

Tuesday 18 September 2018
commencing at 10.30am

Redcliffe Chambers
Irene Street, Redcliffe

COUNCILLOR:

NOTICE IS HEREBY GIVEN, that a meeting of the Coordination Committee will be held on Tuesday 18 September 2018 commencing at 10.30am in Redcliffe Chambers, Irene Street, Redcliffe to give consideration to the matters listed on this agenda.

Daryl Hitzman
Chief Executive Officer

13 September 2018

Membership = 13
Mayor and all Councillors

Quorum = 7

[Agenda for public distribution](#)

LIST OF ITEMS

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Moreton Bay Regional Council

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REPORT DETAIL

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ATTENDANCE & APOLOGIES

Attendance:

Committee Members:

Cr Allan Sutherland (Mayor) (Chairperson)

Officers:

Apologies:

Cr Mike Charlton (Deputy Mayor) who is representing Council at the Council of Mayor's Canberra Delegation.

The Mayor is the Chairperson of the Coordination Committee.

Coordination Committee meetings comprise of Sessions chaired by Council's nominated Spokesperson for that portfolio, as follows:

Session	Spokesperson
1 Governance	Cr Allan Sutherland (Mayor)
2 Planning & Development	Cr Mick Gillam
3 Corporate Services	Cr Matt Constance
4 Asset Construction & Maintenance	Cr Adam Hain
5 Parks, Recreation & Sport	Cr Kolia Winchester
6 Lifestyle & Amenity	Cr Denise Sims
7 Economic Development, Events & Tourism	Cr Peter Flannery
8 Regional Innovation	Cr Darren Grimwade
9 General Business	Cr Allan Sutherland (Mayor)

1 GOVERNANCE SESSION

(Cr A Sutherland, Mayor)

ITEM 1.1

DELEGATION OF POWERS - LANDOWNER'S CONSENT - REGIONAL

Meeting / Session: 1 GOVERNANCE
Reference: A17423897 : 12 September 2018 - **Refer Supporting Information A17559226**
Responsible Officer: AS, Enterprise and Investments Officer (CES Property & Commercial Services)

Executive Summary

This report recommends that Council delegate its power to the Chief Executive Officer to provide Landowner's consent, in the particular circumstances described in the Supporting Information to this report.

OFFICER'S RECOMMENDATION

That Council, pursuant to section 257 of the *Local Government Act 2009*, delegates to the Chief Executive Officer those powers specified in Schedule 1 of Appendix A of the Supporting Information to this report.

ITEM 1.1 DELEGATION OF POWERS - LANDOWNER'S CONSENT - REGIONAL - A17423897 (Cont.)

REPORT DETAIL

1. Background

On an ongoing basis, Council receives requests from third parties for landowner's consent in respect of land uses that may affect Council owned or controlled land, such as the installation of water and sewerage, telecommunications and electricity infrastructure, and the making of development applications.

In the absence of appropriate delegations, landowner's consent would need to be provided by way of a Council resolution.

2. Explanation of Item

By putting the requisite delegations in place, it is expected to improve efficiency when responding to requests for landowner's consent to land uses that may affect Council owned or controlled land.

No delegation to Council officers currently exists for those consent functions set out in the Supporting Information to this report.

The purpose of this report is to seek a delegation from Council to the Chief Executive Officer to act on behalf of Council in line with Recommendation #1.

3. Strategic Implications

3.1 Legislative/Legal Implications

Delegations made under section 257 of the *Local Government Act 2009* must be reviewed by the Council annually.

A delegation of the Council's powers does not prevent the Council from exercising any of those powers itself.

3.2 Corporate Plan / Operational Plan

Strengthening Communities: Strong local governance - strong leadership and governance.

3.3 Policy Implications

There are no policy implications arising as a direct result of this report.

3.4 Risk Management Implications

There are no risk management implications arising as a direct result of this report.

3.5 Delegated Authority Implications

The Chief Executive Officer may sub-delegate these powers to Council officers.

3.6 Financial Implications

There are no financial implications arising as a result of this report.

3.7 Economic Benefit

There are no economic implications arising as a result of this report.

3.8 Environmental Implications

There are no environmental implications arising as a result of this report.

3.9 Social Implications

There are no social implications arising as a result of this report.

3.10 Consultation / Communication

Legal Services

SUPPORTING INFORMATION

Ref: [A17559226](#)

The following list of supporting information is provided for:

ITEM 1.1

DELEGATION OF POWERS - LANDOWNER'S CONSENT - REGIONAL

#1 Appendix A - Powers delegated to the CEO under section 257 of the Local Government Act 2009

Moreton Bay Regional Council

ITEM 1.1 - DELEGATION OF POWERS - LANDOWNER'S CONSENT - REGIONAL (Cont.)

#1 Appendix A - Powers delegated to the CEO under section 257 of the Local Government Act 2009

Schedule 1

Item	Description of Powers Delegated
1.	Pursuant to section 51 of the <i>Planning Act 2016</i> , power to provide landowner's consent to the making of a development application.
2.	Power to provide landowner's consent in respect of requests for water, sewerage, electricity, stormwater, gas, and telecommunications infrastructure to be installed that may affect Council owned or controlled land.
3.	Power to provide landowner's consent in respect of Unitywater connection applications, where the connection may affect Council owned or controlled land.

ITEM 1.2

**ADOPTION OF MORETON BAY REGIONAL COUNCIL INTERIM LOCAL LAW NO. 3
(ADVERTISING DEVICES) 2018 - REGIONAL**

Meeting / Session: 1 GOVERNANCE

Reference: A17556876: 12 September 2018 - **Refer Supporting Information A17558156**

Responsible Officer: RD, Legal Officer (Legal Services)

Executive Summary

This report recommends that Council makes *Moreton Bay Regional Council Interim Local Law No. 3 (Advertising Devices) 2018* to continue to simplify Council's regulation of advertising devices whilst Council considers permanent amendments to Schedule 9 of *MBRC Subordinate Local Law No. 1 (Administration) 2011* particularly in relation to election signs.

OFFICER'S RECOMMENDATION

1. That pursuant to section 29(2) of the *Local Government Act 2009*, Council resolves to make *Moreton Bay Regional Council Interim Local Law No. 3 (Advertising Devices) 2018*, marked "Appendix A" in the Supporting Information annexed to this report.
2. That the Chief Executive Officer be authorised to:
 - a) let the public know that the interim local law has been made by publishing a notice of making the interim local law in accordance with section 29B of the *Local Government Act 2009*; and
 - b) do such other things as required under the *Local Government Act 2009* in respect of the interim local law, which includes giving the Minister a copy of the interim local law and making a copy of the interim local law available for inspection and purchase at the local government's public offices.
3. That it is noted *Moreton Bay Regional Council Interim Local Law No. 3 (Advertising Devices) 2018* expires on 18 March 2019.
4. That the Chief Executive Officer be authorised to do all things necessary to enable revised permanent amendments to *MBRC Subordinate Local Law No. 1 (Administration) 2011* to be presented to Council prior to 18 March 2019 as outlined in this report.
5. That the Chief Executive Officer be authorised to reply to those persons who have provided submissions regarding proposed permanent amendments to *MBRC Subordinate Local Law No. 1 (Administration) 2011* as outlined in this report.

ITEM 1.2 ADOPTION OF MORETON BAY REGIONAL COUNCIL INTERIM LOCAL LAW NO. 3 (ADVERTISING DEVICES) 2018 - REGIONAL - A17556876: (Cont.)

REPORT DETAIL

1. Background

Since 2011, Council has regulated the display of advertising devices (including election signage) which are visible from public places under Schedule 9 of *MBRC Subordinate Local Law No. 1 (Administration) 2011 (SLL)*.

On 15 August 2017, the Liberal National Party (**LNP**) instigated Supreme Court Proceedings against Council seeking:

- a declaration that the SLL as it relates to election signage is invalid (broadly on the basis that the SLL impinges on the LNP's implied constitutional freedom to communicate on political matters); and
- an injunction preventing Council from acting on the SLL until the application for a declaration is decided.

On 25 October 2017, Council resolved to make *Moreton Bay Regional Council Interim Local Law No. 1 (Advertising Devices) 2017 (First Interim Local Law)* on a temporary (6-month) basis to ameliorate any potential impingement that the SLL may have had on the implied constitutional freedom whilst Council reviewed the SLL.

On 23 January 2018, Council resolved to propose to make *Moreton Bay Regional Council Amendment Subordinate Local Law No. 1 (Administration) 2018 (Proposed Local Law)*. The Proposed Local Law contemplated permanent amendments to the SLL which largely reflected the provisions in the First Interim Local Law.

On 5 February 2018, Council instigated a public consultation process regarding the Proposed Local Law. Council received feedback via this public consultation process that the process was too short and was not publicised well enough.

On 13 March 2018, Council directed officers to arrange a second public consultation period which was both longer and more widely advertised than the earlier consultation.

On 27 March 2018, Council resolved to make *Moreton Bay Regional Council Interim Local Law No. 2 (Advertising Devices) 2018 (Second Interim Local Law)* on a temporary (6-month) basis to ameliorate any potential impingement that the SLL may have had on the implied constitutional freedom whilst Council undertook a second public consultation process.

On 29 June 2018, Council instigated the second consultation process which ended on 5 September 2018. This consultation process was widely advertised (including via 3 rounds of local newspaper advertisements, a Courier Mail public notice and online platforms).

On 11 September 2018, Council considered feedback received from the second public consultation period as well as the first public consultation period and opinions from subject matter experts engaged by Council. The feedback which Council has received to date is almost entirely critical of the Proposed Local Law.

2. Explanation of Item

Given the feedback which Council has received to date, it is recommended that Council instruct officers to prepare amendments to the Proposed Local Law.

To afford officers sufficient time to do this, it is recommended that Council enact the interim local law marked "Appendix A" in the Supporting Information annexed to this report (**Third Interim Local Law**) which will ameliorate any potential impingement that the SLL may have on the implied constitutional freedom on a temporary basis until 18 March 2019. The substantive provisions of the Third Interim Local Law are verbatim to those in the Second Interim Local Law.

ITEM 1.2 ADOPTION OF MORETON BAY REGIONAL COUNCIL INTERIM LOCAL LAW NO. 3 (ADVERTISING DEVICES) 2018 - REGIONAL - A17556876: (Cont.)

Prior to the expiry of the Third Interim Local Law, officers will aim to provide Council with an amended Proposed Local Law.

It is recommended that Council reply to those persons who have provided submissions to date to update them regarding the status of this matter and to inform them that Council is currently working through their feedback with view to making permanent changes to the SLL at some time in the future (at which time they will be provided with a further update).

3. Strategic Implications

3.1 Legislative/Legal Implications

The implication of regulating election advertising is that Council's Local Laws, as they relate to election signage, may be held to unlawfully impinge on the implied freedom in the Constitution to communicate on political matters. This risk is will be minimised whilst the Third Interim Local Law is in force.

3.2 Corporate Plan / Operational Plan

Strengthening Communities: Strong local governance - strong leadership and governance.

3.3 Policy Implications

There are no policy implications arising as a direct result of this report.

3.4 Risk Management Implications

As per paragraph 3.1 (above).

3.5 Delegated Authority Implications

There are no delegated authority implications given that the Third Interim Local Law simply amends the SLL. Accordingly, current delegations under the SLL remain applicable.

3.6 Financial Implications

There are no financial implications arising as a direct result of this report.

3.7 Economic Benefit

There are no economic benefit implications arising as a direct result of this report.

3.8 Environmental Implications

Council officers will continue to monitor advertising devices in the Region for compliance with the relevant criteria under the Third Interim Local Law. These criteria seek to minimise any environmental nuisance or environmental harm caused by advertising devices.

3.9 Social Implications

An update will be provided to submitters to help address any queries that they may have regarding the progress of this matter.

3.10 Consultation / Communication

Pursuant to section 29A of the *Local Government Act 2009*, Council has consulted with relevant government entities about the overall State interest in the proposed Third Interim Local Law.

SUPPORTING INFORMATION

Ref: [A17558156](#)

The following list of supporting information is provided for:

ITEM 1.2

ADOPTION OF MORETON BAY REGIONAL COUNCIL INTERIM LOCAL LAW NO. 3 (ADVERTISING DEVICES) 2018 - REGIONAL

#1 *Appendix A*

ITEM 1.2 - ADOPTION OF MBRC INTERIM LOCAL LAW NO. 3 (ADVERTISING DEVICES) 2018 - REGIONAL (Cont.)
#1 Appendix A

MORETON BAY REGIONAL COUNCIL

Interim Local Law No. 3 (Advertising Devices) 2018

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ITEM 1.2 - ADOPTION OF MBRC INTERIM LOCAL LAW NO. 3 (ADVERTISING DEVICES) 2018 - REGIONAL (Cont.)
Moreton Bay Regional Council Interim Local Law No. 3 (Advertising Devices) 2018

Part 1 Preliminary

1 Short title

This interim local law may be cited as *Moreton Bay Regional Council Interim Local Law No. 3 (Advertising Devices) 2018*.

2 Term of interim local law

This interim local law commences on 18 September 2018 and expires on 18 March 2019.

3 Interim local law repealed

Moreton Bay Regional Council Interim Local Law No. 2 (Advertising Devices) 2018 is repealed.

4 Subordinate local law amended

This interim local law amends *Moreton Bay Regional Council Subordinate Local Law No. 1 (Administration) 2011*.

Part 2 Amendments to subordinate local law

5 Replacement of schedule 9 (installation of advertising devices)

Schedule 9—
omit, insert—

‘Schedule 9 Installation of Advertising Devices

1 Prescribed activity

Installation of Advertising Devices

Note-

- *The local government’s Planning Scheme regulates the Installation of permanent Advertising Devices on private land. This subordinate local law regulates the Installation of temporary Advertising Devices on Public Land or private land, and the Installation of permanent Advertising Devices on Public Land.*

2 Purpose and how it is to be achieved

- (1) The purpose of this Schedule 9 is to ensure that the Installation of Advertising Devices in the local government’s area does not:
 - (a) endanger the health and safety of any person;
 - (b) have a detrimental impact on amenity;

ITEM 1.2 - ADOPTION OF MBRC INTERIM LOCAL LAW NO. 3 (ADVERTISING DEVICES) 2018 - REGIONAL (Cont.)

Moreton Bay Regional Council Interim Local Law No. 3 (Advertising Devices) 2018

- (c) cause Environmental Harm;
- (d) damage public infrastructure or private property; or
- (e) unduly expose a person to a risk of loss or liability.

(2) This purpose is to be achieved by:

- (a) allowing the Installation of Exempt Signs and Self-Assessable Signs without any approval from the local government if specific requirements are satisfied; and
- (b) establishing a process to ensure that applications to Install Licensable Signs are properly assessed and conditioned if approved.

3 Activities that do not require approval under the authorising local law

(1) A person does not require an approval from the local government to Install an Advertising Device which is:

- (a) an Exempt Sign; or
- (b) a Self-Assessable Sign which satisfies:
 - (i) the General Self-Assessable Requirements; and
 - (ii) the Specific Requirements for the Self-Assessable Sign.

Note-

- *this section constitutes a declaration made by the local government pursuant to section 6(3) of the authorising local law;*
- *the General Self-Assessable Requirements and Specific Requirements for Self-Assessable Signs are set out at Table 2, below; and*
- *a person is still required to obtain an approval from the local government to Install an Advertising Device which is a Licensable Sign.*

4 Documents and materials that must accompany applications for approval

(1) A person wishing to Install a Licensable Sign (Applicant) must ensure that their application is accompanied by the following documents and materials:

- (a) the contact details of the Applicant including the Applicant's full name, day time contact phone number, email address (if applicable) and mailing address;
- (b) details of the period for which the Licensable Sign is proposed to be displayed;
- (c) a sketch plan or plan of the proposed Licensable Sign including its dimensions, location, materials and how it will be supported;
- (d) if applicable, details of any illumination, animation, moving parts, reflective material or Third Party Advertising that the Licensable Sign will contain and the registration details of any vehicle that will be used to display the sign;
- (e) if the Applicant wishes to Install the Licensable Sign on land, structures or infrastructure that they do not own (other than land, structures or infrastructure owned or controlled by the local government) the owner's written consent to the Installation;

ITEM 1.2 - ADOPTION OF MBRC INTERIM LOCAL LAW NO. 3 (ADVERTISING DEVICES) 2018 - REGIONAL (Cont.)

Moreton Bay Regional Council Interim Local Law No. 3 (Advertising Devices) 2018

- (f) if the Applicant requires an assessment of their application within 3 business days of Council receiving that application (**Expedited Assessment**):
 - (i) a written request for an Expedited Assessment;
 - (ii) a written submission explaining how the Licensable Sign meets:
 - (A) the criteria set out at section 5 (below);
 - (B) the General Licensable Criteria; and
 - (C) the Specific Requirements for the Licensable Sign;

Note-

- *An Expedited Assessment may result in the local government deciding the Applicant's application in accordance with section 9(2) of the authorising local law. An Expedited Assessment may also result in the local government requesting further information in accordance with section 8(3) of the authorising local law.*

- (g) an indemnity in favour of the local government as set out in the prescribed form.

Note-

- *under section 8(2) of the authorising local law, the above documents and materials must accompany:*
 - *an application in the prescribed form. The prescribed form is a written document which is available from the local government's administration centres or via its website. Contact details for submitting the application are set out in the prescribed form;*
 - *the prescribed fee. Prescribed fees are fixed by the local government in accordance with section 35 of the authorising local law and the current prescribed fees can be obtained via the local government's website or by contacting the local government by phone, email or in person; and*
 - *(where applicable) proof that the applicant currently holds any separate approval relating to the prescribed activity that is required under another law.*
- *under section 8(3) of the authorising local law, the local government may request further reasonable information or clarification of information, documents or materials included in the application.*

5 Additional criteria for the granting of approval

- (1) Before granting an approval to an Applicant to Install a Licensable Sign, the local government must be satisfied that the Licensable Sign will:

- (a) not endanger the health and safety of any person;

Example-

- *the Licensable Sign must, where applicable:*
 - *be designed, constructed and Installed in accordance with any applicable laws, regulations, codes or standards;*
 - *be designed and constructed to a standard that will withstand expected wind loadings, tension and sheer forces;*
 - *not be the same as, or like, a traffic sign;*
 - *be appropriately set back from kerbsides and property boundaries;*
 - *not be likely to cause an obstruction to pedestrians or an unreasonable distraction to motorists;*
 - *not obstruct a person's view of traffic, or a motorist's or cyclist's view of pedestrians, other traffic, or the road ahead to intersections, traffic signals, railway crossings and vehicle merging situations;*

ITEM 1.2 - ADOPTION OF MBRC INTERIM LOCAL LAW NO. 3 (ADVERTISING DEVICES) 2018 - REGIONAL (Cont.)

Moreton Bay Regional Council Interim Local Law No. 3 (Advertising Devices) 2018

- *not cause a potential safety hazard due to the sign's illumination, reflective material, animation, or such other thing;*
- *when mounted over a footpath (other than a blind or canopy), provide a minimum clearance of at least 2.4m;*
- *when located where vehicles pass underneath it, provide a minimum clearance of at least 5.7m from ground level;*
- *be designed and constructed to conceal conduits, wiring and switches if it contains electrical components that are not integral to the design of the Sign.*

(b) not have a Significant Impact on visual amenity;

Example-

- *the Licensable Sign should, where applicable:*
 - *be of an appropriate size, nature and scale for the location;*
 - *complement or be harmonious with the buildings and features of the location;*
 - *not cause visual clutter through a discordance of size, shape and colour with surrounding buildings and immediate local features;*
 - *not block or compromise a person's view from their private property; and*
 - *be harmonious with any existing signage, or advertising package, at the location.*

(c) not cause, or potentially cause, Environmental Harm;

Example-

- *the Licensable Sign should, where applicable:*
 - *be constructed from material that that is reusable, repurposable or recyclable whether in whole or in part; and*
 - *not be nailed or otherwise affixed to trees or other vegetation.*

(d) not cause damage to public infrastructure or private property;

Example-

- *the Licensable Sign must, where applicable:*
 - *not be affixed to infrastructure owned by the local government or a utility provider unless their written consent has been obtained;*
 - *not be Installed in such a way that it could cause damage to private property.*

(e) not constitute a Restricted Advertising Device in the proposed area or locality;

(f) be generally consistent with any Specific Requirements for that Licensable Sign and the General Licensable Criteria, where applicable.

Note-

- *under section 9(1) of the authorising local law, the local government may also have regard to other criteria.*

6 Conditions that must be imposed on approvals

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7 Conditions that will ordinarily be imposed on approvals

(1) The local government may impose the following conditions on approvals for this prescribed activity:

- (a) the Specific Conditions for the Licensable Sign set out in Table 3 (if any);
- (b) that the Applicant must only display the signs during the conditioned period;

ITEM 1.2 - ADOPTION OF MBRC INTERIM LOCAL LAW NO. 3 (ADVERTISING DEVICES) 2018 - REGIONAL (Cont.)

Moreton Bay Regional Council Interim Local Law No. 3 (Advertising Devices) 2018

- (c) that the Applicant must Install and keep the Licensable Sign Installed in accordance with plans approved by the local government;
- (d) that the Licensable Sign must be maintained in a safe, clean, tidy and sightly condition;
- (e) that the Applicant must comply with a reasonable direction from an authorised person in respect of the Licensable Sign;

Example-

- *if an authorised person, acting reasonably, considers that a Licensable Sign is in an unsafe condition and requests that the Applicant remove the sign until it is repaired, the Applicant must comply with that direction.*
- (f) that if a registration number is allocated by the local government for a Licensable Sign it must be —
 - (i) securely affixed to the Licensable Sign for as long as it is exhibited;
 - (ii) located at the bottom right hand corner of the face of the Advertising Device;
 - (iii) clearly legible from a public place; and
 - (iv) not less than 50mm in height;
 - (g) that the Applicant must procure and maintain at all times whilst the Licensable Sign is Installed, a public liability insurance policy in respect of the Licensable Sign for an amount not less than \$20,000,000 per occurrence, and the Applicant must provide evidence of such policy upon request by an authorised person; and
 - (h) that if the local government considers it is reasonably necessary, that prior to the Installation of the Advertising Device, the Applicant must provide a certificate of structural adequacy from a qualified engineer in respect of the Advertising Device.

Note-

- *under section 10(1) of the authorising local law, the local government may grant an approval subject to further conditions that it considers appropriate (if those conditions satisfy the criteria set out at section 10(2) of the authorising local law).*

8 Term of approval

- (1) The term of an approval to display an inflatable advertising device is 21 consecutive days within any 90-day period, unless otherwise stated in an approval.
- (2) The term of an approval to display a Licensable Sign, other than an inflatable advertising device, is the period specified in an approval.

Note-

- *in accordance with section 13 of the authorising local law, the term of approval specified above will have effect unless an approval is sooner cancelled or suspended.*

9 Term of renewal of approval

A holder of an approval to display an inflatable advertising device may apply to the local government to extend or renew the approval for any further term that is

ITEM 1.2 - ADOPTION OF MBRC INTERIM LOCAL LAW NO. 3 (ADVERTISING DEVICES) 2018 - REGIONAL (Cont.)
Moreton Bay Regional Council Interim Local Law No. 3 (Advertising Devices) 2018

specified in the approval.

Note-

- *see section 14 of the authorising local law for the renewal terms of other types of Licensable Signs.*

10 Transfer of approval

An approval to display a licensable sign is transferable.

Note-

- *see section 15 of the authorising local law for details concerning the procedure for transferring an approval.*

11 Schedule Dictionary

In this Schedule 9, the following terms have the corresponding meaning:

Advertising Device means a device which is designed to attract public attention and includes a sign but does not include:

- (a) how-to-vote cards;
- (b) car stickers (including car wraps which do not constitute a Self-Assessable Sign - Motor Vehicle Sign);
- (c) clothing;
- (d) lapel buttons or badges;
- (e) stationery;
- (f) newspaper advertisements;
- (g) business or visiting cards; or
- (h) letters or posted leaflets;

Business Centre Environment means the Planning Scheme zones identified as being in the business centre environment in Table 6;

Character/Heritage/Special Precinct Area means the Planning Scheme zones identified as being in the character/heritage/special precinct area in Table 6;

Election Period, for:

- (a) a local government election, means the period:
 - (i) commencing on the day when public notice of the holding of the election is published under the *Local Government Electoral Act 2011 (Qld)*; and
 - (ii) terminating at the end of the associated polling date;
- (b) for a State government election, means the period:
 - (i) commencing on the date that the writ for the election is issued under the *Electoral Act 1992 (Qld)* or the *Constitution of Queensland 2001 (Qld)*; and
 - (ii) terminating at the end of the associated polling date;

ITEM 1.2 - ADOPTION OF MBRC INTERIM LOCAL LAW NO. 3 (ADVERTISING DEVICES) 2018 - REGIONAL (Cont.)

Moreton Bay Regional Council Interim Local Law No. 3 (Advertising Devices) 2018

- (c) for a Federal government election, means the period:
 - (i) commencing on the date that the writ for the election is issued under the *Commonwealth Electoral Act 1918 (Cth)*; and
 - (ii) terminating at the end of the associated polling date; and
- (d) for a referendum, means the period:
 - (i) commencing on the date that the writ for the referendum is issued under the *Referendum (Machinery Provisions) Act 1984 (Cth)* or *Referendums Act 1997 (Qld)*; and
 - (ii) terminating at the end of the last day upon which an elector could enter a polling booth to vote at the referendum.

Example

- *The Election Period for the election of the 56th State Parliament may commence up to 56 days prior to the polling day for that election (see section 84(1)(d) of the Electoral Act (Qld)).*

Environmental Harm means:

- (a) Material Environmental Harm;
- (b) Serious Environmental Harm; or
- (c) an Environmental Nuisance.

Environmental Nuisance has the meaning given to that term in the *Environmental Protection Act 1994 (Qld)*;

Exempt Sign means an Advertising Device that is:

- (a) assessable under the Planning Scheme;
- (b) a Public Facility Directional Advertising Device;
- (c) a Social and Welfare Advertising Device;
- (d) a Statutory Advertising Device; or
- (e) a Street Furniture Advertising Device.

Fly Poster Advertising Device means a printed paper Advertising Device glued or otherwise attached to fixtures in public places;

General Licensable Criteria means the criteria identified in Table 3 of this Schedule 9 as general licensable criteria;

General Self-Assessable Requirements means the requirements identified in Table 2 of this Schedule 9 as general self-assessable requirements;

Industry Environment means the Planning Scheme zones identified as being in the industry environment in Table 6;

Install, an Advertising Device, means to erect or display the Advertising Device in a position which is visible from Public Land;

Note-

ITEM 1.2 - ADOPTION OF MBRC INTERIM LOCAL LAW NO. 3 (ADVERTISING DEVICES) 2018 - REGIONAL (Cont.)

Moreton Bay Regional Council Interim Local Law No. 3 (Advertising Devices) 2018

- *The words “Installed” and “Installation” have a corresponding meaning (see section 32 of the Acts Interpretation Act 1954).*

Licensable Sign means an Advertising Device which is further defined, and identified as being a licensable sign, in either Table 2 or Table 3 of this Schedule 9;

Material Environmental Harm has the meaning given to that term in the *Environmental Protection Act 1994 (Qld)*;

Planning Scheme means the local government’s planning scheme;

Political Information Booth means a person, or gathering of persons, advertising a political candidate, political party or a campaign for a government election or referendum;

Public Facility Directional Advertising Device means an Advertising Device which is displayed to advertise a non-commercial community service (e.g. a rest stop) and which:

- (a) advises persons of services on a road ahead or on a side road;
- (b) is necessary to inform a significant number of persons who may be unfamiliar with the area; and
- (c) does not detract from the amenity of the surrounding area;

Public Land means:

- (a) a Road; or
- (b) land that is reserved and set apart or held in trust by the local government for a public purpose;

Residential Environment means the Planning Scheme zones identified as being in the residential environment in Table 6;

Restricted Advertising Device means a sign designated as being “R” or “Restricted” in Table 2 or Table 3 for an environment or area;

Rural Area Greenspace / Open Space Environment means those Planning Scheme zones identified as being in the rural area greenspace / open space environment in Table 6;

Self-Assessable Sign means an Advertising Device which is further defined, and identified as being a self-assessable sign, in Table 2 of this Schedule 9;

Serious Environmental Harm has the meaning given to that term in the *Environmental Protection Act 1994 (Qld)*;

Significant Impact means an impact which is more than trivial or negligible in nature, extent or context;

Note-

- *Installing an Advertising Device which causes Significant Impacts on the environment*

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may constitute an offence under the Environmental Protection Act 1994 (Qld) - see sections 16, 438.

Social and Welfare Advertising Device means an Advertising Device which is displayed to identify a charitable institution, non-proprietary club or educational establishment which;

- (a) does not have a face area of more than 2.4m²;
- (b) is not placed on the same premises frontage as any other similar Advertising Device for the same institution, club or establishment; and
- (c) does not detract from the amenity of the surrounding area;

Specific Conditions, for a Licensable Sign, means the conditions identified in Table 3 of this Schedule 9 as specific conditions for a Licensable Sign (if any);

Specific Requirements, for:

- (a) a Self-Assessable Sign, means the requirements identified in Table 2 of this Schedule 9 as specific requirements for a Self-Assessable Sign;
- (b) a Licensable Sign, means the requirements identified in Table 3 of this Schedule 9 as specific requirements for a Licensable Sign;

Statutory Advertising Device means an Advertising Device which is displayed to comply with a statutory requirement;

Street Furniture Advertising Device means an Advertising Device placed on street furniture owned or controlled by the local government (e.g. bus shelters) pursuant to a contractual arrangement with the local government;

Third Party Advertising means using an Advertising Device to:

- (a) display the name, logo or symbol of a company, organisation or individual, other than a party or candidate for an election, not owning or substantially occupying the premises or building on which the Advertising Device is exhibited; or
- (b) advertise a product or service which is not available at the premises on which the Advertising Device is exhibited; or
- (c) advertise an activity or event which does not occur on the premises on which the Advertising Device is exhibited.

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Moreton Bay Regional Council Interim Local Law No. 3 (Advertising Devices) 2018

Table 1 - Intentionally Left Blank

Table 2: General Self-Assessable Requirements

- (1) A Self-Assessable Sign must–
 - (a) not impede clear sight lines for:
 - (i) official traffic signs or other road signage;
 - (ii) vehicles or pedestrians;
 - (iii) road junctions;
 - (iv) vehicle access crossovers;
 - (v) pedestrian crossings; or
 - (vi) any other similar thing;
 - (b) be at least 1 metre from a kerb alignment;
 - (c) not obstruct access to property or cause pedestrians to need to move out from any shelter or from a footpath;
 - (d) be designed, constructed and erected to a standard that will withstand expected wind loadings, tension and sheer forces;
 - (e) be structurally sound;
 - (f) be Installed in accordance with any other relevant laws, regulations, codes or standards;
 - (g) be maintained in a good state of repair at all times;
 - (h) be covered by a public liability insurance policy for an amount not less than \$20,000,000 per occurrence (**Public Liability Cover**) procured by the Applicant and maintained at all times whilst the Self-Assessable Sign is Installed with evidence of the Public Liability Cover being provided upon request by an authorised person;
 - (i) not have any moving parts;
 - (j) not be illuminated or reflective;
 - (k) not cause, or potentially cause, Environmental Harm;
 - (l) not block or compromise a person’s view from their private property;
 - (m) where relevant, be placed at, or as near as possible to, the central point of the frontage to the premises to which the sign relates;
 - (n) not be Installed in an area or environment if it is a Restricted Advertising

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Moreton Bay Regional Council Interim Local Law No. 3 (Advertising Devices) 2018

- Device within that area or environment;
- (o) not be attached in any way to trees and be clear of watercourses or any other body of water;
 - (p) not be Installed on public infrastructure unless the person Installing the Advertising Device owns that infrastructure, or, the infrastructure owner's consent to the Installation has been obtained;
 - (q) not be Installed on private property unless the person Installing the Advertising Device owns that property, or, the property owner's consent to the Installation has been obtained;
 - (r) if the Advertising Device is identified as a Class I Sign in Table 2:
 - (i) have maximum dimensions of 500mm (height) 600mm (width) and 0.3m² (area);
 - (ii) be removed from Public Land by sunset on each day;
 - (iii) be placed on Public Land only during daylight hours on the day of the relevant event; and
 - (s) be Installed in compliance with any directions specified by an authorised officer of the local government, acting reasonably, from time to time.

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Moreton Bay Regional Council Interim Local Law No. 3 (Advertising Devices) 2018

Table 2 Continued: Advertising Devices and Specific Requirements

KEY: 'SA' means a Self-Assessable Sign; 'R' means a Restricted Advertising Device; 'L' means a Licensable Sign

Example 1: If an Advertising Device is identified as "SA" in the Business Centre Environment column of this Table, then that Advertising Device is a Self-Assessable Sign in the Business Centre Environment.
 Example 2: If an Advertising Device is identified as "L" in the Character/Heritage/Special Precinct Area column of this Table, then that Advertising Device is a Licensable Sign if it is proposed to be Installed in the Character/Heritage/Special Precinct Area.
 Example 3: If an Advertising Device is identified as "R" in the Residential Environment column of this Table, then that Advertising Device is a Restricted Advertising Device in the Residential Environment.


Advertising Device	Environment or Area					Advertising Device Description and Specific Requirements
	Business Centre Environment	Industry Environment	Residential Environment	Rural area /Greenspace/ Openspace Environment	Character /Heritage/ Special Precinct Area	
CLASS I Signs						
Garage Sale Advertising Device	SA	SA	SA	SA	SA	<p>A Garage Sale Advertising Device means an Advertising Device advertising a garage sale.</p> <p><u>Specific Requirements</u></p> <p>(a) Only 1 sign for a garage sale may be placed on a footway on each day of the display event or garage sale; (b) No Directional/ Leader Advertising Devices (as defined in this Table 2) are permitted for garage sales.</p> <p><i>Note: these Specific Requirements are in addition to the General Self-Assessable Requirements</i></p>
Directional/Leader Advertising Device	SA	SA	SA	SA	SA	<p>A Directional/Leader Advertising Device means an Advertising Device which is displayed for directional purposes and may be used to direct the public to an open house day, estate or auction.</p> <p><u>Specific Requirements</u></p> <p>(a) Directional/Leader Advertising Devices must not be placed on a roundabout, traffic island, median strip, footway or official traffic sign; (b) no more than 4 Directional/Leader Advertising Devices may be placed at the one time in relation to the same event.</p> <p><i>Note: these Specific Requirements are in addition to the General Self-Assessable Requirements</i></p>

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KEY: 'SA' means a Self-Assessable Sign; 'R' means a Restricted Advertising Device; 'L' means a Licensable Sign



Advertising Device	Environment or Area					Advertising Device Description and Specific Requirements
	Business Centre Environment	Industry Environment	Residential Environment	Rural Area /Greenspace/ Openspace Environment	Character /Heritage/ Special Precinct Area	
CLASS II Signs						
Real Estate Advertising Device 	SA	SA	SA	SA	SA	<p>A Real Estate Advertising Device means an Advertising Device which promotes the sale, auction, lease or letting of premises.</p> <p>Specific Requirements</p> <p>(1) A Real Estate Advertising Device:</p> <ul style="list-style-type: none"> (a) must not have a face area in excess of 0.6m²; (b) must not be exhibited more than 14 days after the sale of the premises identified in the Advertising Device; (c) must be located as close as practicable to the street front boundary of the premises; (d) must not interfere with the safe and convenient passage of pedestrians; (e) may be double sided; (f) must not exceed 1 Advertising Device for each agent marketing the premises up to a maximum of 3 Advertising Devices; <p>(2) As an acceptable alternative to conditions (a), (e) and (f), an advertiser may exhibit one (1) Advertising Device having a maximum face area of 2.4m² at the premises.</p> <p style="text-align: center;"><i>Note: these Specific Requirements are in addition to the General Self-Assessable Requirements</i></p>

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KEY: 'SA' means a Self-Assessable Sign; 'R' means a Restricted Advertising Device; 'L' means a Licensable Sign


Advertising Device	Environment or Area					Advertising Device Description and Specific Requirements
	Business Centre Environment	Industry Environment	Residential Environment	Rural Area /Greenspace/ Openspace Environment	Character /Heritage/ Special Precinct Area	
Mobile Advertising Device 	SA	SA	SA	SA	SA	<p>A Mobile Advertising Device means a temporary, portable, free standing and self-supporting Advertising Device which may be mounted on wheels to facilitate movement. A mobile Advertising Device may include an A-frame sign and a sandwich board.</p> <p>Specific Requirements</p> <p>A Mobile Advertising Device:</p> <ul style="list-style-type: none"> (a) must not exceed a maximum area of 2.4 m² (i.e. 1.2m² on each side); (b) must not exceed dimensions of vertical height 1200mm, 1000mm maximum width and 900mm maximum depth; (c) must only be placed on the premises of the shop or business it is advertising, but may encroach onto adjoining Public Land if: <ul style="list-style-type: none"> a. no part of the Advertising Device protrudes more than 1m from the street front boundary of the premises; b. the Advertising Device does not encroach onto the road frontage of an adjoining premises; and c. the Advertising Device is placed at or near a point centrally located adjacent to the premises' frontage to the road. <p style="text-align: center;"><i>Note: these Specific Requirements are in addition to the General Self-Assessable Requirements</i></p>
Display Home Advertising Device	SA	SA	SA	SA	L	<p>A Display Home Advertising Device means an Advertising Device for a display home in conjunction with the sale, auction or leasing of a group of dwellings or building sites.</p> <p>Specific Requirements</p> <p>A Display Home Advertising Device:</p> <ul style="list-style-type: none"> (a) must not be erected for more than 12 months; (b) must have a maximum aggregate face area of 4m², and a maximum height of 1.8m above the natural ground surface. (c) may only be located on the premises of the display home advertised if: <ul style="list-style-type: none"> a. the Advertising Device is not fixed to trees or shrubs; and b. the Advertising Device does not incorporate any moving, rotating or animated parts; and c. it presents the view of a painted surface. <p style="text-align: center;"><i>Note: these Specific Requirements are in addition to the General Self-Assessable Requirements</i></p>
Estate Sales Advertising Device 	SA	SA	SA	SA	L	<p>An Estate Sales Advertising Device means an Advertising Device exhibited for the primary purpose of the promotion or sale of land within an industrial or residential estate or development.</p> <p>Specific Requirements</p> <p>An Estate Sales Advertising Device:</p> <ul style="list-style-type: none"> (a) is limited to 1 sign per premises; (b) must have a maximum face area of 6m² (but the reverse side of a double-sided Advertising Device is not counted); (c) must be in close proximity to the estate or development advertised in the Advertising Device; (d) must not face adjoining premises unless it is more than 3m from each boundary of the premises; and (e) may only be exhibited on premises for, whichever is the lesser of: <ul style="list-style-type: none"> a. 12 months; or b. 14 days after the last lot comprising part of the estate or development is sold; and (f) must have content which is limited to: the name of the estate, the marketing agent's name and contact details, descriptions or illustrations of physical features of the estate, price range for land or house and land packages on the estate and sales office business hours. <p style="text-align: center;"><i>Note: these Specific Requirements are in addition to the General Self-Assessable Requirements</i></p>

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Moreton Bay Regional Council Interim Local Law No. 3 (Advertising Devices) 2018

KEY: 'SA' means a Self-Assessable Sign; 'R' means a Restricted Advertising Device; 'L' means a Licensable Sign


Advertising Device	Environment or Area					Advertising Device Description and Specific Requirements
	Business Centre Environment	Industry Environment	Residential Environment	Rural Area /Greenspace/ Openspace Environment	Character /Heritage/ Special Precinct Area	
<p>Community Organisational Advertising Device</p> 	SA	SA	SA	SA	SA	<p>A Community Organisational Advertising Device means an Advertising Device which advertises a non-profit short term event such as a fete, fair, festival or similar event organised by a charitable, religious, educational, childcare or sporting organisation or a community service organisation.</p> <p><u>Specific Requirements</u></p> <p>A Community Organisational Advertising Device:</p> <ul style="list-style-type: none"> (a) must not be displayed for more than 21 days prior to the event advertised on the Advertising Device and must be removed within 1 day after the events completion; (b) must be located on the site of a fete or the property of the organisation holding the fete and may comprise either— <ul style="list-style-type: none"> a. a banner type sign of non-rigid material, suspended at both ends and having a maximum area of 8 m²; or b. a rigid type sign which would otherwise be a Wall Sign, Boundary Fence Sign or Ground Sign having a maximum area of 2.4 m²; or c. a vertical banner having a maximum area of 2.4 m²; (c) is limited to 1 Community Organisational Advertising Device at each frontage of a site. <p><i>Note: these Specific Requirements are in addition to the General Self-Assessable Requirements</i></p>
<p>Directional Community Organisational Advertising Device</p>	SA	SA	R	SA	SA	<p>A Directional Community Organisational Advertising Device means an Advertising Device with the primary purpose of directing the public to a fete, fair, festival or other similar event advertised on the Advertising Device.</p> <p><u>Specific Requirement</u></p> <p>A Directional Community Organisational Advertising Device must:</p> <ul style="list-style-type: none"> (a) not be installed in the Residential Environment; (b) have a maximum face area of 0.6m² if erected on a Road; and (c) be limited to 10 Advertising Devices on a Road; and (d) may be exhibited on the day of the event, and for a period not more than 3 days prior to the event, in the vicinity of the fete, fair or festival event; and (e) be erected on private land for not more than 14 days prior to the event and must be removed within 1 day of the event. <p><i>Note: these Specific Requirements are in addition to the General Self-Assessable Requirements</i></p>

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Advertising Device	Environment or Area					Advertising Device Description and Specific Requirements
	Business Centre Environment	Industry Environment	Residential Environment	Rural Area /Greenspace/ Openspace Environment	Character /Heritage/ Special Precinct Area	
Election Advertising Device 	SA	SA	SA	SA	SA	<p>An Election Advertising Device means an Advertising Device that is able, or is intended, to:</p> <p>(a) influence a person about voting at any government election, or referendum; or (b) affect the result of any government election, or referendum.</p> <p>Specific Requirements</p> <p>(1) an Election Advertising Device must:</p> <p>(a) if erected on privately owned land:</p> <p style="margin-left: 40px;">(i) be erected no sooner than 3 months before the polling day for the relevant election; and (ii) be removed within 7 days after the termination of the Election Period;</p> <p>(b) be portable; (c) not be joined together or placed side by side to give the impression that they are of a larger face area than that permitted; and (d) not be installed on Public Land unless it is installed at a Political Information Booth in accordance with subsection (2) of these Specific Requirements.</p> <p>(2) Election Advertising Devices installed at a Political Information Booth must:</p> <p>(a) not exceed a total of 6 Election Advertising Devices within a 20m radius of the Political Information Booth; (b) if installed on a Road, be placed on one side of the Road only; (c) be attended by a person over the age of 17 years at all times; (d) have a maximum face area of 1.5m² (a double-sided sign with a face area of 1.5m² on either side will constitute 1 sign only); and (e) comply with subsection (1)(c), 1(d) and (3) of these Specific Requirements.</p> <p>(3) A Political Information Booth must not be installed within a 500-metre radius of another Political Information Booth.</p> <p><i>Note:</i></p> <ul style="list-style-type: none"> • there is no time limit on when a Political Information Booth can be installed; and • there is no limit on the number of Political Information Booths that can be installed. <p>(4) No more than 2 Election Advertising Devices with a total face area of 1.5m² may be displayed on privately owned land per frontage of premises.</p> <p><i>Note:</i></p> <ul style="list-style-type: none"> • there is no limit on the number of privately owned properties upon which Advertising Devices can be installed; and • these Specific Requirements are in addition to the General Self-Assessable Requirements. <p style="text-align: center;"><i>Intentionally Left Blank</i></p>

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Advertising Device	Environment or Area					Advertising Device Description and Specific Requirements
	Business Centre Environment	Industry Environment	Residential Environment	Rural Area /Greenspace/ Openspace Environment	Character /Heritage/ Special Precinct Area	
Motor vehicle Advertising Device 	SA	SA	R	SA	R	<p>A Motor Vehicle Advertising Device means an Advertising Device displayed on a motor vehicle where the display of the Advertising Device is the primary use of the vehicle.</p> <p>Specific Requirements</p> <p>A Motor Vehicle Advertising Device must:</p> <ul style="list-style-type: none"> (a) not be Installed in the Residential Environment or the Cultural/Heritage/Special Precinct Area; (b) not have a face area in excess of 2.4m²; (c) not extend beyond the dimensions of the vehicle, caravan or trailer (whichever is applicable); and (d) not be static; and (e) not be constructed from illuminated or reflective material. <p style="text-align: right;"><i>Note: these Specific Requirements are in addition to the General Self-Assessable Requirements</i></p>
CLASS III Signs						
Sporting Field Advertising Device 	SA	SA	SA	SA	SA	<p>A Sporting Field Advertising Device means an Advertising Device painted or otherwise fixed to a fence marking the boundaries of a sporting field.</p> <p>Specific Requirements</p> <p>A Sporting Field Advertising Device:</p> <ul style="list-style-type: none"> (a) must be exhibited on a fence surrounding the sporting field or, if no fence surrounds the sporting field; (b) must be contained within the boundaries of the fence on which it is to be exhibited; (c) must be maintained free of graffiti; and (d) must be erected or displayed immediately adjacent to the area of the advertiser's sporting activity. <p style="text-align: right;"><i>Note: these Specific Requirements are in addition to the General Self-Assessable Requirements</i></p>
Lantern Advertising Device	SA	SA	SA	SA	SA	<p>A Lantern Advertising Device means a fabricated or moulded light shade exhibited on premises which advertises the trade, or business but does not include a projecting Advertising Device.</p> <p>Specific Requirements</p> <p>A lantern Advertising Device:</p> <ul style="list-style-type: none"> (a) must not have a face area in excess of 0.25m²; (b) must be fixed to a wall or pole; (c) must not have a height in excess of 5m above ground level directly adjacent to the Advertising Device; (d) must only provide directional messages for vehicular traffic or pedestrians entering the premises on which the Advertising Device is exhibited; and (e) is limited to one per premises. <p style="text-align: right;"><i>Note: these Specific Requirements are in addition to the General Self-Assessable Requirements</i></p>

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Advertising Device	Environment or Area					Advertising Device Description and Specific Requirements
	Business Centre Environment	Industry Environment	Residential Environment	Rural Area /Greenspace/ Openspace Environment	Character /Heritage/ Special Precinct Area	
<p>Window Advertising Device</p> 	SA	SA	SA	SA	SA	<p>A Window Advertising Device means an Advertising Device painted or otherwise fixed to the glazed area of a window; and includes devices that are suspended from a window frame; but does not include products displayed in a window.</p> <p><u>Specific Requirements</u></p> <p>A Window Advertising Device must be situated inside the window on which it is exhibited except in the case of a window Advertising Device painted directly on the outside face of the window.</p> <p style="text-align: center;"><i>Note: these Specific Requirements are in addition to the General Self-Assessable Requirements</i></p>
<p>Awning Face Advertising Device</p> 	SA	SA	SA	SA	L	<p>An Awning Face Advertising Device means an Advertising Device painted or otherwise affixed flat to the face of an awning which is already constructed on a building.</p> <p><u>Specific Requirements</u></p> <p>An Awning Face Advertising Device:</p> <ul style="list-style-type: none"> (a) must be contained within the outline of the fascia of the building; (b) must not exceed 50mm in thickness; and (c) must be no closer than 300mm to the vertical projection of the face of any vehicle barrier kerb below. <p style="text-align: center;"><i>Note: these Specific Requirements are in addition to the General Self-Assessable Requirements</i></p>
<p>Under-Awning Advertising Device</p> 	SA	SA	SA	SA	L	<p>An Under-Awning Advertising Device means an Advertising Device centrally located relative to the shop front and fixed underneath or suspended from an awning or verandah.</p> <p><u>Specific Requirements</u></p> <p>An Under-Awning Advertising Device:</p> <ul style="list-style-type: none"> (a) must have a minimum clearance of 2.4m between its lowest point and ground level; (b) must not have a horizontal dimension greater than the width of the awning, a vertical dimension of more than 0.5m or a thickness of more than 0.3m; (c) must be oriented at right angles to the shop front on which it is exhibited; (d) must not be exhibited less than 3m from another under awning Advertising Device; (e) must not be exhibited less than 1.5m from each side boundary of the premises on which it is exhibited; (f) must not project beyond the awning or verandah to which it is fixed; and (g) is limited to 1 per shop front. <p style="text-align: center;"><i>Note: these Specific Requirements are in addition to the General Self-Assessable Requirements</i></p>
<p>Hamper Advertising Device</p> 	SA	SA	SA	SA	SA	<p>A Hamper Advertising Device means an Advertising Device which is located above the door head or its equivalent height and below the awning level or verandah of a building; and is painted or otherwise fixed to the building.</p> <p><u>Specific Requirements</u></p> <p>A Hamper Advertising Device:</p> <ul style="list-style-type: none"> (a) must not exceed 100mm in thickness; (b) must be compatible with the design of the building on which it is exhibited; and (c) must be contained within the actual or created outline of the building on which it is to be exhibited. <p style="text-align: center;"><i>Note: these Specific Requirements are in addition to the General Self-Assessable Requirements</i></p>

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KEY: 'SA' means a Self-Assessable Sign; 'R' means a Restricted Advertising Device; 'L' means a Licensable Sign

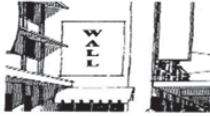


Advertising Device	Environment or Area					Advertising Device Description and Specific Requirements
	Business Centre Environment	Industry Environment	Residential Environment	Rural Area /Greenspace/ Openspace Environment	Character /Heritage/ Special Precinct Area	
Stall Board Advertising Device 	SA	SA	SA	SA	SA	<p>A Stall Board Advertising Device means an Advertising Device painted or fixed flat to the wall of a trade or business building below the ground floor window of the building.</p> <p>Specific Requirements</p> <p>The maximum thickness of a Stall Board Advertising Device must not exceed 100mm.</p> <p style="text-align: center;"><i>Note: these Specific Requirements are in addition to the General Self-Assessable Requirements</i></p>
Blind/ Canopy Advertising Device 	SA	SA	SA	SA	L	<p>A Blind/Canopy Advertising Device means an Advertising Device painted or fixed to solid or flexible material suspended from an awning, verandah or wall.</p> <p>Specific Requirements</p> <p>A Blind/Canopy Advertising Device:</p> <ul style="list-style-type: none"> (a) must not be exhibited unless there is a minimum clearance of 2.4m between the Advertising Device and ground level directly adjacent to the Advertising Device; (b) must be wholly contained within the premises advertised in the Advertising Device; and (c) may only be illuminated by spill or reflected light. <p style="text-align: center;"><i>Note: these Specific Requirements are in addition to the General Self-Assessable Requirements</i></p>
Created Awning Line Advertising Device 	SA	SA	SA	SA	L	<p>A Created Awning Line Advertising Device means an Advertising Device positioned on the face of, or aligned with, the natural horizontal line of an awning of a building used for trade or business purposes, which creates another awning line with its shape.</p> <p>Specific Requirements</p> <p>A Created Awning Line Advertising Device:</p> <ul style="list-style-type: none"> (a) must maintain a clearance from any road related area directly adjacent to the Advertising Device of not less than 2.4m; and (b) must not extend more than 600mm above the original awning and not protrude more than 100mm from the awning. <p style="text-align: center;"><i>Note: these Specific Requirements are in addition to the General Self-Assessable Requirements</i></p>
Above Awning Advertising Device 	SA	SA	SA	SA	L	<p>An Above Awning Advertising Device means an Advertising Device located on top of an awning or verandah of a non-residential building.</p> <p>Specific Requirements</p> <p>An Above Awning Advertising Device:</p> <ul style="list-style-type: none"> (a) must not project: <ul style="list-style-type: none"> a. above the roof, parapet or ridge line of the building; b. beyond the edge of the awning or verandah; (b) must not have a face area in excess of 2.4m²; (c) must not have a height in excess of 1.5m above the awning on which the Advertising Device is exhibited; (d) must not be exhibited less than 3m from another above awning Advertising Device; and (e) must not be exhibited less than 1.5m from each side boundary of the premises on which it is exhibited. <p style="text-align: center;"><i>Note: these Specific Requirements are in addition to the General Self-Assessable Requirements</i></p>

Moreton Bay Regional Council

ITEM 1.2 - ADOPTION OF MBRC INTERIM LOCAL LAW NO. 3 (ADVERTISING DEVICES) 2018 - REGIONAL (Cont.)

Moreton Bay Regional Council Interim Local Law No. 3 (Advertising Devices) 2018

KEY: 'SA' means a Self-Assessable Sign; 'R' means a Restricted Advertising Device; 'L' means a Licensable Sign

Advertising Device	Environment or Area					Advertising Device Description and Specific Requirements
	Business Centre Environment	Industry Environment	Residential Environment	Rural Area /Greenspace/ Openspace Environment	Character /Heritage/ Special Precinct Area	
Wall Advertising Device 	SA	SA	SA	SA	SA	<p>A Wall Advertising Device means an Advertising Device painted or fixed flat to the wall of a building.</p> <p>Specific Requirements</p> <p>A Wall Advertising Device:</p> <ul style="list-style-type: none"> (a) must not project in excess of 100mm from the wall to which it is affixed; (b) must not project beyond any edge of the wall; (c) must integrate and be compatible with the architecture of the building on which it is painted or affixed; and (d) must only be exhibited on the wall of a building. <p style="text-align: center;"><i>Note: these Specific Requirements are in addition to the General Self-Assessable Requirements</i></p>
Ground Advertising Device 	SA	SA	L	SA	L	<p>A Ground Advertising Device means an Advertising Device that sits on a low level wall or completely clad vertically oriented free-standing structure which sits on or rises out of the ground.</p> <p>Specific Requirements</p> <p>A Ground Advertising Device:</p> <ul style="list-style-type: none"> (a) must have a maximum face area of 10m²; (b) must not be over 1.8m from the ground level directly adjacent the Advertising Device; (c) must be erected within a landscaped environment; (d) must not face adjoining premises unless it is more than 3m from each boundary of the premises; and (e) must have a separation distance between other boundary fence signs of 60m. <p style="text-align: center;"><i>Note: these Specific Requirements are in addition to the General Self-Assessable Requirements</i></p>
Business nameplate Advertising Device 	SA	SA	SA	SA	SA	<p>A Business Nameplate Advertising Device means an Advertising Device that displays the name or occupation of the business of the occupier of premises painted or otherwise fixed to a building, wall or fence at the premises or is free-standing on the premises.</p> <p>Specific Requirements</p> <p>A Business Nameplate Advertising Device:</p> <ul style="list-style-type: none"> (a) must not have a face area in excess of 0.3m²; (b) must comprise of content which is limited to the nature, name and contact details of the business; and (c) must not incorporate any moving, rotated or animated parts. <p style="text-align: center;"><i>Note: these Specific Requirements are in addition to the General Self-Assessable Requirements</i></p>

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ITEM 1.2 - ADOPTION OF MBRC INTERIM LOCAL LAW NO. 3 (ADVERTISING DEVICES) 2018 - REGIONAL (Cont.)

Moreton Bay Regional Council Interim Local Law No. 3 (Advertising Devices) 2018


KEY: 'SA' means a Self-Assessable Sign; 'R' means a Restricted Advertising Device; 'L' means a Licensable Sign						
Advertising Device	Environment or Area					Advertising Device Description and Specific Requirements
	Business Centre Environment	Industry Environment	Residential Environment	Rural Area /Greenspace/ Openspace Environment	Character /Heritage/ Special Precinct Area	
Trade Advertising Device	SA	SA	SA	SA	SA	<p>A Trade Advertising Device means an Advertising Device which displays a trade person's activity on premises, for example, the activities of a painter or a tiler.</p> <p><u>Specific Requirements</u></p> <p>A Trade Advertising Device:</p> <ul style="list-style-type: none"> (a) must be limited to a maximum of 1 trade Advertising Device on any premises whilst the activity is undertaken; and (b) must not have a face area in excess of 0.6m²; <p style="text-align: right;"><i>Note: these Specific Requirements are in addition to the General Self-Assessable Requirements</i></p>
Blackboard sign 	SA	SA	SA	SA	SA	<p>A Blackboard sign means a blackboard, whiteboard or the like with a hand written, temporary, message displayed at a premises.</p> <p><u>Specific Requirements</u></p> <p><i>Intentionally left blank</i></p> <p style="text-align: right;"><i>Note: these Specific Requirements are in addition to the General Self-Assessable Requirements</i></p>

Table 3: General Licensable Criteria

In addition to the criteria set out at section 5 of Schedule 9 and section 9(1) of the authorising local law, the local government must be satisfied that:

- (1) a Licensable Sign will not contain Third Party Advertising unless the Licensable Sign is identified in this Table 3 as:
 - (a) a Billboard or Hoarding Advertising Device;
 - (b) a Bus Shelter Advertising Device;
 - (c) a Fly Poster Panel;
 - (d) a Miscellaneous Advertising Device;
 - (e) a Sporting Field Fence Advertising Device;
 - (f) a Sporting Complex Advertising Device; or
 - (g) an Identilite Advertising Device.

- (2) if a Licensable Sign will be visible from a Road that is a State-controlled road, the Licensable Sign is suitable to the Queensland Department of Transport and Main Roads (**DTMR**);

Note:

- *the local government may refer a proposed Advertising Device which will be visible from a State-Controlled Road to DTMR. DTMR may require that the Advertising Device be modified in some way, in which case, the local government may require an Applicant to make those modifications (see generally: section 139 of the Transport Operations (Road Use Management—Accreditation and Other Provisions) Regulation 2015 (Qld)).*


ITEM 1.2 - ADOPTION OF MBRC INTERIM LOCAL LAW NO. 3 (ADVERTISING DEVICES) 2018 - REGIONAL (Cont.)

Moreton Bay Regional Council Interim Local Law No. 3 (Advertising Devices) 2018

Table 3 Continued: Advertising Devices and Specific Requirements & Conditions

KEY: 'R' means a Restricted Advertising Device; 'L' means a Licensable Sign

Example 1: If an Advertising Device is identified as "L" in the Business Centre Environment column of this Table, then that Advertising Device is a Licensable Sign if it is proposed to be Installed in the Business Centre Environment.
Example 2: If an Advertising Device is identified as "R" in the Residential Environment column of this Table, then that Advertising Device is a Restricted Advertising Device in the Residential Environment.

Advertising Device	Environment or Area					Advertising Device Description and Specific Requirements & Conditions
	Business Centre Environment	Industry Environment	Residential environment	Rural area Greenspace / Open Space Environment	Character/heritage/special precinct area	
CLASS 1 Signs						
Commercial Flag Advertising Device 	L	L	R	R	R	<p>A Commercial Flag Advertising Device means a cloth or similar non-rigid fabric Advertising Device flown from a masthead fixed either to or in front of a building, or suspended from any structure, for advertising or identifying commercial premises.</p> <p>Specific Requirements</p> <p>A Commercial Flag Advertising Device must:</p> <ul style="list-style-type: none"> (a) have a face area no larger than 8m²; (b) be fixed to a masthead or structure and structurally secure to accommodate wind loadings in the area; (c) have a maximum height of 6.5m above ground level; (d) not to be illuminated by any means other than spill or reflected light; (e) have a minimum side boundary clearance of 3m; (f) be 1 of a maximum number of 2 commercial flags Installed at premises.

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ITEM 1.2 - ADOPTION OF MBRC INTERIM LOCAL LAW NO. 3 (ADVERTISING DEVICES) 2018 - REGIONAL (Cont.)

Moreton Bay Regional Council Interim Local Law No. 3 (Advertising Devices) 2018




TABLE 3

KEY: 'R' means a Restricted Advertising Device; 'L' means a Licensable Sign

Advertising Device	Environment or Area					Advertising Device Description and Specific Requirements & Conditions
	Business Centre Environment	Industry Environment	Residential environment	Rural area Greenspace/ Open Space Environment	Character/ heritage/special precinct area	
Fly Poster Panel 	L	L	L	L	L	<p>Fly Poster Panel means a panel or surface specifically provided for the display of Fly Poster Advertising Devices.</p> <p>Specific Requirements A Fly Poster Panel must:</p> <ul style="list-style-type: none"> (a) not exceed 30 m²; and (b) be fixed to a wall; and (c) not protrude more than 300 mm from the wall.
Banner Advertising Device 	L	L	R	L	L	<p>A Banner Advertising Device means an Advertising Device suspended from a structure or pole with or without supporting framework displaying an Advertising Device applied or painted to fabric or similar material.</p> <p>Specific Requirements A Banner Advertising Device must:</p> <ul style="list-style-type: none"> (a) only be exhibited for a maximum of 21 consecutive days within any 90-day period prior to the function or occasion advertised on the Advertising Device (unless otherwise approved by the local government); (b) be fixed to a structure that will accommodate wind loadings for the area; (c) not be erected above the gutter line or on the roof of a building; (d) be illuminated only by spill or reflected light; (e) have a maximum face area of 2.4m² and maximum width of 750mm; (f) have a maximum overall height above finished ground level of the lesser of 5m or the height of the adjacent section of the building it is attached to; (g) have a minimum clearance of 2.4m between finished ground level and the bottom of the sign; (h) have a minimum clearance of 3m to the side or rear boundary of the site; and (i) have a minimum clearance of 6m to any other banner.
Vertical Banner Advertising Device 	L	L	L	L	L	<p>A Vertical Banner Advertising Device means an Advertising Device comprising non-rigid material which is usually supported at 2 or more locations from brackets extending from either a pole or a building.</p> <p>Specific Requirements A Vertical Banner Advertising Device must:</p> <ul style="list-style-type: none"> (a) not be illuminated; (b) not have a face area in excess of 2.4m²; (c) not have a width in excess of 750mm; (d) not have a height in excess of 5m above ground level directly adjacent to the Advertising Device; (e) be erected within the street front boundary of the premises on which it is exhibited unless the Advertising Device is exhibited above a fixed awning; (f) not be exhibited less than 6m from another vertical banner Advertising Device; and (g) not be exhibited less than 3m from any boundary of the premises on which it is exhibited.

ITEM 1.2 - ADOPTION OF MBRC INTERIM LOCAL LAW NO. 3 (ADVERTISING DEVICES) 2018 - REGIONAL (Cont.)

Moreton Bay Regional Council Interim Local Law No. 3 (Advertising Devices) 2018




TABLE 3						
KEY: 'R' means a Restricted Advertising Device; 'L' means a Licensable Sign						
Advertising Device	Environment or Area					Advertising Device Description and Specific Requirements & Conditions
	Business Centre Environment	Industry Environment	Residential environment	Rural area Greenspace / Open Space Environment	Character/ heritage/special precinct area	
Bunting Advertising Device 	L	L	R	L	L	<p>A Bunting Advertising Device means an Advertising Device affixed to a structure which is comprised of decorative flags, pennants, streamers or such other things.</p> <p>Specific Requirements A Bunting Advertising Device must:</p> <ul style="list-style-type: none"> (a) not be fixed to a tree, lighting standard or power pole on land under the control of the local government; (b) not be placed on premises beyond the street front boundary of the premises; (c) not be placed more than 6m above ground level; and (d) only be displayed for a maximum of 21 consecutive days in any 3-month period.
Inflatable Advertising Device 	L	L	R	L	R	<p>An Inflatable Advertising Device means an Advertising Device displayed in conjunction with a special event such as a fete, fair, circus sales promotion or the like that may include lighter than air devices and cold air inflatables.</p> <p>Specific Requirements An Inflatable Advertising Device must:</p> <ul style="list-style-type: none"> (a) not be exhibited for more than 21 days in any 90-day period; (b) be fully tethered when deployed at a site approved by local government; (c) meet standards satisfactory to the local government as to physical condition, aesthetic appearance, colour, shape and means of fixing detachable signage securely to that inflatable device; (d) have electrical safety certification for any lighting, cold air blower, and any other electrical equipment associated with the Advertising Device; (e) be capable of rapid deflation and rapid storage in balloon/blimp trailer; (f) have a method of securing the Advertising Device which is certified to a standard by an accredited engineer prior to the exhibition of the Advertising Device; (g) only be flown during daylight hours if it is a lighter than air device; (h) only be inflated with cold air or a non-flammable, non-toxic gas; (i) be deployed only by an appropriately qualified operator; (j) be tethered to rise more than 45 meters above ground level; and (k) have at least 2 safety tested tether lines connected to it (if it is a lighter than air device).
Construction Site Fence Advertising Device 	L	L	L	L	L	<p>A Construction Site Fence Advertising Device means an Advertising Device fixed or painted to a temporary safety fence erected around a construction site or building under construction.</p> <p>Specific Requirements A Construction Site Fence Advertising Device must:</p> <ul style="list-style-type: none"> (a) have a maximum face area of 1.2m² unless the fence is constructed to meet wind loading standards; or (b) not have a face area in excess of 1m² for each metre of the length of the fence.

ITEM 1.2 - ADOPTION OF MBRC INTERIM LOCAL LAW NO. 3 (ADVERTISING DEVICES) 2018 - REGIONAL (Cont.)

Moreton Bay Regional Council Interim Local Law No. 3 (Advertising Devices) 2018




TABLE 3

KEY: 'R' means a Restricted Advertising Device; 'L' means a Licensable Sign

Advertising Device	Environment or Area					Advertising Device Description and Specific Requirements & Conditions
	Business Centre Environment	Industry Environment	Residential environment	Rural area Greenspace/ Open Space Environment	Character/ heritage/special precinct area	
Construction Site Advertising Device 	L	L	L	L	L	<p>A Construction Site Advertising Device means an Advertising Device that is affixed to a structure or building under construction or to on-site construction equipment such as a crane.</p> <p>Specific Requirements A Construction Site Advertising Device must:</p> <ul style="list-style-type: none"> (a) have a maximum area of 20m² per street frontage; and (b) only display the name or logo of the developer, or owner of the construction project or company.
Boundary Fence Advertising Device 	L	L	L	L	L	<p>A Boundary Fence Advertising Device means an Advertising Device painted or fixed to a fence and designed to permanently delineate or identify a boundary alignment or enclosure.</p> <p>Specific Requirements A Boundary Fence Advertising Device must:</p> <ul style="list-style-type: none"> (a) have a maximum face area of 2.4m²; (b) be wholly contained within the fence outline with a maximum height above ground level of 1.8m; (c) be located on the front property boundary of the premises if an Advertising Device is on premises adjacent to a residential building; and (d) have a minimum separation distance of 3m to the side or rear boundary of the premises.
CLASS II Signs						
High-Rise Building Advertising Device 	L	L	L	L	L	<p>A High-Rise Building Advertising Device means an Advertising Device painted or fixed upon a high-rise building; and projects less than 50mm from the building face; and is displayed not less than 20m above ground level.</p> <p>Specific Requirements A High-Rise Building Advertising Device must:</p> <ul style="list-style-type: none"> (a) be contained within the actual or created outline of the building on which it is to be exhibited; or (b) if the Advertising Device on a building creates a new outline, be designed to appear as if it were part of the original building or otherwise match or complement the architecture of the original building; and (c) have content limited to the building's name, one building occupant's name or the owner of the building's naming rights.

ITEM 1.2 - ADOPTION OF MBRC INTERIM LOCAL LAW NO. 3 (ADVERTISING DEVICES) 2018 - REGIONAL (Cont.)


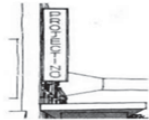

Moreton Bay Regional Council Interim Local Law No. 3 (Advertising Devices) 2018

TABLE 3						
KEY: 'R' means a Restricted Advertising Device; 'L' means a Licensable Sign						
Advertising Device	Environment or Area					Advertising Device Description and Specific Requirements & Conditions
	Business Centre Environment	Industry Environment	Residential environment	Rural area Greenspace / Open Space Environment	Character/ heritage/special precinct area	
Sign Written Non-Building Structure Advertising Device 	L	L	L	L	L	<p>A Sign Written Non-Building Structure Advertising Device means an Advertising Device painted or fixed to any structure which is not a building which may include a batching plant, conveyor housing, unroofed storage building or liquid or gas tank.</p> <p>Specific Requirements A Sign Written Non-Building Structure Advertising Device must:</p> <ul style="list-style-type: none"> (a) be contained within the height and width of the structure on which it is exhibited; and (b) not project more than 50mm from the face of the structure.
Sign Written Roof Advertising Device 	L	L	R	R	R	<p>A Sign Written Roof Advertising Device means an Advertising Device painted or fixed to the roof of a building and directed at, or visible from, a road.</p> <p>Specific Requirements A Sign Written Roof Advertising Device must:</p> <ul style="list-style-type: none"> (a) be contained within the existing or created outline of the building on which it is exhibited; (b) be of a size and scale which is consistent with the scale and character of the building on which it is exhibited; (c) not extend horizontally beyond the edge of the building roof; and (d) be compatible with other Sign Written Roof Advertising Devices (if any) exhibited on the building.
Roof/Sky Advertising Device 	L	L	R	R	R	<p>A Roof/Sky Advertising Device means an Advertising Device fitted to the roof of a building.</p> <p>Specific Requirements A Roof/Sky Advertising Device must:</p> <ul style="list-style-type: none"> (a) be contained within the existing or created outline of the building on which it is exhibited; or (b) if the Advertising Device creates a new outline for the building, be designed to appear as if it were part of the original building, or in some other way match or complement the architecture of the building; and (c) not extend horizontally beyond the edge of the roof of the building on which it is exhibited; and (d) If there is more than 1 Advertising Device on a building, match, align or otherwise be compatible with the other; and the source of illumination of the Advertising Device must be internal and not cause excessive light spill.

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ITEM 1.2 - ADOPTION OF MBRC INTERIM LOCAL LAW NO. 3 (ADVERTISING DEVICES) 2018 - REGIONAL (Cont.)

Moreton Bay Regional Council Interim Local Law No. 3 (Advertising Devices) 2018

TABLE 3						
KEY: 'R' means a Restricted Advertising Device; 'L' means a Licensable Sign						
Advertising Device	Environment or Area					Advertising Device Description and Specific Requirements & Conditions
	Business Centre Environment	Industry Environment	Residential environment	Rural area Greenspace / Open Space Environment	Character/ heritage/special precinct area	
Pole Advertising Device 	L	L	R	L	R	<p>A Pole Advertising Device means a free-standing Advertising Device on 1 or more vertical supports which is not portable and which may consist of separate, removable and replaceable slats, panels or components.</p> <p>Specific Requirements A Pole Advertising Device must:</p> <ul style="list-style-type: none"> (a) have a maximum face area of 2.4m² on any side; (b) not have a height in excess of 5m above ground level directly adjacent to the Advertising Device; (c) not face adjoining premises unless it is more than 3m from each boundary of the premises; and (d) if the Advertising Device is exhibited on land in the Rural Area Greenspace / Open Space Environment: <ul style="list-style-type: none"> a. be located on land with a minimum street front boundary of 300m; b. be located at least 100m from any side boundary of the land; and c. not be located within 300m of any other Advertising Device.
Projecting Advertising Device 	L	L	R	L	R	<p>A Projecting Advertising Device means a double-faced Advertising Device projecting at right angles to a wall or exhibited on the wall of a building</p> <p>Specific Requirements A Projecting Advertising Device must:</p> <ul style="list-style-type: none"> (a) project at right angles to the building no more than 750mm from the wall on which it is exhibited; (b) have a maximum aggregate face area of 10m²; (c) only be placed on premises to promote or advertise an activity undertaken on the premises; (d) be installed without "guide wires" or exposed supporting framework and be positioned and designed in a manner which is compatible with the architecture of the building to which it is attached; (e) be situated a minimum of 2.4m from any road related area directly adjacent to the Advertising Device; and (f) be designed to have a minimum clearance of 2.4m between the bottom of the sign and finished ground level.
Sporting Complex Advertising Device 	L	L	L	L	L	<p>A Sporting Complex Advertising Device means an Advertising Device that identifies a sporting complex, club or building.</p> <p>Specific Requirements A Sporting Complex Advertising Device must:</p> <ul style="list-style-type: none"> (a) not have a face area in excess of 12m²; and (b) only exhibit third party advertising on 10% of the face area (if applicable).


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ITEM 1.2 - ADOPTION OF MBRC INTERIM LOCAL LAW NO. 3 (ADVERTISING DEVICES) 2018 - REGIONAL (Cont.)

Moreton Bay Regional Council Interim Local Law No. 3 (Advertising Devices) 2018

TABLE 3

KEY: 'R' means a Restricted Advertising Device; 'L' means a Licensable Sign

Advertising Device	Environment or Area					Advertising Device Description and Specific Requirements & Conditions
	Business Centre Environment	Industry Environment	Residential environment	Rural area Greenspace / Open Space Environment	Character/ heritage/special precinct area	
<p>Pylon Advertising Device</p> 	L	L	R	R	R	<p>A Pylon Advertising Device means a free-standing Advertising Device normally elevated from the ground and supported by twin pole supports or covered structural supports with a face area that may consist of separate slats, panels or components which are removable and replaceable.</p> <p>Specific Requirements A Pylon Advertising Device must:</p> <ul style="list-style-type: none"> (a) have a face area greater than 2.4m²; (b) have a face area height greater than its face area width; and (c) not have a face area in excess of the maximum face area permitted for the Advertising Device calculated in accordance with Table 5; (d) not have a height in excess of the maximum height permitted for the Advertising Device calculated in accordance with Table 5; (e) be the only Pylon Advertising Device on the premises except where the street front boundary of the premises exceeds 100m; (f) if more than Pylon Advertising Device is permitted on the premises, be not less than 100m from the other Pylon Advertising Device; and (g) not be located or constructed so as to expose an unsightly back view of the Advertising Device; (h) not face adjoining premises unless it is more than 3m from each boundary of the premises; and (i) if the Advertising Device is exhibited on land in a Rural Area Greenspace / Open Space Environment: <ul style="list-style-type: none"> a. be located on land with a minimum street front boundary of 300m; and b. be located at least 100m from any side boundary of the land; and c. not be located within 300m of another Pylon or Billboard or Hoarding Advertising Device.

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ITEM 1.2 - ADOPTION OF MBRC INTERIM LOCAL LAW NO. 3 (ADVERTISING DEVICES) 2018 - REGIONAL (Cont.)

Moreton Bay Regional Council Interim Local Law No. 3 (Advertising Devices) 2018

TABLE 3

KEY: 'R' means a Restricted Advertising Device; 'L' means a Licensable Sign

Advertising Device	Environment or Area					Advertising Device Description and Specific Requirements & Conditions
	Business Centre Environment	Industry Environment	Residential environment	Rural area Greenspace / Open Space Environment	Character/ heritage/special precinct area	
Billboard or Hoarding Advertising Device 	L	L	R	R	R	<p>A Billboard or Hoarding Advertising Device means a free-standing structure, normally elevated from the ground and supported by 1 or more vertical columns, pylons or poles, used primarily to display advertising matter.</p> <p>Specific Requirements A Billboard or Hoarding Advertising Device must:</p> <ul style="list-style-type: none"> (a) have a face area greater than 2.4m²; (b) not have a face area in excess of the maximum face area permitted for the Advertising Device calculated in accordance with Table 5; (c) not have a height in excess of the maximum height permitted for the Advertising Device calculated in accordance with Table 5; (d) be the only Billboard or Hoarding Advertising Device on the premises except where the street front boundary of the premises exceeds 100m; (e) if more than 1 Billboard or Hoarding Advertising Device is permitted on the premises, be not less than 100m from the other Billboard or Hoarding Advertising Device; (f) not be located or constructed so as to expose an unsightly back view of the Advertising Device; (g) not face adjoining premises unless it is more than 3m from each boundary of the premises; and (h) if the Advertising Device is exhibited on land in a Rural Area Greenspace / Open Space Environment: <ul style="list-style-type: none"> a. be located on land with a minimum street front boundary of 300m; and b. be located at least 100m from any side boundary of the land; and c. not be located within 300m of another Pylon or Billboard or Hoarding Advertising Device;
Multiple Advertising Device	L	L	R	L	R	<p>A Multiple Advertising Device means an Advertising Device that contains 2 or more different types Advertising Devices on the same structure.</p> <p>Specific Requirements A Multiple Advertising Device must:</p> <ul style="list-style-type: none"> (a) have a maximum face area of 1m² of face area per metre of street front boundary length of the premises on which the Advertising Device is exhibited.



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ITEM 1.2 - ADOPTION OF MBRC INTERIM LOCAL LAW NO. 3 (ADVERTISING DEVICES) 2018 - REGIONAL (Cont.)

Moreton Bay Regional Council Interim Local Law No. 3 (Advertising Devices) 2018

TABLE 3

KEY: 'R' means a Restricted Advertising Device; 'L' means a Licensable Sign

Advertising Device	Environment or Area					Advertising Device Description and Specific Requirements & Conditions
	Business Centre Environment	Industry Environment	Residential environment	Rural area Greenspace / Open Space Environment	Character/ heritage/special precinct area	
Bus Shelter Advertising Device 	L	L	L	L	L	<p>A Bus Shelter Advertising Device means an Advertising Device placed on a bus shelter that is not a Street Furniture Advertising Device.</p> <p><u>Specific Requirements</u> A Bus Shelter Advertising Device must:</p> <ul style="list-style-type: none"> (a) not extend beyond the dimensions of the bus shelter; and (b) be designed so that an opening is left in the side of the bus shelter that enables approaching buses to be seen by a person using the bus shelter.
Identilite Advertising Device	L	L	L	L	L	<p>An Identilite Advertising Device means an illuminated street name identification sign with attached Third Party Advertising.</p> <p><u>Specific Requirements</u> An Identilite Advertising Device must:</p> <ul style="list-style-type: none"> (a) have a minimum clearance of 3m from any road related area directly adjacent to the Advertising Device; (b) have a minimum clearance of 2.4m from the bottom of the Advertising Device to ground level directly adjacent to the Advertising Device; (c) not contain Third Party Advertising with a face area in excess of 1.8m². (d) not have a street name component with a face area in excess of 0.3m²; and (e) be exhibited on a standard pole of the local government.
Animated Advertising Device 	L	L	R	R	L	<p>An Animated Advertising Device means an Advertising Device with a changing display, such as flashing or chasing fibre optic lights, scrolling illuminated images and any other non-static illuminated displays other than an Electronic Graphic Display Screen or a Projected Image Sign as defined in this Table 3.</p> <p><u>Specific Requirements</u> An Animated Advertising Device must:</p> <ul style="list-style-type: none"> (a) where the Advertising Device is within 100m of the Residential Environment: <ul style="list-style-type: none"> a. have a luminance that is appropriate for a residential environment as determined by the local government; and b. be switched off between 10.00pm and sunset on the following day.

Moreton Bay Regional Council

ITEM 1.2 - ADOPTION OF MBRC INTERIM LOCAL LAW NO. 3 (ADVERTISING DEVICES) 2018 - REGIONAL (Cont.)

Moreton Bay Regional Council Interim Local Law No. 3 (Advertising Devices) 2018

TABLE 3

KEY: 'R' means a Restricted Advertising Device; 'L' means a Licensable Sign



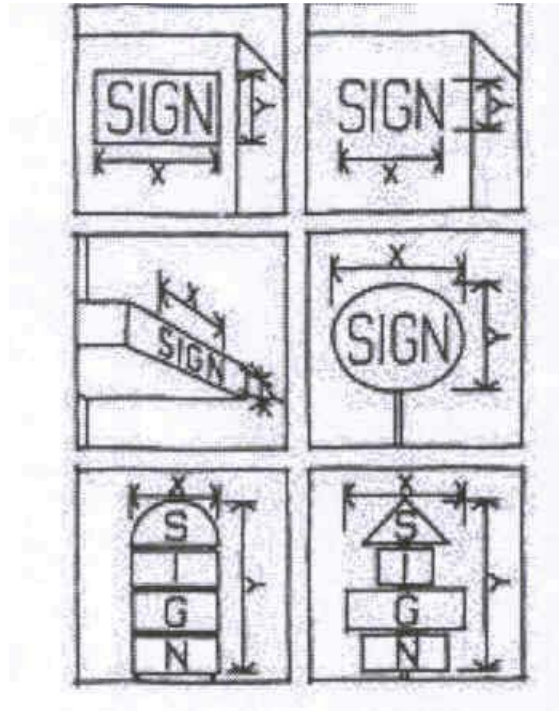
Advertising Device	Environment or Area					Advertising Device Description and Specific Requirements & Conditions
	Business Centre Environment	Industry Environment	Residential environment	Rural area Greenspace / Open Space Environment	Character/ heritage/special precinct area	
Electronic Graphic Display Screen 	L	L	R	R	L	<p>An Electronic Graphic Display Screen means an Advertising Device usually including Light Emitting Diode technology and associated technology and software, capable of producing still images, video replay and live television broadcasts and animations as programmed.</p> <p>Specific Requirements An Electronic Graphic Display Screen must:</p> <ul style="list-style-type: none"> (a) be a maximum of 20 m² in area; (b) be a maximum of 12 m from the ground to the highest part of the screen; (c) not project beyond the front alignment of a property; (d) not expose an unsightly back view to a road or other public place; and (e) not to be located on a street frontage along which is located another Electronic Graphic Display Screen, unless such a screen is located at least 200 m away.
Projected Image Advertising Device 	L	L	R	R	L	<p>A Projected Image Advertising Device means an illuminated Advertising Device projected onto a display surface as a static or moving image.</p> <p>Specific Requirements <i>Intentionally Left Blank</i></p>
Miscellaneous Advertising Device	L	L	L	L	L	<p>A Miscellaneous Advertising Device means an Advertising Device:</p> <ul style="list-style-type: none"> (a) which is not identified in this Schedule 9; or (b) for which the Specific Requirements, General Licensable Criteria or General Self-Assessable Requirements that apply to the Advertising Device are not satisfied. <p>Specific Requirements <i>Intentionally Left Blank</i></p>

Table 4: Advertising Devices Size Calculator



Advertising Device Face Area = X x Y

Note:

- Table 4 provides examples of how signage size will be calculated by the local government e.g. when assessing plans that are lodged with Licensable Sign applications.
- Each of the above examples depict various signs. The local government will compare a sign to the most relevant example above and calculate the size of the sign as per the example.

Examples:

- If the local government received an application from an Applicant wishing to Install a Banner Advertising Device (which should generally have a maximum face area of 2.4m²) the local government would assess the plans supplied by the Applicant to ensure that the sign had a maximum face area of 2.4m² by using the calculation method depicted in the first example above (the top-left example);
- If the local government received an application from an Applicant wishing to Install a Sign Written Roof Advertising Device (which had no defined border) the local government would assess the sign size by using the calculation method depicted in the second example above (the top-right example).

ITEM 1.2 - ADOPTION OF MBRC INTERIM LOCAL LAW NO. 3 (ADVERTISING DEVICES) 2018 - REGIONAL (Cont.)
Moreton Bay Regional Council Interim Local Law No. 3 (Advertising Devices) 2018

Table 5: Advertising Devices Size Limits

Note:

- Schedule 9 provides that the size of certain signs must be limited in accordance with this Table 5 (see for example - Billboard or Hoarding Advertising Device)

Street front boundary of the premises	Maximum face area per side for Advertising Device (m ²)	Maximum height for Advertising Device (metres)
up to 10 m	2	4.5
10-20	4	5.0
21-30	6	6.0
31-40	8	6.5
41-50	10	7.5
51-60	12	8.0
61-70	14	9.0
71-80	16	9.5
81-90	18	10.5
91-100	20	11.0
101-110	22	12.0
111-120	24	13.0
121-130	26	13.5
131-140	28	14.0
141-150	30	15.0
150 or greater	30	15.0

ITEM 1.2 - ADOPTION OF MBRC INTERIM LOCAL LAW NO. 3 (ADVERTISING DEVICES) 2018 - REGIONAL (Cont.)
Moreton Bay Regional Council Interim Local Law No. 3 (Advertising Devices) 2018

Table 6: Moreton Bay Regional Council Environments

Planning Scheme zones are grouped into the environments and areas specified in this table:

Business Centre Environment	Industry Environment	Residential Environment	Rural area greenspace / open space Environment
<ul style="list-style-type: none"> • Centre Zone • Community Facilities Zone • Township Zone 	<ul style="list-style-type: none"> • Extractive Industry Zone • Industry Zone 	<ul style="list-style-type: none"> • Emerging Community Zone • General Residential Zone • Rural Residential Zone 	<ul style="list-style-type: none"> • Environmental Management and Conservation Zone • Limited Development Zone • Recreation and Open Space Zone • Rural Zone

Character/Heritage/Special precinct areas: Any Planning Scheme zone to the extent that it mapped within the “heritage and landscape character” overlay area under the Planning Scheme

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2 PLANNING & DEVELOPMENT SESSION

(Cr M Gillam)

ITEM 2.1

PROPOSED RESUMPTION FOR DRAINAGE PURPOSES - 134 MORAYFIELD ROAD, CABOOLTURE SOUTH - LOT 5 ON RP88015 - DIVISION 3

Meeting / Session: 2 PLANNING & DEVELOPMENT
Reference: A17516665 : 4 September 2018 - **Refer Supporting Information A17533242, A17533249, A17533252, A17533255, A17533257, A17558655**
Responsible Officer: BH, Director, Community and Environmental Services (CES Property & Commercial Services)

Executive Summary

Council's decision is required in relation to an Amended Notice of Intention to Resume land for drainage purposes dated 20 February 2018 in relation to part of Lot 5 on RP88015 situated at 134 Morayfield Road, Caboolture South.

OFFICER'S RECOMMENDATION

1. That Council, having duly considered this report and supporting information, is of the opinion that part of Lot 5 on RP88015 containing an area of approximately 1.22 hectares and being part of the land contained in Title Reference 18406052 be acquired for drainage purposes.
2. That the Chief Executive Officer submit the necessary application to the Department of Natural Resources, Mines and Energy requesting that the above land be taken and vested in the Council, in accordance with the *Acquisition of Land Act 1967*.
3. That Council confirms that it remains willing to acquire by agreement the land the subject of the Amended Notice of Intention to Resume.

ITEM 2.1 PROPOSED RESUMPTION FOR DRAINAGE PURPOSES - 134 MORAYFIELD ROAD, CABOOLTURE SOUTH - LOT 5 ON RP88015 - DIVISION 3 - A17516665 (Cont.)

REPORT DETAIL

1. Background

The following recommendation appears on Minute Page 16/1334 of the General Meeting of Council held on 19 July 2016:

Ex Coordination Committee Meeting held 19 July 2016 (MP 16/1437)

COMMITTEE RECOMMENDATION:

1. That the Council acquire the land described in the confidential report in accordance with Policy No. 12-2150-057 Resumption and Acquisition of Land.
2. That the Council authorise the Chief Executive Officer to do all things necessary to give effect to recommendation 1.

The subject land at Lot 5 on RP88015 situated at 134 Morayfield Road, Caboolture South, forms part of the land required by the Council.

2. Explanation of Item

- 2.1 Council issued a Notice of Intention to Resume part of the subject land on 12 October 2017.

Council subsequently issued an Amended Notice of Intention to Resume (removing an easement from the proposed resumption) dated 20 February 2018 to acquire land for drainage purposes described as:

Part of Lot 5 on RP88015 containing an area of approximately 1.22 hectares and being part of the land contained in Title Reference 18406052.

- 2.2 The Amended Notice of Intention to Resume stated that if the owner so desired it could serve a notice in writing on the Council on or before 29 March 2018 objecting to the taking of the land and further if stated in its objection that it desired to be heard in support of the grounds of objection, the owner could appear at Council's Strathpine Chambers on 19 April 2018.
- 2.3 An objection was received by Council on 29 March 2018 on behalf of the owner. A copy of the letter is included as Supporting Information #1.

3. Objection Hearing

- 3.1 The objection hearing was conducted on 20 April 2018. Present at the hearing were Peter Bittner and Luke Walker of HWL Ebsworth (owner's legal representatives), Michael Marshall of Thomson Geer (acting as the Council's delegate) and Cameron Gee of Thomson Geer.
- 3.2 The owner's legal representatives were invited to elaborate on the written objections.

4. Grounds of Objection

- 4.1 The Council's delegate has prepared a report dated 24 May 2018 (refer to Supporting Information #2) regarding the owner's grounds of objection. The Council's delegate also prepared an earlier report dated 31 January 2018, in response to an earlier objection hearing, which is referred to in the later report and they are to be read together (refer to Supporting Information #3).
- 4.2 The Judgment of the Planning and Environment Court in *Genamson Holdings Pty Ltd v Moreton Bay Regional Council* [2017] QPEC 56 is referred to in both reports of the Council's delegate (refer to Supporting Information #4).

ITEM 2.1 PROPOSED RESUMPTION FOR DRAINAGE PURPOSES - 134 MORAYFIELD ROAD, CABOOLTURE SOUTH - LOT 5 ON RP88015 - DIVISION 3 - A17516665 (Cont.)

4.2 The owner's legal representatives have also provided a letter of objection dated 7 June 2018 raising a number of issues, including an assertion there was no authority to issue the Notice of Intention to Resume or Amended Notice of Intention to Resume (refer to Supporting Information #5).

4.3 The Council's response to the letter dated 7 June 2018 is attached as Supporting Information #6.

5. Conclusion

In the circumstances, it is recommended the Council proceed with the proposed resumption.

6. Strategic Implications

6.1 Legislative/Legal Implications

Acquisition of Land Act 1967; Local Government Act 2009

The Department of Natural Resources and Mines has advised the following legislative implications should be addressed where relevant.

Vegetation Management Act 1999 – There are no identified vegetation issues under the *Vegetation Management Act 1999*.

Water Act 2000 – There are no identified issues under the *Water Act 2000* as the proposed use of the subject land will not require any ongoing water supply authorised under that Act.

Aboriginal Cultural Heritage Act 2003 – Capital Works construction projects include processes to identify and manage any aboriginal heritage items, archaeological sites and relics discovered during excavations.

6.2 Corporate Plan / Operational Plan

Creating Opportunities: Well-planned growth - a sustainable and well-planned community.

6.3 Policy Implications

Council Policy 12-2150-057 sets out the Council's policy in relation to resumptions and acquisitions of land, including the necessary delegations.

6.4 Risk Management Implications

There are no risk management implications arising as a direct result of this report.

6.5 Delegated Authority Implications

Delegated authority for land acquisition resides with the Chief Executive Officer and Legal Services Department Officers in accordance with Council Policy 12-2150-057.

The Council's delegate for the objection hearing process was delegated the necessary authority.

6.6 Financial Implications

Land resumption costs are funded from budget under Project No 12030.487.

6.7 Economic Benefit

There are no economic benefits arising as a direct result of this report.

6.8 Environmental Implications

It is proposed the subject land be acquired for drainage purposes to provide for a detention basin, intended to among other things reduce existing flood risks and capture upper catchment flows.

6.9 Social Implications

There are no social implications arising as a direct result of this report.

6.10 Consultation / Communication

Legal Services

Property Services

Divisional Councillor

SUPPORTING INFORMATION

Ref: [A17533242](#), [A17533249](#), [A17533252](#), [A17533255](#), [A17533257](#), [A17558655](#)

The following list of supporting information is provided for:

ITEM 2.1

PROPOSED RESUMPTION FOR DRAINAGE PURPOSES - 134 MORAYFIELD ROAD, CABOOLTURE SOUTH - LOT 5 ON RP88015 - DIVISION 3

#1 Letter from HWL Ebsworth Lawyers

#2 Grounds of Objection Report 24 May 2018

#3 Grounds of Objection Report 31 January 2018

#4 Judgment of the Planning and Environment Court

#5 Letter of Objection from HWL Ebsworth 7 June 2018

#6 Council's response to the letter dated 7 June 2018

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ITEM 2.1 - PROPOSED RESUMPTION FOR DRAINAGE PURPOSES - 134 MORAYFIELD ROAD,
CABOOLTURE SOUTH - LOT 5 ON RP88015 - DIVISION 3 (Cont.)

#1 Letter from HWL Ebsworth Lawyers

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Express



HWL EBSWORTH

LAWYERS

Our Ref: PJB:LW:688403
Your Ref: A16215745

29 March 2018

By Urgent Courier

Mr Daryl Hitzman
Moreton Bay Regional Council
PO Box 159
CABOOLTURE QLD 4510

Moreton Bay Regional Council
RECORDS MANAGEMENT

03 APR 2018

OBJ ID: _____



Email: daryl.hitzman@moretonbay.qld.gov.au

CC: mmarshall@tglaw.com.au

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Dear Sir

Proposed Resumption of Part of Land for Drainage Purposes Part of Lot 5 on RP88015 (134 Morayfield Road, Caboolture)

We refer to:

1. the Amended Notice of Intention to Resume dated 20 February 2018 (**Amended NIR**); and
2. our correspondence to Moreton Bay Regional Council dated 21 February 2018 giving notice that our client intends to exercise its rights of objection pursuant to the Amended NIR.

The **enclosed** document (**Notice of Objection**) sets out our client's grounds of objection and the facts and circumstances in support of those grounds.

Adelaide
Brisbane
Canberra
Darwin
Hobart
Melbourne
Norwest
Perth
Sydney

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CABOOLTURE SOUTH - LOT 5 ON RP88015 - DIVISION 3 (Cont.)*

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Yours faithfully



Peter Bittner
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Luke Walker
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cc Mr Michael Marshall
Partner, Thomson Geer

**ITEM 2.1 - PROPOSED RESUMPTION FOR DRAINAGE PURPOSES - 134 MORAYFIELD ROAD,
CABOOLTURE SOUTH - LOT 5 ON RP88015 - DIVISION 3 (Cont.)**

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Grounds of Objection to Notice of Intention to Resume dated 20 February 2018

134-140 Morayfield Road, CABOOLTURE SOUTH QLD 4510

GENAMSON HOLDINGS PTY LTD ACN 053 174 271 (**Genamson**), the owner of Land located at 134-140 Morayfield Road, CABOOLTURE SOUTH in the State of Queensland, more particularly described as Lot 5 on RP88015 (**Land**), objects to the taking of part of the Land for drainage purposes (**drainage purposes**) as set out in the Moreton Bay Regional Council's (**Council**) Notice of Intention to Resume dated 20 February 2018 (**Amended NIR**), on the following grounds:-

1. a reasonable apprehension of bias arises from the Council's appointment of Mr Michael Marshall as its delegate to hear objections in response to the Amended NIR;
2. the Council has not accorded Genamson procedural fairness nor complied with the rules of natural justice in issuing the Amended NIR;
3. the Council has failed to demonstrate that the drainage purposes cannot be better located elsewhere;
4. the Council has failed to demonstrate that the drainage purposes cannot be adequately accommodated on the Land without taking part of the Land;
5. the Council's intention to take part of the Land is, and would be, unreasonable;
6. the Council have failed to provide the delegate with logically probative material supporting the Amended NIR;
7. the Council relied upon outdated and incomplete material in issuing the Amended NIR;
8. the Council's failure to demonstrate that the taking of the Land is required for drainage purposes.
9. the Council's non-compliance with *Guidelines for Local Government - Compulsory Acquisition of Land (Guideline)*; and
10. the Council's failure to consider the financial impact of taking the Land.

The facts and circumstances in support of the above grounds are as follows:-

1. In relation to ground 1:
 - (a) The Delegate appointed to act as the Council's delegate in respect of the hearing of any objections relating to the amended Notice of Intention to Resume dated 20 February 2018 (**Amended NIR**) is a partner of Thomson Geer Lawyers, Mr Michael Marshall.
 - (b) Mr Marshall was previously appointed to act as the Council's delegate in respect of the hearing of any objections relating to the Notice of Intention to Resume dated 11 August 2016.
 - (c) On 31 January 2018, the Mr Marshall made findings that concluded:

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ITEM 2.1 - PROPOSED RESUMPTION FOR DRAINAGE PURPOSES - 134 MORAYFIELD ROAD, CABOOLTURE SOUTH - LOT 5 ON RP88015 - DIVISION 3 (Cont.)

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- (i) the grounds of objection did not provide sufficient reasons to discontinue with the resumption; and
 - (ii) that the Council should proceed with the resumption.
 - (d) Mr Marshall made findings of fact based on inferences he drew on the basis of certain matters he held to be "self-evident". Otherwise, no logically probative evidence was before Mr Marshall that would have justified his decision.
 - (e) On 20 February 2018, the Council issued an Amended NIR.
 - (f) On 5 March 2018, Genamson advised the Council that, in light of the recommendation made by Mr Marshall in his report dated 31 January 2018, a fair-minded lay observer might reasonably apprehend that Mr Marshall may not bring an impartial mind to the resolution of the question that he is required to decide. On 9 March 2018, the Council responded and confirmed Mr Marshall's appointment.
 - (g) On 15 March 2018, Mr Marshall confirmed his appointment.
 - (h) Mr Marshall has previously made a decision favourable to the Council. He, therefore, has a continued association with the Council and a fair-minded lay person may presume an apprehension of pre-judgment could be derived from his experience and contact with the Council.
 - (i) The Council has not afforded Genamson the opportunity for fair and neutral proceedings.
 - (i) It is clear that:
 - (A) Mr Marshall's previous interaction with the matter;
 - (B) his previous findings in favour of the Council;
 - (C) ongoing connection with the Council; and
 - (D) regard to all facts and circumstances contemplated prior to the initial Delegate Report being made;
- would, from the perspective of a fair-minded lay observer, create the impression of apprehended bias.
2. In relation to ground 2:
- (a) the Council has not afforded procedural fairness to Genamson as the Council has not, within a reasonable time or at all, provided Genamson with all relevant material relating to the Council's decision to issue the Amended NIR, including (but not limited to):
 - (i) the real property description and address sufficient to readily identify every piece of Land considered by the Council as a viable alternative site to the subject Land; and

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ITEM 2.1 - PROPOSED RESUMPTION FOR DRAINAGE PURPOSES - 134 MORAYFIELD ROAD, CABOOLTURE SOUTH - LOT 5 ON RP88015 - DIVISION 3 (Cont.)

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- (ii) all relevant selection criteria documents in existence for choice of location of sites for the drainage purposes and purposes incidental to carrying out the drainage purposes.
- (b) any evidence whatsoever that the Council has considered the matters outlined in the Guideline
- (c) the Council has not complied with the Guidelines for Local Governments - *Compulsory Acquisition of Land*;
- (d) Pursuant to the principles outlined in *Little v Minister for Land Management* (1995) 1 Qd R 190, Genamson is entitled to natural justice/procedural fairness in respect of the taking of the Land for drainage purposes outlined in the Amended NIR.
- (e) The material put before the Delegate by the Council invites the Delegate into error as it:
 - (i) contains irrelevant information; and
 - (ii) fails to include relevant information, in particular material relating to the decision of his Honour Judge Rackemann in *Genamson Holdings Pty Ltd v Moreton Bay Regional Council* [2017] QPEC 056 (**PEC Appeal**).
- (f) In particular, the information put before the Delegate by the Council includes:
 - (i) a report entitled "Stormwater Quantity Infrastructure for Caboolture and Burpengary Catchments 2009" (**2009 Report**); and
 - (ii) an undated and incomplete report entitled "Investigation Report: Morayfield, 134 Morayfield Road Feasibility Study Regional Detention Basin (SSC_DB_3)" (**Feasibility Study**).
- (g) The 2009 Report has largely been overtaken by events and provides no justification for the proposed detention basin on the Land, as Rackemann DCJ noted in the PEC Appeal:

[79] Dr Johnson also pointed out that the justification for, or benefits of, a detention basin with the particular volume of 21,000m³ are unknown. The 2009 report (which was withheld from Dr Johnson for some time) referred to a figure of 21,000m³, but is dated and, in his view, unsubstantiated at this time. Mr Clark's evidence was to the effect that there is the potential for the increase in upstream intensification of development to produce significant increases in inflows in Sheepstation Creek and a detention basin is needed, but the council did not rely on his evidence to justify a particularly sizing. The figure of 21,000m³ was not picked up in any of the infrastructure charging resolutions or in the PIP and the planned detention basin has not been the subject of detailed design. The sizing was referred to in an investigation report which became an exhibit, but that was admitted into evidence on the basis that it was not evidence of the truth of its contents. It remains the case however, that a regional detention basin is a longstanding component of the council's infrastructure planning for the benefit of the community.

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**ITEM 2.1 - PROPOSED RESUMPTION FOR DRAINAGE PURPOSES - 134 MORAYFIELD ROAD,
CABOOLTURE SOUTH - LOT 5 ON RP88015 - DIVISION 3 (Cont.)**

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- (h) Accordingly, the 2009 Report is irrelevant and ought not be considered by the Delegate.
- (i) In respect of the Feasibility Study, we note that:
 - (i) The Feasibility Study is not in final form. Accordingly, the Delegate cannot rely on this incomplete and draft study in considering Genamson's objections.
 - (ii) It would be both unreasonable and a denial of natural justice that, prior to the complete feasibility study about the regional detention basin being finalised, the Council's delegate would proceed to make any recommendations in respect of Genamson's objections.
 - (iii) It is inappropriate for the Land to be acquired until the feasibility study has been completed. The Council (and the Delegate) are unable to properly consider the matter until a correct and complete feasibility study is undertaken. Genamson should also be provided with the ability to comment on that complete study.
 - (iv) The Feasibility Study is not soundly based. Examples of this include:
 - (A) of the 13 sections included in the Feasibility Study, 6 sections are presently not completed;
 - (B) section 5 of the Feasibility Study simply makes bare assertions, not supported by any factual or evidentiary matters; and
 - (v) the Feasibility Study ought to be read in conjunction with the hydrological studies that have been undertaken by consultants engaged by Genamson. Those complete and rigorous studies concluded that the findings of the Council's Feasibility Study are simply wrong.
- (j) In respect of each of those documents, we note that Rackemann DCJ was somewhat critical of the Council for not calling Mr Charteris to justify the size of the detention basin during the following exchange with Genamson's Hydraulic Expert Dr Johnson:

HIS HONOUR: *So far as you can see, any suggestion of a requirement of 21,000 is not soundly based?*

DR JOHNSON: *No. It's – in my opinion, it's based solely on work done in 2009 that wasn't even detailed at that stage. Mr Charteris agreed with my - - -*

HIS HONOUR: *Is Mr Charteris still at the council?*

DR JOHNSON: *Yes, your Honour. He agreed with my Mr Della that no detailed modelling of the basin - - -*

HIS HONOUR: *I wonder why he's not giving evidence. Anyway...*

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DR JOHNSON: *Sorry. He was – he's agreed that no detailed modelling of the basin has taken place, according to that email.*

HIS HONOUR: *Anyway, he's the person who's in charge of all this, isn't he?*

DR JOHNSON: *Yes, your Honour. He's the engineer making the final call as to whether the basin is needed or not.⁷*

(k) Further, the Council has chosen only to put reports supporting the resumption of the Land before the Delegate. In this respect, we note that the Council is in possession of the following documents that militate against the resumption:

- (i) Morayfield Flood Study dated 20 March 2015 (prepared by Cardno);
- (ii) Report of BAAM Ecological Consultants dated 13 September 2017;
- (iii) Information Request Response dated 16 December 2015; and
- (iv) the PEC Appeal.

(l) Further, the Council has not provided any logically probative evidence that the matters outlined above were considered by the Council.

3. In relation to ground 3:

(a) the Council has failed to adequately consider the suitability of other sites for the drainage purposes or whether any land is required for the drainage purposes. In particular;

- (i) the proposed drainage infrastructure could be located in the Kate McGrath Koala Park (along with the treatment infrastructure proposed for that location), amongst other locations;
- (ii) the proposed drainage infrastructure is unnecessary if appropriate discharge controls are imposed on other nearby properties;
- (iii) the proposed drainage infrastructure is not required for approximately ten (10) years or more, if at all; and
- (iv) the Council has failed to demonstrate that the quantity of detention to be provided by the taking of part of the Land (being 21,000m³) is in fact required;

(b) the Council has failed to adequately consider the suitability of other sites for the location of the drainage infrastructure for the drainage purposes. In particular:

- (i) a number of other drainage solutions are available to the Council in the area that would better serve the drainage needs of the catchment;

⁷ T2-81, L5-20.

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CABOOLTURE SOUTH - LOT 5 ON RP88015 - DIVISION 3 (Cont.)*

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- (ii) the Council's Priority Infrastructure Plan (**PIP**) is indicative only and does not require that the drainage infrastructure be constructed on the Land;
 - (iii) the proposed drainage infrastructure could reasonably be co-located in the Kate McGrath Koala Park; and
 - (iv) the proposed drainage infrastructure to be located on the Land is unnecessary if appropriate discharge controls are imposed on other nearby properties.
- (c) there is no logically probative evidence before the Delegate that the Council considered the matters outlined above.
- 4. In relation to ground 4:
 - (a) on 16 December 2015, Genamson provided technical drawings and other material demonstrating that the drainage purposes could be accommodated on the Land without the taking of the Land;
 - (b) in the PEC Appeal at [80], Rackemann DCJ found, on the basis of expert evidence, that the drainage purposes could be accommodated on the Land as outlined in the technical drawings without the taking of the Land;
 - (c) the technical drawings and other material provided to the Council on 16 December 2015 are but one way that the drainage purposes could be accommodated on the Land without the taking of the Land;
 - (d) in forming the intention to take part of the Land, the Council has failed to consider:
 - (i) the technical drawings and other material provided to it on 16 December 2015;
 - (ii) the expert evidence led at the hearing of, and the judgment in, the PEC Appeal; and
 - (e) despite request, the Council has failed to demonstrate why the drainage purposes cannot be adequately accommodated on the Land without taking the Land.
 - (f) there is no logically probative evidence before the Delegate that the Council has considered the matters above.
- 5. In relation to ground 5:
 - (a) there is no need for part of the Land to be taken for drainage purposes;
 - (b) other land is available and better suited for the drainage purposes;

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*ITEM 2.1 - PROPOSED RESUMPTION FOR DRAINAGE PURPOSES - 134 MORAYFIELD ROAD,
CABOOLTURE SOUTH - LOT 5 ON RP88015 - DIVISION 3 (Cont.)*

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- (c) if the Land is, in fact, necessary for the drainage purposes (which is not admitted), there is no need for the Council to take part of the Land as proposed in the Amended NIR because:
 - (i) on 16 December 2015, Genamson provided technical drawings and other material demonstrating that the drainage purposes could be accommodated on the Land without the taking of the Land;
 - (ii) in the PEC Appeal at [80], Rackemann DCJ found, on the basis of expert evidence, that the drainage purposes could be accommodated on the Land as outlined in the technical drawings without the taking of the Land;
 - (iii) the technical drawings and other material provided to the Council on 16 December 2015 are but one way that the drainage purposes could be accommodated on the Land without the taking of the Land;
 - (iv) in forming the intention to take part of the Land, the Council has failed to consider:
 - (A) the technical drawings and other material provided to it on 16 December 2015;
 - (B) the expert evidence led at the hearing of, and the judgment in, the PEC Appeal; and
 - (v) a smaller portion of the Land could accommodate the drainage infrastructure necessary for the drainage purposes;
 - (d) in deciding to issue the Amended NIR, the Council has taken into account irrelevant considerations and failed to take into account relevant considerations;
 - (e) the Council has not complied with the Guideline;
 - (f) the PIP is indicative only and does not require that the drainage infrastructure be constructed on the Land;
 - (g) the Council has based its decision to issue the Amended NIR on reports and investigations that are wrong; and
 - (h) taking the Land would be premature because it may not be required for drainage purposes for approximately ten (10) years or more, if at all.
 - (i) there is no logically probative evidence before the Delegate that the Council has considered the matters above.
6. In relation to ground 6:
- (a) Pursuant to s8(2)(b) of *the Acquisition of Land Act 1967 (AOLA)*, the Delegate is required to prepare a report to the Council on the matters put forward by Genamson in support of its grounds of objection.

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- (b) Accordingly, the Delegate is required to make findings of fact based on that matters put before him by Genamson (and only the matters put before him by Genamson) and has a duty to act in accordance with the rules of procedural fairness and natural justice.
 - (c) There is no probative material before the Delegate that would justify a finding that the taking of the Land for drainage purposes is required. Indeed, the weight of evidence is overwhelmingly to the contrary.
 - (d) According, the Delegate could not reasonably conclude that the taking of the Land for drainage purposes is required.
7. In relation to ground 7:
- (a) The evidence relied upon by the Council to justify the taking of the Land for drainage purposes consists of:
 - (i) the 2009 Report; and
 - (ii) the Feasibility Study.
 - (b) Paragraphs 2.4 to 2.10 outline why it would be unreasonable for the Delegate to rely upon either the 2009 Report or the Feasibility Study.
 - (c) Further, Genamson has provided a report from Dr Trevor Johnson dated 22 December 2017 that demonstrates that each of those reports is not soundly based and outlines a number of issues that militate against the Taking of the Land for drainage purposes. Importantly, none of the conclusions in Dr Johnson's report have been rebutted by the Council and his evidence was preferred to that of the Council's expert during the PEC Appeal.
 - (d) The only logically probative material before the Delegate is Dr Johnson's report, which concludes that the taking of the Land for drainage purposes is not justified. It is, therefore, not reasonably open to the Delegate to recommend that the taking of the Land for drainage purposes proceed.
 - (e) The alternative is that the Delegate recommend that the Council proceed with the Taking of the Land for drainage purposes on the basis of:
 - (i) the 2009 Report (which has been overtaken by events) and
 - (ii) the Feasibility Study (which is incomplete and in draft).
 - (f) Such a recommendation would completely ignore the comprehensive report of Dr Johnson and would clearly be so unreasonable that no reasonable person could make it.
 - (g) There is no logically probative evidence before the Delegate that the Council has considered the matters above.
8. In relation to ground 8:

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- (a) It is a general principle of resumption law that a constructing authority must not take more Land than is necessary to accomplish the stated purpose.⁸
 - (b) In this respect, the Council cannot reasonably demonstrate the amount of Land necessary to accomplish the drainage purposes as it has not provided any justification for the volume of detention required.
 - (c) It follows that the Council cannot show whether 21,300 m³ (or a greater or lesser amount) of detention is required to accomplish the drainage purposes.
 - (d) In that respect, Dr Johnson's report notes that the Council's current calculations are almost certainly flawed, given that they require the same volume of detention for two wildly different development scenarios in the upstream catchment.⁹ Dr Johnson also notes that the volume of 21,300 m³ cannot be achieved on the Land without a pumped drainage scheme.¹⁰
 - (e) In any event, even if the Land were required to accomplish the drainage purposes, Dr Johnson's report (and the evidence adduced in the PEC Appeal) establishes that this can be done by way of the Council taking a volumetric easement over part of the Land, rather than by taking a freehold interest.¹¹
 - (f) There is no logically probative evidence before the Delegate that the Council has considered the matters above.
9. In relation to ground 9:
- (a) The Minister for Natural Resources and Mines (**Minister**) has promulgated the *Guidelines for Local Governments - Compulsory Acquisition of Land* (**Guideline**), the purpose of which is to outline the legal requirements under the AOLA for properly made application to the Minister and demonstrate "best practice" for the compulsory acquisition of land.
 - (b) The Guideline sets out a number of matters that local governments ought to consider and procedures that should be followed when acquiring land under the AOLA.
 - (c) The Council has failed to comply with the Guideline in respect of a number of matters, namely:
 - (i) it has failed to demonstrate that the drainage purposes cannot be accommodated by the expansion of other proposed and/or existing detention basins in the upstream catchment;¹²
 - (ii) it has failed to undertake a detailed assessment to show:
 - (A) that the proposed detention basin is necessary;

⁸ *Minister for Public Works (NSW) v Duggan* (1951) 83 CLR 424; *Thompson v Randwick Corporation* (1950) 81 CLR 87.

⁹ Report of Dr Johnson dated 22 December 2017, 2.

¹⁰ *Ibidem*, 4-5

¹² Guideline, s2.1; Report of Dr Johnson dated 22 December 2017, 4.

¹² Guideline, s2.1; Report of Dr Johnson dated 22 December 2017, 4.

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- (B) that the Land is the most appropriate site; and
 - (C) that broader government objections have been considered.¹³
 - (iii) it has failed to demonstrate that taking the Land maximises and balances the social and economic benefits to the community, in particular, the economic opportunities for the community (such as increased employment) which would accrue as a result of development upon the Land;¹⁴
 - (iv) its site selection process is not well-considered, objective or well-documented;¹⁵
 - (v) it has failed to appropriately undertake a detailed assessment to identify and assess site options before selecting the Land, and in particular has not undertaken detailed engineering or other investigations of other sites;
 - (d) There is no logically probative evidence before the Delegate that the Council has considered the matters above.
10. In relation to ground 10:
- (a) The Council has failed to correctly assess the financial implications of taking the Land.
 - (b) Pursuant to s20 of the AOLA, the Council must pay compensation to Genamson for the taking of the Land based on, *inter alia*, its market value at its highest and best use.
 - (c) The PEC Appeal has granted approval in respect of the Land for a retail shopping centre.
 - (d) Currently, the Council has only \$562,275 in the Local Government Infrastructure Plan of the *Moreton Bay Regional Council Planning Scheme* for the acquisition of the Land, representing a rate of approximately \$48 per square metre.
 - (e) In this respect, Genamson notes that the adjoining shopping centre recently sold for \$22.5 million, being a rate of \$1051.40.
 - (f) There is no logically probative evidence before the Delegate that the Council has considered the matters above.

¹³ Guideline, s2.1.

¹⁴ Guideline, s2.2

¹⁵ Guideline s3.

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HWL Ebsworth Lawyers
Solicitors for the Objector
29 March 2018

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#2 Grounds of Objection Report 24 May 2018

Second Report by delegate in relation to the hearing of an Objection by Genamson Holdings Pty Ltd in respect of a proposed taking of land by the Moreton Bay Regional Council pursuant to the *Acquisition of Land Act 1967 (Qld)* /

Amended Notice of Intention to Resume dated 20 February 2018

1 Author

- 1.1 This report was prepared by Michael Marshall, delegate appointed by Moreton Bay Regional Council.

2 Distribution

- 2.1 Peter Bittner, Partner HWL Ebsworth, on behalf of Genamson Holdings Pty Ltd.
2.2 Luke Walker, Solicitor HWL Ebsworth, on behalf of Genamson Holdings Pty Ltd.
2.3 Richard Duhig, Senior Legal Officer Moreton Bay Regional Council.

3 Background Information

Property Address	134-140 Morayfield Road, Caboolture
Property Description	Lot 5 on RP88015 (the Land)
Registered Owner/Objector	Genamson Holdings Pty Ltd (the Owner)
Date of Notice of Intention to Resume	12 October 2017
Date of Amended Notice of Intention to Resume	20 February 2018
Date of Lodgement of Objection to Amended Notice of Intention to Resume	Letter HWL Ebsworth Lawyers (HWLE) dated 29 March 2018 to Moreton Bay Regional Council (MBRC)
Purpose of Resumption	Drainage purposes and purposes incidental to carrying out drainage purposes.

4 Introduction

- 4.1 This second report relates to a hearing in respect of an objection made to the proposed taking of land pursuant to the *Acquisition of Land Act 1967 (Qld)* (**the Act**).
- 4.2 The first report prepared by me was dated 31 January 2018 in respect of an objections hearing conducted on 22 November 2017.
- 4.3 Subsequent to the delivery of the first report, MBRC issued an Amended Notice of Intention to Resume (**Amended NIR**) dated 20 February 2018 which removed the proposed taking of an easement over the Land but maintained the proposed taking of part of the Land for drainage

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purposes. In simple terms, MBRC still requires part of the Land for drainage purposes for a regional detention basin, but has located an alternative means of connecting the necessary pipes to that basin and therefore no longer proposes to acquire an easement through the car park of the existing shopping centre on the Land fronting Morayfield Road.

- 4.4 Section 7(4AA) of the Act gives the MBRC power to issue an Amended NIR. The Owner is entitled to serve on MBRC an objection to the Amended NIR and did so by letter from its lawyers HWLE dated 29 March 2018 (**NOO**).
- 4.5 By letter dated 23 February 2018 I was requested to act as delegate for the purpose of any objection hearing in the event the Owner desired to be heard in respect of the Amended NIR. By email to the parties dated 24 February 2018 I accepted the delegation.
- 4.6 By letter dated 5 March 2018, it was asserted by HWLE on behalf of the Owner that I should not act as delegate in any objection hearing on the basis of apprehended bias. MBRC responded by letter dated 9 March 2018 disagreeing with that assertion for reasons set out in that letter.
- 4.7 By letter to the parties dated 15 March 2018, I advised that I did not intend to disqualify myself from acting as delegate, for reasons set out in that letter.
- 4.8 A bundle of the correspondence referred to in paragraphs 4.5-4.7 is **Attachment 1** hereto.
- 4.9 The objections hearing was subsequently scheduled to occur on 20 April 2018 and proceeded on that date.

5 Conduct of Objection Hearing on 20 April 2018

- 5.1 The objection hearing commenced at the offices of Thomson Geer at 11:00am and concluded at 12:15pm. The attendees are set out in the table below.

Person	Position	Representing/Role
Peter Bittner	Partner HWLE	The Owner
Luke Walker	Solicitor HWLE	The Owner
Michael Marshall	Partner Thomson Geer Lawyers	Delegate Appointed by the Constructing Authority
Cameron Gee	Paralegal Thomson Geer	Observer

- 5.2 At the hearing three additional issues were raised that were not otherwise raised in the NOO (or at least expressed in the NOO in somewhat different terms). These were the following:-
 - (a) That in relation to my earlier report, that I had exceeded my role/function by making a recommendation in circumstances where there was no express statutory scope to do so in section 8 of the Act. It was further argued that it is not the role of the delegate to "adjudicate" and that only the Council may perform that function;
 - (b) That paragraph 8.31 of my earlier report was objectionable; and
 - (c) That in acting as a delegate, I am bound to act in accordance with the "Briginshaw Standard".

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6 Grounds of objection

- 6.1 Apart from the NOO, the Owner has not produced any additional documents or reports beyond what was produced in the course of the previous objection hearing.
- 6.2 A number of grounds of objection from the previous hearing are reproduced in relation to the NOO in response to the Amended NIR. Where the grounds of objection are the same or substantially the same, I will refer to my earlier report as appropriate.
- 6.3 For the sake of convenience, I have summarised the various grounds of objection set out in the NOO. I have also added the additional items set out in paragraph 5.2 above. The consolidated list of objections to the Amended NIR is set out below and I will refer to the numbering in the table in my discussion of each issue.

Objection No.	Ground of Objection	Reference/Notice of Objection
1.	Apprehension of bias.	NOO – Item 1
2.	Denial of natural justice/procedural fairness.	NOO – Item 2
3.	Making a recommendation in delegate report dated 31 January 2018 exceeded the delegate's role and function.	Objection Hearing
4.	Paragraph 8.31 of delegate report dated 31 January 2018 is objectionable.	Objection Hearing
5.	Delegate subject to "Briginshaw Standard".	Objection Hearing
6.	The Council has failed to demonstrate that the drainage purposes cannot be better located elsewhere.	NOO – Item 3
7.	The Council has failed to ensure that the drainage purposes cannot be adequately accommodated on the land without taking part of the land.	NOO – Item 4
8.	The Council's intention to take part of the Land is, and would be unreasonable.	NOO – Item 5
9.	The Council has failed to provide to the delegate logically probative material supporting the Amended NIR.	NOO – Item 6
10.	The Council relied upon outdated and incomplete material in issuing the Amended NIR.	NOO – Item 7
11.	The Council's failure to demonstrate that the taking of the Land is required for drainage purposes.	NOO – Item 8
12.	The Council's non-compliance with Guidelines for Local Government- Compulsory Acquisition of Land (Guideline)	NOO – Item 9
13.	The Council's failure to consider the financial impact of taking the Land	NOO – Item 10

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6.4 **The Objections**

6.5 Ground 1 asserts that "a reasonable apprehension of bias arises from the Council's appointment of Mr Michael Marshall as its delegate to hear objections in response to the Amended NIR".

6.6 I reject the assertion that a reasonable apprehension of bias arises from my appointment as Council's delegate to hear objections in response to the Amended NIR. I say this for the following reasons:

- (a) In my opinion, a delegate acting under section 8 of the Act is acting neither as a judicial officer nor as an administrator. Accordingly, the actions of the delegate cannot be impugned on the basis of an apprehension of bias.
- (b) The Act gives the delegate no power to make a decision as to whether or not a resumption proceeds. The delegate's role is to hear the objection and provide a report to the constructing authority.
- (c) The assertion that I made *findings of fact* in my earlier report is misconceived. The Act gives the delegate no power to make findings of fact (in the same manner as a Judge or administrator might make findings of fact). However, the Act does not prohibit the delegate from expressing views, opinions and conclusions about matters that are raised in the objections hearing. The Act does not prohibit the delegate from expressing views as to the merits of the grounds of objection nor the making of a recommendation by the delegate as to whether the constructing authority should or should not proceed with the taking of land. I am aware from my experience in this area of law that it is not uncommon for a delegate to make such a recommendation to the constructing authority.
- (d) It is clear from section 8(2A) of the Act that the decision making function as to whether or not to proceed with the resumption, lies with the constructing authority and not the delegate.

6.7 I acknowledge that the correctness of the views expressed in (a)-(d) above are ultimately legal matters for determination by the appropriate Court if necessary.

6.8 I also refer to the matters set out in my letter to the parties dated 15 March 2018.

6.9 Although no actual bias is alleged against me¹, for the record, I wish to state that:

- (a) I have approached my task to act as delegate with an open mind; and
- (b) I have sought to be impartial.

6.10 Ground 2 asserts "the Council has not accorded Genamson procedural fairness nor complied with the rules of natural justice in issuing the Amended NIR".

6.11 In relation to ground 2, I have no comment to make on that issue as my role as delegate is independent of the Council. It is ultimately an issue for determination by the appropriate Court if required. As delegate, I have endeavoured to ensure that the Owner is afforded natural justice and procedural fairness, to the extent it is relevant and appropriate for me to do so in discharging my specific function.

6.12 Ground 3 asserts that making the making by me of a recommendation in delegate report dated 31 January 2018, exceeded the statutory role and function of a delegate acting pursuant to section 8 of the Act. I refer to my comments in paragraph 6.6(c) above. Clearly this is ultimately a matter for the appropriate Court to determine if required.

6.13 Ground 4 asserts that Paragraph 8.31 of delegate report dated 31 January 2018 was objectionable. That paragraph reads:

¹ Letter HWLE to MBRC dated 5 March 2018.

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- 8.31 *The Court decision was delivered on 11 September 2017. The issue of the NIR to the Owner post dated that event. It is self evident that the suitability of the Koala Park as an alternative site:-*
- (a) *has been considered by the Council;*
 - (b) *has been considered by the respective hydraulic experts, including Dr Johnson;*
 - (c) *was found by Judge Rackemann to be problematic for the reasons identified in the Judgment.*
- 6.14 The Owner's objection centres on my use of the phrase "*it is self-evident*" and suggested that it was synonymous with there in fact being no evidence to support the proposition. This argument lacks any substance as it is apparent from a reading of the Judgment that the suitability of the koala park was a live issue in the Planning & Environment Court (PEC) proceedings between the Owner and the Council. Clearly this is ultimately a matter for the appropriate Court to determine if required.
- 6.15 Ground 5 asserts that in performing my function as delegate, I am subject to the "*Briginshaw Standard*". I am familiar with the Briginshaw Standard (of proof). It was not made clear by HWLE at the objection hearing as to what was actually meant by this ground, in terms of how it related to my role as delegate. I enquired of the owner's lawyers whether they could refer me to any case authority to support that proposition. No case authority was forthcoming. Instead reliance was placed by HWLE upon "general administrative Law principles". Clearly this is ultimately a matter for the appropriate Court to determine if required.
- 6.16 Ground 6 repeats Ground 6 from the previous objection hearing. I refer to paragraphs 8.25-8.32 of my earlier report. I have nothing further to add to that earlier discussion.
- 6.17 Ground 7 repeats Ground 7 from the previous objection hearing. I refer to paragraphs 8.33- 8.38 of my earlier report. I have nothing further to add to that earlier discussion.
- 6.18 Ground 8 asserts that the Council's intention to take the land, is and would be unreasonable. This is a new ground that was not raised in the previous objection process. Unreasonableness is asserted on 2 bases:
- (a) That there is no need for part of the Land to be taken for drainage purposes; and
 - (b) Other land is available and better suited for the drainage purposes.
- 6.19 In relation to the point raised in paragraph 6.18(a), the documents and reports attached to the Amended NIR disclose, in my opinion, a reasonable basis for the Council to seek to take part of the land. However, I acknowledge that this is ultimately a matter for the appropriate Court to determine if required.
- 6.20 In relation to the point raised in paragraph 6.18(b), this issue is in effect substantially the same issue as covered by grounds 6 and 7 of the previous objection and I refer to my discussion of those matters in my earlier report.
- 6.21 The matters raised in paragraphs 5 (d)-(i) of the NOO raise legal arguments that should be determined by the appropriate Court if required. I do not propose to comment further on those issues.
- 6.22 Ground 9 asserts that the Council have (sic) failed to provide the delegate with logically probative material supporting the amended NIR. The particular documents referenced under this ground are the;
- (a) The 2009 report;
 - (b) The Feasibility Study; and
 - (c) The report from Dr Trevor Johnson dated 22 December 2017.

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- 6.23 The thrust of this ground of objection appears to be that the 2009 Report has been overtaken by events, the Feasibility Study is incomplete and in draft, and that the only "logically probative material" before me is Dr Johnson's report which concludes that the taking of the land for drainage purposes is not justified. I note that the three documents referred to above (including, importantly, the report of Dr Johnson) were before the Council when it determined to issue the amended NIR. The question as to what weight the Council gives to each of these documents is a matter for the Council to determine. This is not a matter for me acting as delegate to determine.
- 6.24 It is asserted on behalf of the Owner, that pursuant to section 8(2)(b) of the Act, the delegate is required to prepare a report to the Council on the matters put forward by the Owner in support of its grounds of objection. I agree that this is a requirement, albeit expressed implicitly rather than expressly. The notice then goes on to assert that as a consequence of this requirement, *"that the delegate is required to make findings of fact in relation to the material put before him by Genamson (and only the matters put before him by Genamson)"*. In my opinion (and as stated in paragraph 6.6(c) of this report), I am not required to make "findings of fact". I disagree with the assertion that it is incumbent upon me acting as delegate to determine what weight ought to be given to differing reports and technical assessments and to make findings of fact as to which document is "logically probative". Once again, I acknowledge that this is ultimately a legal issue for the appropriate Court to determine if required.
- 6.25 Ground 10 asserts that the Council relied upon outdated and incomplete material in issuing the amended NIR. The thrust of this ground is that the report of Dr Johnson demonstrates that the 2009 Report and the Feasibility Study are not soundly based and that *"none of the conclusions in Dr Johnson's reports have been rebutted by the Council"*. It is then said that if I were to recommend that the Council proceed with the taking of the land, that *"such a recommendation would completely ignore the comprehensive report of Dr Johnson and would clearly be so unreasonable that no reasonable person could make it"*. As noted earlier, it is for the Council (and not for the delegate) to determine whether or not to proceed with the taking of the land. In view of this ground of objection, and also noting the assertion in ground 1 of apprehended bias on my part due in part to the recommendation made in my earlier report, I have come to the view that in the circumstances I will refrain from making any recommendation in this report as to whether the Council should or should not proceed with the taking of the land as set out in the Amended NIR.
- 6.26 Ultimately the question whether the Council has relied upon outdated and incomplete material in issuing the Amended NIR is a matter for the Council to consider when forming its opinion whether to discontinue, further amend or proceed with the proposed taking of the land.
- 6.27 Clearly the Council should give due consideration to the report of Dr Johnson when it formulates its opinion as to how it intends to proceed.
- 6.28 Ground 11 asserts that the Council has failed to demonstrate that the taking of land is required for drainage purposes. The landowner places reliance upon Dr Johnson's report and evidence adduced in the Planning & Environment Court Appeal. These matters were discussed in my earlier report (refer paragraphs 8.25-8.38). It is also clear that the Council should give due consideration to the Judgment of the Planning & Environment Court in the Appeal before determining how it intends to proceed.
- 6.29 Ground 12 asserts that the Council has not complied with the Guideline. Whether or not this is the case, and if so what are the legal implications, are clearly legal issues for the appropriate Court to determine if required. I do not propose to comment further on the issue.
- 6.30 Ground 13 asserts that the Council has failed to consider the financial impact of taking the land. Whether or not this is the case, and if so what are the legal implications, are clearly legal issues for the appropriate Court to determine if required. I do not propose to comment further on the issue.

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7 Conclusion

- 7.1 The grounds of objection raised against the Amended NIR substantially, if not completely;
- (a) raise matters that were raised in the previous multiple notices of objection and dealt with in the earlier delegate report;
 - (b) raise matters that properly fall for consideration by the Council when forming an opinion whether to discontinue, amend or proceed with the proposed taking of land in respect of the Amended NIR; or
 - (c) concern matters of law that properly fall for determination by the appropriate Court if required.
- 7.2 As noted above, it is appropriate in my opinion that the Council give consideration to, or further consideration to the report of Dr Johnson and to the PEC Judgment before determining whether to discontinue, amend or proceed with the proposed taking of land as set out in the Amended NIR.

Dated: 24 May 2018



Michael Marshall

Delegate of the Constructing Authority

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Attachment 1



Phone: 3480 6661
Our Ref: A16622848
Your Ref: MFM:4084041
Date: 23 February 2018

Mr Michael Marshall
Thomson Geer
By email only: mmarshall@tqlaw.com.au

cc Mr Luke Walker
HWL Ebsworth Lawyers
By email only: walker@hwle.com.au

Dear Michael,

**Genamson Holdings Pty Ltd and Moreton Bay Regional Council
Objection to Notice of Intention to Resume Part of Lot 5 on RP88015
134-140 Morayfield Road, Caboolture South**

You have previously acted as Council's delegate for an objections hearing by the landowner to Council's Notice of Intention to Resume (NIR).

Council has amended the NIR to remove the requirement for an easement across the landowners site from Morayfield Road.

Under section 7(4AB) of the *Acquisition of Land Act 1967* the period in which an objection may be served starts again.

The NIR specifies 19 April 2018 at 11am at Council's chambers at 220 Gympie Road, Strathpine for the objections hearing, in the event the landowner desires to be heard.

In the event the landowner seeks to be heard in support of the grounds of objection, would you be available to again act as Council's delegate on that date?

Previously the objections hearing was conducted at your offices. If you are available to act as delegate it might be possible to convene the hearing at your offices again if the landowner or its representatives are agreeable.

I look forward to receipt of your response.

Yours sincerely,

Richard Duhig
Senior Legal Officer
Legal Services Department

Customer Service Contacts

PO Box 159 Caboolture QLD 4510 | T (07) 3205 0555 | F (07) 3205 0599 | E mbrcc@moretonbay.qld.gov.au | W www.moretonbay.qld.gov.au

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Ting, Benjamin

From: Marshall, Michael <mmarshall@tglaw.com.au>
Sent: Saturday, 24 February 2018 4:34 PM
To: Richard Duhig; Luke Walker
Subject: RE: Genamson Holdings Pty Ltd & Moreton Bay Regional Council [TGLAW-Legal.FID1792719]

Dear Richard and Luke

I refer to Mr Duhig's letter received on Friday 23 February.

I confirm I am willing to continue to act as the independent delegate in respect of the further objection hearing.

However, I am already committed on 19 April as I have a mediation at 11:30am that day.

I am available to conduct the hearing on either 18 April or 20 April, and can meet the convenience of the legal representatives for Genamson at that time.

I request that Mr Walker indicate whether he is agreeable to conducting the hearing on either of those days.

Alternatively, the hearing could proceed on 19 April, provided that it does not commence before 3:30pm.

I look forward to hearing from you both.

regards

Michael Marshall | Partner
THOMSON GEER
T +61 7 3338 7525 | M 0407 914 748
Level 16, Waterfront Place, 1 Eagle Street, Brisbane QLD 4000 Australia
mmarshall@tglaw.com.au | tglaw.com.au

Advice | Transactions | Disputes

From: Margaret Smith [mailto:margaret.smith@moretonbay.qld.gov.au] **On Behalf Of** Richard Duhig
Sent: Friday, 23 February 2018 3:07 PM
To: Marshall, Michael <mmarshall@tglaw.com.au>
Cc: Luke Walker <lwalker@hwle.com.au>; Richard Duhig <Richard.Duhig@moretonbay.qld.gov.au>
Subject: Genamson Holdings Pty Ltd & Moreton Bay Regional Council

Good afternoon,

Please see **attached** correspondence.

Regards,

Richard Duhig
Senior Legal Officer
Legal Services Department
Office of the Chief Executive Officer
Moreton Bay Regional Council
220 Gympie Road, Strathpine Qld 4500
P: (07) 3480 6661
E: richard.duhig@moretonbay.qld.gov.au
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Moreton Bay Regional Council

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18 September 2018

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*ITEM 2.1 - PROPOSED RESUMPTION FOR DRAINAGE PURPOSES - 134 MORAYFIELD ROAD,
CABOOLTURE SOUTH - LOT 5 ON RP88015 - DIVISION 3 (Cont.)*

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ITEM 2.1 - PROPOSED RESUMPTION FOR DRAINAGE PURPOSES - 134 MORAYFIELD ROAD,
CABOOLTURE SOUTH - LOT 5 ON RP88015 - DIVISION 3 (Cont.)



Our Ref: PJB:LIW:688403

Your Ref:

5 March 2018

Mr Richard Duhig
Moreton Bay Regional Council
220 Gympie Road
STRATHPINE QLD 4500

Email: richard.duhig@moretonbay.qld.gov.au

CC: mmarshall@tglaw.com.au

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Dear Richard

**Genamson Holdings Pty Ltd and Moreton Bay Regional Council
Objection to Notice of Intention to Resume Part of Lot 5 on RP88015
134-140 Morayfield Road, Caboolture South**

We refer to your letter of 23 February 2018 and Mr Marshall's email of 24 February 2018.

In that correspondence, you seek to ascertain Mr Marshall's availability to act as the Council's delegate in respect of the hearing of any objections relating to the amended Notice of Intention to Resume dated 20 February 2018 (**Amended NIR**). In turn, Mr Marshall has indicated that he is available to act as same.

Given that Mr Marshall has already produced a report in respect of this Land recommending that the Council proceed with its proposed resumption, we do not consider it appropriate for him to act further in this matter.

In particular, we are concerned that, in light of his previous recommendation, a fair-minded lay observer might reasonably apprehend that Mr Marshall may not bring an impartial mind to the resolution of the question that he is required to decide. In that respect, the authorities recognise that a reasonable apprehension of will often arise where a decision-maker has previously made findings against a party.¹

For the avoidance of doubt, we stress that no actual bias is alleged against Mr Marshall (who is, of course, a well-respected and experienced solicitor) but merely that a reasonable apprehension of bias would arise in the mind of a fair-minded lay observer.

¹ See, for example, *Livesey v New South Wales Bar Assn* (1983) 151 CLR 288; *Singh v Minister for Immigration and Multicultural Affairs* (1997) 77 FCR 440; and *Gabrielsen v Nurses Board of South Australia* (2006) 90 ALD 695.

Doc ID 533931543/v1

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Moreton Bay Regional Council

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Accordingly, we require that the objection hearing in respect of the Amended NIR be conducted by an independent delegate of the Council who has not had any previous dealings in respect of this matter.

We look forward to your response.

Yours faithfully



Peter Bittner
Partner
HWL Ebsworth Lawyers

+61 7 3169 4743
pbittner@hwle.com.au



Luke Walker
Associate
HWL Ebsworth Lawyers

+61 7 3169 4841
lwalker@hwle.com.au

cc Mr Michael Marshall - Thomson Geer Lawyers

ITEM 2.1 - PROPOSED RESUMPTION FOR DRAINAGE PURPOSES - 134 MORAYFIELD ROAD,
CABOOLTURE SOUTH - LOT 5 ON RP88015 - DIVISION 3 (Cont.)



Phone: 3480 6661
Our Ref: A16672806
Your Ref: PJB:LW:618645
Date: 9 March 2018

Mr Luke Walker
HWL Ebsworth Lawyers

By email only: lwalker@hwle.com.au

cc Mr Michael Marshall
Thomson Geer

By email only: mmarshall@tqlaw.com.au

Dear Luke,

**Proposed Resumption of Land - Part of Lot 5 on RP88015 - 134-140 Morayfield Road,
Caboolture South**

Thank you for your correspondence dated 5 March 2018.

We do not agree Council's Delegate is possessed of apprehended bias because he heard the objections hearing regarding the original Notice of Intention to Resume.

This is not a situation in which the Delegate is reviewing his earlier decision as was the case in *Gabrielsen v Nurses Board of South Australia*¹ or *Singh v Minister for Immigration and Multicultural Affairs*² nor is the Delegate being asked to make a decision in circumstances where in an earlier decision the same decision maker made adverse findings of character regarding one of the parties as was the case in *Livesey v New South Wales Bar Association*³.

The delegate is being asked to hear objections regarding an amended Notice of Intention to Resume. As was held in *Vietnam Veterans Association of Australia New South Wales Branch Inc and Geoffrey Davis v John Patrick Gallagher*⁴ (at 20.7, 20.9):

"The mere fact that the decision-maker has decided an issue of fact or law in a particular way, and is likely to decide it in the same way if it arises again, does not indicate pre-judgment amounting to bias...It would be an abdication of duty, and an encouragement of procedural abuse, for a decision-maker to automatically disqualify himself or herself whenever requested by one party to do so the grounds of a possible appearance of pre-judgment or bias, regardless of whether the other party desired that the matter be dealt with by the decision-maker to whom the hearing of the case had been entrusted by the ordinary practices and procedures of the particular court or tribunal".

¹ (2006) 90 ALD 695

² (1997) 77 FCR 440

³ (1983) 155 CLR 288

⁴ (1994) 52 FCR 34

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It was also held in *Vietnam Veterans (at 20.8)*:

"The apprehension required to be shown is that the decision-maker's mind is so prejudiced in favour of a conclusion already formed that he or she will not alter that conclusion irrespective of the evidence or arguments presented to him or her."

The Delegate will hear objections and prepare a report regarding an amended Notice of Intention to Resume which is different to the Notice of Intention to Resume in respect of which objections were previously heard. It is impossible to form the view the decision-maker's mind is so prejudiced in favour of a conclusion when the circumstances giving rise to the decision-maker's involvement have changed.

Additionally, it is in the interest of consistency of decision-making that the original delegate is maintained.

Accordingly, Council does not propose changing the Delegate. Mr Marshall however may wish to address the issue and I shall ask he do so in separate correspondence.

Yours sincerely,



Richard Duhig
Senior Legal Officer
Legal Services Department

Customer Service Contacts

PO Box 159 Caboolture QLD 4510 | T (07) 3205 0555 | F (07) 3205 0599 | E mbrc@moretonbay.qld.gov.au | W www.moretonbay.qld.gov.au

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ITEM 2.1 - PROPOSED RESUMPTION FOR DRAINAGE PURPOSES - 134 MORAYFIELD ROAD,
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Our ref MFM:4084041
Your ref A16672806

15 March 2018

richard.duhig@moretonbay.qld.gov.au

lwalker@hwle.com.au

Mr Richard Duhig
Moreton Bay Regional Council
220 Gympie Road
STRATHPINE QLD 4500

Mr Luke Walker
HWL Ebsworth Lawyers
GPO Box 2033
BRISBANE QLD 4000

Dear Sirs

**Genamson Holdings Pty Ltd and Moreton Bay Regional Council
Proposed Resumption of Part of Lot 5 of Lot 5 on RP88015 - 134-140 Morayfield Road, Caboolture
South
Further Objection Hearing in relation to Amended Taking of Land Notice**

I refer to your letter dated 9 March 2018 and to Mr Walker's letter dated 5 March 2018.

I have considered both letters carefully including the cases referred to. I have reached the conclusion that there are no circumstances of apprehended bias present which preclude me from acting as a delegate at the proposed hearing relating to the amended Notice of Intention to Resume (**ANIR**)

Apprehended bias would only exist if there are reasonable grounds to apprehend that I would not take a critical approach to the objections or treat new information objectively.¹ In my opinion, there are no reasonable grounds to take that view.

The amended taking of land notice is such that I will be hearing different or substantially different objections to the ones I considered and addressed in my report. Consequently, this case is more analogous to *Vietnam Veterans' Association of Australia New South Wales Branch Inc v John Patrick Gallagher*² than cases where the same questions of fact and law are posed to a delegate.³

As suggested in *Vietnam Veteran's* case, merely because it may be considered likely that I would make the same decision on similar questions of fact or law does not mean apprehended bias is present. The fact that my earlier report recommended that the Council proceed with the taking of land, does not of itself demonstrate apprehended bias. It must further be shown that I would not bring a critical mind to the matter.

¹ *Singh v Minister for Immigration and Multicultural Affairs* (1997) 77 FCR 440, 451.

² (1994) 52 FCR 34.

³ See e.g. *Gabrielsen v Nurses Board of South Australia* (2006) 90 ALD 695 and *Singh v Minister for Immigration and Multicultural Affairs* (1997) 77 FCR 440.

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THOMSON GEER

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Furthermore, at neither the earlier objections hearing, nor in the report, did I express any adverse views about the character of the objector. Thus apprehended bias as demonstrated in *Livesey v New South Wales Bar Association*⁴ could not be found to exist.

In my opinion there are no reasonable grounds to show that I have prejudged the decision so as to bring a closed mind to the further objection hearing proposed.

Accordingly, I do not propose to disqualify myself from acting as the Council's delegate for the purpose of hearing any objections in respect of the ANIR.

I await confirmation of details of the date, time and venue of the objection hearing. I have not yet been provided with the ANIR to resume or any further notice of objection by the landowner and ask that I be provided with these and any other relevant documents.

Yours faithfully
THOMSON GEER



Michael Marshall
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M 0407 914 748
E mmarshall@tglaw.com.au

⁴ (1983) 155 CLR 288.

ITEM 2.1 - PROPOSED RESUMPTION FOR DRAINAGE PURPOSES - 134 MORAYFIELD ROAD, CABOOLTURE SOUTH - LOT 5 ON RP88015 - DIVISION 3 (Cont.)

#3 Grounds of Objection Report 31 January 2018

Report by delegate in relation to the hearing of an Objection by Genamson Holdings Pty Ltd in respect of a proposed taking of land by the Moreton Bay Regional Council pursuant to the Acquisition of Land Act 1967 (Qld)

1 Author

- 1.1 This report was prepared by Michael Marshall, delegate appointed by Moreton Bay Regional Council.

2 Distribution

- 2.1 Peter Bittner, Partner HWL Ebsworth, on behalf of Genamson Holdings Pty Ltd.
2.2 Luke Walker, Solicitor HWL Ebsworth, on behalf of Genamson Holdings Pty Ltd.
2.3 Richard Duhig, Senior Legal Officer Moreton Bay Regional Council.

3 Background Information

Property Address	134-140 Morayfield Road, Caboolture
Property Description	Lot 5 on RP88015
Registered Owner/Objector	Genamson Holdings Pty Ltd
Date of Notice of Intention to Resume	12 October 2017
Date of Lodgement of Objection	A total of 3 notices of objection (NOO) were received as follows:- 1. Letter HWL Ebsworth (HWLE) to Moreton Bay Regional Council (MBRC) dated 15 November 2017 (NOO1); ¹ 2. HWLE "List of Further Objections" received on 22 November 2017 (NOO2); and 3. Letter HWLE to Thomson Geer Lawyers dated 15 January 2018 including supplementary brief of documents and matters referred to in letter from SLR Consulting Pty Ltd to HWLE dated 22 December 2017 (NOO3).
Purpose of Resumption	Drainage purposes and purposes incidental to carrying out drainage purposes.

¹ The grounds are listed on page 1 of the Notice as numbered 3-8 inclusive. This was acknowledged to be a typographic error and the grounds should be correspondingly re-numbered 1-6.

ITEM 2.1 - PROPOSED RESUMPTION FOR DRAINAGE PURPOSES - 134 MORAYFIELD ROAD,
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4 Introduction

- 4.1 This report relates to a hearing in respect of an objection made to the proposed taking of land pursuant to the *Acquisition of Land Act 1967* (the **Act**).
- 4.2 The Moreton Bay Regional Council (**Council**) issued a Notice of Intention to Resume (**NIR**) dated 12 October 2017 to Genamson Holdings Pty Ltd (**the Owner**) giving notice that the Council intends to take:
- "1 for drainage purposes ... part of Lot 5 on RP 88015, containing an approximate area of 1.22ha and being part of the land contained in title reference 18406052 and is the area shaded yellow on the enclosed copy of sketch no. 16/1933542-Sk1; and
 - 2 for purposes incidental to the carrying out of drainage purposes, ... an easement over part of Lot 5 on RP 88015, containing an approximate area of 720 square metres and being part of the land contained in title reference 18406052 and the area hatched in black on the enclosed copy of sketch no. 16/1933542-Sk1."
- 4.3 The NIR stated that the Owner:
- "May on or before the 15th day of November 2017 serve upon the Chief Executive Officer of the Council at the Council chambers, 220 Gympie Road, Strathpine an objection in writing to the taking of the land ...*
- If you state in your objection that you desire to be heard in support of the grounds of your objection, you may appear and be heard by the Council or its delegate at the office of the Council at 220 Gympie Road, Strathpine on the 22nd day of November 2017 at 11 o'clock in the morning."*
- 4.4 By letter dated 15 November 2017, HWLE, acting on behalf of the Owner delivered a written Notice of Objection. That letter stated in part:
- "We confirm that our client wishes to be heard in support of the grounds of objection at 11am on 22 November 2017."*
- 4.5 On 17 November 2017, I received a delegation by the Chief Executive Officer of the Council of *"the power to hear the objector and to prepare a report on the objections hearing under section 8 of the Acquisition of Land Act 1967"*. The delegation of power was made pursuant to section 259 of the *Local Government Act 2009*.
- 4.6 On 17 November 2017 I received from Mr Duhig an electronic brief of documentation entitled "Brief to Delegate". A hard copy of the same brief was delivered to me on Monday, 20 November 2017. The instrument appointing me as delegate is contained at tab 4 of the Brief. A copy of the Brief to Delegate is **Attachment 1** to this report.
- 4.7 A copy of the Brief was also provided by Mr Duhig to HWLE on behalf of the Owner.
- 4.8 The venue for the objections hearing was changed to the offices of Thomson Geer Lawyers at 1 Eagle Street, Brisbane, following my appointment as Council's delegate. The change in venue was acknowledged by HWLE in an email to Mr Duhig dated 21 November 2017.

5 Conduct of Objection Hearing on 22 November 2017

- 5.1 The objection hearing commenced at the offices of Thomson Geer at approximately 11.20am on 22 November 2017. The persons in attendance at the hearing were as follows:-

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Person	Position	Representing/Role
Peter Bittner	Partner HWLE	The Owner
Luke Walker	Solicitor HWLE	The Owner
Thomas Canniffe	HWLE	The Owner
Richard Duhig	Senior Legal Officer Moreton Bay Regional Council	The Constructing Authority
Michael Marshall	Partner Thomson Geer Lawyers	Delegate Appointed by the Constructing Authority
Andrew Stower	Summer Law Clerk Thomson Geer Lawyers	Observer

5.2 *Preliminary Matters*

5.3 I disclosed the following matters:-

- (a) I had not received any instructions or documents from the Council other than the material contained in the Brief to Delegate;
- (b) I am engaged by the Council to provide legal services to it from time to time. I also act for parties in dispute with the Council against the Council including in respect of compulsory acquisition matters.

5.4 I sought and obtained confirmation that the Owner had received a copy of the delegation to Ms Anne Moffat dated 20 October 2015 (as requested in the letter of objection from HWLE in its letter of objection dated 15 November 2017).

5.5 I sought and obtained confirmation from HWLE that they were in a position to proceed with the objection hearing.

5.6 HWLE produced a document entitled "List of Further Objections" dated 22 November 2017, which is **Attachment 2** hereto.

5.7 HWLE noted a procedural non-compliance in that the Notice of Intention to Resume dated 12 October 2017 stated that the objection hearing would occur on 22 November 2017 at 11am at the office of Council at 22 Gympie Road, Strathpine, but that the Council had subsequently changed the venue to the office of Thomson Geer following my appointment as delegate. It was stated by HWLE that the Council had not amended the Notice of Intention to Resume pursuant to section 7(4AA) of the Act. I enquired as to whether HWLE contended that the change in venue had caused the Owner any prejudice. This was answered in the negative. I enquired whether HWLE asserted that there had been a lack of procedural fairness as a result. This was answered in the negative. I enquired as to whether HWLE contended that the proper course of action should be for the Council to issue an amended NIR and for the process to restart. This was answered in the negative. HWLE indicated that it wished to proceed with the objections hearing, but on the basis that the asserted non-compliance was noted. It has been duly noted by me.

5.8 An objection was then taken by HWLE to the presence of Mr Duhig. The grounds for that objection included that Mr Duhig:-

- (a) had prepared the Brief to Delegate without consultation with the owner and that the Brief did not contain all relevant materials;

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ITEM 2.1 - PROPOSED RESUMPTION FOR DRAINAGE PURPOSES - 134 MORAYFIELD ROAD,
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- (b) would be involved in the decision making process of the Council as to whether to proceed with the taking of the land; and
 - (c) if present at the objection hearing could jeopardise the independence or perceived independence of my function as a delegate.
- 5.9 I indicated that I did not consider it inappropriate for Mr Duhig, as a representative of the Constructing Authority to be present at the objection hearing. I also stated that I did not envisage that Mr Duhig would be an active participant. Mr Duhig at this point volunteered to remove himself, to avoid any dispute over the issue. Mr Duhig left the room at approximately 11.40am.
- 5.10 HWLE raised a question as to my relationship with the Council and the circumstances surrounding my engagement and instructions. HWLE acknowledged that my disclosures referred to in paragraph 5.3 of this report had partly addressed those matters. I was asked whether I had any discussions with Mr Duhig prior to receipt of the brief. I responded that:-
- (a) I had initial discussions with Mr Duhig concerning my availability to accept a delegation for the purpose of an objection hearing but without any substantive discussion about the specifics of the matter;
 - (b) following my appointment I had a discussion with Mr Duhig about matters of protocol surrounding the conduct of the objection hearing including noting that it would be inappropriate for Mr Duhig and I to confer about the substance of the matter either prior to or following the objection hearing; and
 - (c) my engagement was made pursuant to LocalBuy which is a panel of service providers operated by the Local Government Association of Queensland which pre-qualifies organisations to provide services to local governments at agreed charges.
- 5.11 HWLE then made representations about a range of issues that are raised in the 2 notices of objection. The grounds of objection are dealt with in section 8 of this report.
- 5.12 It was indicated by HWLE that the brief delivered to me by the Council ought in their view to have included additional material and also that the Council held further documents that should be provided by it to the Owner to allow a properly detailed notice of objection to be provided.
- 5.13 I enquired of HWLE whether they were agreeable to an adjournment of the objections hearing, to allow time for the matters referred to in paragraph 5.13 to be addressed. HWLE responded in the affirmative.
- 5.14 I sought HWLE's consent to Mr Duhig being recalled to the hearing to discuss procedural matters (rather than the substance of the objections) HWLE agreed to that course of action.
- 5.15 Mr Duhig then rejoined the hearing. I advised that the objection hearing was being adjourned to deal with an issue relating to additional documentation and that I would be writing to the parties with a proposal for certain steps to occur, prior to the objection hearing being re-convened. The hearing concluded at approximately 1.30pm.

6 Further Steps

- 6.1 **Attachment 3** is a copy of a letter sent to the parties on 23 November 2017. Following responses from both parties, I wrote to both parties on 4 December 2017 and advised on the timetable for the recommencement of the objection hearing.
- 6.2 **Attachment 4** to this report is a copy of the letter sent to the parties on 4 December 2017.
- 6.3 HWLE wrote to the Council on 8 December 2017 requesting various additional documents or classes of documents (**Attachment 5**) to which the Council responded by letter dated 15 December 2017 (**Attachment 6**).

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ITEM 2.1 - PROPOSED RESUMPTION FOR DRAINAGE PURPOSES - 134 MORAYFIELD ROAD, CABOOLTURE SOUTH - LOT 5 ON RP88015 - DIVISION 3 (Cont.)

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- 6.4 By letter dated 22 December 2017, HWLE wrote to me (**Attachment 7**) and provided me with certain additional documents to supplement the documents contained in the brief provided by the Council.
- 6.5 By letter dated 15 January 2018, HWLE on behalf of the Owner delivered "further submissions" on the proposed resumption which I have treated as a third written notice of objection – **Attachment 8**.
- 6.6 **Attachment 9** is a bundle of further emails passing between the parties and myself prior to the recommencement of the objection hearing on 17 January 2017.

7 Conduct of resumed objection hearing on 17 January 2017

- 7.1 The objection hearing recommenced at the offices of Thomson Geer at approximately 11am on 17 January 2017. The persons in attendance at the hearing were as follows:

Person	Position	Representing/Role
Peter Bittner	Partner HWLE	The Owner
Luke Walker	Solicitor HWLE	The Owner
Thomas Canniffe	HWLE	The Owner
Michael Marshall	Partner Thomson Geer Lawyers	Delegate Appointed by the Constructing Authority
Nick Traves	Summer Law Clerk Thomson Geer Lawyers	Observer

- 7.2 HWLE repeated its objection to Mr Duhig attending at the objection hearing. It was noted that Mr Duhig was contactable by telephone if required, including to discuss procedural matters following the discussion on the grounds of objection.
- 7.3 I noted that on 15 January 2018 I had received a further written objection from HWLE on behalf of the owner and also a supplementary brief of documents comprising of two volumes.
- 7.4 HWLE then made representations about a range of issues, particularly in respect of the further written notice of objection dated 15 January 2018 and the report which had been prepared by the owner's hydraulic engineering consultant, Dr Trevor Johnson dated 22 December 2017.
- 7.5 When HWLE concluded their representations in respect of the grounds of objection I enquired as to whether there were any additional issues or grounds of objection other than those raised in the various notices of objection that had been delivered. I was advised that the owner's grounds of objection should include the matters specifically referred in Dr Johnson's report dated 22 December 2017 and also a contention by the owner that the Council had not considered, or failed to properly consider the financial implications associated with the consequences of any decision to proceed with the taking of land as notified, or in respect of potential alternative solutions which may obviate the need for the taking of land.
- 7.6 I then sought and received confirmation from HWLE that the owner would not be delivering any additional written notices of objection to the proposed taking of land.
- 7.7 With the consent of HWLE, I then telephoned Mr Duhig and conferenced him into the meeting. I advised Mr Duhig that the discussion about objections had concluded and that I wished to briefly address certain procedural matters moving forward. I stated that the Queensland Government Guidelines for Local Governments – Compulsory Acquisition of Land (**Guideline**) recommended that the objector be given a copy of the objection report and any new reports or material for

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ITEM 2.1 - PROPOSED RESUMPTION FOR DRAINAGE PURPOSES - 134 MORAYFIELD ROAD, CABOOLTURE SOUTH - LOT 5 ON RP88015 - DIVISION 3 (Cont.)

comment within 14 days and that I intended to adopt that recommendation. I indicated that I would seek to prepare the objection report with a view to circulating it to the parties during the course of the week commencing 22 January 2018. Mr Duhig and HWLE concurred with that course of action.

8 Grounds of objection

- 8.1 HWLE on behalf of the Owner has delivered three separate written notices of objection on the dates set out in section 3 of this report.
- 8.2 The third notice of objection is supported by a supplementary brief of documents provided to me by HWLE which includes a letter prepared by Dr Trevor Johnson of SLR Consulting Australia Pty Ltd.
- 8.3 For the sake of convenience, I have summarised the various grounds of objections arising from the three written notices of objection and also the matters raised verbally at the two hearings:-

Objection No.	Nature of Objection	Reference/Notice of Objection
1.	Denial of natural justice/procedural fairness	NOO1 and NOO2
2.	The Council's intention to take part of the land is, and would be, unreasonable	NOO1
3.	The Council's intention to take part of the land was not reached in good faith	NOO1
4.	Non-compliance with section 7(3)(e)(iii) of the Act	NOO2
5.	Independence of delegate	NOO2
6.	The Council has failed to demonstrate that the drainage purposes and easement for purposes incidental to drainage purposes cannot be better located elsewhere	NOO1
7.	The Council has failed to demonstrate that the drainage purposes cannot be adequately accommodated on the land without taking part of the land	NOO1
8.	The taking of part of the land will leave a parcel of land that is of no practical use or value to the owner	NOO1
9.	Material before delegate	NOO3
10.	Financial implications of alternative courses of action	Hearing 17/01/2018
11.	Dr Johnson Report	22/12/2017

- 8.4 As can be seen from the 11 grounds listed above, a number relate to legal issues rather than factual matters. The legal issues are raised in grounds 1-5 inclusive. For convenience sake I refer to these as the "legal objections". The balance issues contained in grounds 6-11 will be referred to simply as "the objections". There is some overlap between some of the grounds.

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CABOOLTURE SOUTH - LOT 5 ON RP88015 - DIVISION 3 (Cont.)

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8.5 **Legal Objections**

8.6 The legal objections raised by the land owner raise various questions that fall within the realm of administrative law. I acknowledge that these are all matters that ultimately fall for consideration and determination by a Court of competent jurisdiction. However, as these have been raised in the grounds of objection, it is appropriate for me to provide some consideration and response.

8.7 *Ground 1 – Procedural Fairness/Natural Justice*

8.8 Ground 1 relates to an assertion that there has been a denial of natural justice and procedural fairness. This issue is raised in NOO1 and NOO2. The key particulars referred to are the following:-

- (a) an asserted failure by the Council to provide the owner with "all relevant material" relating to the Council's decision to issue the NIR including the real property description of every piece of land considered by the Council as a viable alternative site and all relevant site selection criteria documents;
- (b) an asserted failure by the Council to comply with the Guideline;
- (c) MBRC has provided material to the delegate unilaterally and without notice to the land owner, the land owner has not had an opportunity to put material to the delegate prior to the objection hearing;
- (d) Council officers in particular Mr Charteris and Mr Duhig are to attend the objection hearing;
- (e) the material put before the delegate by the Council *"invites the delegate into error as it contains irrelevant information and fails to include relevant information"*;
- (f) a report entitled Stormwater Quantity Infrastructure for Caboolture and Burpengary Catchments 2009 provided by the Council to the delegate *"is irrelevant and ought not be considered by the delegate"*; and
- (g) the Feasibility Study is not in final form and is not soundly based and should not be relied upon by the delegate.

8.9 In response to these assertions, I determined to adjourn the objections hearing on 22 November 2017 to allow the land owner to request additional documents from the MBRC, for it to respond to that request and for the Owner to have the opportunity to provide further documentation and objections to me. These actions duly occurred. These steps in my opinion have adequately addressed the Owner's concerns as reflected by this ground.

8.10 In relation to the matter raised in paragraph 8.8(d), I refer to the discussion contained in paragraphs 5.8 and 5.9 hereto.

8.11 *Ground 2 – Unreasonable*

8.12 Ground 2 is that the Council's intention to take part of the land is, and would be unreasonable. The substance of the issues raised in Ground 2 are largely, if not entirely raised by Grounds 6 and 7 and are addressed later in this report.

8.13 *Ground 3 – Lack of Good Faith*

8.14 Ground 3 asserts that the Council's intention to take the land was not reached in good faith. The basis for this ground is said to be because *"the purpose stated in the NIR for taking part of the land is untrue"*. This is said to arise because there is no need for the proposed resumption, that other better suited land is available, that the drainage purposes could be accommodated on the land without the taking of the land and/or a smaller portion of land could accommodate the drainage infrastructure.

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ITEM 2.1 - PROPOSED RESUMPTION FOR DRAINAGE PURPOSES - 134 MORAYFIELD ROAD,
CABOOLTURE SOUTH - LOT 5 ON RP88015 - DIVISION 3 (Cont.)

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- 8.15 It is not clear to me whether the assertions of a lack of good faith and that the purpose stated in the NIR is "untrue" is tantamount to an assertion of bad faith. No overt assertion of bad faith was made by the owners representatives in either of its written notices or at the first objection hearing. There is nothing in the materials I have been provided with or in the matters discussed at the objection hearings that would suggest that the MBRC's intention to take part of the land was not reached in good faith, or that any aspect of the MBRC's conduct could be suggestive of bad faith.
- 8.16 The substance of the issues raised in Ground 3 are largely, if not entirely raised by Grounds 6 and 7 and are addressed later in this report.
- 8.17 *Ground 4 – Non-compliance with Section 7(3)(e)(iii) of the Act*
- 8.18 Ground 4 relates to the fact that the NIR stated that the objection hearing would occur on 22 November 2017 at 11am at the office of the Council at 220 Gympie Road, Strathpine. Following my appointment as delegate, the venue of the objections hearing was changed to the office of Thomson Geer at level 16 Waterfront Place, 1 Eagle Street, Brisbane. The date and time were unchanged. That venue change was communicated by Mr Duhig of MBRC to HWLE who duly attended at the office of Thomson Geer. NOO2 contends that the change in venue was a contravention of section 7(3)(e)(iii) of the Act with the result that the objection hearing was not being held at the place and time stated in the NIR, and that the Council has therefore failed "to hold a valid objection hearing". However at the hearing on 22 November 2017, HWLE informed me that:-
- (a) they did not contend that the owner had suffered any prejudice as a result;
 - (b) they did not assert a lack of procedural fairness on account of this issue; and
 - (c) they did not contend that the NIR should be set aside and the hearing adjourned on account of this issue.
- 8.19 On the basis of these concessions, I regard Ground 4 as being either withdrawn or of no consequence.
- 8.20 *Ground 5 – Independence of Delegate*
- 8.21 In relation to Ground 5, I refer to the discussion contained in paragraphs 5.3 and 5.10 hereto. At the hearing on 22 November 2017 it was indicated by HWLE that:-
- (a) the Owner would not press the point that I would not be able to act independently as the Council's delegate; and
 - (b) no objection was taken by the Owner to me acting as Council's delegate for the purpose of the objection hearing.
- 8.22 In view of these concessions made by HWLE, I have treated this ground of objection as withdrawn.
- 8.23 By way of general comment on Grounds 1-5, none of the legal objections raised by the Owner are, in my opinion, persuasive as would justify a recommendation by me to the Council that the current process should be discontinued by the Council. In particular, I am of the opinion that the Owner has been afforded procedural fairness and natural justice in the process to date. However, I repeat the caveat I expressed at paragraph 8.6.
- 8.24 **The Objections**
- 8.25 *Ground 6 – Locate Infrastructure Elsewhere*
- 8.26 It is argued that the Council has failed to demonstrate that the drainage purposes and easement for drainage purposes cannot be better located elsewhere.

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8.27 In support of this ground, it has been emphasised on behalf of the Owner that the Council has failed to consider the suitability of other sites for the drainage purposes including the Kate McGrath Koala Park (**Koala Park**).

8.28 The report of Dr Johnson dated 22 December 2017 states at page 4:

"There are alternate sites within the catchment which could be used for detention purposes, the most significant of which is the Koala Park immediately upstream of the site. It would be possible to locate at least part of the specified detention volume on that site. Apart from a few trees in one part of the park, there is no vegetation present in the Koala Park other than grass. It would be a simple matter to design a detention basin in this location which did not affect the amenity of the park in any substantial way, or require removal of any trees. While Council also has a plan to construct a water quality control device in this park, the hearing established that there was no impediment to co-locating this device with a detention basin provided that suitable design analysis was undertaken ..."

8.29 However, other than the Koala Park, no other alternative sites are pressed by Dr Johnson.

8.30 The Owner's objections refer at various times to the Judgment of the Planning and Environment Court in *Genamson Holdings Pty Ltd v Moreton Bay Regional Council*.² Indeed at the second objection hearing it was urged on behalf of the Owner that the Council must take this Judgment into consideration before proceeding further with the resumption. It is apparent from a reading of that decision that the issue of alternate location was ventilated at some length by the parties before His Honour Judge Rackemann. The suitability of Koala Park (to contain the drainage infrastructure) was discussed at paragraphs 57-59 of the Judgment. It is worth extracting this passage in full (footnotes omitted):-

"[57] Kate McGrath Park, which lies to the immediate southwest, provides an opportunity to provide at least some of the detention basin function. It is, however, in accordance with the PIP, proposed to be developed with a stormwater quality device, most likely a bio remediation device. Dr Johnson pointed out that a detention basin can be co-located with such a device. Mr Clark accepted as much. As he pointed out, and Dr Johnson acknowledged however, there are issues with collocating such devices. Those include as to functional (including the potential for scour and erosion issues) and increased maintenance issues. He accepted that, if space were not an issue, he would try to separate the devices with the high flows diverted to the detention basin. That is consistent with what is shown on the PIP Stormwater map.

[58] Quite apart from the functional and maintenance issues, there is also, as Dr Johnson acknowledged, a potential limitation in terms of capacity. The park, at about 8000m², is significantly smaller than the subject site, thereby limiting the size of the basin that could be achieved. If something of about the order of 21,000m³ were required (a matter discussed later), then the park would need to be excavated below the level of the existing outlet in order to achieve that volume. If that complication were to be avoided, then only part of the detention volume would be able to be achieved within the park, with Council having to look to implement measures elsewhere to find remaining detention volume.

[59] In those circumstances, attention shifts back to the subject site to achieve a regional detention basin in this vicinity. The appellant's preferred option (supported by Dr Johnson) is that it be achieved on the subject site, underneath the development. This option would see the detention basin being constructed as trunk infrastructure, pursuant to a condition of approval, prior to construction of the appellant's development over the top and subject to an appropriate infrastructure set off or refund. Appropriate arrangements, including easements,

² [2017] QPEC 56.

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would need to be put in place to facilitate Council's ongoing access to, and maintenance of, the detention basin."

- 8.31 The Court decision was delivered on 11 September 2017. The issue of the NIR to the Owner post dated that event. It is self evident that the suitability of the Koala Park as an alternative site:-
- (a) has been considered by the Council;
 - (b) has been considered by the respective hydraulic experts, including Dr Johnson;
 - (c) was found by Judge Rackemann to be problematic for the reasons identified in the Judgment.
- 8.32 At the first objection hearing, it was suggested that another alternative site was 44 Adelaide Drive, Caboolture. However, very little information has been provided in relation to that site. I note that Dr Johnson's report dated 22 December (which post dated the first objection hearing) makes no mention of this alternative.
- 8.33 *Ground 7 – Co-Location*
- 8.34 It is argued that the Council has failed to demonstrate that the drainage purpose cannot be adequately accommodated on the land without taking part of the land.
- 8.35 The Owner contends that the drainage infrastructure should be co-located on the Owner's land, by means of constructing the extension to the existing Heritage Plaza Shopping Centre on a platform above the drainage infrastructure. This matter was also considered at some length in the Planning and Environment Court proceedings at paragraphs 59-81. Paragraph 80 of the Judgment is extracted in full below:-
- "[80] The evidence satisfies me that it is possible to develop a detention basin with a total capacity of 21,000m³ on the site below the proposed development. It would be accompanied by some safety issues, albeit not, of themselves, unacceptable. It would also be accompanied by some maintenance issues, which would likely affect efficiency, to some extent, compared with a free-standing detention basin. It would provide some benefit to the wider catchment, beyond offsetting the impacts of the development of the site itself, but the extent to which it would also do so have not been ascertained. It carries the potential to limit the extent to which the benefits of the council's planned regional detention basin, if developed on the subject land, can be maximised and also carries the potential to require compensatory benefits to be found elsewhere."*
- 8.36 It is clear that the Court did not consider that its finding at paragraph 80 of the Judgment served to bind or compel the Council to accept the co-location option. That is expressly recognised by the discussion in paragraph 81 of the Judgment where it is stated:-
- "[81] I am satisfied that the proposal has the potential, if constructed prematurely, to prejudice the Council's infrastructure planning. That does not call for refusal of the development application. It is however, relevant to impose conditions to address that potential prejudice. In my view it is, in the circumstances of this case, and notwithstanding the attractions of co-location, not unreasonable, having regard to matters including maximising the efficient provision of infrastructure, to do so by imposing a condition which delays commencement of construction for a reasonable, but certainly not elongated, time to afford the council an opportunity to promptly complete its proposed acquisition without prejudice to the development of a standalone basin, unless it is prepared, on reflection, to consent to the appellant's preferred alternative condition involving the co-location option."*
- 8.37 It is apparent that the co-location option:-

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- (a) has been considered by the Council;
 - (b) has been considered by the respective hydraulic experts, including Dr Johnson; and
 - (c) was found by the Court to carry with it certain potential limitations as compared with a free standing detention basin.
- 8.38 To conclude this discussion I note that the Court has acknowledged that the Council may wish to make provision for the drainage infrastructure by way of a standalone basin on the Owner's land. This is the path that the Council has chosen to proceed by. It would appear that paragraph 80 of the Judgment confirms that there is a valid basis for the Council to conclude that the public interest is better served if a standalone detention basin is developed on the land proposed to be resumed, rather than co-located under the extension to the Heritage Plaza Shopping Centre.
- 8.39 *Ground 8 – Balance Land of No Practical Use*
- 8.40 It is argued by the Owner that the taking of part of the land will leave a parcel of land that is of no practical use or value to the Owner.
- 8.41 The focus of this ground is the 150 car parking spaces for the existing development. Part of the proposed resumption involves an easement running through the car parks of the existing Heritage Plaza Shopping Centre (refer to Sketch No. 16/1933542-Sk1 attached to the NIR). The purpose of the easement is to allow the installation of the necessary pipes and drainage infrastructure and to permit access to those works.
- 8.42 The Owner argues that:-
- (a) the easement runs directly through the majority of the 150 car parks provided by the existing development;
 - (b) the easement would cause the existing development to be unable to comply with the conditions of the existing approvals as it would "*destroy the majority of the car parks provided by the existing development*"; and
 - (c) as a consequence the entirety of the land should therefore be taken by the Council pursuant to section 13(1) of the Act.
- 8.43 The materials I have been briefed with by both the Council and the Owner did not include:-
- (a) the existing development approval for the Heritage Plaza Shopping Centre;
 - (b) any report of a traffic engineer in support of the assertion that the easement would destroy the majority of the existing car parks; or
 - (c) any map or plan depicting the area of the proposed easement superimposed against the existing Heritage Plaza Shopping Centre.
- 8.44 Notwithstanding the matters referred to in paragraph 8.43, this ground of objection is not persuasive for several reasons:-
- (a) an aerial photograph of the existing development shows that the easement will run through the existing carpark rather than the built form structure of the existing shopping centre.³ This aerial photograph is **Attachment 10**.
 - (b) the terms of the proposed easement (which are set out in schedule 4 to the NIR) do not preclude the future use by the Owner of that part of the land for car parking. Of relevance the proposed terms only preclude the construction of a dwelling house or other building on the area of the proposed easement; and

³ This photograph was not included in the brief provided to me, which I caused to be obtained in preparation for the first objection hearing. It was tabled by me and discussed at that hearing.

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- (c) to the extent that there is a permanent loss of existing car parking (which appears unlikely), the Owner is at liberty to apply to the Council to modify the terms of the existing approval. All loss or damage arising as a result would be compensable in the ordinary course of events.
- 8.45 The Owner has not demonstrated any persuasive basis that would lead me to the view that the balance land would be of no practical use or value to the Owner.
- 8.46 Following completion of the easement works, it would appear that the existing Heritage Plaza Shopping Centre can operate in much the same manner (if not identically) to its current operations.
- 8.47 *Ground 9 – Material Before Delegate/Probative Value*
- 8.48 It is contended in N003 that, as delegate, I am "required to make findings of fact based on that (sic) matters put before you by (the Owner)". It is further contended that in this case "there is no probative material before you that would justify a finding that the proposed resumption is required. Indeed, the weight of evidence is overwhelmingly to the contrary. In the circumstances, the land holder submits that you, as delegate of the Council, could not reasonably conclude that the proposed resumption is required".
- 8.49 These contentions once again raise issues of administrative law. I re-state the caveat referred to in paragraph 8.6. However, as the issue has been raised, it is necessary for me to address it. In my opinion the materials contained in the Council's brief to the delegate (**Attachment 1**) provide a reasonable basis for the Council to seek to resume the land for the purpose of drainage purposes.
- 8.50 *Ground 11 – Financial Implications of Alternative Courses of Action*
- 8.51 At the second objection hearing, it was contended that the Council had failed to consider the financial implications associated with alternative courses of action to that of the proposed resumption including valuation of alternate sites. The brief to delegate provided by the Council does not appear to address that issue, at least in express terms. That of course does not necessarily mean that the Council has not considered such matters. The terms of the Act impose no such requirement on the Council. The Guideline does refer to a range of matters that "may be relevant to the assessment process" including "obtain indicative valuations for site options". It is neither necessary nor appropriate for me to express my opinion as to the legal status of the Guideline. However, it is clear enough from the written notices of objection, the report of Dr Johnson and the Judgment of the Planning and Environment Court, that there are only two seriously proposed alternative courses of action, namely to locate the infrastructure in the Koala Park or to co-locate the infrastructure under the extension to Heritage Plaza Shopping Centre. As noted earlier, the material discloses potential problems and/or inadequacies with both alternatives for a range of reasons including capacity, safety and maintenance.
- 8.52 In my opinion this is not a sufficient basis for me to recommend that the resumption be discontinued.
- 8.53 *Ground 12 – Dr Johnson Report/ Supplementary Material*
- 8.54 Shortly prior to the second objection hearing, I was provided with a report prepared by Dr Johnson dated 22 December 2017. It is noted that Dr Johnson gave evidence on behalf of the Owner in the Planning and Environment Court proceeding and that a considerable amount of the substance of his report addresses issues that were the subject of findings by Judge Rackemann. I have reservations as to the legal correctness of the assertion made on behalf of the Owner that, in my role as delegate, it is incumbent on me to make findings of fact based on matters put before me by the Owner, which would include the Dr Johnson report. One obvious difficulty with doing so, is that I do not hold any expertise or qualification in the discipline of hydraulic engineering. I note that pursuant to section 8(2) of the Act, the Council is obliged to consider the matters raised in the report prior to making its determination whether to proceed or not with the proposed taking of land. The same comments apply in respect of the approximately two lever arch volumes of

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ITEM 2.1 - PROPOSED RESUMPTION FOR DRAINAGE PURPOSES - 134 MORAYFIELD ROAD,
CABOOLTURE SOUTH - LOT 5 ON RP88015 - DIVISION 3 (Cont.)

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additional documentation provided to me under cover of letter from HWLE dated 22 December 2017.

9 Conclusion

9.1 In the written notices of objection and at the objection hearings a number of legalistic arguments were put forward on behalf of the Owner as to what my role as delegate required me, as a matter of law, to do and urged certain courses of action upon me.

9.2 It is neither necessary nor appropriate for me to engage with those legal arguments and I do not intend to do so. In discharging my function as delegate I have had regard to:-

- (a) the provisions of the Act, particularly section 8;
- (b) the Guideline; and
- (c) relevant case law discussing the role and purpose of the objection hearing.

9.3 Further to paragraph 9.2(c) above, I have had regard to the following discussion by the Queensland Court of Appeal in the case of *Little v Minister for Land Management*⁴ which included the following passage:

"Procedural fairness also requires that a potential objector be given adequate time for steps required, such as preparation of a notice of objection and preparation for a hearing when one is required." (page 200 line 45)

"The Act then gives them two complementary rights to present a case in opposition to the resumption proposed. The first, the notice of objection, must be in writing. The second is a right 'to be heard in support of the grounds of the objection'. ... That is to say, an objector is given a right to elaborate upon and explain the basis of his opposition and to argue for his point of view. There is nothing in the statutory silence which suggests that an adversarial proceeding is contemplated." (page 201 line 45)

9.4 I am of the view:-

- (a) that the grounds of objection do not provide sufficient reasons to discontinue with the resumption; and
- (b) that the MBRC should proceed with the resumption.

Dated: 31 JANUARY 2018



Michael Marshall

Delegate of the Constructing Authority

⁴ [1995] 1 Qd R 190.

*ITEM 2.1 - PROPOSED RESUMPTION FOR DRAINAGE PURPOSES - 134 MORAYFIELD ROAD,
CABOOLTURE SOUTH - LOT 5 ON RP88015 - DIVISION 3 (Cont.)*

Attachment 1

GENAMSON HOLDINGS PTY LTD

AND

MORETON BAY REGIONAL COUNCIL

**COMPULSORY ACQUISITION -
134-140 MORAYFIELD ROAD, CABOOLTURE SOUTH**

BRIEF TO DELEGATE

**Michael Marshall
Thomson Geer
Level 16 Waterfront Place
1 Eagle Street
Brisbane Qld 4000**

Richard Duhig
Moreton Bay Regional Council
220 Gympie Road
Strathpine Qld
Ph: (07) 3480 6661
Ref: A16215745

Moreton Bay Regional Council

COORDINATION COMMITTEE MEETING
18 September 2018

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ITEM 2.1 - PROPOSED RESUMPTION FOR DRAINAGE PURPOSES - 134 MORAYFIELD ROAD,
CABOOLTURE SOUTH - LOT 5 ON RP88015 - DIVISION 3 (Cont.)

Instructions

You are instructed to act as Council's delegate at an objections hearing pursuant to section 8 of the *Acquisition of Land Act (Qld) 1967* to be held at your offices on Wednesday 22 November 2017 at 11am.

You are briefed with the relevant information to hear the objections. Should you require further information when preparing your report please contact the writer and cc the objector's solicitor and the information will be provided to you and the objector's solicitor.

A delegation from Council's CEO is included in the brief.

Dated: 17 November 2017

Signed: Richard Duhig



Moreton Bay Regional Council

COORDINATION COMMITTEE MEETING
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In the Matter of

GENAMSON HOLDINGS PTY LTD

AND

MORETON BAY REGIONAL COUNCIL

**COMPULSORY ACQUISITION -
134-140 MORAYFIELD ROAD, CABOOLTURE SOUTH**

INDEX TO BRIEF

NO.	DOCUMENT	DATE
1.	Notice of Intention to Resume and associated documents	12.10.17
2.	Correspondence from HWL Ebsworth enclosing objections	15.11.17
3.	Reports supporting the resumption: (a) Stormwater Quantity Infrastructure for Caboolture and Burpengary Catchments (b) Investigation Report: Morayfield 134 Morayfield Road Feasibility Study Regional Detention Basin	2009 Undated
4.	CEO Moreton Bay Regional Council delegation to Michael Marshall, Thomson Geer	17.11.17

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ITEM 2.1 - PROPOSED RESUMPTION FOR DRAINAGE PURPOSES - 134 MORAYFIELD ROAD,
CABOOLTURE SOUTH - LOT 5 ON RP88015 - DIVISION 3 (Cont.)



Phone: (07) 3480 6860
Our Ref: A2016-487
Date: 12 October 2017

Genamson Holdings Pty. Ltd.
Suite 44, 650 George Street
SYDNEY NSW 2000

Dear Mr. Lowe

**PROPOSED RESUMPTION OF PART OF LAND FOR DRAINAGE PURPOSES
PART OF LOT 5 ON RP88015 (134 MORAYFIELD ROAD, CABOOLTURE)**

Council has identified your property, or property you have an interest in, as being affected by a proposed resumption for drainage purposes. Council intends to resume 1.22ha for drainage purposes, and 720m² as an easement for purposes incidental to carrying out drainage purposes.

We enclose a Notice of Intention to Resume ("NIR") advising you of Council's intention to acquire the land and easement.

A copy of the NIR has been forwarded to any party that may have an interest in the land, including the Office of the Registrar of Titles, for information and noting.

As stated in the NIR, you may object to the proposed taking of the land and easement, and request inspection of any relevant Council reports or documents in support of your objection. Council's resumption delegate is also available to hear any verbal submissions in support of your objection, at an objection hearing.

Please note the times specified in the NIR for the lodgement of a written objection and the time and date for an objection hearing. The dates have been chosen to ensure you have adequate time to prepare any objection you may wish to lodge against the proposed resumption and to prepare for an objection hearing should you wish to object.

Please note that Council will assume you do not wish to attend an objection hearing if Council does not receive written confirmation of your intention to attend the objection hearing on or before 15 November 2017.

We also enclose a handout about Council's policy and procedures on resumption matters, as well as a Background Information Statement outlining the work proposed and the reasons for that work.

In the near future, it will be necessary for Council's surveyors to carry out a survey to ascertain the precise area proposed to be acquired. Apart from defining the area and location, the survey will assist you in your negotiations with Council for payment of compensation. A Council officer will contact you shortly to arrange an acceptable time to carry out the required survey.

Customer Service Contacts

PO Box 159 Caboolture QLD 4510 | T (07) 3205 0555 | F (07) 3205 0599 | E mbrci@moretonbay.qld.gov.au | W www.moretonbay.qld.gov.au

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Council does not treat lightly the disturbance to your interests in this matter. Council is willing to negotiate the acquisition of the subject land and easement, and will meet reasonable costs incurred in the preparation of a valuation or claim for compensation for the land and easement required, if you wish to engage a valuer and/or solicitor to assist in your negotiations with Council. If you wish to negotiate an agreement for the acquisition of the land and easement, Council will, at your request, send you an acquisition agreement.

For general enquiries regarding the acquisition process, or to negotiate a written agreement for acquisition of the land and easement, please contact Property Services on (07) 3480 6860, or email propertyservices@moretonbay.qld.gov.au.

Kind Regards



Anne Moffat
Director

Executive and Property Services

Enc. Notice of Intention to Resume
Council's Policy and Procedures on Resumption Matters
Background Information Statement

C/c Westpac Banking Corporation
275 Kent Street
Sydney NSW 2000

ITEM 2.1 - PROPOSED RESUMPTION FOR DRAINAGE PURPOSES - 134 MORAYFIELD ROAD,
CABOOLTURE SOUTH - LOT 5 ON RP88015 - DIVISION 3 (Cont.)



Phone: (07)3480 6669
Our Ref: A2016-487

Date: 12 October 2017

"THE ACQUISITION OF LAND ACT 1967"

AND

"THE LOCAL GOVERNMENT ACT 2009"

NOTICE OF INTENTION TO RESUME

Registered Owner

Genamson Holdings Pty. Ltd.
A.C.N. 053 174 271
Suite 44, 650 George Street
SYDNEY NSW 2000

Registered Mortgagee

Westpac Banking Corporation
Attention: Property Services
275 Kent Street
Sydney NSW 2000

NOTICE IS HEREBY GIVEN that pursuant to the Acquisition of Land Act 1967 ("the Act") and the Local Government Act 2009 the MORETON BAY REGIONAL COUNCIL ("the Council") intends to take:

1. for drainage purposes, the land described in Schedule 1 hereto; and
2. For purposes incidental to the carrying out drainage purposes, the easement described in Schedule 1A hereto.

You may on or before the 15th day of November 2017 serve upon the Chief Executive Officer of the Council at the Council Chambers, 220 Gympie Road, Strathpine an objection in writing to the taking of the land.

The objection must state the grounds of the objection and the facts and circumstances relied on by the objector in support of those grounds.

Any matter pertaining to the amount or payment of compensation is not a ground of objection.

If you state in your objection that you desire to be heard in support of the grounds of your objection, you may appear and be heard by the Council or its delegate at the office of the

Customer Service Contacts

PO Box 159 Caboolture QLD 4510 | T (07) 3205 0555 | F (07) 3205 0599 | E info@moretonbay.qld.gov.au | W www.moretonbay.qld.gov.au

Moreton Bay Regional Council

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Council at 220 Gympie Road, Strathpine on the 22nd day of November 2017 at 11 o'clock in
the morning.

The Council is willing to negotiate to acquire by agreement or, failing agreement, to negotiate
the compensation to be paid and all consequential matters.

Details of the period within which a claim for compensation under the Act must be served on
the Council, and a claimant's right to apply to the Land Court to serve a claim after the end of
the time period within which a claim for compensation must be served, are contained in s19
(3) to (6) of the Act which is reproduced in Schedule 2.

Your attention is also directed to s20 (2A) of the Act which is reproduced in Schedule 3.

The proposed easement terms are outlined in Schedule 4.

DATED this 12th day of October 2017.

SIGNED ON BEHALF OF MORETON BAY)
REGIONAL COUNCIL by ANNE MOFFAT)
the Director of Executive and Property)
Services thereof, being an authorized)
delegate to sign this Notice of Intention to)
Resume pursuant to s259 of the *Local)
Government Act 2009* and CEO Approval)
delegation dated 20 October 2015)


DIRECTOR

*ITEM 2.1 - PROPOSED RESUMPTION FOR DRAINAGE PURPOSES - 134 MORAYFIELD ROAD,
CABOOLTURE SOUTH - LOT 5 ON RP88015 - DIVISION 3 (Cont.)*

SCHEDULE 1

Part of Lot 5 on RP88015, containing an approximate area of 1.22ha and being part of the land contained in Title Reference 18406052 and is the area shaded yellow on the **enclosed** copy of Sketch No. 16/1933542-Sk1.

SCHEDULE 1A

An easement over part of Lot 5 on RP88015, containing an approximate area of 720m² and being part of the land contained in Title Reference 18406052 and is the area hatched in black on the **enclosed** copy of Sketch No. 16/1933542-Sk1.

SCHEDULE 2

S19 (3) to (6) of the Act

- (3) A claim for compensation may be served on the constructing authority only within 3 years after the day the land was taken.
- (4) Despite subsection (3), the constructing authority may accept, and deal with, a claim for compensation served by the claimant more than 3 years after the day the land was taken if the constructing authority is satisfied it is reasonable in all the circumstances to do so.
- (5) If the constructing authority does not accept a claim served by the claimant more than 3 years after the day the land was taken, the claimant may apply to the Land Court to decide whether it is reasonable in all the circumstances for the constructing authority to accept the claim.
- (6) If the Land Court decides it is reasonable in all the circumstances for the constructing authority to accept the claim, the constructing authority must accept, and deal with, the claim under the Act.

SCHEDULE 3

S20 (2A) of the Act

However, in assessing the compensation, a contract, licence, agreement or other arrangements (a **relevant instrument**) entered into in relation to the land after the notice of intention to resume was served on the claimant must not be taken into consideration if the relevant instrument was entered into for the sole or dominant purpose of enabling the claimant or another person to obtain compensation for an interest in the land created under the instrument.

ITEM 2.1 - PROPOSED RESUMPTION FOR DRAINAGE PURPOSES - 134 MORAYFIELD ROAD,
CABOOLTURE SOUTH - LOT 5 ON RP88015 - DIVISION 3 (Cont.)

SCHEDULE 4

MORETON BAY REGIONAL COUNCIL ("the Council") has the right to enter upon the proposed easement ("the land") for drainage purposes to construct, place and lay and forever use, maintain, inspect, cleanse, repair, replace and manage the Relevant Works for conducting drainage water in, through, over or under the land (and whether the same or any of them are laid or constructed at the same time or at different times) and to obtain full, free and uninterrupted access to the Relevant Works at all times with engineers, surveyors, workmen and other persons and with equipment to do such works and things as the Council in its discretion thinks fit. The Council has the right to use such part or parts of the owner's land immediately adjacent to or adjoining either side of the land as the Council considers reasonable or necessary for the proper exercise of these rights.

Unless the Council allows, the owner must not erect or construct any dwelling house or other building on the land or use the land in any way which would obstruct or interfere with the works constructed by the Council upon the land and the proper and effective use of it by the Council.

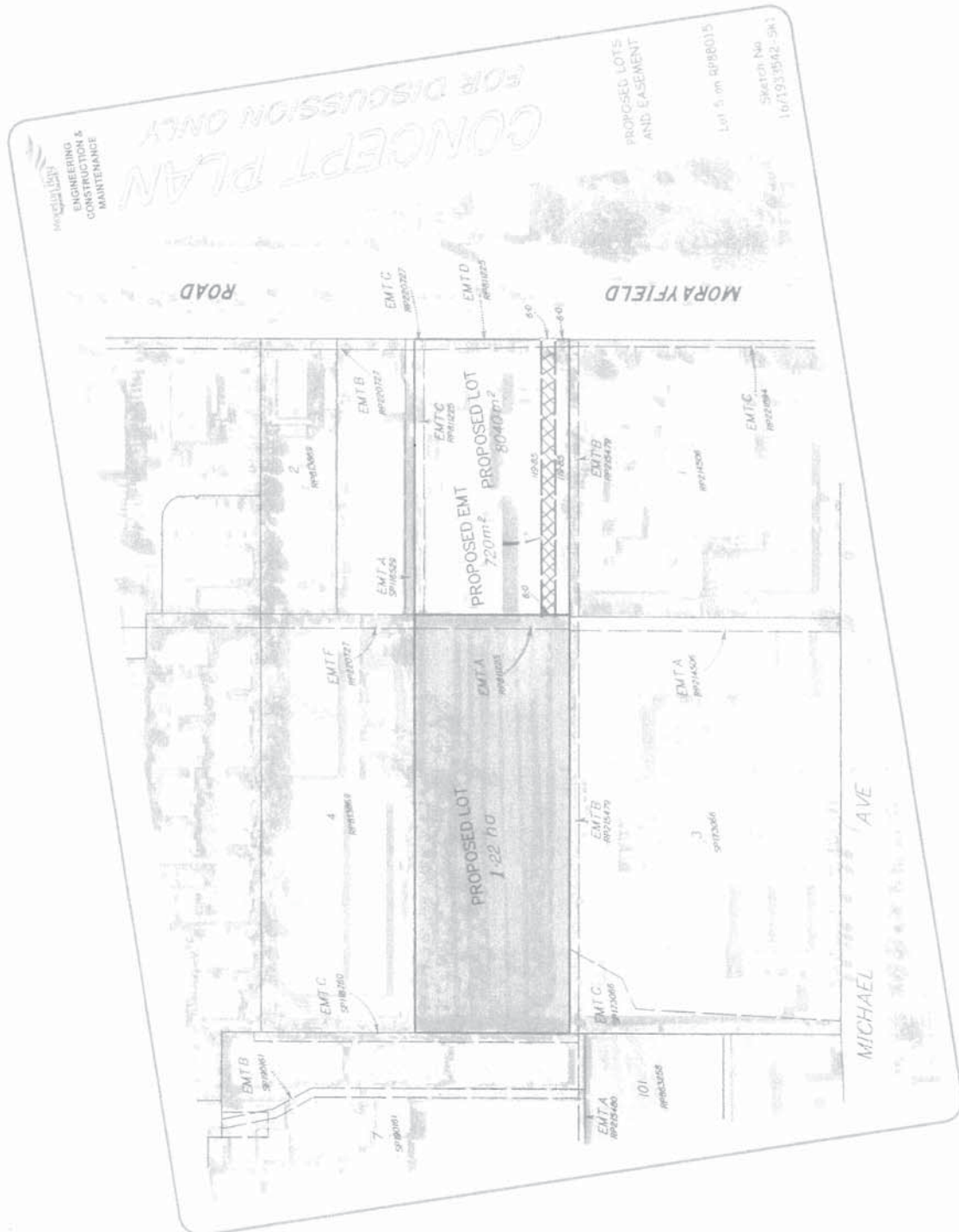
"**Relevant Works**" means drainage works for overland or underground drains, pipes, conduits and channels for the passage or conveyance of rainwater and other lawful discharges to local government drainage through, across or under the land together with manholes, field inlet pits and all other usual or necessary fittings and attachments as well as works for the protection and/or support of all such things.

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ITEM 2.1 - PROPOSED RESUMPTION FOR DRAINAGE PURPOSES - 134 MORAYFIELD ROAD, CABOOLTURE SOUTH - LOT 5 ON RP88015 - DIVISION 3 (Cont.)



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ITEM 2.1 - PROPOSED RESUMPTION FOR DRAINAGE PURPOSES - 134 MORAYFIELD ROAD,
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COUNCIL'S GENERAL PROCEDURE IN DEALING WITH RESUMPTIONS

This handout is not legal advice and has been prepared purely to assist persons served with a Notice of Intention to Resume to gain a general understanding of the resumption process.

STEP

1. Council decision authorising resumption.

2. Preparation of Notice of Intention to Resume (N.I.R.)

* N.I.R. allows at least 30 days for a person to object in person and in writing.

N.I.R. advises that Council is willing to negotiate to acquire by agreement

3. N.I.R. sent to owners, mortgagees and to other persons who would be entitled to claim compensation under the *Acquisition of Land Act 1967*. A copy of the N.I.R. also provided to the Registrar of Titles for noting on Certificate of Title.

* Council's handout on resumption procedures enclosed with letter forwarding N.I.R.

An opportunity is available for relevant Council documents to be inspected.

4. Hearing of objections, if required.

* Hearing is held with Council's delegate and a report prepared by the delegate.

5. Report submitted to Council on the resumption proposal and any objections to the proposal.

6. Decision by Council to proceed/amend (or not to proceed) with resumption. Owners notified of Council decision.

* Preparation of a Plan of Survey by surveyor.

7. Application to State Government Department responsible for administering the *Acquisition of Land Act 1967*, or declaration by the Council, and proclamation of the resumption published in the Government Gazette.

* Council becomes owner of the resumed land at date Proclamation published in Government Gazette.

8. A copy of the resumption Proclamation together with extracts from *Acquisition of Land Act 1967* forwarded to owners, mortgagees and other persons who would be entitled to claim compensation.

* Extracts from the *Acquisition of Land Act 1967* outline rights to compensation.

Registered valuer/s engaged to assess compensation.

9. Proclamation registered in Titles Office.

10. Compensation paid as an advance or in full.

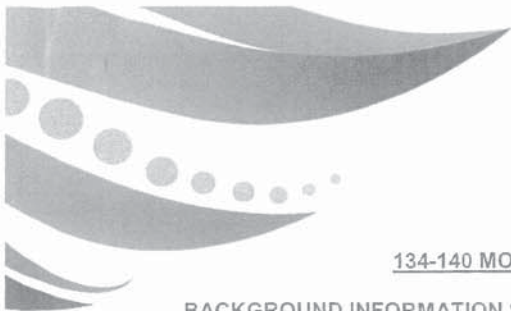
* "Without Prejudice" conference with valuer/s convened where necessary.

11. Land Court of Queensland determines compensation where agreement has not been reached on compensation.

Customer Service Contacts

PO Box 159 Caboolture QLD 4510 | T (07) 3205 0555 | F (07) 3205 0580 | E mbro@moretonbay.qld.gov.au | W www.moretonbay.qld.gov.au

ITEM 2.1 - PROPOSED RESUMPTION FOR DRAINAGE PURPOSES - 134 MORAYFIELD ROAD, CABOOLTURE SOUTH - LOT 5 ON RP88015 - DIVISION 3 (Cont.)



134-140 MORAYFIELD ROAD, CABOOLTURE SOUTH

BACKGROUND INFORMATION STATEMENT FOR PRIVATE PROPERTY RESUMPTION

BACKGROUND

Objective

The Priority Infrastructure Plan identifies a trunk detention basin (SSC_DB_3) in the vicinity of the site at 134-140 Morayfield Road, Caboolture South. The detention basin is to have a total capacity of 21,000m³, requiring approximately 12,600m² of land.

This location is the only viable location for a detention basin of this capacity.

Project Needs

In circumstances where intensification of development is supported by the Planning Scheme, the increased development results in an increased impervious (water cannot penetrate) area. The consequence is increased stormwater run-off into drainage lines and waterways, which can significantly increase flood levels and velocities throughout the catchment. Regional infrastructure items, such as detention basins, are considered and planned for within the Priority Infrastructure Plan. In established urban areas where intensification is supported, Council often has limited access to public land to mitigate the increased flood impacts. In these circumstances acquisition of private land, as in this circumstance, may be the only reasonable alternative to enable development in the balance of the catchment.

The area to be resumed is approximately 12,200m² as well as 720m² for an access easement. The extent of the proposed acquisition is shown in Figure 1 below.



Figure 1 - Proposed lots and easement (Concept Plan for Discussion Only)

Customer Service Contacts

PO Box 159 Caboolture QLD 4510 | T (07) 3265 0555 | F (07) 3205 0599 | E mbrc@moretonbay.qld.gov.au | W www.moretonbay.qld.gov.au

*ITEM 2.1 - PROPOSED RESUMPTION FOR DRAINAGE PURPOSES - 134 MORAYFIELD ROAD,
CABOOLTURE SOUTH - LOT 5 ON RP88015 - DIVISION 3 (Cont.)*

MATERIAL ON WHICH FINDING OF FACT WAS BASED

A detention basin in this location was first identified by Council in 2009 as part of a flood investigation for the Burpengary Creek and Caboolture River catchments. The detention basin was then included as a project in the Adopted Infrastructure Charges Resolution (superseded) and is now included in the Priority Infrastructure Plan in the MBRC Planning Scheme.

Council officers recently undertook a feasibility study to confirm the need for a detention basin in this location. The investigation concluded that the location identified at 134-140 Morayfield Road, Caboolture South is the most practical and suitable location for the detention basin because it offers the opportunity to capture virtually all of the upper catchment flows, reduce the existing flood risks at Morayfield Road and address future increased flows due to the intensification allowed under the Planning Scheme.

ALTERNATIVE ALIGNMENTS / OPTIONS

An evaluation of alternative stormwater management options and alternative locations for a detention basin were considered as part of the feasibility study.

FINDINGS ON MATERIAL QUESTIONS OF FACT

Expected Benefits

The detention basin will offer the following benefits:

- Capture upper catchment flows
- Reduce the existing flood risks at Morayfield Road
- Address future increased flows due to the intensification allowed under the Planning Scheme
- Limit potential increases in flood damages downstream as a result of development upstream of the basin

REASONS FOR DECISION

The project will capture virtually all of the upper catchment flows, reduce the existing flood risks at Morayfield Road and address future increased flows due to the intensification allowed under the Planning Scheme.

Reason for Resumptions

A portion of approximately 12,200m² (plus 720m² for an easement) of Lot 5 on RP88015 is required to be resumed by Council to complete this project. It is not possible to achieve the required detention in a cost effective manner at another location within the catchment or by utilizing alternative stormwater management solutions. The acquisition of a portion of freehold land from the aforementioned property is therefore necessary to achieve the required detention.

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2

ITEM 2.1 - PROPOSED RESUMPTION FOR DRAINAGE PURPOSES - 134 MORAYFIELD ROAD,
CABOOLTURE SOUTH - LOT 5 ON RP88015 - DIVISION 3 (Cont.)



Our Ref: PJB:LIW:618645
Your Ref: A2016-487

15 November 2017

By Courier
Chief Executive Officer
Moreton Bay Regional Council
220 Gympie Road
STRATHPINE QLD 4500

Email: ceo@moretonbay.qld.gov.au
CC: propertyservices@moretonbay.qld.gov.au

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Dear Sir

**Objection to Notice of Intention to Resume Land for Drainage Purposes and Easement for Purposes Incidental to Carrying Out Drainage Purposes
134-140 Morayfield Road, Caboolture South**

We act for Genamson Holdings Pty Ltd, the owner of land situated at 134-140 Morayfield Road, Caboolture South in the State of Queensland and more particularly described as Lot 5 on RP88015 (**Land**).

We are instructed to make a formal objection to Council's Notice of Intention to Resume dated 12 October 2017 (**NIR**) with respect to Council's intention to take part of the Land for drainage purposes and to impose an easement over part of the Land for purposes incidental to carrying out drainage purposes.

The **enclosed** document (**Notice of Objection**) sets out our client's grounds of objection and the facts and circumstances in support of those grounds.

As detailed in the Notice of Objection, the Council has not provided our client with sufficient material and information to allow our client to properly consider and assess Council's proposed acquisition.

We confirm that our client wishes to be heard in support of the grounds of objection at 11.00am on 22 November 2017.

So that our client may sensibly prepare for the objection hearing, please provide:

- 1. the CEO Approval Delegation granted to Ms Anne Moffat dated 20 October 2015; and

Doc ID 451120203/v1
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GPO Box 2033, Brisbane QLD 4001 Australia

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HPV 11/2017 10/11/17

Moreton Bay Regional Council

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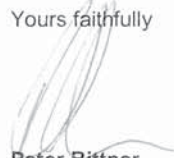
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2. the appropriate delegation to the delegate of Council who will conduct the objection hearing.

We look forward to receipt of the above.

Yours faithfully



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HWL Ebsworth Lawyers

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ITEM 2.1 - PROPOSED RESUMPTION FOR DRAINAGE PURPOSES - 134 MORAYFIELD ROAD,
CABOOLTURE SOUTH - LOT 5 ON RP88015 - DIVISION 3 (Cont.)

Grounds of Objection to Notice of Intention to Resume dated 12 October 2017

134-140 Morayfield Road, CABOOLTURE SOUTH QLD 4510

GENAMSON HOLDINGS PTY LTD ACN 053 174 271 (**Owner**), the owner of land located at 134-140 Morayfield Road, CABOOLTURE SOUTH in the State of Queensland, more particularly described as Lot 5 on RP88015 (**Land**), objects to the taking of part of the Land for drainage purposes and the imposition of an easement over part of the Land for purposes incidental to drainage purposes (**drainage purposes**) as set out in the Moreton Bay Regional Council's (**Council**) Notice of Intention to Resume dated 12 October 2017 (**NIR**), on the following grounds:-

3. the Council has not accorded the owner procedural fairness nor complied with the rules of natural justice in issuing the NIR;
4. the Council has failed to demonstrate that the drainage purposes and easement for purposes incidental to drainage purposes cannot be better located elsewhere;
5. the Council has failed to demonstrate that the drainage purposes cannot be adequately accommodated on the Land without taking part of the Land;
6. the Council's intention to take part of the Land is, and would be, unreasonable;
7. the Council's intention to take part of the Land was not reached in good faith; and
8. the taking of part of the Land will leave a parcel of land that is of no practical use or value to the Owner.

The facts and circumstances in support of the above grounds are as follows:-

1. In relation to ground one:
 - (a) the Council has not afforded procedural fairness to the Owner as the Council has not, within a reasonable time or at all, provided the Owner with all relevant material relating to the Council's decision to issue the NIR, including (but not limited to):
 - (i) the real property description and address sufficient to readily identify every piece of land considered by the Council as a viable alternative site to the subject land; and
 - (ii) all relevant selection criteria documents in existence for choice of location of sites for the drainage purposes and purposes incidental to carrying out the drainage purposes.
 - (b) the Council has not complied with the *Guidelines for Local Governments - Compulsory Acquisition of Land*;
2. In relation to ground two:

ITEM 2.1 - PROPOSED RESUMPTION FOR DRAINAGE PURPOSES - 134 MORAYFIELD ROAD,
CABOOLTURE SOUTH - LOT 5 ON RP88015 - DIVISION 3 (Cont.)

- (a) the Council has failed to adequately consider the suitability of other sites for the drainage purposes or whether any land is required for the drainage purposes. In particular:
 - (i) the proposed drainage infrastructure could be located in the Kate McGrath Koala Park (along with the treatment infrastructure proposed for that location), amongst other locations;
 - (ii) the proposed drainage infrastructure is unnecessary if appropriate discharge controls are imposed on other nearby properties;
 - (iii) the proposed drainage infrastructure is not required for approximately ten (10) years or more, if at all; and
 - (iv) the Council has failed to demonstrate that the quantity of detention to be provided by the taking of part of the Land (being 21,000m³) is in fact required;
- (b) the Council has failed to adequately consider the suitability of other sites for the location of the drainage infrastructure for the drainage purposes. In particular:
 - (i) a number of other drainage solutions are available to the Council in the area that would better serve the drainage needs of the catchment;
 - (ii) the Council's Priority Infrastructure Plan (PIP) is indicative only and does not require that the drainage infrastructure be constructed on the Land;
 - (iii) the proposed drainage infrastructure could reasonably be co-located in the Kate McGrath Koala Park; and
 - (iv) the proposed drainage infrastructure to be located on the Land is unnecessary if appropriate discharge controls are imposed on other nearby properties.
- 3. In relation to ground three:
 - (a) on 16 December 2015, the Owner provided technical drawings and other material demonstrating that the drainage purposes could be accommodated on the Land without the taking of the Land;
 - (b) in *Genamson Holdings Pty Ltd v Moreton Bay Regional Council* [2017] QPEC 56 (PEC Appeal) at [80], Rackemann DCJ found, on the basis of expert evidence, that the drainage purposes could be accommodated on the Land as outlined in the technical drawings without the taking of the Land;
 - (c) the technical drawings and other material provided to the Council on 16 December 2015 are but one way that the drainage purposes could be accommodated on the Land without the taking of the Land;
 - (d) in forming the intention to take part of the Land, the Council has failed to consider:

ITEM 2.1 - PROPOSED RESUMPTION FOR DRAINAGE PURPOSES - 134 MORAYFIELD ROAD,
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- (i) the technical drawings and other material provided to it on 16 December 2015;
 - (ii) the expert evidence led at the hearing of, and the judgment in, the PEC Appeal; and
 - (e) despite request, the Council has failed to demonstrate why the drainage purposes cannot be adequately accommodated on the Land without taking the Land.
4. In relation to ground four:
- (a) there is no need for part of the Land to be taken for drainage purposes;
 - (b) other land is available and better suited for the drainage purposes;
 - (c) if the Land is, in fact, necessary for the drainage purposes (which is not admitted), there is no need for the Council to take part of the Land as proposed in the NIR because:
 - (i) on 16 December 2015, the Owner provided technical drawings and other material demonstrating that the drainage purposes could be accommodated on the Land without the taking of the Land;
 - (ii) in the PEC Appeal at [80], Rackemann DCJ found, on the basis of expert evidence, that the drainage purposes could be accommodated on the Land as outlined in the technical drawings without the taking of the Land;
 - (iii) the technical drawings and other material provided to the Council on 16 December 2015 are but one way that the drainage purposes could be accommodated on the Land without the taking of the Land;
 - (iv) in forming the intention to take part of the Land, the Council has failed to consider:
 - (A) the technical drawings and other material provided to it on 16 December 2015;
 - (B) the expert evidence led at the hearing of, and the judgment in, the PEC Appeal; and
 - (v) a smaller portion of the Land could accommodate the drainage infrastructure necessary for the drainage purposes;
 - (d) in deciding to issue the NIR, the Council has taken into account irrelevant considerations and failed to take into account relevant considerations;
 - (e) the Council has not complied with the *Guidelines for Local Governments - Compulsory Acquisition of Land*;

ITEM 2.1 - PROPOSED RESUMPTION FOR DRAINAGE PURPOSES - 134 MORAYFIELD ROAD,
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- (f) the PIP is indicative only and does not require that the drainage infrastructure be constructed on the Land;
 - (g) the Council has based its decision to issue the NIR on reports and investigations that are wrong; and
 - (h) taking the Land would be premature because it may not be required for drainage purposes for approximately ten (10) years or more, if at all.
5. In relation to ground five:
- (a) the purpose stated in the NIR for taking part of the Land is untrue because:
 - (i) there is no need for part of the Land to be taken or for the imposition of an easement over part of the Land for the drainage purposes;
 - (ii) other land is available and better suited for the drainage purposes;
 - (iii) if the Land is, in fact, necessary for the drainage purposes (which is not admitted), there is no need for the Council to take part of the Land as proposed in the NIR because:
 - (A) on 16 December 2015, the Owner provided technical drawings and other material demonstrating that the drainage purposes could be accommodated on the Land without the taking of the Land;
 - (B) in the PEC Appeal at [80], Rackemann DCJ found, on the basis of expert evidence, that the drainage purposes could be accommodated on the Land as outlined in the technical drawings without the taking of the Land;
 - (C) the technical drawings and other material provided to the Council on 16 December 2015 are but one way that the drainage purposes could be accommodated on the Land without the taking of the Land;
 - (D) in forming the intention to take part of the Land, the Council has failed to consider:
 - (1) the technical drawings and other material provided to it on 16 December 2015;
 - (2) the expert evidence led at the hearing of, and the judgment in, the PEC Appeal; and
 - (E) a smaller portion of the Land could accommodate the drainage infrastructure necessary for the drainage purposes;
 - (iv) in deciding to issue the NIR, the Council has taken into account irrelevant considerations and failed to take into account relevant considerations;

ITEM 2.1 - PROPOSED RESUMPTION FOR DRAINAGE PURPOSES - 134 MORAYFIELD ROAD,
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- (v) the Council has not complied with the *Guidelines for Local Governments - Compulsory Acquisition of Land*;
- (vi) the PIP is indicative only and does not require that the drainage infrastructure be constructed on the Land;
- (vii) the Council has based its decision to issue the NIR on reports and investigations that are wrong; and
- (viii) taking the Land would be premature because it may not be required for drainage purposes for approximately ten (10) years or more, if at all.

6. In relation to ground six:

- (a) the existing shopping centre development (**Existing Development**) located on part of the Land is required to provide car parking pursuant to rezoning approvals dated 22 November 1989 and 4 November 1992 (**Existing Approvals**);
- (b) the Existing Development currently provides 150 car parking spaces;
- (c) the easement proposed to be imposed on the Land as part of the NIR (**Proposed Easement**) runs directly through the majority of the car parks provided by the Existing Development;
- (d) the Proposed Easement allows the Council, inter alia, to construct overland drains, pipes, conduits and channels within the servient tenement;
- (e) the Proposed Easement would cause the Existing Development to be unable to comply with the conditions of the Existing Approvals as it would destroy the majority of the carparks provided by the Existing Development;
- (f) in the premises:
 - (i) the taking of part of the Land and the imposition of the Proposed Easement will cause the remainder of the Land to become of no practical use or value to the owner; and
 - (ii) the entirety of the Land should therefore be taken by the Council pursuant to s13(1) of the *Acquisition of Land Act 1967*.

Moreton Bay Regional Council

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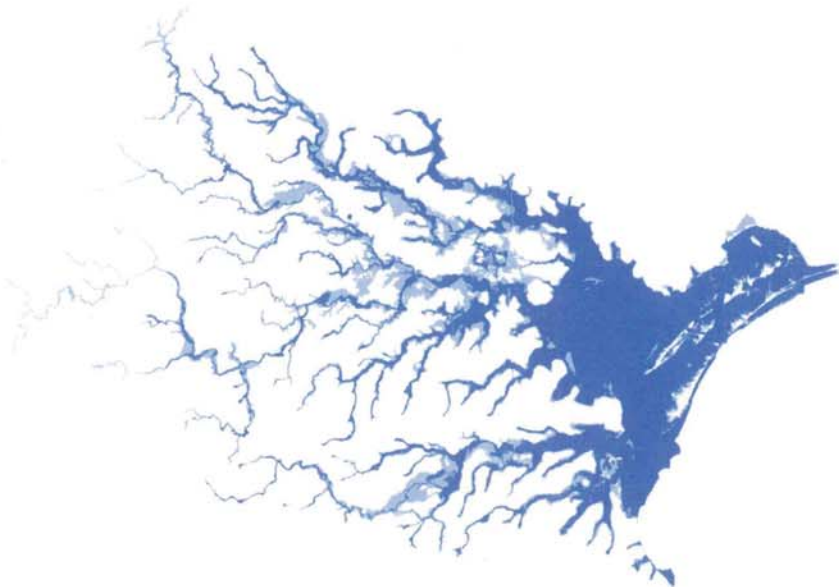
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3A

*ITEM 2.1 - PROPOSED RESUMPTION FOR DRAINAGE PURPOSES - 134 MORAYFIELD ROAD,
CABOOLTURE SOUTH - LOT 5 ON RP88015 - DIVISION 3 (Cont.)*

Stormwater Quantity Infrastructure for Caboolture and Burpengary Catchments 2009



**Prepared by:
MBRC Drainage, Waterways & Coastal Planning Unit**



ITEM 2.1 - PROPOSED RESUMPTION FOR DRAINAGE PURPOSES - 134 MORAYFIELD ROAD,
CABOOLTURE SOUTH - LOT 5 ON RP88015 - DIVISION 3 (Cont.)

Stormwater Quantity Infrastructure for Caboolture and Burpengary Catchments 2009

1 Introduction

The following investigation was undertaken by the Drainage, Waterways and Coastal Planning Unit of Moreton Bay Regional Council (MBRC) to assist with the development of the Planning Scheme Policy "PSP21E Trunk Infrastructure Contributions – Stormwater". PSP21E relates to the establishment of an equitable mechanism for levying new development to fund the cost of stormwater trunk infrastructure for the Caboolture District.

The purpose of the investigation was to identify the stormwater quantity trunk infrastructure required to meet the future development demands in the Caboolture district. To make this assessment, determination of existing and future land development demand scenarios was undertaken. The change in these land use values (from existing to future) were used as the basis for the investigation's recommended trunk infrastructure.

ITEM 2.1 - PROPOSED RESUMPTION FOR DRAINAGE PURPOSES - 134 MORAYFIELD ROAD, CABOOLTURE SOUTH - LOT 5 ON RP88015 - DIVISION 3 (Cont.)

Stormwater Quantity Infrastructure for Caboolture and Burpengary Catchments 2009

2 Methodology

A series of separate analyses were undertaken to establish the performance of various components of the stormwater quantity infrastructure network within the study area including natural and man-made open channels and culvert crossings. Where deficiencies were observed to meet future demand, an upgrade requirement was identified and incorporated into an infrastructure program. Where appropriate, trunk infrastructure in the form of regional scale detention storage and drainage reserves were also identified and included in the program. The program includes an estimate of preferred construction timing, establishment cost and recommendations on how these costs should be apportioned between existing and future residents.

An important feature of this investigation has been the use of well established and rigorous engineering calculation methodologies, employed using principles being established for the concurrent Moreton Bay Climate Risk and Flood Mapping project, namely:

- Regional scale data capture techniques (that leverage spatial technology to increase the efficiency and accuracy of input datasets)
- Regional scale numerical analysis (to improve the speed and consistency of engineering assessments and ensure expenditure is targeted towards areas of greatest need)
- Flexible data management and analysis tools (recognising that engineering assessments should be revised and improved as available information also changes or improves)

This investigation is limited to stormwater quantity infrastructure requirements within the Burpengary and Caboolture river level catchments and their component creek catchments. While areas outside these river catchments are outside the area covered by this analysis, the unit cost of stormwater quantity infrastructure per demand unit can be logically transposed between similar catchments and an outline planning process has been adopted for validation.

The investigation does not include an assessment of trunk pipe drainage requirements. It is recommended that this be undertaken as soon as possible for incorporation into a future revision of PSP21E.

It is also noted that whilst the methods employed are detailed and rigorous, they are broad scale, as necessary for an investigation of this nature. All identified infrastructure should be progressively re-assessed relative to the desired standards of service as the information available continues to improve.

A series of maps describing key study input and output has been included in Appendix A and a series of tables describing the identified infrastructure requirements has been included in Appendix B.

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ITEM 2.1 - PROPOSED RESUMPTION FOR DRAINAGE PURPOSES - 134 MORAYFIELD ROAD, CABOOLTURE SOUTH - LOT 5 ON RP88015 - DIVISION 3 (Cont.)

Stormwater Quantity Infrastructure for Caboolture and Burpengary Catchments 2009

3 Investigation Area

The investigation area includes all major catchments (Creek Catchments) within the Burpengary and Caboolture minor basins (River Catchments) as listed below:

River	Creek	ID	Area Ha
Burpengary	Burpengary Creek	BUR	6,395
Burpengary	Little Burpengary Creek	LBC	1,727
Burpengary	Deception Bay	DEC	517
Caboolture	Godwin Beach	GOD	3,480
Caboolture	Caboolture Mouth	CBM	1,690
Caboolture	King John Creek	KJC	4,825
Caboolture	Gympie Creek	GYM	1,635
Caboolture	Lagoon Creek	LAG	4,458
Caboolture	Sheepstation Creek	SSC	3,075
Caboolture	Wararba Creek	WAR	7,210
Caboolture	Caboolture River	CAB	11,269
Caboolture	Gregors Creek	GRE	1,672

The Burpengary Caboolture investigation area has a total area of approximately 48,000 hectares and includes the existing urban development areas of Burpengary, Morayfield, Caboolture, Deception Bay and Godwin Beach.

Outside the urban development area the investigation area comprises mostly rural landuse, with some areas of remnant forest remaining in the steep headwaters and the low lying floodplains.

The creek and open channel network drains generally in a west to east manner, with Burpengary Creek and Caboolture River representing the main first order stream channels discharging to Moreton Bay. It is noted that both the Deception Bay and Godwin Beach major catchments also incorporate independent outlet discharge points.

The various stream channels and their associated floodplains are well defined with limited cross-connections. Sensible development of the floodplain has generally resulted in the retention of natural channels throughout the region. However there is a network of transport corridors that traverse the floodplains via culverts and bridges creating constrictions, along with some locations where the stream channels have been re-engineered and piped to suit adjoining development.

A significant amount of future potential development has been identified within the catchment involving the expansion of urban development in and around existing major settlements. Details of estimated increases in impervious cover were supplied by Council's Strategic Planning group for use in this investigation. It is noted that this excludes the proposed 'investigation area' west of Caboolture as identified in the SEQ Regional Plan. If this development area proceeds then a separate similar investigation will be required for the catchments affected.

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4 Data Collection and Collation

There were limited previous studies available of sufficient detail to assist with this investigation. As a result the majority of information used for this assessment was derived from first principles using hydrologic and hydraulic modelling tools as described in Section 4 and 5 below.

Key data sets used for hydrologic and hydraulic modelling include:

- High resolution aerial photography (base data)
- LiDAR topographic survey (base data used for catchment delineation and hydraulic modelling)
- Detailed stream and catchment network (used for hydrologic and hydraulic modelling)
- A grid of synthetic 'design' rainfall gauges based on Australian Rainfall & Runoff (AR&R) (used for hydrologic modelling)
- Culvert and bridge dimensions (used for assessment of crossing performance)

It is noted that the culvert and bridge dimension data available at study commencement contained some significant data gaps and inconsistencies. During the course of this investigation a field campaign was undertaken in order to confirm key structure dimensions and levels. The Godwin Beach Waterway Management Plan (GHD, 2004), was also used to extract basic details of existing culvert crossing structure dimensions in the Godwin Beach creek catchment.

It is also noted that previously established flood extents (a composite of results from previous flood investigations undertaken by the former Caboolture Shire Council) were compared against hydraulic model results as a general sensibility cross-check.

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5 Hydrologic Modelling

The study investigations were based on a detailed hydrologic model of the catchment prepared using accurate and comprehensive catchment and stream network information as described in Section 3 and the mapping in Appendix A.

The hydrologic software adopted for use in this study is the runoff-routing modelling package WBNM. WBNM is a highly regarded industry standard hydrologic model, incorporating design procedures from AR&R. WBNM is well supported in Australia and has undergone extensive research to validate its underlying algorithms and parameters. For this investigation the model was established using regionally calibrated storage lag factors and conservative design infiltration loss parameters.

The WBNM hydrologic model was employed to estimate peak discharges throughout the catchment resulting from a 100 year Average Recurrence Interval (ARI) Embedded Design Storm and a 2 hour Probable Maximum Precipitation (PMP) as a notional 'extreme' event.

Sufficient detail was incorporated into the catchment and stream network to permit results to be used for the purposes of hydraulic modelling and identification of detention basin requirements. Calculation points were also incorporated at sufficient levels of detail to allow determination of peak flows at approximately 240 existing crossing locations. Requirements for crossing upgrade were established using the outlet structure routines provided within WBNM.

The use of a runoff-routing hydrologic model provides a more rigorous basis for infrastructure determination than a rational method approximation as it uses full storm temporal patterns in accordance with AR&R and explicitly routes flow through the channel network thus accounting for variation in catchment linearity and connectivity. It also lends itself to progressive improvements as more catchment specific data becomes available.

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6 Hydraulic Modelling

The peak flow results derived from hydrologic modelling were used as input to a hydraulic model of the investigation area's floodplains.

The hydraulic software adopted for use in this study is the hydrodynamic modelling package TUFLOW. TUFLOW is recognised as an industry standard package (widely used by flood modellers across Australia). It has strong capability as a hydrodynamic computational engine (wide range of potential model applications with results verified through calibration) with well understood and simple parametisation. TUFLOW has open and transparent input and output file structures facilitating the development of database tools for efficient data manipulation and integration with Council's GIS

Key features of the model's application for this investigation include:

- Separate models were prepared for the Burpengary and Caboolture River systems due to numerical computation limitations. Each analysis domain was represented using a two-dimensional grid, oriented north-south and an adopted grid cell size of 10m.
- Model topography based on LiDAR only. It is noted that LiDAR does not capture the component of the creek channel below water level. No correction was applied, however this is considered to have limited accuracy implications since the component of conveyance provided by bathymetry is generally small during major flood events (since the full channel and overbank areas are engaged).
- Inflow to the model domain provided at regular spacings co-incident with the outlet of each minor catchment. Inflows were extracted from WBNM as full local hydrographs. Both a 100 year Embedded Design Storm and 'extreme event' were modelled assuming existing case catchment conditions.
- No modelling of hydraulic structures (i.e. culverts and bridges) except where significant depth of afflux was observed upstream of high embankments without openings.
- Average Mannings's 'n' hydraulic roughness of 0.06 for floodplain areas and 0.02 for large waterways. Variation with flow depth was not considered.
- A downstream boundary condition of 2.30 mAHD approximately equivalent to a 20 year ARI storm tide as determined by the recently completed Storm Tide Hazard Study (Cardno, 2009). This boundary condition was fixed for the full duration of the event.

Results extracted from the model include data layers describing spatial variation in peak water surface level, depth, velocity and hydraulic hazard in accordance with NSW Floodplain Development Manual 2005. Flood extents were also derived.

Mapping has been included in Appendix A describing general flood behaviour within the study area. Model results indicate that the study area has well defined floodplains and limited flow break-out into development areas. The floodplains of the major creek systems merge in the lower reaches downstream of the Bruce Highway and show low sensitivity to the increase in flow between the 100 year ARI and extreme flood event.

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Stormwater Quantity Infrastructure for Caboolture and Burpengary Catchments 2009

7 Stormwater Infrastructure Requirements

Four types of stormwater quantity infrastructure were identified as part of this investigation:

- Detention Basins (DB)
- Crossing Upgrades (CU)
- Drainage Corridor Reserves (RES)
- Open Channel Work (OCW)

Descriptions of how these various infrastructure items were identified, costed and prioritised are included in the following sub-sections.

7.1 Detention Basins (DB)

Identification

PSP21E defines a 'Detention Basin' as:

"A pond or basin designed to temporarily detain storm or flood waters, in order to attenuate peak flows to acceptable levels downstream within a constructed major drainage system or stream.

A detention basin should comprise an inlet structure, a grassed or concrete basin, an outlet structure, an embankment or other means to enclose the basin and an overflow spillway. A GPT may be required at the inlet to the basin to limit the amount of coarse sediment, litter and debris entering the basin. The volume of the basin and the outlet structure should be sized to attenuate the outflow peak discharge during the design flood to a predetermined limit. The outlet structure should be fitted with a grate to prevent persons or large objects being drawn into the downstream system. Where the outlet pipework discharges to an open channel or stream appropriate erosion protection should be provided. The overflow spillway should be designed to pass flows in excess of the design discharge of the outlet system. A suitable "all weather" access road is required to permit access for maintenance."

In order to establish Detention Basin requirements the following sequence of analyses were undertaken:

- An 'Area Of Interest' (AOI) for floodplain detention storage was identified based on those catchments within the Designated Infrastructure Service Area (DISA) and a cumulative area of less than 500 hectares.
- The WBNM hydrologic model for a future growth scenario was run to identify the increase in local flood discharge resulting from future development.
- The amount of flood storage required to maintain a non-worsening condition in respect of peak flow was calculated using a preliminary detention basin sizing technique recommended in the Queensland Urban Drainage Manual (Boyd method).

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- A desktop site selection was undertaken based on areas of denser urban growth where cumulative catchment area was optimal for placement of detention storage.
- For each major catchment the total volume of required flood storage was distributed across the preferred detention basin sites on a pro-rata basis based on cumulative discharge in the 100 year ARI event. This provided a detention storage volume for each site.

Costing

Costing for Detention Basins includes two major components:

Land Acquisition - Where detention basins were located on existing Council land no land acquisition cost was included. For those basins identified on private land the required area of acquisition was calculated assuming an average 2m depth (at full storage) and a 20% uplift factor for access maintenance and batters. Land valuation was on the basis of market value for land that is 50% flood free, 25% above the 50yr event, and 25% below the 50yr event at the subject site (refer market valuation report "Land Cost Estimates for Open Space and Community Purpose Land and Future Stormwater Land and Riparian Corridor Management Areas" (Planet Valuation Services, March 2009).

Construction

The adopted construction unit rate costs were established by a report prepared by sub-consultants EnGeny in March 2009 and are as follows:

Basin Volume (m3)	Rate (\$/m3)
0 - 15000	60.0
15001 - 30000	54.2
30001 - 50000	48.3
50001 - 80000	44.4
80001 - 120000	41.3
120001 - 150000	38.1
>15000	36.3

Prioritisation

Prioritisation of detention basins for the purpose of financial modelling was linked to the impervious cover of the local minor catchment. This method ensures that those basins in areas of existing demand are established quickly.

While some strategic planning will be required to suit Council's flood mitigation program, in practical terms the construction of detention basins will be undertaken on an opportunistic basis as each catchment develops.

7.2 Crossing Upgrades (CU)

Identification

PSP21E defines a 'Crossing Upgrade' as:

"Measures to improve the hydraulic conveyance or efficiency of a waterway or constructed channel at a road crossing. These may include the installation of additional pipes or box culverts and new or increased bridge waterway openings or

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spans. It also includes associated headwall, wingwalls, concrete aprons and erosion protection and may also include limited channel re-alignment upstream and downstream of the crossing."

To establish the requirement for waterway crossing upgrades, the MBRC Hydrologic Model (refer Section 4) was used to identify flows and estimated overtopping depths at each culvert structure for a range of design flood events. Those structures that did not meet Desired Standards of Service (DSS) were identified as requiring an upgrade. Where a crossing upgrade was identified as potentially not being feasible, an allowance was made for cost towards the establishment of non-structural flood safety measures.

Costing

Costing of crossing upgrades involved the separate calculation of the following cost components for each structure upgrade:

- Trenching for culvert installation
- Service relocation
- Base slab construction (where a box culvert)
- Supply and installation of new culvert barrels (based on supplier estimates)
- Headwall construction
- Traffic control
- 10% allowance for design, tender and supervision costs

Costings were based on conceptual design only and therefore incorporate a 30% contingency. Costing of crossing upgrades assumes no land acquisition component.

Prioritisation

Prioritisation of crossing upgrades for the purpose of financial modelling was linked to the calculated depth of overtopping at the structure. This method ensures that those crossing upgrades that represent the greatest safety risk are upgraded first.

7.3 Drainage Corridor Reserves (RES)

Identification

PSP21E defines a 'Drainage Corridor Reserve' as:

"The area of land acquired or transferred to Council, identified within the applicable planning as being specifically required for the lawful discharge of drainage from upstream urban catchments where ownership of the land and responsibility for maintenance of revegetated buffers and maintenance and operation of any drainage system lies with Council".

Drainage reserves were identified throughout the investigation area as a land envelope:

- where flood information was available, all areas with velocity multiplied by depth ($V \times D$) greater than 0.4 in a 100 year ARI event. This represents the component of the floodplain with greatest conveyance and therefore of highest importance with respect to overall floodplain management. This threshold has also been set equivalent to a safe trafficable depth for pedestrian safety as identified in Council's design manual

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AND

- where flood information was not available (generally smaller creek systems), all areas within a 10 meter distance of a creek centreline for all creeks with a minimum contributing area of 10 hectares. This is a practical limit of maximum contributing area above which pipe drainage no longer remains an appropriate design solution.

In addition, where land was identified as Riparian Corridor Management Area (RCMA) as part of the Stormwater Quality network and was adjacent to Drainage Corridor Reserves, the adjacent RCMA land was included in the Drainage Corridor Reserve for the purpose of providing a single cost of land acquisition for the overall area.

Costing

Costing of drainage reserves is based on the acquisition cost of land at current market value (refer market valuation report "*Land Cost Estimates for Open Space and Community Purpose Land and Future Stormwater Land and Riparian Corridor Management Areas*" (Planet Valuation Services, March 2009).

Generally, Council will look to acquire land within the 100 year floodplain. However, in some areas it may be necessary for Council to acquire small areas of non-floodprone land to permit maintenance access as well as sensible linkages and layouts for adjoining development. Accordingly, valuation of land for Drainage Corridor Reserve includes 80% of the land at the floodplain rate and 20% of the land at the flood-free rate.

Prioritisation

Prioritisation of drainage reserves for the purpose of financial modelling was linked to the priority established for the adjoining Riparian Corridor Management Areas.

While some strategic acquisition will be required, in practical terms the acquisition of drainage reserves will occur as required when adjoining parcels are developed.

7.4 Open Channel Work (OCW)

Identification

PSP21E defines 'Open Channel Work' as:

"Excavated or formed channel to collect and convey the design flood flow from an upstream catchment to discharge to a watercourse, wetland or detention basin. Characteristics include regular profile, full or partial lining of the channel invert and batters with concrete, rock or vegetation and downstream erosion protection works."

Areas requiring open channel work were identified from a hydraulic assessment of the capacity of existing engineered channels using TUFLOW (refer Section 5). The need for upgrade was established where these channels were identified as having no additional capacity in areas of future growth.

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Costing

Costing of open channel work involved the separate calculation of the following cost components for each work item:

- Earthworks
- Service relocation
- Construction of debris control structures at road crossings (to assist reliability of channel capacity under conditions of potential blockage)
- Retaining walls
- Landscaping
- 15% allowance for survey, design, tender and supervision costs

Costings were based on conceptual design only and therefore incorporate a 30% contingency. Costing of open channel work assumes no land acquisition component.

Prioritisation

Prioritisation of open channel work was on the basis of a desktop assessment of those areas with least capacity to accommodate increased peak discharge (low capacity given highest priority). This ensures that the identified upgrades occur before significant impacts due to new development can occur.

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Stormwater Quantity Infrastructure for Caboolture and Burpengary Catchments 2009

8 Conclusions and Recommendations

The above investigation, undertaken for the purpose of identifying stormwater quantity trunk infrastructure for the Caboolture district, has utilised the best available hydraulic and hydrological engineering modelling techniques and theory applicable to broad-scale strategic infrastructure assessment. The infrastructure assessment has been verified by site inspections and outline planning to ensure appropriate distribution and consistency with the desired standards of service. It is therefore, recommended that the trunk infrastructure identified in this investigation be considered as the basis for the stormwater quantity calculation of the developer contributions in Council's *PSP21E Trunk Infrastructure Contributions – Stormwater*.

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List of Maps

Catchment Mapping

- 1.01 Investigation Area
- 1.02 Catchment and Stream Network
- 1.03 Catchment Aerial Photography
- 1.04 Catchment Topography
- 1.05 Existing Impervious Cover
- 1.06 Future 2021 Impervious Cover
- 1.07 Impervious Cover Increase

Hydrologic Modelling

- 2.01 Peak Flow - Existing 100 yr ARI Embedded Design Storm
- 2.02 Peak Flow - Future 100 yr ARI Embedded Design Storm
- 2.03 Peak Flow - Existing versus Future Comparison
- 2.04 Peak Flow - Extreme Event
- 2.05 Detention Basin Areas of Interest
- 2.06 Waterway Crossings
- 2.07 Waterway Crossings - Existing Performance

Hydraulic Modelling

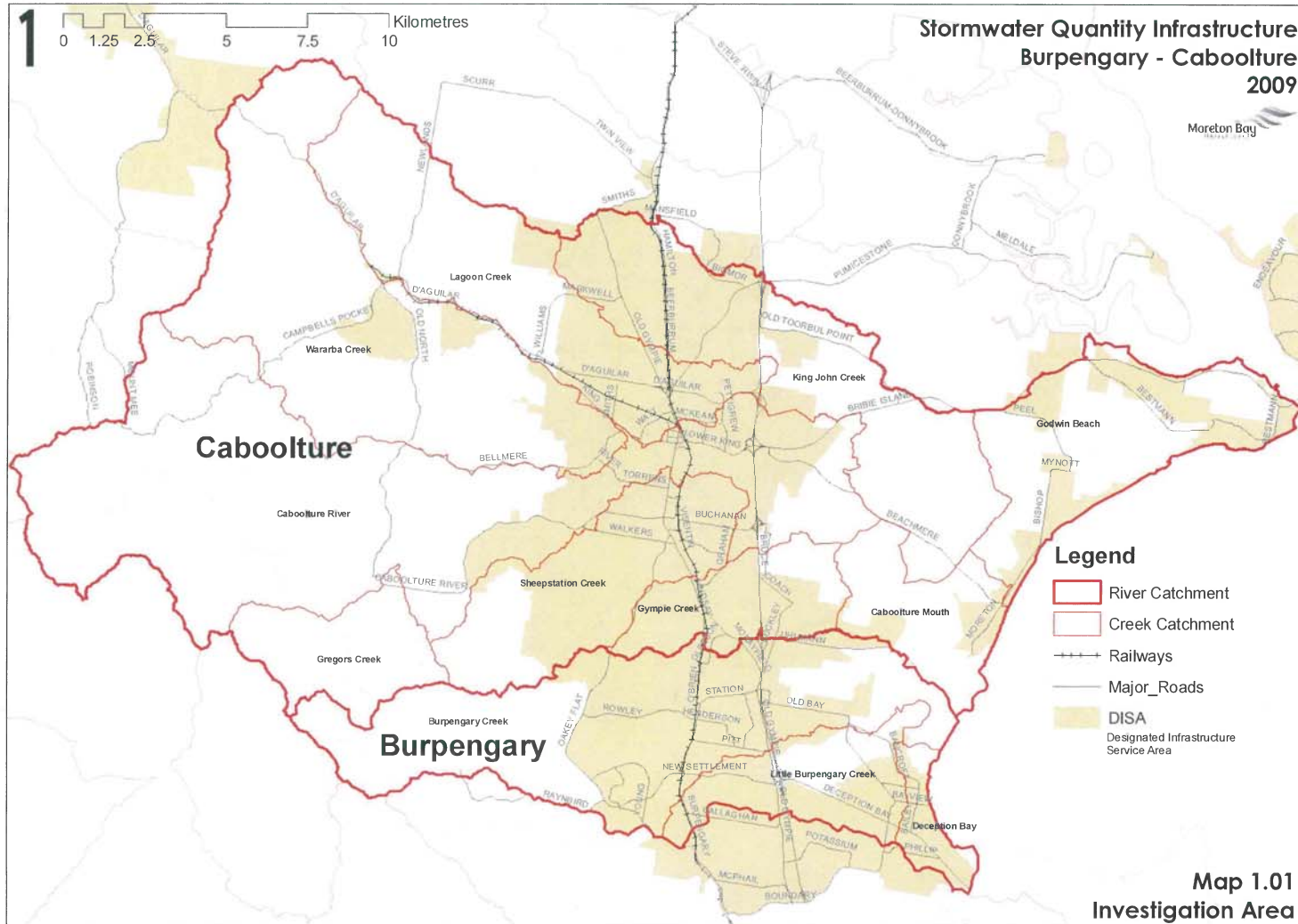
- 3.01 Flood Extents - 100yr ARI EDS and Extreme Event
- 3.02 Flood Surface Level - 100 yr ARI EDS
- 3.03 Velocity x Depth - 100 yr ARI EDS
- 3.04 NSW FPDM Hazard - 100yr ARI EDS

Stormwater Quantity Infrastructure Requirements

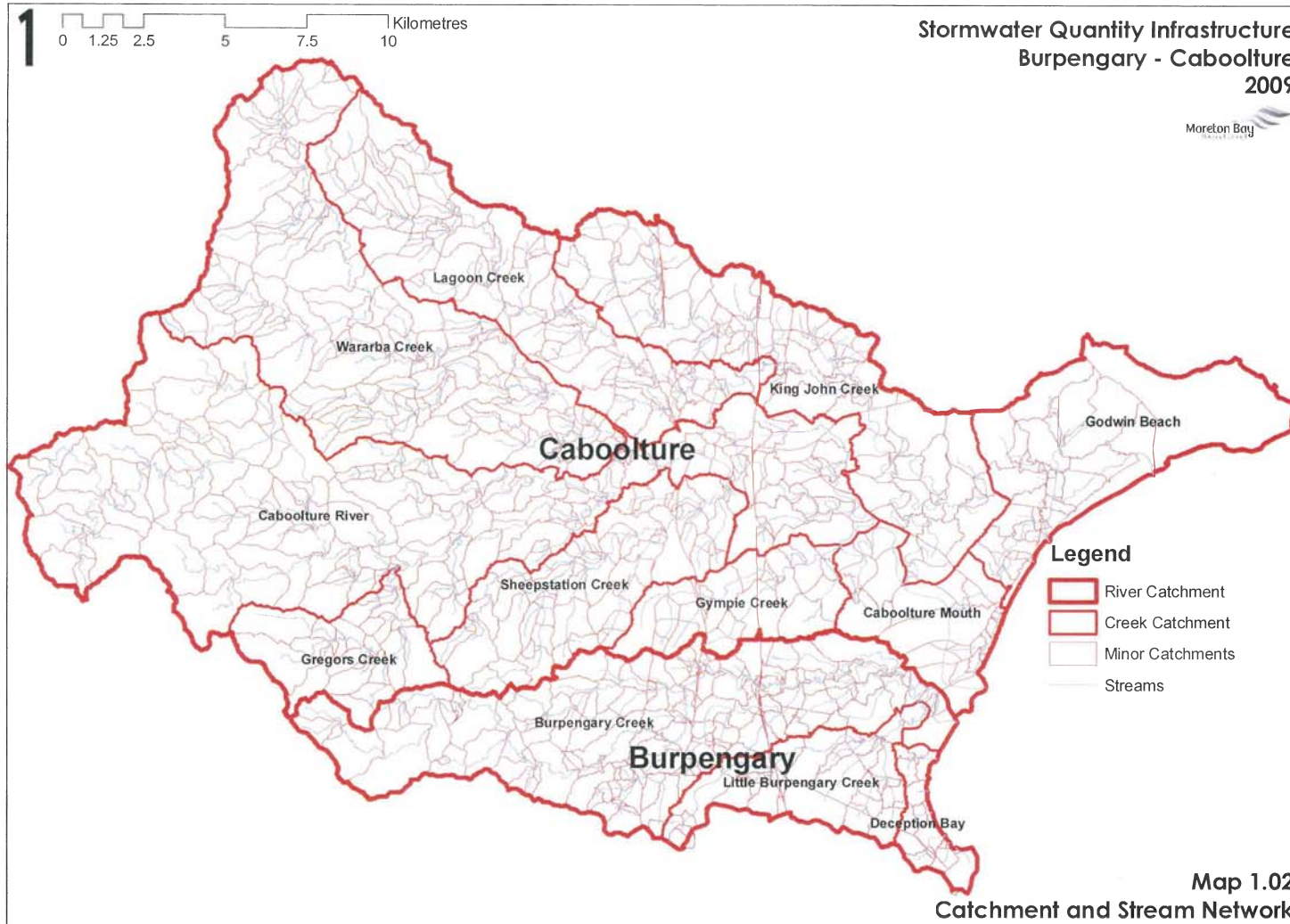
- 4.01 Detention Basins (DB)
- 4.02 Crossing Upgrades (CU)
- 4.03 Corridor Reserve (RES)
- 4.04 Open Channel Work (OCW)

Appendix A

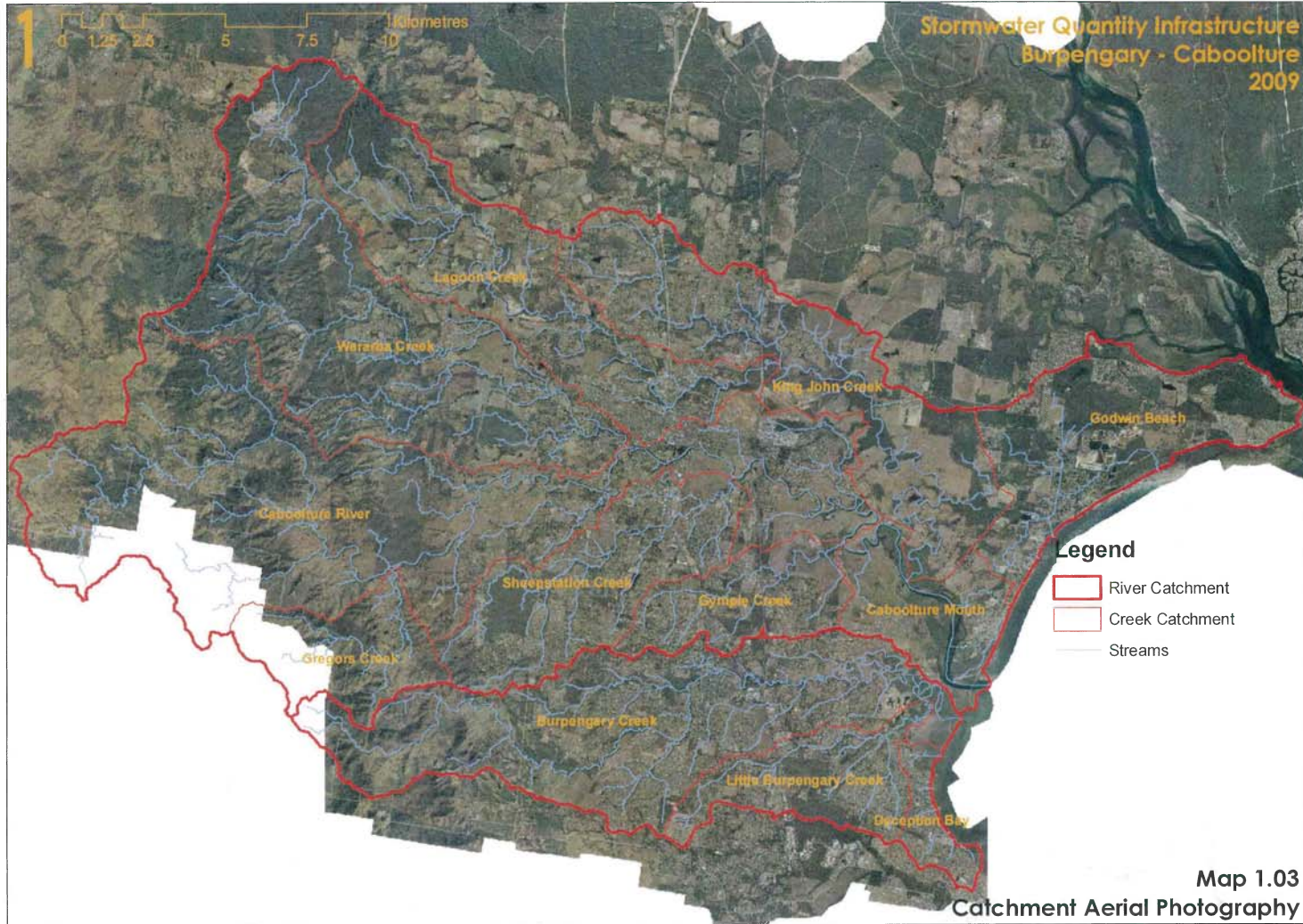
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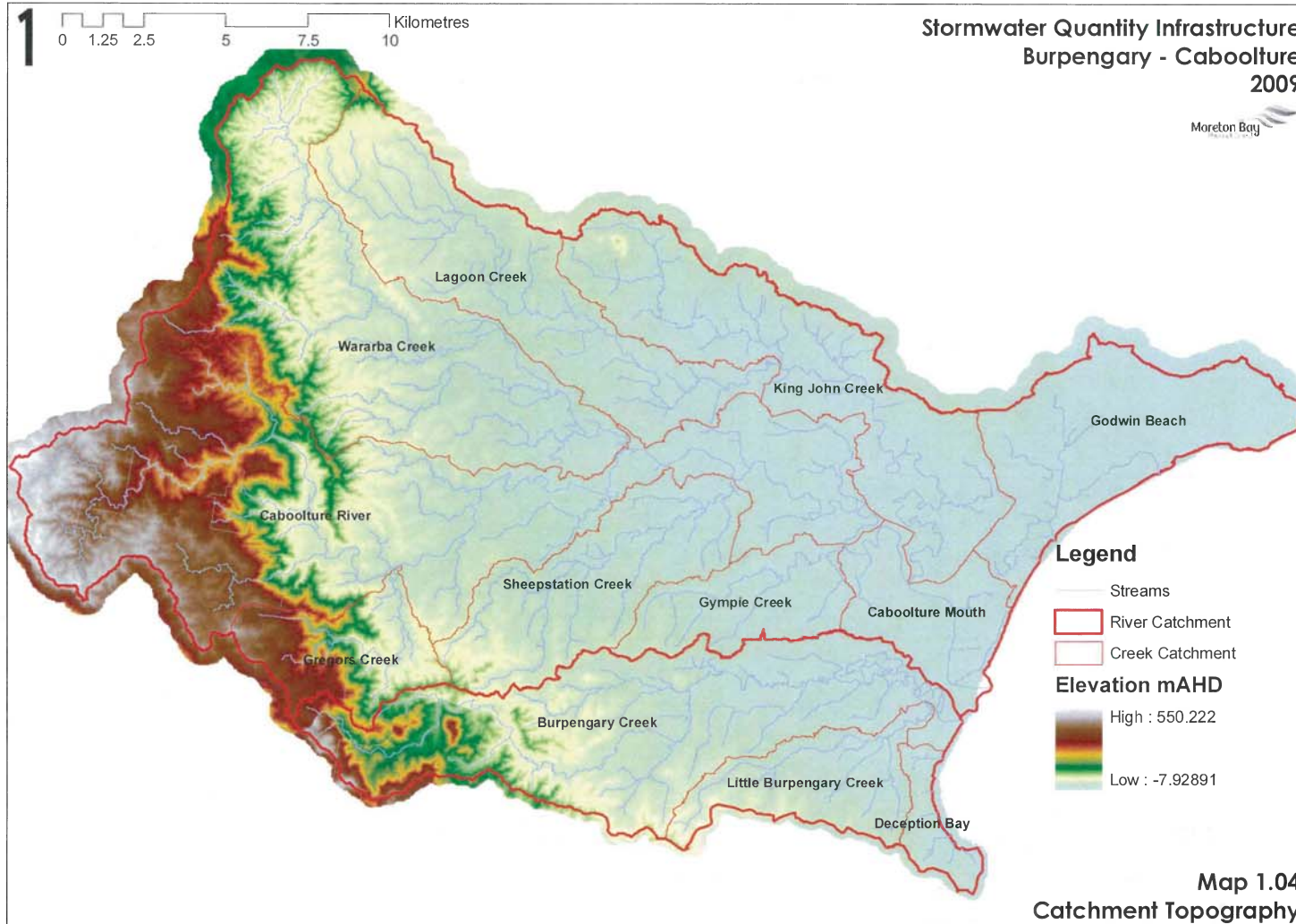
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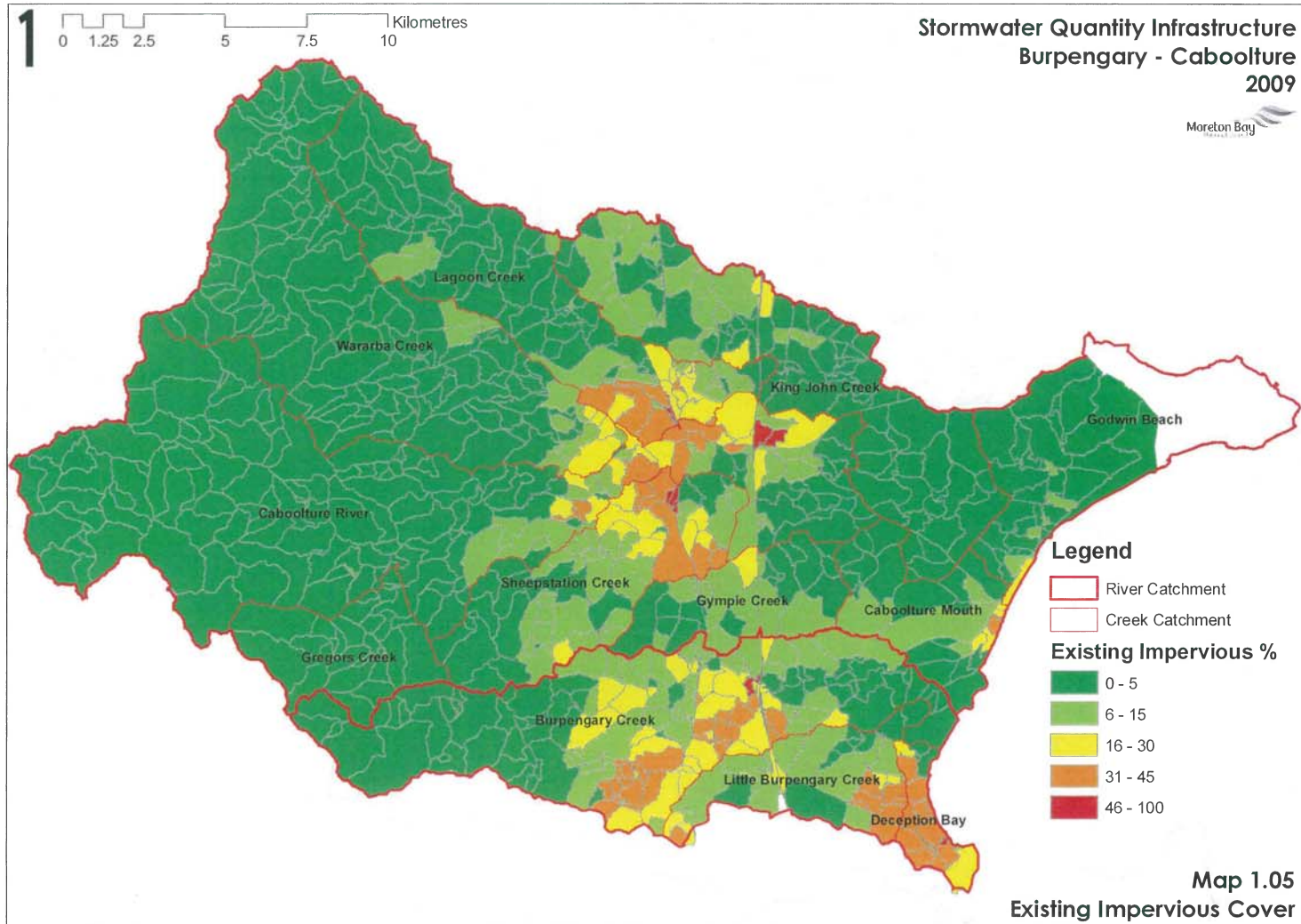
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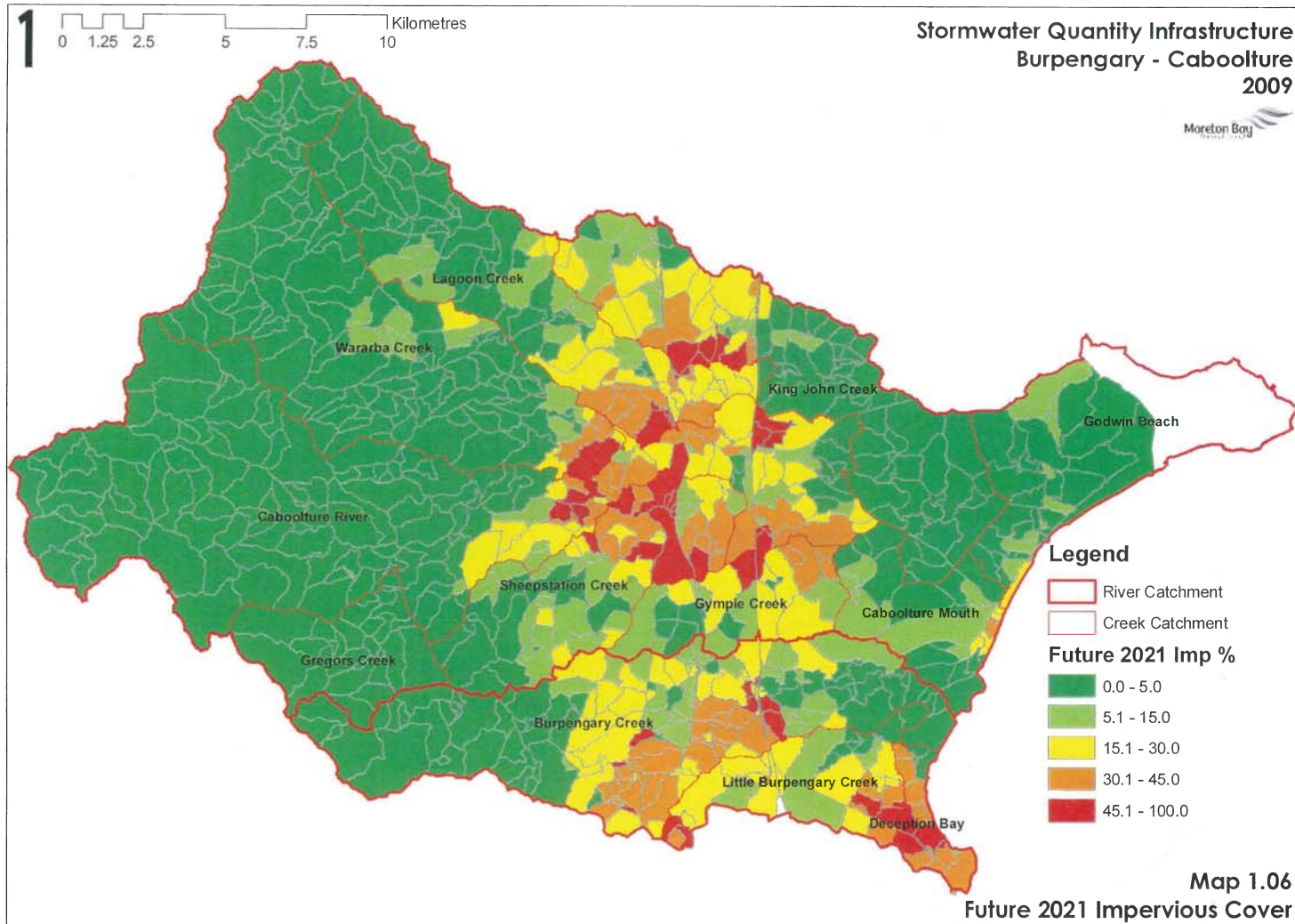
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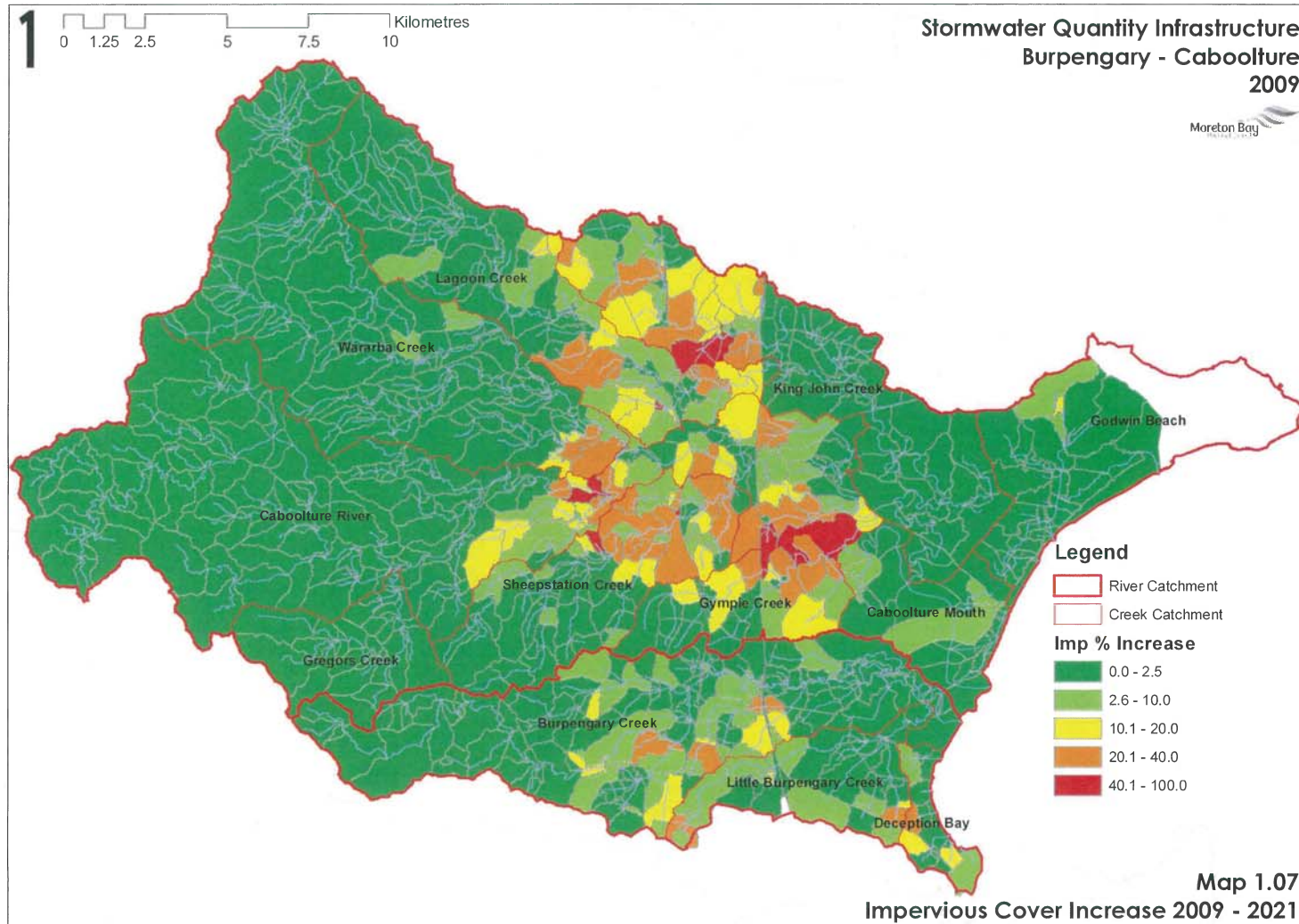
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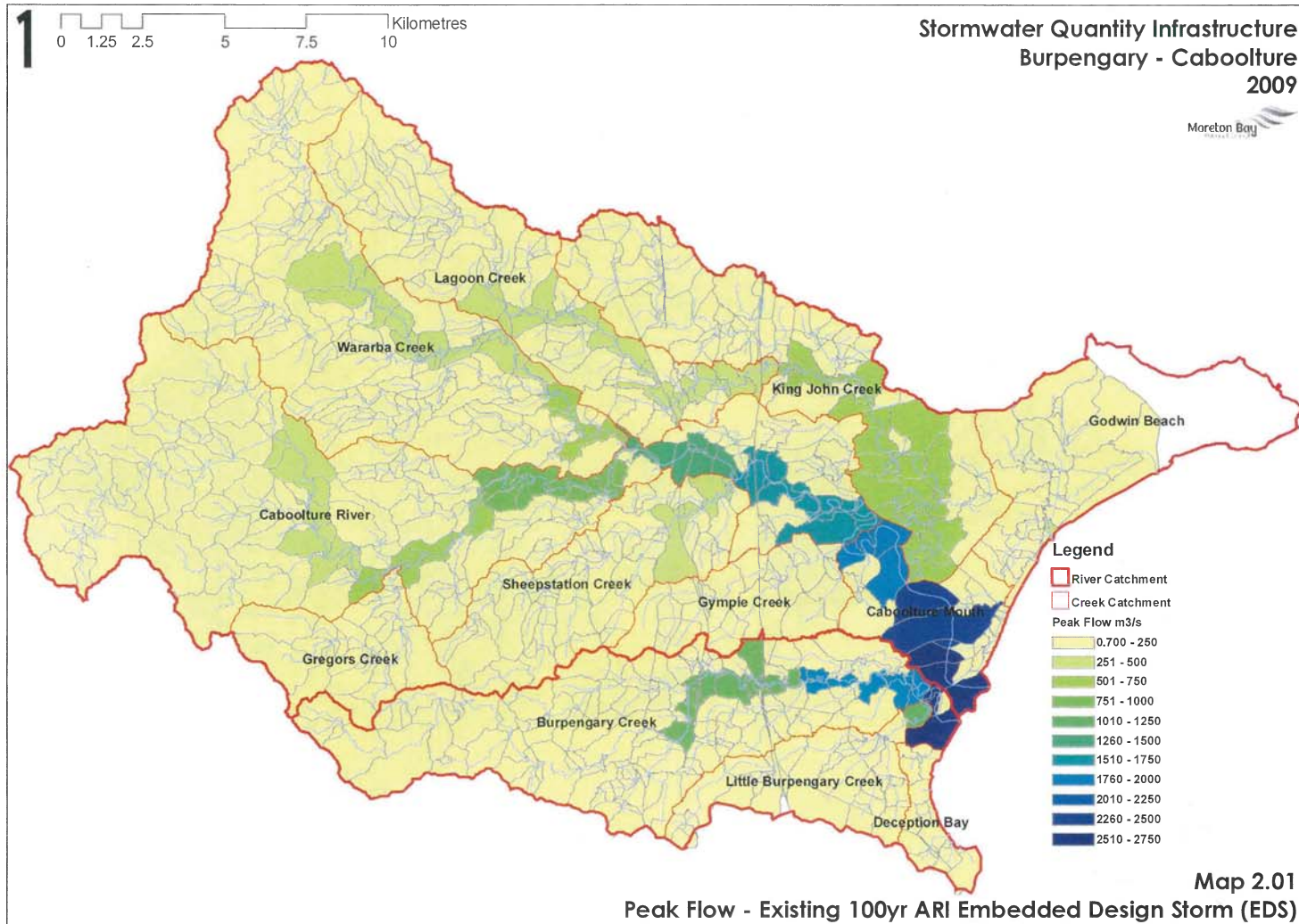
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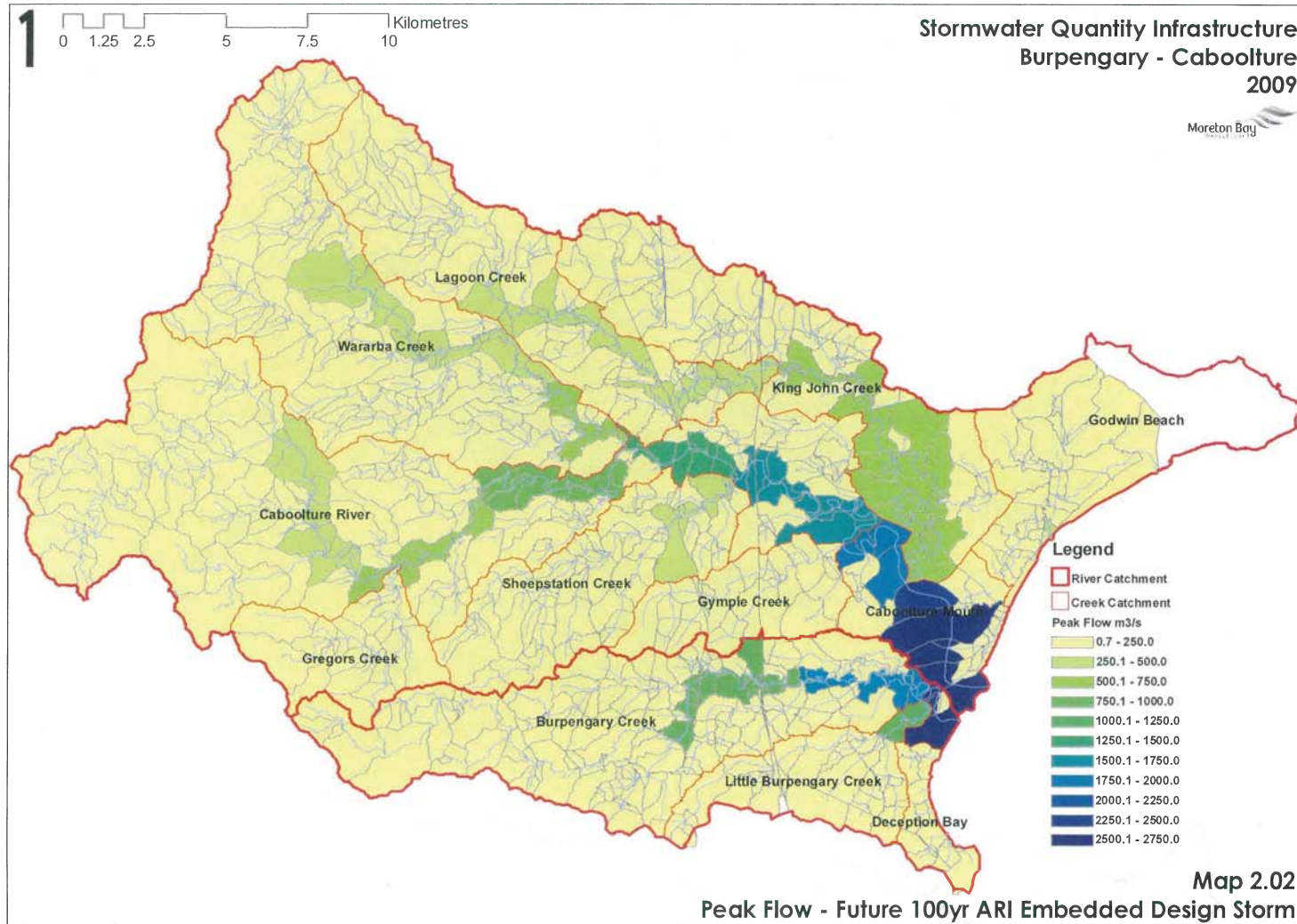
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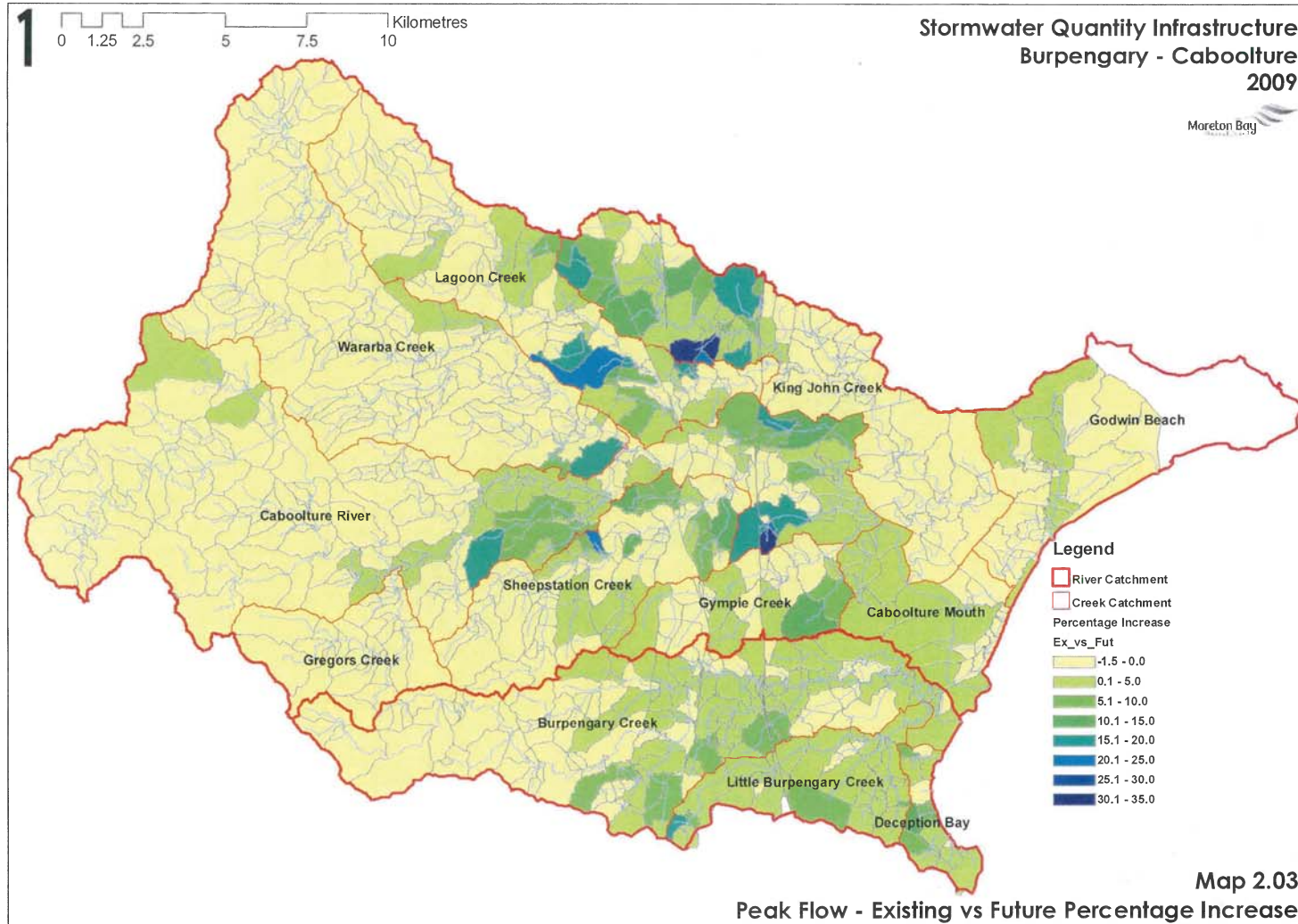
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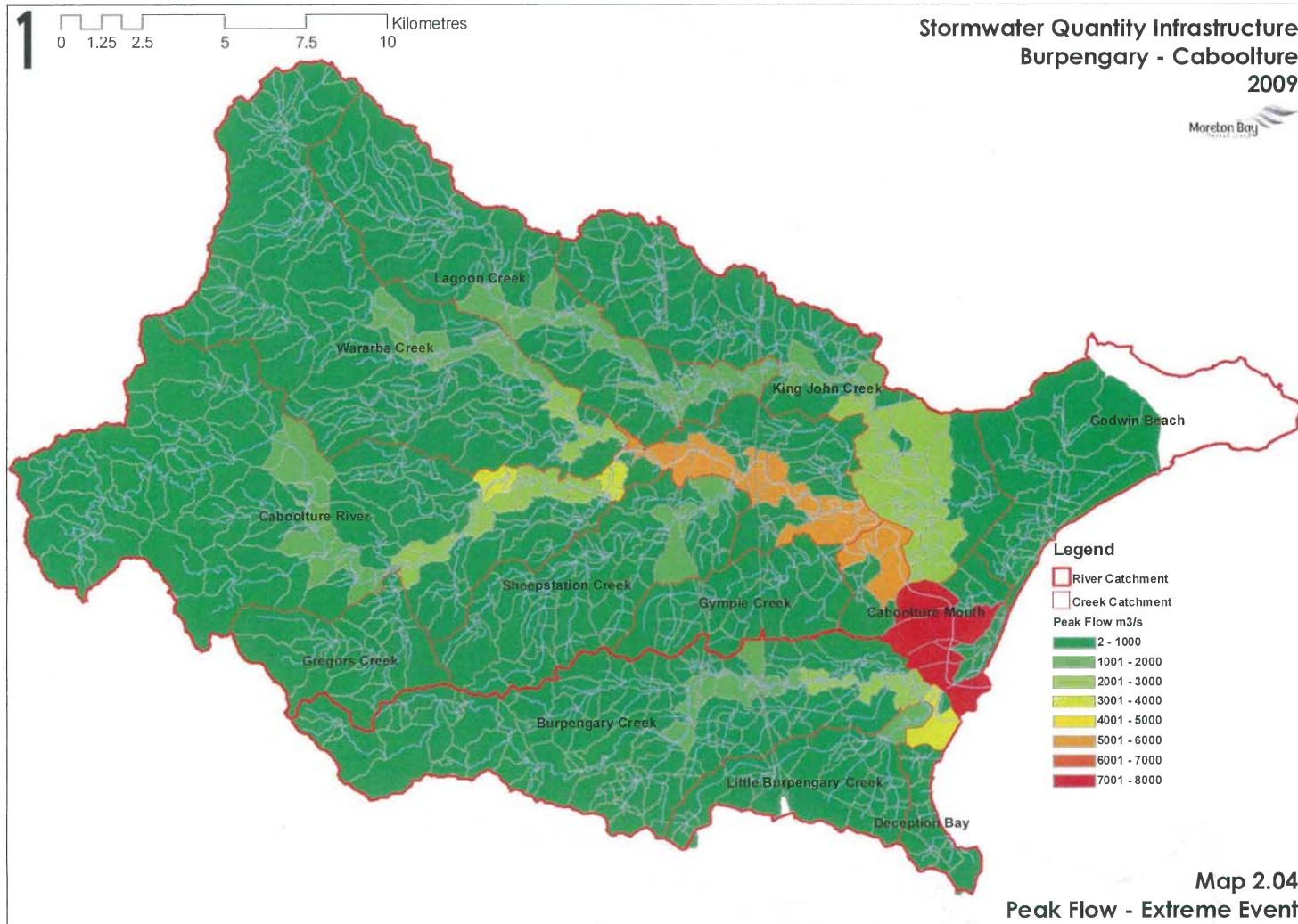
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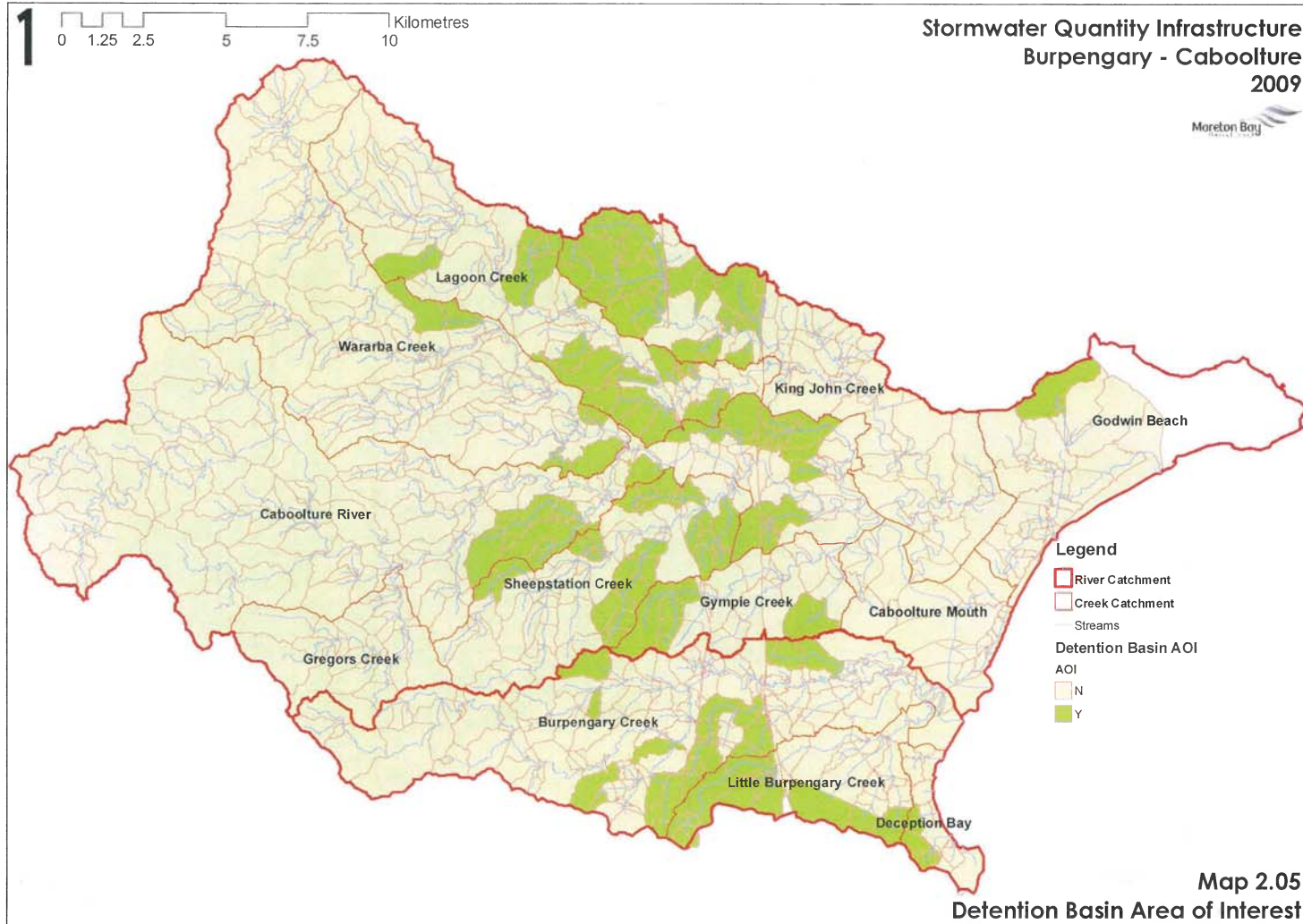
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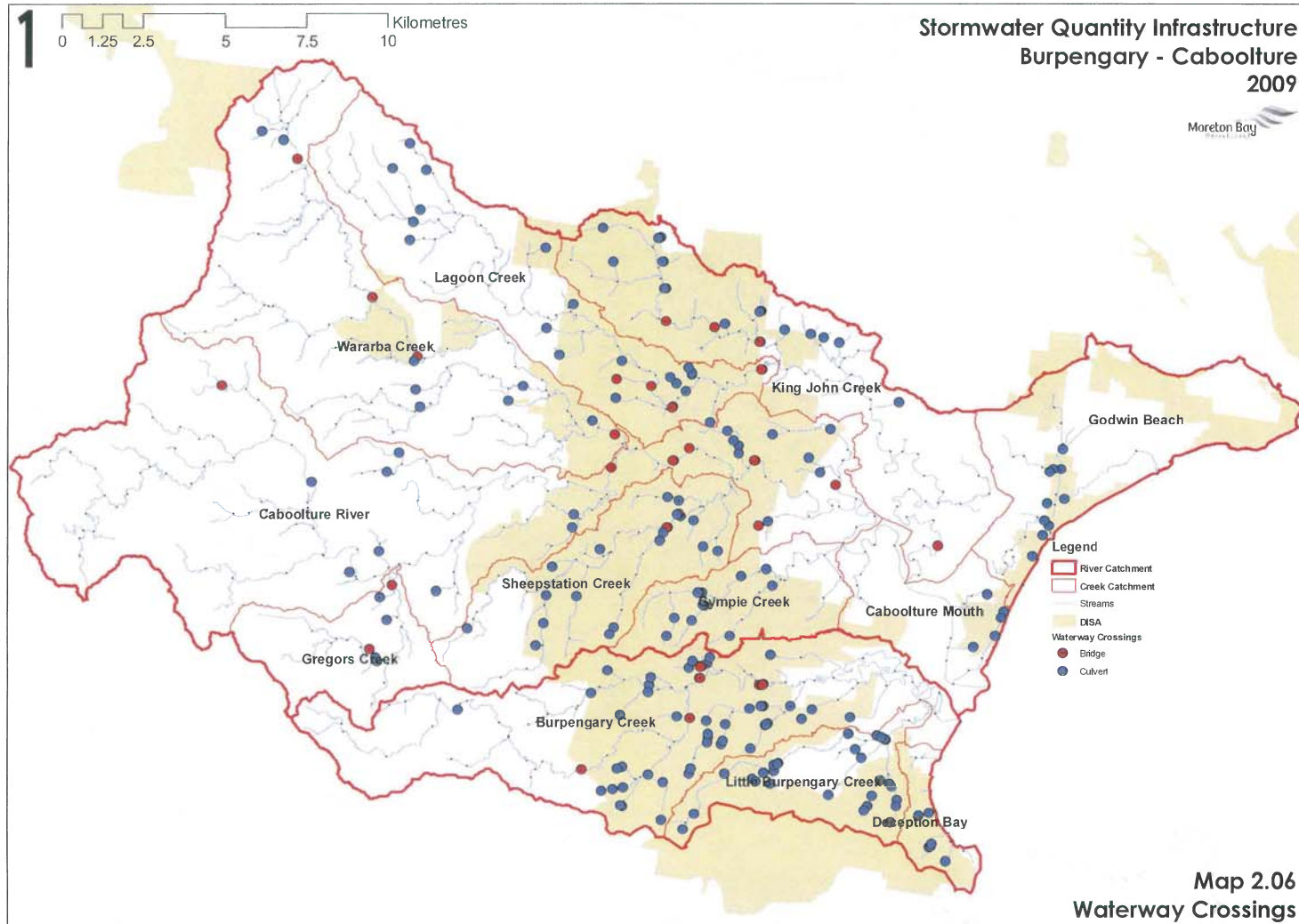
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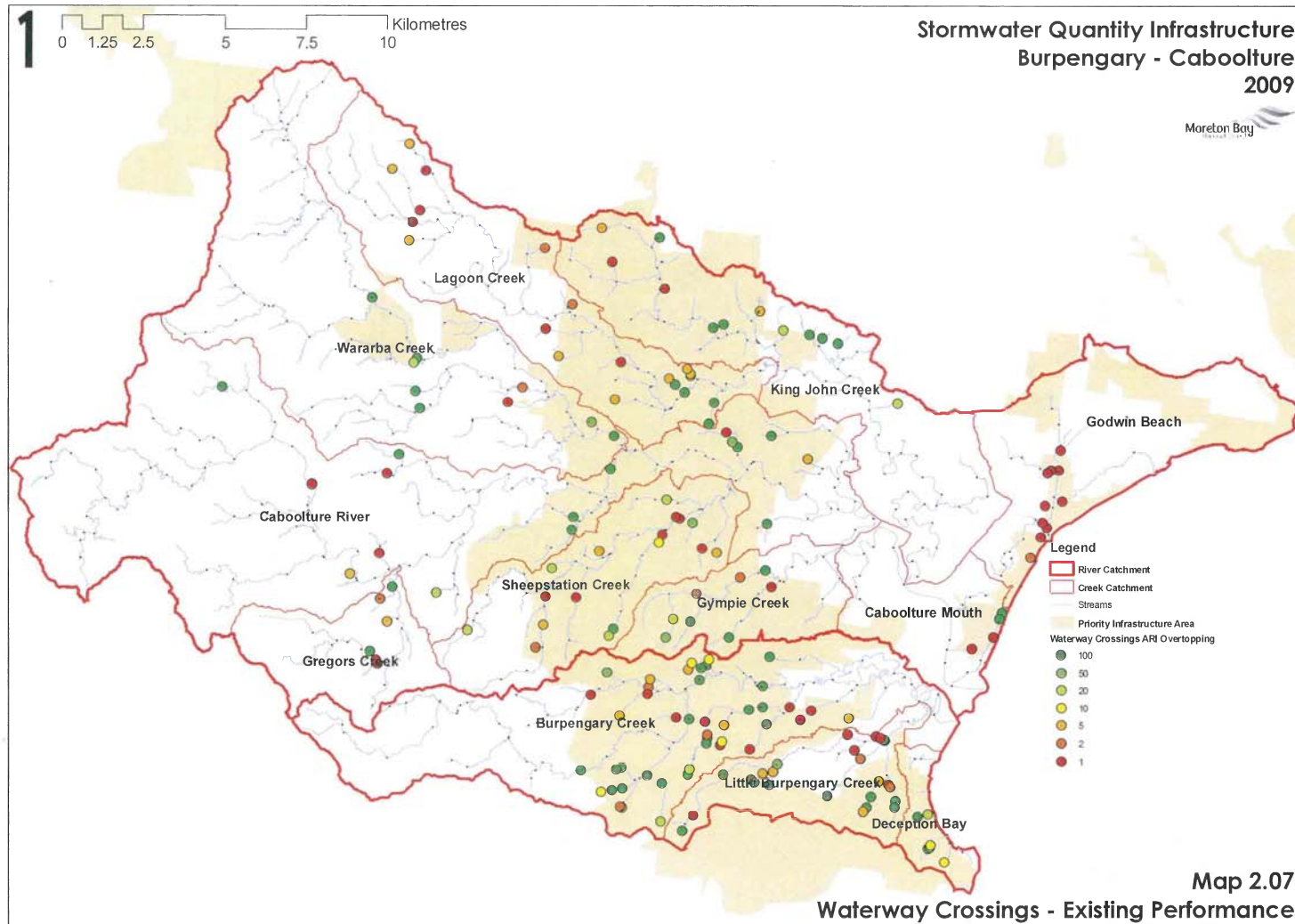
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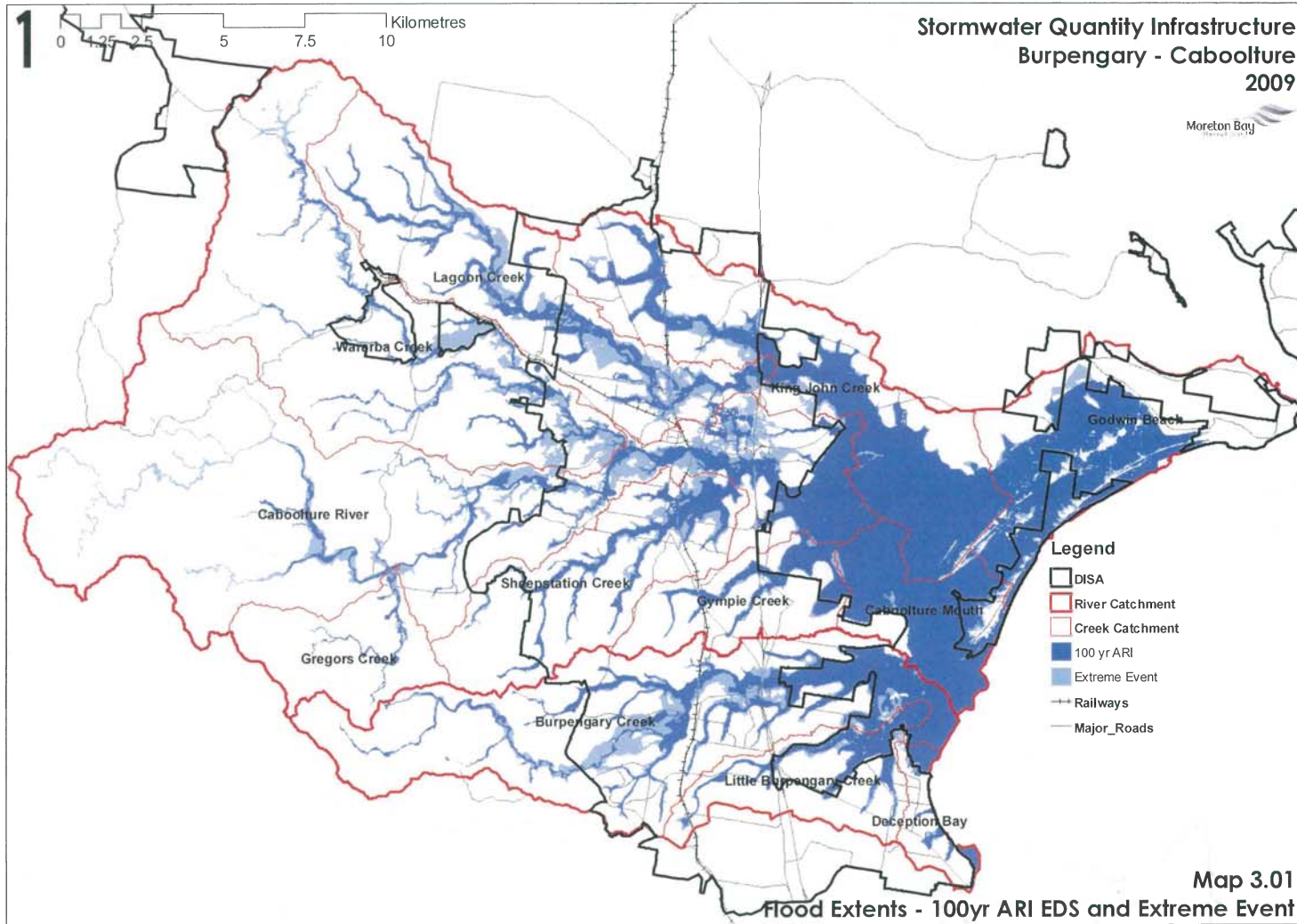
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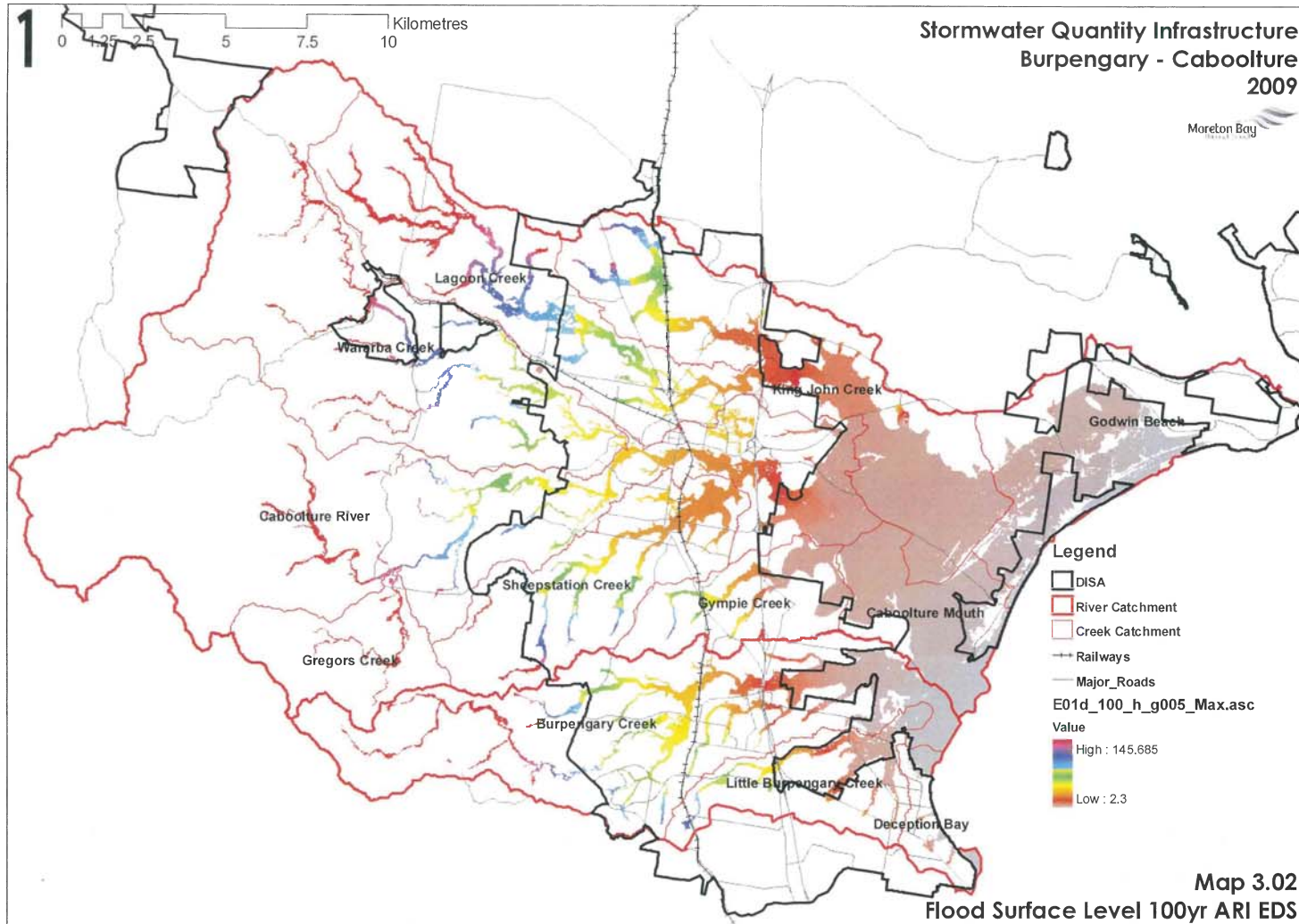


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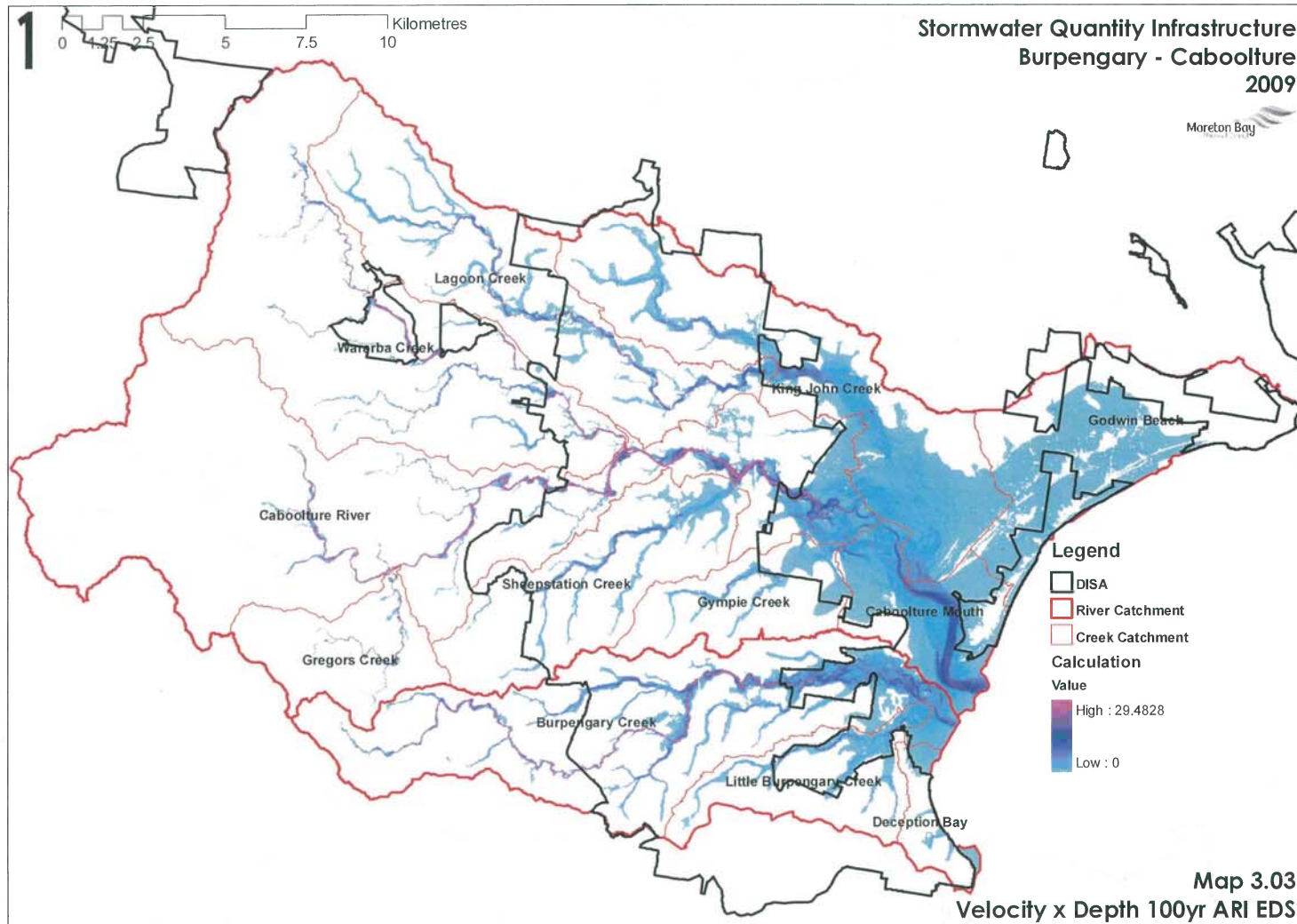


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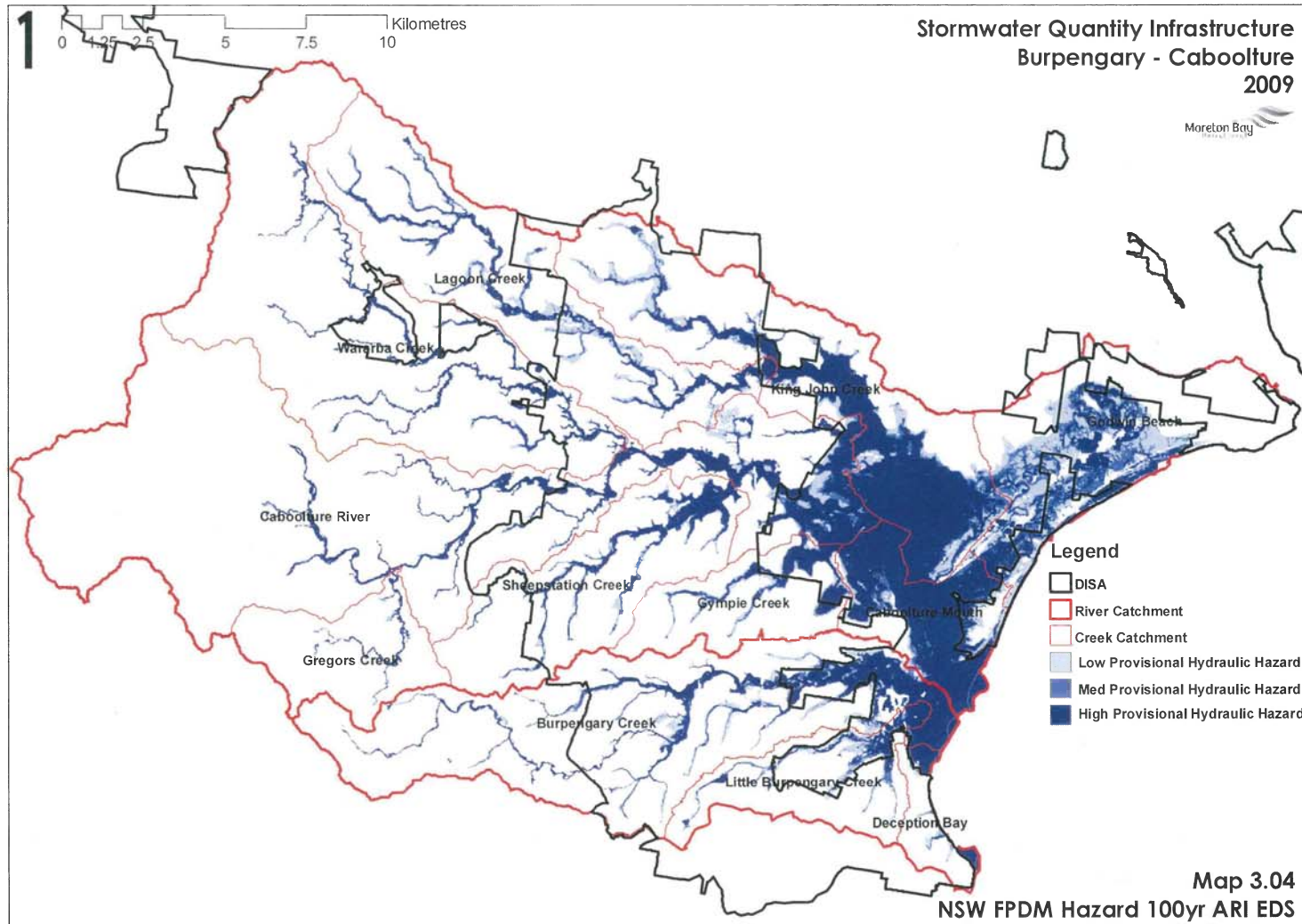
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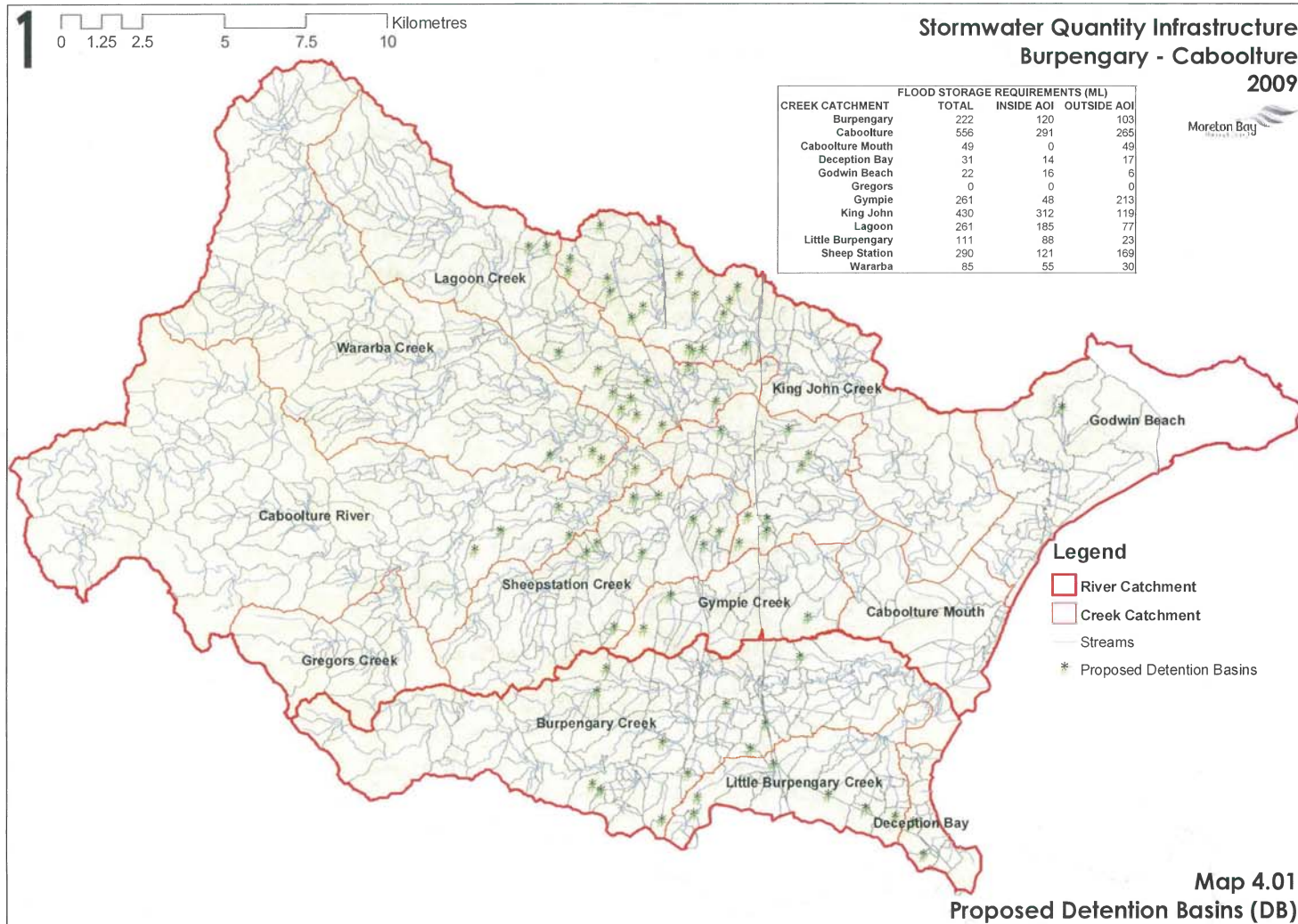
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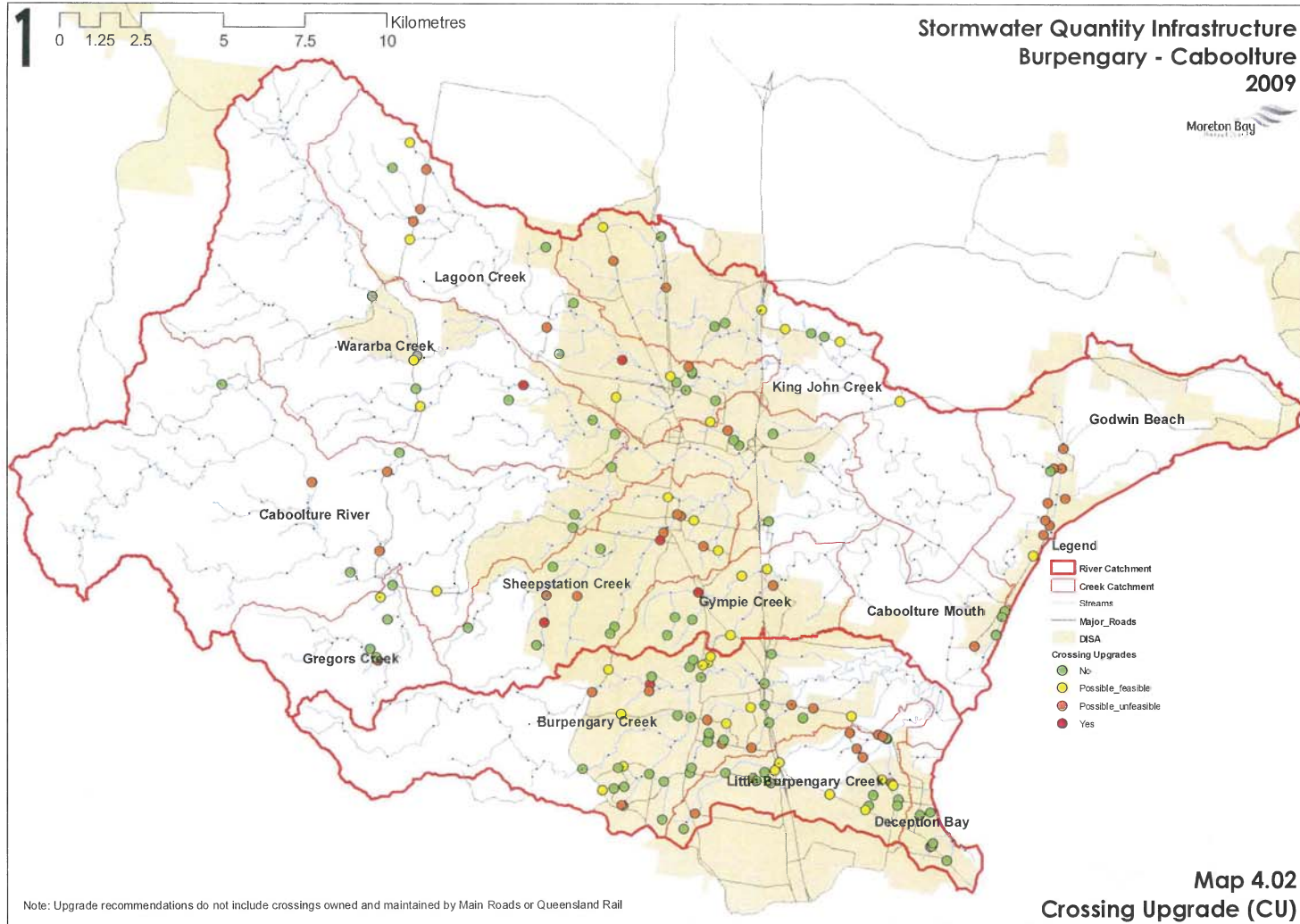
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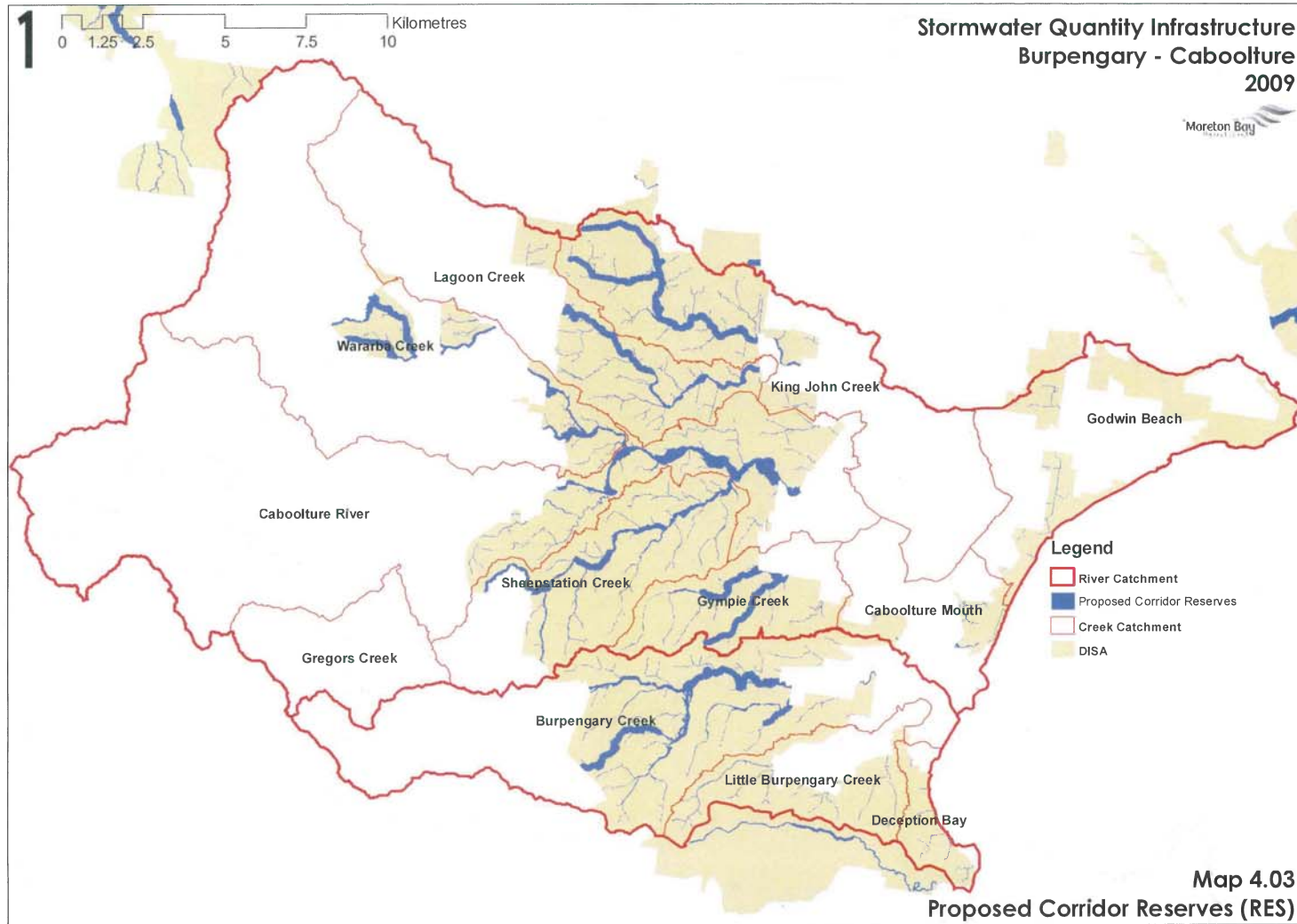
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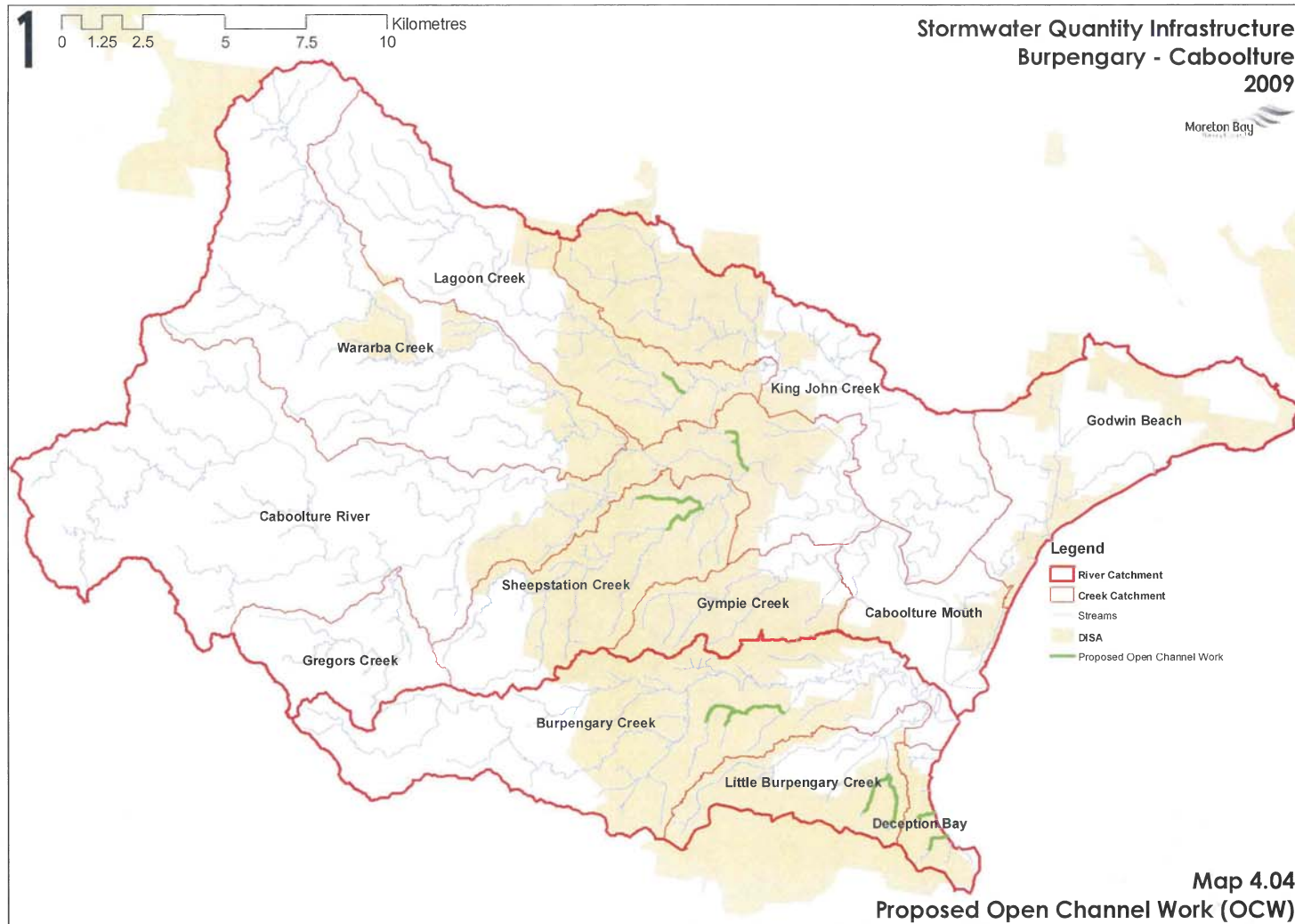
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ITEM 2.1 - PROPOSED RESUMPTION FOR DRAINAGE PURPOSES - 134 MORAYFIELD ROAD,
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*ITEM 2.1 - PROPOSED RESUMPTION FOR DRAINAGE PURPOSES - 134 MORAYFIELD ROAD,
CABOOLTURE SOUTH - LOT 5 ON RP88015 - DIVISION 3 (Cont.)*

List of Tables

- 1.01 Detention Basins (DB)
- 1.02 Crossing Upgrades (CU)
- 1.03 Corridor Reserve (RES)
- 1.04 Open Channel Work (OCW)

Appendix B

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ITEM 2.1 - PROPOSED RESUMPTION FOR DRAINAGE PURPOSES - 134 MORAYFIELD ROAD, CABOOLTURE SOUTH - LOT 5 ON RP88015 - DIVISION 3 (Cont.)

Stormwater Quantity Infrastructure Burpengary - Caboolture 2009
Table 1.01 Detention Basins

ID	River	Creek	Land_Cost	Const_Cost	Total_Cost	Year	Owner	Volume_ML	Volume_m3	Area_m2	Priority	Suburb	Land_YN	Const_Rate
CAB_DB_1	Caboolture	Caboolture River	817,800	1,571,800	2,389,600	2011	Private	29	29000	17400	1	CABOOLTURE	Yes	54
SSC_DB_3	Caboolture	Sheepsstation Creek	387,450	1,138,200	1,525,650	2012	Private	21	21000	12600	2	MORAYFIELD	Yes	54
LAG_DB_11	Caboolture	Lagoon Creek	535,800	1,029,800	1,565,600	2013	Private	19	19000	11400	3	CABOOLTURE	Yes	54
CAB_DB_9	Caboolture	Caboolture River	0	1,463,400	1,463,400	2014	MSRC	27	27000	16200	4	CABOOLTURE SOUTH	No	54
DEC_DB_1	Burpengary	Deception Bay	165,900	420,000	585,900	2014	Private	7	7000	4200	5	DECEPTION BAY	Yes	60
LDC_DB_5	Burpengary	Little Burpengary Creek	237,000	600,000	837,000	2014	Private	10	10000	6000	6	DECEPTION BAY	Yes	60
BUR_DB_6	Burpengary	Burpengary Creek	0	780,000	780,000	2015	MSRC	13	13000	7800	12	BURPENGARY	No	60
DEC_DB_2	Burpengary	Deception Bay	165,900	420,000	585,900	2015	Private	7	7000	4200	8	DECEPTION BAY	Yes	60
LAG_DB_10	Caboolture	Lagoon Creek	507,600	975,600	1,483,200	2015	Private	18	18000	10800	7	CABOOLTURE	Yes	54
LAG_DB_7	Caboolture	Lagoon Creek	0	1,836,540	1,836,540	2015	MSRC	38	38000	22800	10	CABOOLTURE	No	48
LBC_DB_6	Burpengary	Little Burpengary Creek	0	420,000	420,000	2015	MSRC	7	7000	4200	11	DECEPTION BAY	No	60
SSC_DB_9	Caboolture	Sheepsstation Creek	0	540,000	540,000	2015	MSRC	9	9000	5400	9	MORAYFIELD	No	60
LAG_DB_12	Caboolture	Lagoon Creek	479,400	921,400	1,400,800	2016	Private	17	17000	10200	16	CABOOLTURE	Yes	60
LAG_DB_8	Caboolture	Lagoon Creek	338,400	720,000	1,058,400	2016	Private	12	12000	7200	14	CABOOLTURE	Yes	60
LAG_DB_9	Caboolture	Lagoon Creek	0	720,000	720,000	2016	MSRC	12	12000	7200	15	CABOOLTURE	No	60
SSC_DB_4	Caboolture	Sheepsstation Creek	0	480,000	480,000	2016	MSRC	6	6000	4800	13	MORAYFIELD	No	60
SSC_DB_7	Caboolture	Sheepsstation Creek	0	420,000	420,000	2016	MSRC	7	7000	4200	17	MORAYFIELD	No	60
WAR_DB_2	Caboolture	Waratah Creek	554,000	1,084,000	1,638,000	2016	Private	20	20000	12000	18	BELLMERE	Yes	54
WAR_DB_3	Caboolture	Waratah Creek	564,000	1,084,000	1,648,000	2016	Private	20	20000	12000	19	BELLMERE	Yes	54
CAB_DB_4	Caboolture	Caboolture River	1,143,900	2,563,080	3,706,980	2017	Private	62	62000	37200	20	UPPER CABOOLTURE	Yes	41
BUR_DB_1	Burpengary	Burpengary Creek	792,350	2,076,190	2,868,540	2018	Private	43	43000	25800	25	NARANGBA	Yes	48
BUR_DB_10	Burpengary	Burpengary Creek	55,350	180,000	235,350	2018	Private	3	3000	1800	22	BURPENGARY	Yes	60
BUR_DB_5	Burpengary	Burpengary Creek	36,900	120,000	156,900	2018	Private	2	2000	1200	28	NARANGBA	Yes	60
BUR_DB_7	Burpengary	Burpengary Creek	59,350	180,000	239,350	2018	Private	3	3000	1800	23	BURPENGARY	Yes	60
BUR_DB_6	Burpengary	Burpengary Creek	0	540,000	540,000	2018	MSRC	9	9000	5400	27	MORAYFIELD	No	60
BUR_DB_9	Burpengary	Burpengary Creek	147,600	480,000	627,600	2018	Private	8	8000	4800	21	BURPENGARY	Yes	60
BUR_DB_2	Burpengary	Burpengary Creek	278,750	813,000	1,091,750	2019	Private	15	15000	9000	43	MORAYFIELD	Yes	54
KJC_DB_16	Caboolture	King John Creek	423,000	813,000	1,236,000	2019	Private	15	15000	9000	24	CABOOLTURE	Yes	54
BUR_DB_11	Burpengary	Burpengary Creek	129,150	420,000	549,150	2019	Private	7	7000	4200	31	BURPENGARY	Yes	60
CAB_DB_11	Caboolture	Caboolture River	278,750	813,000	1,091,750	2019	Private	15	15000	9000	25	MORAYFIELD	Yes	48
LDC_DB_1	Burpengary	Little Burpengary Creek	461,250	1,355,000	1,816,250	2019	Private	25	25000	15000	30	BURPENGARY	Yes	54
LBC_DB_2	Burpengary	Little Burpengary Creek	369,000	1,084,000	1,453,000	2019	Private	20	20000	12000	32	BURPENGARY	Yes	54
SSC_DB_5	Caboolture	Sheepsstation Creek	571,950	1,488,250	2,060,200	2019	Private	31	31000	18600	29	MORAYFIELD	Yes	48
CAB_DB_12	Caboolture	Caboolture River	278,750	813,000	1,091,750	2020	Private	15	15000	9000	34	MORAYFIELD	Yes	54
CAB_DB_8	Caboolture	Caboolture River	895,890	2,319,840	3,215,730	2020	Private	46	46000	28000	38	UPPER CABOOLTURE	Yes	48
KJC_DB_9	Caboolture	King John Creek	253,800	540,000	793,800	2020	Private	9	9000	5400	36	CABOOLTURE	Yes	60
LAG_DB_6	Caboolture	Lagoon Creek	338,400	720,000	1,058,400	2020	Private	12	12000	7200	37	CABOOLTURE	Yes	60
SSC_DB_8	Caboolture	Sheepsstation Creek	461,250	1,355,000	1,816,250	2020	Private	25	25000	15000	35	MORAYFIELD	Yes	54
BUR_DB_4	Burpengary	Burpengary Creek	495,800	1,152,400	1,648,200	2021	Private	22	22000	13200	39	BURPENGARY	Yes	54
CAB_DB_7	Caboolture	Caboolture River	479,400	921,400	1,400,800	2021	Private	17	17000	10200	41	CABOOLTURE	Yes	54
OYM_DB_3	Caboolture	Oympie Creek	332,100	975,600	1,307,700	2021	Private	18	18000	10800	43	BURPENGARY	Yes	54
KJC_DB_7	Caboolture	King John Creek	0	1,020,800	1,020,800	2021	MSRC	19	19000	11400	44	ELLSBACH	No	54
LDC_DB_3	Burpengary	Little Burpengary Creek	164,500	600,000	764,500	2021	Private	10	10000	6000	40	NARANGBA	Yes	60
SSC_DB_6	Caboolture	Sheepsstation Creek	119,700	360,000	479,700	2021	Private	6	6000	3600	42	MORAYFIELD	Yes	60
BUR_DB_9	Burpengary	Burpengary Creek	147,600	480,000	627,600	2022	Private	8	8000	4800	49	NARANGBA	Yes	60
CAB_DB_3	Caboolture	Caboolture River	479,400	921,400	1,400,800	2022	Private	17	17000	10200	50	CABOOLTURE	Yes	54
KJC_DB_15	Caboolture	King John Creek	169,200	360,000	529,200	2022	Private	6	6000	3600	51	CABOOLTURE	Yes	60
KJC_DB_9	Caboolture	King John Creek	1,699,000	1,884,870	3,583,870	2022	Private	39	39000	23400	45	CABOOLTURE	Yes	48
LAG_DB_5	Caboolture	Lagoon Creek	617,800	1,571,800	2,189,600	2022	Private	29	29000	17400	46	CABOOLTURE	Yes	54
SSC_DB_1	Caboolture	Sheepsstation Creek	166,050	540,000	706,050	2022	Private	9	9000	5400	47	UPPER CABOOLTURE	Yes	60
SSC_DB_2	Caboolture	Sheepsstation Creek	72,800	240,000	312,800	2022	Private	4	4000	2400	48	MORAYFIELD	Yes	60
CAB_DB_13	Caboolture	Caboolture River	36,900	120,000	156,900	2023	Private	2	2000	1200	57	MORAYFIELD	Yes	60
KJC_DB_10	Caboolture	King John Creek	676,800	1,360,800	1,937,600	2023	Private	24	24000	14400	55	CABOOLTURE	Yes	54
KJC_DB_11	Caboolture	King John Creek	81,900	1,136,250	1,218,150	2023	Private	21	21000	12600	56	ELLSBACH	Yes	54
KJC_DB_6	Caboolture	King John Creek	318,200	600,000	918,200	2023	Private	11	11000	6600	53	CABOOLTURE	Yes	60
LAG_DB_1	Caboolture	Lagoon Creek	197,400	420,000	617,400	2023	Private	7	7000	4200	54	CABOOLTURE	Yes	60
LAG_DB_3	Caboolture	Lagoon Creek	112,000	240,000	352,000	2023	Private	4	4000	2400	52	CABOOLTURE	Yes	60
WAR_DB_1	Caboolture	Waratah Creek	423,000	813,000	1,236,000	2023	Private	15	15000	9000	56	BELLMERE	Yes	54
KJC_DB_12	Caboolture	King John Creek	592,200	1,136,250	1,728,450	2024	Private	21	21000	12600	59	CABOOLTURE	Yes	54
KJC_DB_13	Caboolture	King John Creek	253,800	540,000	793,800	2024	Private	9	9000	5400	60	CABOOLTURE	Yes	60
KJC_DB_14	Caboolture	King John Creek	253,800	540,000	793,800	2024	Private	9	9000	5400	61	CABOOLTURE	Yes	60
KJC_DB_2	Caboolture	King John Creek	1,522,800	2,532,360	3,755,160	2024	Private	54	54000	32400	63	CABOOLTURE	Yes	41
KJC_DB_5	Caboolture	King John Creek	93,600	1,360,800	1,554,400	2024	Private	24	24000	14400	62	ELLSBACH	Yes	54
CAB_DB_5	Caboolture	Caboolture River	313,650	921,400	1,235,050	2025	Private	17	17000	10200	64	UPPER CABOOLTURE	Yes	54
CAB_DB_8	Caboolture	Caboolture River	313,650	921,400	1,235,050	2025	Private	17	17000	10200	65	UPPER CABOOLTURE	Yes	54
OYM_DB_2	Caboolture	Oympie Creek	202,950	680,000	882,950	2025	Private	11	11000	6600	66	MORAYFIELD	Yes	60
BUR_DB_2	Burpengary	Burpengary Creek	0	120,000	120,000	2026	MSRC	2	2000	1200	70	NARANGBA	No	60
CAB_DB_10	Caboolture	Caboolture River	184,500	600,000	784,500	2026	Private	10	10000	6000	71	MORAYFIELD	Yes	60
GOO_DB_1	Caboolture	Goodwin Beach	127,200	867,200	994,400	2026	Private	16	16000	9600	76	FINCH	Yes	60
OYM_DB_1	Caboolture	Oympie Creek	359,550	1,029,800	1,389,350	2026	Private	19	19000	11400	67	MORAYFIELD	Yes	60
KJC_DB_1	Caboolture	King John Creek	59,700	760,000	819,700	2026	Private	13	13000	7800	72	ELLSBACH	Yes	60
KJC_DB_3	Caboolture	King John Creek	789,600	1,517,600	2,307,200	2026	Private	26	26000	15600	73	CABOOLTURE	Yes	54
KJC_DB_4	Caboolture	King John Creek	319,200	660,000	979,200	2026	Private	11	11000	6600	68	CABOOLTURE	Yes	60
LAG_DB_2	Caboolture	Lagoon Creek	253,800	540,000	793,800	2026	Private	9	9000	5400	69	CABOOLTURE	Yes	60
LAG_DB_4	Caboolture	Lagoon Creek	27,200	420,000	447,200	2026	Private	7	7000	4200	74	MOODLU	Yes	60
LDC_DB_4	Burpengary	Little Burpengary Creek	355,500	813,000	1,168,500	2026	Private	15	15000	9000	75	DECEPTION BAY	Yes	54

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CABOOLTURE SOUTH - LOT 5 ON RP88015 - DIVISION 3 (Cont.)**

Stormwater Quantity Infrastructure Burpengary - Caboolture 2009
Table 1.03 Corridor Reserves

ID	River	Creek	Land_Cost	Const_Cost	Total_Cost	Year	Area_Ha
BRC_RES_1	Stanley River	Blackrock Creek	622,181	0	622,181	2010	17.3
BRI_RES_1	Coastal Creeks	Bribie Island	8,446,250	0	8,446,250	2010	48.5
BUR_RES_1	Burpengary	Burpengary Creek	27,102,800	0	27,102,800	2012	218.6
CAB_RES_1	Caboolture	Caboolture River	26,019,300	0	26,019,300	2015	164.5
CBM_RES_1	Caboolture	Caboolture Mouth	2,042,270	0	2,042,270	2015	12.0
DEC_RES_1	Burpengary	Deception Bay	721,842	0	721,842	2016	5.0
GOD_RES_1	Caboolture	Godwin Beach	2,137,730	0	2,137,730	2016	15.9
GYM_RES_1	Caboolture	Gympie Creek	11,980,800	0	11,980,800	2016	96.6
KJC_RES_1	Caboolture	King John Creek	32,953,700	0	32,953,700	2019	268.1
LAG_RES_1	Caboolture	Lagoon Creek	20,570,600	0	20,570,600	2019	127.9
LBC_RES_1	Burpengary	Little Burpengary Creek	3,397,250	0	3,397,250	2021	25.8
MBC_RES_1	Stanley River	Monkeybong Creek	2,992,790	0	2,992,790	2021	95.3
NIN_RES_1	Coastal Creeks	Ningi Creek	129,821	0	129,821	2021	3.6
ONE_RES_1	Stanley River	One Mile Creek	2,120,930	0	2,120,930	2021	58.9
SMC_RES_1	Coastal Creeks	Six Mile Creek	44,440	0	44,440	2021	1.2
SSC_RES_1	Caboolture	Sheepstation Creek	19,157,500	0	19,157,500	2022	150.2
STA_RES_1	Stanley River	Stanley River	1,055,350	0	1,055,350	2024	29.3
SWC_RES_1	Coastal Creeks	Saltwater Creek	7,185,170	0	7,185,170	2025	54.7
WAR_RES_1	Caboolture	Wararba Creek	14,779,000	0	14,779,000	2026	183.2

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**ITEM 2.1 - PROPOSED RESUMPTION FOR DRAINAGE PURPOSES - 134 MORAYFIELD ROAD,
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Stormwater Quantity Infrastructure Dupangary - Caboolture 2009
Table 1.04 Open Channel Work

ID	River	Creek	Land_Cost	Const_Cost	Total_Cost	Year	Length_m	Avg_width_m	Avg_depth_m	No_Xings	Area_m2	Vol_m3	Earthworks_Cost	Services/RelocationCost	DebrisControlCost	RetainingCost	LandscapingCost	Survey/Engineering (at 15%)	Contingency (at 30%)
DEC_OCW_1	Dupangary	Dupangary Bay	0	763,483	763,483	2011	481.1	15	0.30	3	12116	3885	551885	267723	50000	511505	147082	448768	897535
DEC_OCW_2	Dupangary	Dupangary Bay	0	401,279	401,279	2012	533.0	10	0.30	2	5335	1601	125959	165275	50000	253917	338556	140000	291613
SSC_OCW_2	Caboolture	Sheepstation Creek	0	3,376,601	3,376,601	2013	2346.0	40	0.30	4	93649	28152	89118	88105	75000	132158	78981	157962	157962
LAD_OCW_1	Caboolture	Lagoon Creek	0	895,210	895,210	2015	952.1	15	0.30	5	14431	4329	40914	53352	50000	98027	53352	41612	83023
SSC_OCW_1	Caboolture	Sheepstation Creek	0	2,328,316	2,328,316	2017	1611.3	40	0.30	3	64452	19336	102226	96210	125000	144315	144315	92711	185423
LBC_OCW_2	Dupangary	Little Dupangary Creek	0	1,433,104	1,433,104	2019	1692.1	20	0.15	4	28842	5976	109290	145000	75000	218520	291960	125973	251946
LBC_OCW_1	Dupangary	Little Dupangary Creek	0	1,217,729	1,217,729	2021	1456.3	20	0.15	3	29186	4370	129607	102000	100000	253814	328418	149252	296504
CAS_OCW_1	Caboolture	Caboolture River	0	1,361,129	1,361,129	2023	1692.8	20	0.15	2	30956	5075	483380	161130	75000	241895	644520	240880	461721
BUR_OCW_1	Dupangary	Dupangary Creek	0	4,338,007	4,338,007	2025	3677.2	40	0.15	2	147089	22963	703797	234889	100000	351999	838096	349304	696607

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*ITEM 2.1 - PROPOSED RESUMPTION FOR DRAINAGE PURPOSES - 134 MORAYFIELD ROAD,
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ITEM 2.1 - PROPOSED RESUMPTION FOR DRAINAGE PURPOSES - 134 MORAYFIELD ROAD, CABOOLTURE SOUTH - LOT 5 ON RP88015 - DIVISION 3 (Cont.)

Investigation Report: Morayfield, 134 Morayfield Road Feasibility Study Regional Detention Basin (SSC_DB_3)

Title:	Morayfield, 134 Morayfield Road Feasibility Study for Trunk Detention Basin (SSC_DB_3)
Budget Number:	
PID Number:	
RIO Reference:	A12002048
Report Prepared By:	Alister O'Callaghan Senior Engineer Stormwater Infrastructure Planning (07) 3480 6560 Alister.O'Callaghan@moretonbay.qld.gov.au
Report Reviewed By:	Allan Charteris Coordinator Drainage waterways and Coastal Planning (07) 3480 6452 Allan.Charteris@moretonbay.qld.gov.au

1. Overview <this section provides key information suitable for rapid appreciation of report outcomes>

A development application has recently be lodged over the undeveloped portion of 134 Morayfield Road Caboolture South (DA/30058/2015/V2C). Trunk detention basin SSC_DB_3 was identified in the vicinity with a storage volume of 21000m³ (21 ML). Open channel works and a wetland are also identified in the plans for trunk infrastructure in the vicinity.

A confirmation has been requested that regional detention is still required in this location and if there exists alternative solutions that will offer a similar reduction in flooding downstream (including to what extent).

Previous assessments used the 2009 LiDAR and associated modelling to identify trunk infrastructure works opportunities that could address identified existing and/or potential future flood risks associated with growth in the region.

The latest flood modelling (based on 2014 LiDAR) has been reviewed identifies similar flood risks to those of the 2009 assessments. The modelling continues to highlight poor flood immunity of Morayfield Road directly downstream of the site.

A review of the catchment, current and potential future flood behaviour, in consideration of the New Draft Planning Scheme, indicates significant potential increases in catchment flows due to future development.

The need for a regional detention basin at this location is supported.

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Investigation Report:
Morayfield, 134 Morayfield Road
Feasibility Study Regional Detention Basin (SSC_DB_3)

2. Background <this section describes what has occurred in the past that gave rise to this project proposal>

The owners have lodged an application for a Material Change of Use for a Retail showroom, Restaurant, Shop and Take away food outlet (see Figure 1)

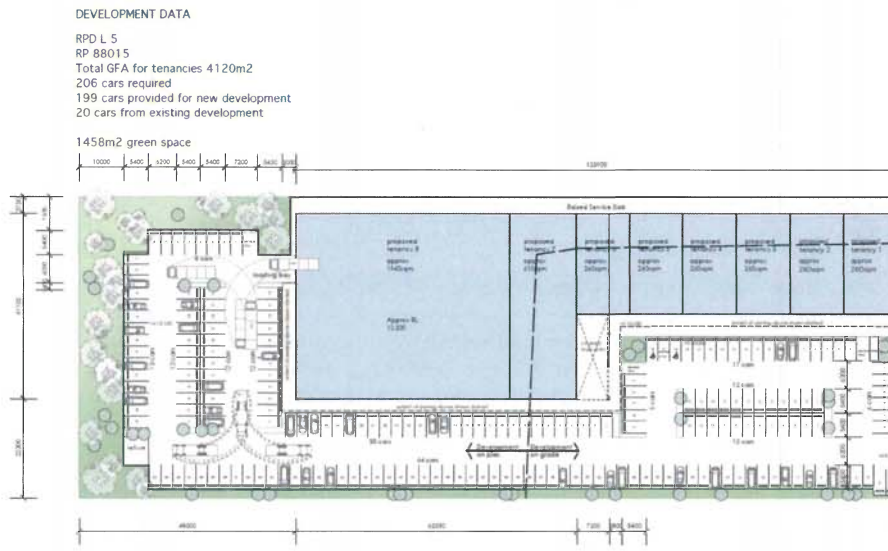


Figure 1 Submitted Development Plan 134 Morayfield Road Caboolture South

In 2009, DWCP undertook a flood investigation to identify trunk stormwater quantity infrastructure for the Burpengary Creek and Caboolture River catchments as part of the development of the Caboolture infrastructure contribution policies and priority infrastructure plan. <http://webapps1/Objective/ObjRef.aspx?id=A6879894>.

The infrastructure identified in the 2009 investigation was subsequently rolled over into Council's Adopted Infrastructure Charges Resolution (AICR).

Within the local catchment, the AICR (see Figure 2) identified a detention basin designed as a regional device for the catchment with a total capacity of order 21,000m³. The total area of land identified for this device is 12,600m². This requirement has been reflected in the Information Request which was sent to the applicant yesterday.

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CABOOLTURE SOUTH - LOT 5 ON RP88015 - DIVISION 3 (Cont.)

Investigation Report:
Morayfield, 134 Morayfield Road
Feasibility Study Regional Detention Basin (SSC_DB_3)



Figure 2 Adopted Infrastructure Charges Resolution

The objective of this investigation is to confirm the need for a detention basin to service this catchment.

3. Site Description <this section describes the site and its key characteristics>

The site is located in Caboolture South at 134 Morayfield Road.

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Investigation Report:
Morayfield, 134 Morayfield Road
Feasibility Study Regional Detention Basin (SSC_DB_3)

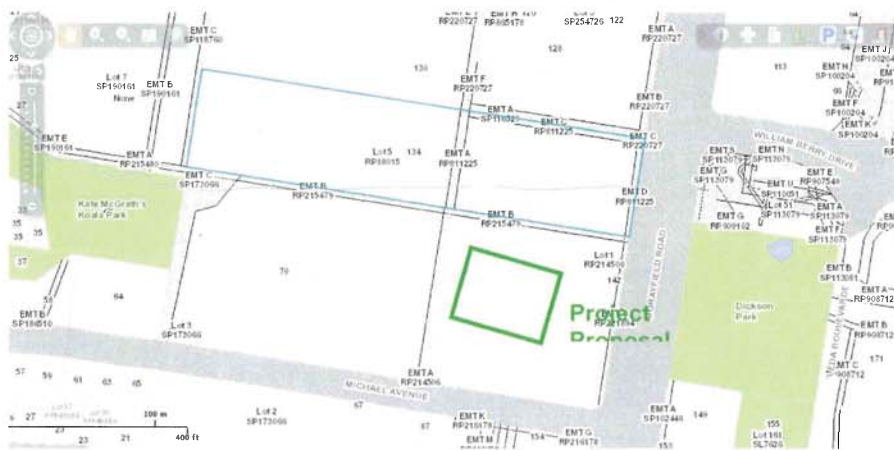


Figure 3: Easement and Legal Descriptions



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CABOOLTURE SOUTH - LOT 5 ON RP88015 - DIVISION 3 (Cont.)

Investigation Report:
Morayfield, 134 Morayfield Road
Feasibility Study Regional Detention Basin (SSC_DB_3)

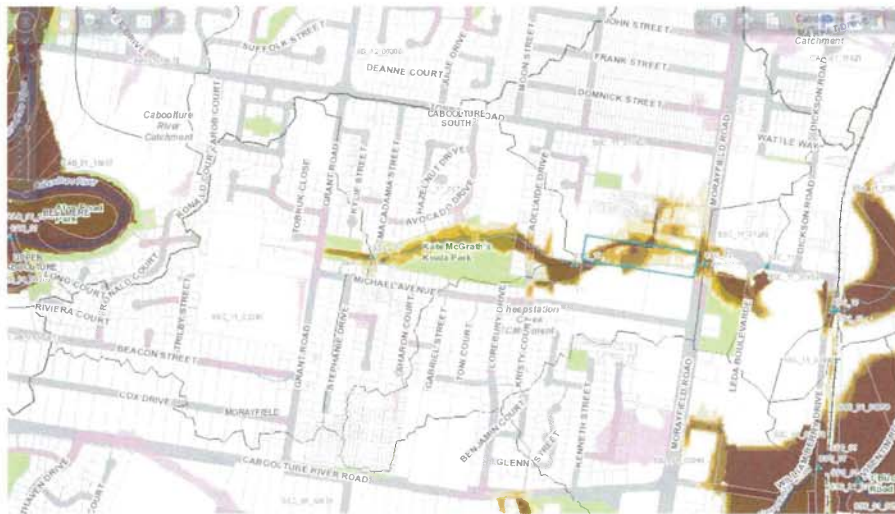


Figure 4 Catchment Plan

The catchment upstream of Adelaide Dr is mostly residential, while the landuse between Adelaide Dr and Morayfield Rd is commercial uses. With the exception of a few as yet undeveloped blocks, the catchment can be considered reasonably fully developed in line with the current planning scheme. However, the New Draft Planning Scheme rezones the residential areas to Next Generation where the opportunity for intensification exists and there are no lower limits on lot sizes.

There are existing significant flooding issues in the area (see Figure 5) and this was evident in the recent (1 May 2015) rain event where the Morayfield Shopping Centre car park flooded.

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CABOOLTURE SOUTH - LOT 5 ON RP88015 - DIVISION 3 (Cont.)

Investigation Report:
Morayfield, 134 Morayfield Road
Feasibility Study Regional Detention Basin (SSC_DB_3)



Figure 5 Flood extents 1% AEP

4. Issues

Issues that need to be considered in developing effective floodplain management strategies in this area include:

- Historical flooding closing Morayfield Road
- Historical flooding of Morayfield Shopping Centre carpark

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ITEM 2.1 - PROPOSED RESUMPTION FOR DRAINAGE PURPOSES - 134 MORAYFIELD ROAD,
CABOOLTURE SOUTH - LOT 5 ON RP88015 - DIVISION 3 (Cont.)

Investigation Report: Morayfield, 134 Morayfield Road Feasibility Study Regional Detention Basin (SSC_DB_3)

- Flooding of properties and road closures downstream in Sheepstation Creek and Caboolture River.
- Potential for development in upstream and adjacent catchments increasing peak flows in receiving waterway (Sheepstation Creek and Caboolture River).
- Blockage of existing 1500 mm diameter pipe inlet in 134 Morayfield Road.
- Remaining limited opportunity for council to retrofit detention into existing developed catchments.

Commercial and residential development in the sub-catchment has been undertaken without significant stormwater quantity controls. With respect to the latest available aerial photography, the residential areas of the sub-catchment appear to be near fully developed, but it is likely there will be some further development/intensification within the commercial precincts close to Morayfield Rd. As noted previously, the New Draft Planning Scheme rezones the residential areas to Next Generation where the opportunity for significant residential intensification exists and there are no lower limits on lot sizes.

The existing levels of development result in flood flows in excess of the capacity of the drainage system, and results in flooding/closure of Morayfield Rd during a 10% AEP (approx. 1 in 10yr) event.

Further, existing conditions result in nuisance flooding of public and private property, including flooding of the lower carpark areas of the Morayfield Shopping Centre (northern carpark). This occurs during events greater than or equal to 10% AEP.

2015 Update

Review of the 2009 investigation has been undertaken. The 2009 investigation was regional in approach, and used available data and flood information to identify flood mitigation opportunities. With the benefit of improved flood data (based on 2014 LiDAR and modelling), the following issues are identified:

- Course catchment delineation in the hydrology model, relative to the overall size of this sub-catchment (3 contributing catchments), which may not reliably represent
 - the catchment response to rainfall
 - the extent of the catchment contributing to the Morayfield Rd crossing – upon review, considered to be an overestimate of contributing catchment area
- The estimate of increase in impervious fraction 2009-2021 is characterised with a 20-40% *increase* in impervious fraction. At first glance, this appears high. Increases to impervious fraction of 2.5-10%, nominated in the 2 other sub-catchments, appears more realistic.
- The methodology for nominating the volume and area of the proposed detention basin is a guide based on the QUDM "Initial Sizing Method" Boyd formula. A more rigorous dynamic routing simulation methodology (as was recommended in the 2009

ITEM 2.1 - PROPOSED RESUMPTION FOR DRAINAGE PURPOSES - 134 MORAYFIELD ROAD, CABOOLTURE SOUTH - LOT 5 ON RP88015 - DIVISION 3 (Cont.)

Investigation Report: Morayfield, 134 Morayfield Road Feasibility Study Regional Detention Basin (SSC_DB_3)

study) is recommended to size the basin and its outlet, and to assess the impact to flood behaviour.

A review of the impervious fraction increases has been undertaken in consideration of the proposed changes to landuse under the New Draft Planning Scheme. Much of the area in the upper sub-catchment has been nominated as Next Generation General Residential, which allows an increase in impervious fraction to 0.70-0.85, as documented in the draft Planning Scheme Policy – Integrated Design.

Percentage Impervious vs development category

Development Category	MBRC Planning Scheme Zone	Fraction Impervious
Road Reserves		Fraction of width paved
Park / Rural	<ul style="list-style-type: none"> • Environmental Management and Conservation • Recreation and Open Space 	0.0
	<ul style="list-style-type: none"> • Rural • Extractive Industry 	
Rural Residential (>3000m ²)	Rural residential	0.20
Residential lot (600m ² -1500m ²)	General Residential – Coastal Village General Residential – Suburban	0.50
Residential lot (1500m ² -3000m ²)	General Residential – Coastal Village General Residential – Suburban	0.35
High density	General Residential – Urban General Residential – Next Generation	0.9 0.7-0.85
Commercial / Industrial / Urban Parks	Centre Industry Community Facilities	0.9 to 1.0

Analysis of application of the Next Generation zone confirms a 30-40% *increase* in impervious fraction within this sub-catchment.

Accordingly, future development in the catchment will likely result in a significant increase in flood flows and volumes in line with those set out in the 2009 DWCP report (ie increase in peak flows of 10-15%).

ITEM 2.1 - PROPOSED RESUMPTION FOR DRAINAGE PURPOSES - 134 MORAYFIELD ROAD,
CABOOLTURE SOUTH - LOT 5 ON RP88015 - DIVISION 3 (Cont.)

Investigation Report:
Morayfield, 134 Morayfield Road
Feasibility Study Regional Detention Basin (SSC_DB_3)

5. Possible Solutions <this section describes the solution (s) and their benefits and disbenefits >

The following table provides a list of possible solutions to the problem including their benefits and disbenefits.

Table 1:

	Possible Solutions	Pros	Cons
1	Proceed with detention basin	<ul style="list-style-type: none"> Addresses existing flood risks at Morayfield Rd Addresses catchment intensification as prescribed in NDPS 	<ul style="list-style-type: none"> Will prohibit development of 134 Morayfield Rd as proposed
2	Allow proposed development on 134 Morayfield Rd to proceed addressing onsite stormwater issues - no other compensatory works	<ul style="list-style-type: none"> Low cost 	<ul style="list-style-type: none"> Does not address existing flood risks at Morayfield Rd Does not address catchment intensification
3	Allow proposed development on 134 Morayfield Rd to proceed addressing onsite stormwater issues - don't allow upzoning in upper catchment	<ul style="list-style-type: none"> Low cost 	<ul style="list-style-type: none"> Does not address existing flood risks at Morayfield Rd Inconsistent with NDPS

ITEM 2.1 - PROPOSED RESUMPTION FOR DRAINAGE PURPOSES - 134 MORAYFIELD ROAD,
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Investigation Report:
Morayfield, 134 Morayfield Road
Feasibility Study Regional Detention Basin (SSC_DB_3)

	Possible Solutions	Pros	Cons
4	Allow proposed development on 134 Morayfield Rd to proceed addressing onsite stormwater issues - impose discharge controls on all new development in upper catchment	<ul style="list-style-type: none"> • Low cost • Addresses catchment intensification as prescribed in NDPS 	<ul style="list-style-type: none"> • Does not address existing flood risks at Morayfield Rd • Difficult to the point of being virtually impossible to practically implement
5	Allow proposed development on 134 Morayfield Rd to proceed addressing onsite stormwater issues - locate detention basin(s) elsewhere in catchment	<ul style="list-style-type: none"> • Addresses existing flood risks at Morayfield Rd • Addresses catchment intensification as prescribed in NDPS 	<ul style="list-style-type: none"> • Difficult to locate suitable alternate basin locations • likely to require more detention distributed over a number of basins • Likely to require loss of veg in Kate McGrath Koala Park for construction of detention basin
6	Allow modified version of development on 134 Morayfield Rd to proceed addressing onsite stormwater issues and including some regional detention - locate detention basin(s) elsewhere in catchment	<ul style="list-style-type: none"> • Addresses existing flood risks at Morayfield Rd • Addresses catchment intensification as prescribed in NDPS 	<ul style="list-style-type: none"> • Difficult to locate suitable alternate basin locations • likely to require more detention distributed over a number of basins • Likely to require loss of veg in Kate McGrath Koala Park for construction of detention basin

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ITEM 2.1 - PROPOSED RESUMPTION FOR DRAINAGE PURPOSES - 134 MORAYFIELD ROAD,
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Investigation Report:
Morayfield, 134 Morayfield Road
Feasibility Study Regional Detention Basin (SSC_DB_3)

	Possible Solutions	Pros	Cons
7	Allow development on 134 Morayfield Rd to proceed addressing onsite stormwater issues - install bypass drainage from upstream of development site to Sheepstation Creek	<ul style="list-style-type: none"> Addresses existing flood risks at Morayfield Rd Addresses catchment intensification as prescribed in NDPS 	<ul style="list-style-type: none"> Cost prohibitive
8	Allow development on 134 Morayfield Rd to proceed as suspended slab above detention basin	<ul style="list-style-type: none"> Addresses existing flood risks at Morayfield Rd Addresses catchment intensification as prescribed in NDPS 	<ul style="list-style-type: none"> Difficult to the point of being virtually impossible to practically implement considering access, maintenance, ownership etc

ITEM 2.1 - PROPOSED RESUMPTION FOR DRAINAGE PURPOSES - 134 MORAYFIELD ROAD,
CABOOLTURE SOUTH - LOT 5 ON RP88015 - DIVISION 3 (Cont.)

Investigation Report: Morayfield, 134 Morayfield Road Feasibility Study Regional Detention Basin (SSC_DB_3)

6. Preferred Solution <this section describes the preferred solution>

This investigation supports previous investigation outcomes including that **a detention basin in this catchment is needed** to address increases in flows due to future development.

The location identified, the remaining undeveloped portion of this property, is the preferred (most practical and suitable) location for such a detention basin. The location offers the opportunity to capture virtually all the upper catchment flows, reduce existing flood risks at Morayfield Rd and address future increased flows due to the intensification prescribed in the NDPS.

7. Indicative Costing and Staging of Preferred Solution

The modified project proposal will have an indicative cost as per the following breakdown:

Item	Quantity	Rate	Cost
Preliminary Investigation			
Detailed Design			
Land Acquisition			
Construction			
		TOTAL	

Ongoing Maintenance

A budget for the ongoing maintenance of the structure will need to be identified.

The suggested staging for the works is as follows:

- Stage 1
- Stage 2

8. Land Acquisitions and Approvals

The project proposal requires the following land acquisition

The undeveloped portion of 134 Morayfield Road.

9. Consultation

The following consultation has been undertaken:

- Principal Engineer
- Councillor
- Designer
- Operations

RIO: A _____

ITEM 2.1 - PROPOSED RESUMPTION FOR DRAINAGE PURPOSES - 134 MORAYFIELD ROAD,
CABOOLTURE SOUTH - LOT 5 ON RP88015 - DIVISION 3 (Cont.)

Investigation Report: Morayfield, 134 Morayfield Road Feasibility Study Regional Detention Basin (SSC_DB_3)

- Etc.

The following further consultation is recommended:

- Director?
- Project manager?
- Residents?
- ECM Budgeting and Programming

10. Further Investigations Required

- As described in Section 6 above

11. Design Issues for Consideration

The following issues need to be considered when undertaking design:

- Construction timing
- Access and maintenance

Due to the complexity of the works this project external design support should be considered.

12. Budget and Delivery Program Implications

The current budget and delivery should be amended as follows:

Year	Current Activity	Current Budget \$	Proposed Activity	Proposed Budget \$
12/13	Construction	XX	Design	\$XX
13/14	Construction	XX	Construction (Stage 1)	\$XX
14/15	Construction	XX	Construction (Stage 2)	\$XX

13. Attachments

Attachment 1 –

Attachment 2 –

RIO: A_____

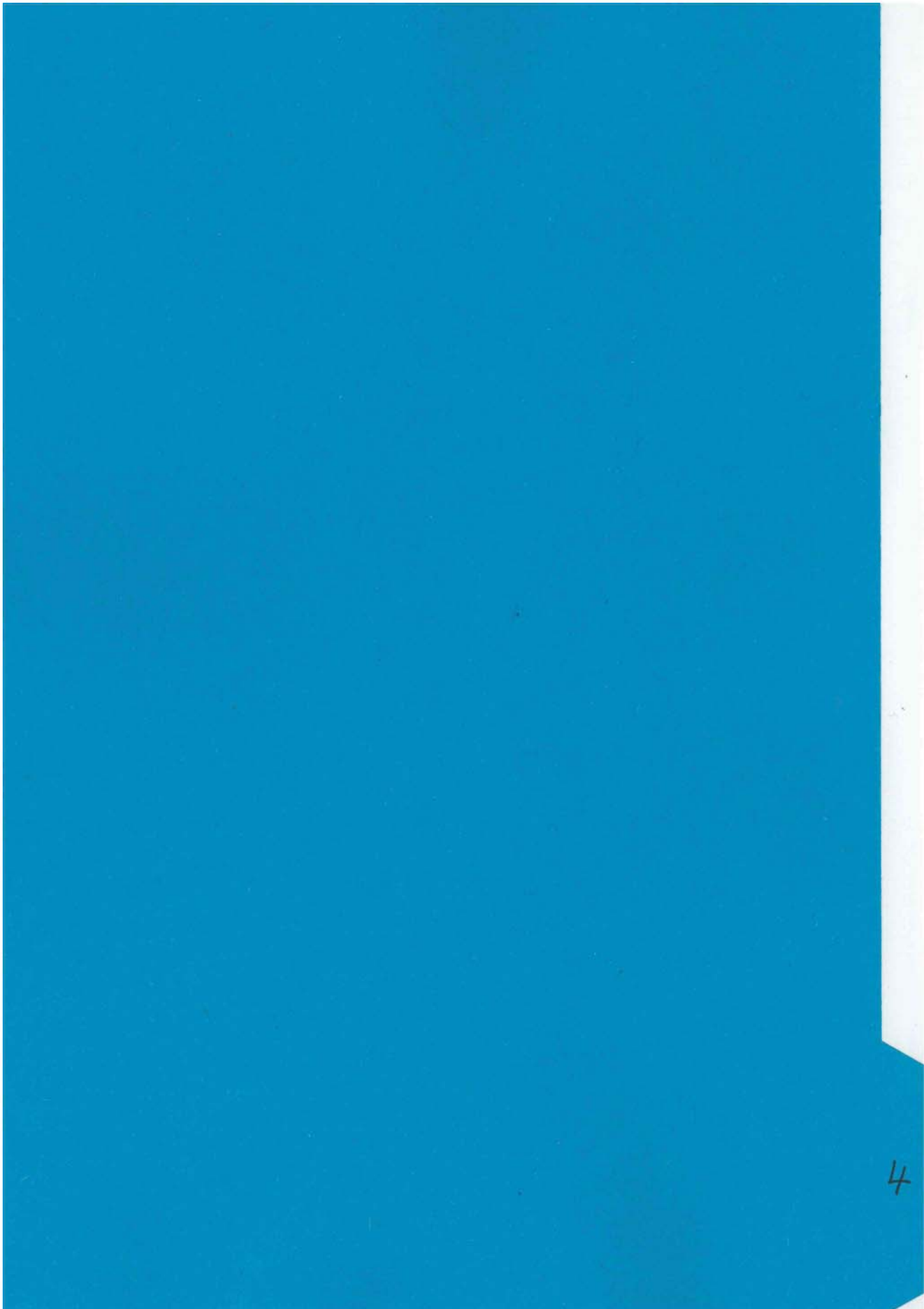
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**ITEM 2.1 - PROPOSED RESUMPTION FOR DRAINAGE PURPOSES - 134 MORAYFIELD ROAD,
CABOOLTURE SOUTH - LOT 5 ON RP88015 - DIVISION 3 (Cont.)**



Register No: CEO-089

Status: FOR APPROVAL

Delegation by Chief Executive Officer

I, Daryl Hitzman, Chief Executive Officer of the Moreton Bay Regional Council, having been delegated the powers of Council pursuant to s257 of the Local Government Act 2009

HEREBY DELEGATE TO:
Michael Marshall (Thomson Geer Lawyers) (Contractor)

PURSUANT TO:
s259 of the Local Government Act 2009

POWERS DELEGATED:
The power to hear the objector and to prepare a report on the objections hearing under section 8 of the Acquisition of Land Act 1967.

CONDITIONS TO WHICH THE DELEGATION IS SUBJECT (if any):
A contractor must comply with relevant Council policies and directives when exercising a power delegated under this instrument.

ADMINISTRATIVE PROCEDURES TO BE COMPLETED UNDER THE DELEGATION (if any)

This delegation commences on

17/11/2017

A handwritten signature in black ink, appearing to read "D. Hitzman".

Chief Executive Officer

Related Council delegation (if any): Council-106

CEO Approval:
Delegation RIO ID:
Version:

Rescission date (if applicable):
Notes/Comments:

ITEM 2.1 - PROPOSED RESUMPTION FOR DRAINAGE PURPOSES - 134 MORAYFIELD ROAD,
CABOOLTURE SOUTH - LOT 5 ON RP88015 - DIVISION 3 (Cont.)

Attachment 2



LIST OF FURTHER OBJECTIONS

1. **Non-compliance with NIR/AOLA**

1.1 Section 7(3)(e)(iii) of the *Acquisition of Land Act 1967 (AOLA)* provides that a Notice of Intention to Resume must set out:

that an objector who states in the objection that the objector desires to be heard in support of the grounds of the objection may appear and be heard by the constructing authority or its delegate at the time and place specified in the notice

1.2 The Notice of Intention to Resume dated 12 October 2017 (**NIR**) clearly states that the Objection Hearing is take place at the office of the Council at 220 Gympie Road, Strathpine.

1.3 By letter dated 20 November 2017, the Council purported to change the place of the Objection Hearing to the Offices of Thomson Geer Lawyers, 1 Eagle Street, Brisbane.

1.4 The Council has not amended the NIR pursuant to s7(4AA) of the AOLA despite its delegation to the Delegate dated 17 November 2017 indicating that it intended to change the place of the Objection Hearing to the Delegate's offices.

1.5 Accordingly, the Objection Hearing is not being held at the place and time stated in the NIR, contrary to s7(3)(e)(iii) of the AOLA.

1.6 In the circumstances, the Council has failed to hold a valid Objection Hearing pursuant to the AOLA. Nonetheless, for the sake of clarity, and reserving all our client's rights, we will refer to the hearing being held at the Offices of Thomson Geer as the "Objection Hearing".

2. **Denial of Natural Justice/Procedural Fairness**

2.1 Pursuant to the principles outlined in *Little v Minister for Land Management (1995) 1 Qd R 190*, the Landowner is entitled to natural justice/procedural fairness in respect of the proposed resumption outlined in the NIR.

2.2 Procedural fairness has not been afforded to the Landowner in respect of this Objection Hearing as:

- (a) the Council has provided material to the Delegate unilaterally and without notice to the Landowner;
- (b) the Landowner has not been provided with any opportunity to put material to the Delegate prior to the Objection Hearing; and
- (c) Council officers, in particular, Messrs Charteris and Duhig, are to attend the Objection Hearing.

Adelaide
Brisbane
Canberra
Darwin
Hobart
Melbourne
Norwest
Perth
Sydney

ITEM 2.1 - PROPOSED RESUMPTION FOR DRAINAGE PURPOSES - 134 MORAYFIELD ROAD,
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2.3 The material put before the Delegate by the Council invites the Delegate into error as it:

- (a) contains irrelevant information; and
- (b) fails to include relevant information, in particular material relating to the decision of his Honour Judge Rackemann in *Genamson Holdings Pty Ltd v Moreton Bay Regional Council* [2017] QPEC 056 (**PEC Appeal**).

2.4 In particular, the information put before the Delegate by the Council includes:

- (a) a report entitled "Stormwater Quantity Infrastructure for Caboolture and Burpengary Catchments 2009" (**2009 Report**); and
- (b) an undated and incomplete report entitled "Investigation Report: Morayfield, 134 Morayfield Road Feasibility Study Regional Detention Basin (SSC_DB_3)" (**Feasibility Study**).

2.5 The 2009 Report has largely been overtaken by events and provides no justification for the proposed detention basin on the Land, as Rackemann DCJ noted in the PEC Appeal:

[79] Dr Johnson also pointed out that the justification for, or benefits of, a detention basin with the particular volume of 21,000m³ are unknown. The 2009 report (which was withheld from Dr Johnson for some time) referred to a figure of 21,000m³, but is dated and, in his view, unsubstantiated at this time. Mr Clark's evidence was to the effect that there is the potential for the increase in upstream intensification of development to produce significant increases in inflows in Sheepstation Creek and a detention basin is needed, but the council did not rely on his evidence to justify a particularly sizing. The figure of 21,000m³ was not picked up in any of the infrastructure charging resolutions or in the PIP and the planned detention basin has not been the subject of detailed design. The sizing was referred to in an investigation report which became an exhibit, but that was admitted into evidence on the basis that it was not evidence of the truth of its contents. It remains the case however, that a regional detention basin is a longstanding component of the council's infrastructure planning for the benefit of the community.

2.6 Accordingly, the 2009 Report is irrelevant and ought not be considered by the Delegate.

2.7 In Respect of the Feasibility Study, we note that:

- (a) The Feasibility Study is not in final form. Accordingly, the Delegate cannot rely on this incomplete and draft study in considering the Landowner's objections.
- (b) It would be both unreasonable and a denial of natural justice that, prior to the complete feasibility study about the regional detention basin being finalised, the Council's delegate would proceed to make any recommendations in respect of the Landowner's objections.
- (c) It is inappropriate for the land to be acquired until the feasibility study has been completed. The Council (and the Delegate) are unable to properly consider the matter until a correct and complete feasibility study is undertaken. The

Moreton Bay Regional Council

*ITEM 2.1 - PROPOSED RESUMPTION FOR DRAINAGE PURPOSES - 134 MORAYFIELD ROAD,
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Landowner should also be provided with the ability to comment on that complete study.

- (d) The Feasibility Study is not soundly based. Examples of this include:
- (A) of the 13 sections included in the Feasibility Study, 6 sections are presently not completed;
 - (B) section 5 of the Feasibility Study simply makes bare assertions, not supported by any factual or evidentiary matters; and
- (ii) the Feasibility Study ought to be read in conjunction with the hydrological studies that have been undertaken by consultants engaged by the Landowner. Those complete and rigorous studies concluded that the findings of the Council's Feasibility Study are simply wrong.

- 2.8 In respect of each of those documents, we note that Rackemann DCJ was somewhat critical of the Council for not calling Mr Charteris to justify the size of the detention basin during the following exchange with the Landowner's Hydraulic Expert Dr Johnson:

HIS HONOUR: *So far as you can see, any suggestion of a requirement of 21,000 is not soundly based?*

DR JOHNSON: *No. It's – in my opinion, it's based solely on work done in 2009 that wasn't even detailed at that stage. Mr Charteris agreed with my - - -*

HIS HONOUR: *Is Mr Charteris still at the council?*

DR JOHNSON: *Yes, your Honour. He agreed with my Mr Della that no detailed modelling of the basin - - -*

HIS HONOUR: *I wonder why he's not giving evidence. Anyway...*

DR JOHNSON: *Sorry. He was – he's agreed that no detailed modelling of the basin has taken place, according to that email.*

HIS HONOUR: *Anyway, he's the person who's in charge of all this, isn't he?*

DR JOHNSON: *Yes, your Honour. He's the engineer making the final call as to whether the basin is needed or not.¹*

- 2.9 Further, the Council has chosen only to put reports supporting the resumption of the Land before the Delegate. In this respect, we note that the Council is in possession of the following documents that militate against the resumption:

- (a) Morayfield Flood Study dated 20 March 2015 (prepared by Cardno);
- (b) Report of BAAM Ecological Consultants dated 13 September 2017;
- (c) Information Request Response dated 16 December 2015; and

¹ T2-81, L5-20.
22 November 2017
Doc ID 452521313/v1

ITEM 2.1 - PROPOSED RESUMPTION FOR DRAINAGE PURPOSES - 134 MORAYFIELD ROAD,
CABOOLTURE SOUTH - LOT 5 ON RP88015 - DIVISION 3 (Cont.)

- (d) the PEC Appeal.
- 2.10 Copies of those documents will be provided to the Delegate at the Objection Hearing.
- 2.11 Further, it is inappropriate for Council Officers to attend the Objection Hearing in circumstances where:
 - (a) at least one of those officers was involved in making the recommendation to the Council to resume the Land; and
 - (b) the Council is not entitled to present a case to the Delegate at the Objection Hearing.
- 2.12 In respect of the latter point, we note the comments of the Court of Appeal in *Little v Minister for Land Management* (1995) 1 Qd R 190 at 201:

Although this Court has joined in the convenient step of referring to a "hearing", the term is capable of misleading and has clearly been misunderstood by the respondents and their solicitors in their references to such matters as being apprised of the case which they have to answer and their assumption of a hearing which is a contest. That is not the type of hearing which the Act envisages... The Act then gives them two complementary rights to present a case in opposition to the resumption proposed. The first, the notice of objection, must be in writing. The second is a right "to be heard in support of the grounds of his objection" (s. 7(3)(e)(iii)); that is to say, an objector is given a right to elaborate upon and explain the basis of his opposition and to argue for his point of view. There is nothing in the statutory silence which suggests that an adversarial proceeding is contemplated.

3. Independence of Delegate

- 3.1 The Delegate appointed by the Council to conduct the Objection Hearing is a solicitor of Thomson Geer Lawyers, Mr Michael Marshall.
- 3.2 We note the remarks of Wilson J in *Caloundra City Council v Minister for Natural Resources* [2001] 1 Qd R 365 at 370 concerning the functions of the Delegate:

The function of the delegate under s 8 is to hear and report as an alternative to a hearing by the constructing authority itself. It is then for the constructing authority to consider the grounds of the objection and, unless it decides to discontinue the resumption or to amend the notice of intention to resume, to make an application to the Minister under s 9(3). That the delegate does not consider and/or make the application to the Minister does not detract from the fact that he or she is doing something which otherwise the constructing authority would be required to do itself.
- 3.3 Accordingly, the same considerations in respect of bias and other matters apply to the delegate in the same way that they would apply to the Council.
- 3.4 In this respect, the Landowner has not been provided with any information concerning:
 - (a) the terms and conditions of Mr Marshall's appointment;
 - (b) the relationship of Mr Marshall (or his firm) with the Council;

Moreton Bay Regional Council

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- (c) any instructions provided to Mr Marshall; or
 - (d) any further information requested by Mr Marshall other than that provided in the "brief" of 20 November 2017.
- 3.5 Accordingly, the Landowner is not satisfied as to the independence of the Delegate in the circumstances.

HWL Ebsworth Lawyers
On behalf of the Objector Landowner

ITEM 2.1 - PROPOSED RESUMPTION FOR DRAINAGE PURPOSES - 134 MORAYFIELD ROAD,
CABOOLTURE SOUTH - LOT 5 ON RP88015 - DIVISION 3 (Cont.)

Attachment 3

THOMSON GEER
LAWYERS

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Our ref MFM:4084041

23 November 2017

pbittner@hwle.com.au

richardduhig@mortonbay.qld.gov.au

Mr Peter Bittner
Partner
HWL Ebsworth Lawyers

Mr Richard Duhig
Senior Legal Officer
Office the Chief Executive Officer
Morton Bay Regional Council

Dear Sirs

Genamson Holdings Pty Ltd & Moreton Bay Regional Council
Objection to Notice of Intention to resume land for drainage purposes and easement purposes
incidental to carrying out drainage purposes
134-140 Morayfield Road, Caboolture South
Objection hearing conducted on 22 November 2017

I refer to the objection hearing in relation to the written objection received from HWL Ebsworth (**HWLE**) dated 15 November 2017, on behalf of Genamson Holdings Pty Ltd (**owner**).

1 Objection Hearing 22 November 2017

1.1 During the course of the hearing:

- (a) Further written objections were delivered by HWLE;
- (b) It was indicated by HWLE that in their client's view, the brief delivered to me by Moreton Bay Regional Council (**Council**) ought to have included additional material;
- (c) It was indicated by HWLE that their client was of the view that the Council held further documents that were reasonably required in order to prepare a properly detailed notice of objection to the proposal to take the land.

1.2 As a result of these matters, I directed that the objection hearing be adjourned to a later date, to allow these matters to be further considered and addressed by the parties.

2 Next Steps

2.1 I propose that the matter proceed in accordance with the following draft timetable:

- (a) By 1 December 2017, the owner write to the Council and identify what further documents or classes of documents it seeks to be produced to enable it to properly prepare a supplementary statement of objection;
- (b) By 8 December 2017, the Council respond to the owner and provide any further documents that it wishes to;

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ITEM 2.1 - PROPOSED RESUMPTION FOR DRAINAGE PURPOSES - 134 MORAYFIELD ROAD,
CABOOLTURE SOUTH - LOT 5 ON RP88015 - DIVISION 3 (Cont.)

THOMSON GEER

2

- (c) By 15 December 2017, the owner provide to me whatever materials it wishes to supplement the materials contained in the brief prepared by the Council;
 - (d) By 22 December 2017, the owner provide any supplementary written objection to the proposed taking of land and an indication as to whether it wishes to be heard in support of the supplementary written objection.
- 2.2 If the owner does not wish to again be heard, I will consider the objection hearing to have been concluded and I will proceed to prepare my report.
 - 2.3 If the owner does wish to be heard further, I will contact the parties to arrange a date that is convenient to all parties to reconvene the objection hearing.
 - 2.4 All further documents and communications provided to me by either party are to be copied to the other party.
 - 2.5 If any aspect of the proposed steps/timetable presents difficulty for either party please let me know. I am agreeable to entertaining any changes suggested by either party including as to any reasonable extensions to the proposed timetable.
 - 2.6 If the owner advises me that it does not wish to proceed in the manner outlined above and/or requests that I treat the objection hearing as concluded, then I will proceed on the basis that the objection hearing is concluded and will proceed to prepare my report.
 - 2.7 I request that the parties provide me with their comments in respect of the above proposal by close of business Monday 27 November 2017.

Yours faithfully
THOMSON GEER



Michael Marshall
Partner
T +61 7 3338 7525
M 0407 914 748
E mmarshall@tglaw.com.au

encl

ITEM 2.1 - PROPOSED RESUMPTION FOR DRAINAGE PURPOSES - 134 MORAYFIELD ROAD,
CABOOLTURE SOUTH - LOT 5 ON RP88015 - DIVISION 3 (Cont.)

Attachment 4

THOMSON GEER
LAWYERS

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Our ref MFM:4084041
Your ref PJB:LIW:618645

4 December 2017

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richardduhig@moretonbay.qld.gov.au

Mr Peter Bittner
Partner
HWL Ebsworth Lawyers

Mr Richard Duhig
Senior Legal Officer
Office of the Chief Executive Officer
Moreton Bay Regional Council

Dear Sirs

Genamson Holdings Pty Ltd & Moreton Bay Regional Council
Objection to Notice of Intention to resume land for drainage purposes and easement purposes
incidental to carrying out drainage purposes
134-140 Morayfield Road, Caboolture South
Objection hearing conducted on 22 November 2017

I refer to your responses to the draft timetable set out in my letter dated 23 November 2017.

The objection hearing will proceed as follows:-

- 1 By 8 December 2017, the owner write to the Council and identify what further documents or classes of documents it seeks to be produced to enable it to properly prepare a supplementary statement of objections;
- 2 By 15 December 2017, the Council respond to the owner and provide any further documents that it wishes to;
- 3 By 22 December 2017, the owner provide to the delegate whatever documents it wishes to supplement the documents contained in the brief provided by the Council;
- 4 By 15 January 2018, the owner provide any supplementary written objection to the proposed taking of land and indicate whether it wishes to be heard in support of any supplementary written objection; and
- 5 The objection hearing will resume on a date to be agreed during the course of the week commencing 15 January 2018. In that regard, I propose the time of 11:00am on Wednesday 17 January 2018. If the parties prefer another time later that week, please let me know.

Please ensure that I am copied in on all further communications between the parties pursuant to the above.

Moreton Bay Regional Council

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ITEM 2.1 - PROPOSED RESUMPTION FOR DRAINAGE PURPOSES - 134 MORAYFIELD ROAD,
CABOOLTURE SOUTH - LOT 5 ON RP88015 - DIVISION 3 (Cont.)

THOMSON GEER

2

Yours sincerely



Michael Marshall

Partner

T +61 7 3338 7525

M 0407 914 748

E mmarshall@tglaw.com.au

cc Luke Walker
Solicitor
HWL Ebsworth Lawyers
lwalker@hwle.com.au

ITEM 2.1 - PROPOSED RESUMPTION FOR DRAINAGE PURPOSES - 134 MORAYFIELD ROAD,
CABOOLTURE SOUTH - LOT 5 ON RP88015 - DIVISION 3 (Cont.)

Attachment 5



Our Ref: PJB:LIW:618645
Your Ref: A2016-487

8 December 2017

Richard Duhig
Senior Legal Officer
Legal Services Department
Moreton Bay Regional Council
220 Gympie Road
STRATHPINE QLD 4500

Email: richard.duhig@moretonbay.qld.gov.au
CC: mmarshall@tglaw.com.au

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Dear Richard

**Genamson Holdings Pty Ltd & Moreton Bay Regional Council
Objection to Notice of Intention to Resume land for drainage purposes and easement purposes incidental to carrying out drainage purposes
134-140 Morayfield Road, Caboolture South**

We refer to Mr Marshall's letter dated 4 December 2017.

Pursuant to paragraph 1 of the letter, please see the below documents, or classes of documents, our client seeks to be produced so as to enable it to properly prepare a supplementary statement of objections:-

1. the terms and conditions of Mr Marshall's appointment as the delegate of Moreton Bay Regional Council (**Council**);
2. any further information requested by Mr Marshall, other than that provided in the brief of 20 November 2017;
3. any selection criteria documents for the proposed resumption;
4. any reports relevant to the assessment of any and all alternative sites for drainage purposes, and easement purposes incidental to carrying out drainage purposes, for the proposed resumption;

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Melbourne
Norwest
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Moreton Bay Regional Council

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CABOOLTURE SOUTH - LOT 5 ON RP88015 - DIVISION 3 (Cont.)*


5. all documents relating to the Council's decision to rescind its previous decision to resume the land at 134-140 Morayfield Road, Caboolture South (**Land**);
6. any information relating to the value of the Land;
7. any advice in the Council's possession concerning the resumption of the Land and/or the accommodation of the regional detention basin on the Land, including, but not limited to:
 - (a) any advice received from external consultants, including Mr Steve Clark; or
 - (b) any legal advice received either internally, or externally, concerning the proposed resumption, including from Mr Andrew Skoien of counsel;
8. any communications to, from, or between Council officers in respect of the proposed resumption, including, but not limited to, emails, letters and internal memorandums; and
9. any communications to, from, or between councillors (in particular, Councillors Hain, Sutherland and Charlton) concerning the proposed resumption, including, but not limited to, emails, letters and internal memorandums.

We look forward to receiving your response by 15 December 2017 in respect of the above documents.

Yours sincerely

HWL EBSWORTH
f **Peter Bittner**
Partner
HWL Ebsworth Lawyers

+61 7 3169 4743
pbittner@hwle.com.au


Luke Walker
Solicitor
HWL Ebsworth Lawyers

+61 7 3169 4841
lwalker@hwle.com.au

ITEM 2.1 - PROPOSED RESUMPTION FOR DRAINAGE PURPOSES - 134 MORAYFIELD ROAD,
CABOOLTURE SOUTH - LOT 5 ON RP88015 - DIVISION 3 (Cont.)



Attachment 6



Phone: 3480 6661
Our Ref: A16340335
Your Ref: PJB:LIW:618645
Date: 15 December 2017

Mr Luke Walker
Mr Peter Bittner
HWL Ebsworth Lawyers
GPO Box 2033
BRISBANE QLD 4001

By e-mail: lwalker@hwle.com.au
And: pbittner@hwle.com.au
CC: Michael Marshall of Thomson Geer
By e-mail: mmarshall@tglaw.com.au

Dear Sirs

**Proposed Resumption of Land - Part of Lot 5 RP88015 - 134-140 Morayfield Road,
Caboolture South**

I refer to your correspondence of 8 December 2017.

The following numbering corresponds to that in your correspondence:

1. The terms of Mr Marshall's appointment are as set out in the delegation a copy of which you have received.
2. Mr Marshall has not been provided with any information other than that contained in the brief that you also received.
3. Selection of the appropriate site for the detention basin is set out in material already provided.
4. Reports dealing with this request have already been provided.
5. Council declines to provide documents regarding rescission of Council's previous decision to resume as they are irrelevant to the issuance of the Notice of Intention to Resume dated 12 October 2017 ("NIR").
6. Council declines to provide documents relating to the value of the land to be resumed as they are irrelevant to the issuance of the NIR.
7. (a) Advice received from Steve Clark other than that contained in the joint expert report or individual report for *Genamson v Moreton Bay Regional Council [2017] QPEC* is privileged. Council did not engage other external consultants apart from those engaged in the aforementioned proceedings for which the only documents prepared were joint expert reports you are already in possession of.

(b) Advice received from Mr Skoien is privileged.

Customer Service Contacts

PO Box 159 Caboolture QLD 4510 | T (07) 3205 0555 | F (07) 3205 0599 | E mbrc@moretonbay.qld.gov.au | W www.moretonbay.qld.gov.au

Moreton Bay Regional Council

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*ITEM 2.1 - PROPOSED RESUMPTION FOR DRAINAGE PURPOSES - 134 MORAYFIELD ROAD,
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8. Council declines to provide the documents sought as they are irrelevant to the issuance to the NIR.
9. Council declines to provide communications between Councillors as they are irrelevant to the issuance of the NIR.

Yours faithfully



Richard Duhig
Senior Legal Officer
Legal Services Department

ITEM 2.1 - PROPOSED RESUMPTION FOR DRAINAGE PURPOSES - 134 MORAYFIELD ROAD,
CABOOLTURE SOUTH - LOT 5 ON RP88015 - DIVISION 3 (Cont.)

Attachment 7



Our Ref: PJB:LIW:688403
Your Ref: MFM:4084041

22 December 2017

Michael Marshall
Partner
Thomson Geer Lawyers
GPO Box 169
BRISBANE QLD 4001

Email: mmarshall@tglaw.com.au
CC: richard.duhig@moretonbay.qld.gov.au

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Dear Mr Marshall

**Genamson Holdings Pty Ltd & Moreton Bay Regional Council
Objection to Notice of Intention to resume land for drainage purposes and easement
purposes incidental to carrying out drainage purposes
134-140 Morayfield Road, Caboolture South**

We refer to:

- your letter of 4 December 2017;
- our letter of 8 December 2017; and
- the Council's letter of 15 December 2017.

Please find **enclosed** copies of the following documents:

1. Report of Dr Trevor Johnson dated 22 December 2017;
2. Flood Study prepared by Cardno Pty Ltd dated 20 March 2015;
3. Information Request Response dated 16 December 2015;
4. Report of BAAM Ecological Consultants dated 13 September 2017;
5. Transcript of Hearing - *Genamson Holdings Pty Ltd v Moreton Bay Regional Council* [2017] QPEC (**Appeal**);

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6. First Joint Experts' Report - Hydraulic and Stormwater issues in the Appeal;
7. Second Joint Experts' Report - Hydraulic and Stormwater issues in the Appeal;
8. Dr Johnson's Statement of Evidence in the Appeal;
9. Material disclosed by the Council on 4 October 2017;
10. letter from HWL Ebsworth to the Council requesting reasons pursuant to s32 of the *Judicial Review Act 1991* dated 3 February 2017;
11. letter from the Council to HWL Ebsworth dated 6 February 2017;
12. letter from the Council to HWL Ebsworth dated 3 May 2017;
13. letter from HWL Ebsworth to the Council dated 23 May 2017; and
14. letter from HWL Ebsworth to the Council dated 24 May 2017.

Please let us know if you require any further material.

Yours faithfully



Peter Bittner
Partner
HWL Ebsworth Lawyers

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pbittner@hwle.com.au



Luke Walker
Solicitor
HWL Ebsworth Lawyers

+61 7 3169 4841
lwalker@hwle.com.au

cc: Richard Duhig, Senior Legal Officer - Moreton Bay Regional Council

ITEM 2.1 - PROPOSED RESUMPTION FOR DRAINAGE PURPOSES - 134 MORAYFIELD ROAD,
CABOOLTURE SOUTH - LOT 5 ON RP88015 - DIVISION 3 (Cont.)

Attachment 8



Our Ref: PJB:LIW:688403
Your Ref: MFM:4084041

15 January 2018

Michael Marshall
Partner
Thomson Geer Lawyers
GPO Box 169
BRISBANE QLD 4001

Email: mmarshall@tglaw.com.au
CC: richard.duhig@moretonbay.qld.gov.au

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Dear Mr Marshall

**Genamson Holdings Pty Ltd & Moreton Bay Regional Council
Objection to Notice of Intention to resume land for drainage purposes and easement purposes incidental to carrying out drainage purposes
134-140 Morayfield Road, Caboolture South**

We refer to:

- your letter of 4 December 2017;
- our letter of 8 December 2017;
- the Council's letter of 15 December 2017; and
- our letter of 22 December 2017.

Please find below our client's further submissions on the proposed resumption dealt with in the Council's Notice of Intention to Resume (NIR) dated 12 October 2017 (**Proposed Resumption**).

1. Material before delegate

- 1.1 Pursuant to s8(2)(b) of the *Acquisition of Land Act 1967 (AOLA)*, you are required to prepare a report to the Council on the matters put forward by our client in support of its grounds of objection.

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ITEM 2.1 - PROPOSED RESUMPTION FOR DRAINAGE PURPOSES - 134 MORAYFIELD ROAD,
CABOOLTURE SOUTH - LOT 5 ON RP88015 - DIVISION 3 (Cont.)

- 1.2 Accordingly, you are required to make findings of fact based on that matters put before you by our client (and only the matters put before you by our client) and have a duty to act in accordance with the rules of procedural fairness and natural justice.
- 1.3 In that respect, we note the comments of Deane J in *Australian Broadcasting Tribunal v Bond* (1990) 170 CLR 321 at [367]:
- Of its nature, a duty to act judicially (or in accordance with the requirements of procedural fairness or natural justice) excludes the right to decide arbitrarily, irrationally or unreasonably ... When the process of decision-making need not be and is not disclosed, there will be a discernible breach of such a duty if a decision of fact is unsupported by probative material. When the process of decision-making is disclosed, there will be a discernible breach of the duty if inferences of fact upon which a decision is based cannot reasonably be drawn from such findings of fact. Breach of a duty to act judicially constitutes an error of law which will vitiate the decision.*
- 1.4 In this case, there is no probative material before you that would justify a finding that the Proposed Resumption is required. Indeed, the weight of evidence is overwhelmingly to the contrary.
- 1.5 In the circumstances, the Landholder submits that you, as the delegate of the Council, could not reasonably conclude that the Proposed Resumption is required.
- 2. Probative value of evidence**
- 2.1 The evidence relied upon by the Council to justify the Proposed Resumption consists of:
- (a) the 2009 Report; and
 - (b) the Feasibility Study.
- 2.2 Paragraphs 2.4 to 2.10 of our client's Further Objections dated 22 November 2017 outline why it would be unreasonable for you to rely upon either the 2009 Report or the Feasibility Study.
- 2.3 Further, the Landholder has provided a report from Dr Trevor Johnson dated 22 December 2017 that demonstrates that each of those reports is not soundly based and outlines a number of issues that militate against the Proposed Resumption. Importantly, none of the conclusions in Dr Johnson's report have been rebutted by the Council and his evidence was preferred to that of the Council's expert during the PEC Appeal.
- 2.4 In the circumstances, the only probative material before you is Dr Johnson's report, which concludes that the Proposed Resumption is not justified. Therefore, the Landholder submits that it is not reasonably open to you, as the delegate of the Council, to recommend that the Proposed Resumption proceed.
- 2.5 The alternative is that you recommend that the Council proceed with the Proposed Resumption on the basis of:
- (a) the 2009 Report (which has been overtaken by events) and
 - (b) the Feasibility Study (which is incomplete and in draft).

Moreton Bay Regional Council

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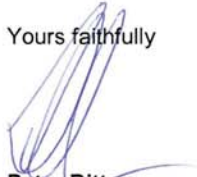
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- 2.6 Such a recommendation would completely ignore the comprehensive report of Dr Johnson and would clearly be so unreasonable that no reasonable person could make it.

We confirm that we wish to be further heard in support of our clients' grounds of objection at the resumed objection hearing to take place at your offices at 11.00 am on 17 January 2017.

Yours faithfully



Peter Bittner
Partner
HWL Ebsworth Lawyers

+61 7 3169 4743
pbittner@hwle.com.au



Luke Walker
Solicitor
HWL Ebsworth Lawyers

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lwalker@hwle.com.au

cc Richard Duhig, Senior Legal Officer - Moreton Bay Regional Council

ITEM 2.1 - PROPOSED RESUMPTION FOR DRAINAGE PURPOSES - 134 MORAYFIELD ROAD,
CABOOLTURE SOUTH - LOT 5 ON RP88015 - DIVISION 3 (Cont.)

Attachment 9

Batty, Nathan

From: Luke Walker <lwalker@hwle.com.au>
Sent: Tuesday, 16 January 2018 9:09 AM
To: Marshall, Michael; 'Richard Duhig'
Cc: Peter Bittner
Subject: RE: 134-140 Morayfield Road, Caboolture South - Proposed Resumption [TGLAW-Legal.FID1792719] [HWLE-Matter.C0132892.688403]
Attachments: 460929183_1_2018-01-15 Eltr to M Marshall.PDF

Dear Michael

Apologies - letter **attached**.

In respect of the other matters raised in your email, we note our previous objections in this regard.

Yours faithfully

Luke Walker
Solicitor



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From: Marshall, Michael [mailto:mmarshall@tglaw.com.au]
Sent: Tuesday, 16 January 2018 7:33 AM
To: Luke Walker; 'Richard Duhig'
Cc: Peter Bittner
Subject: RE: 134-140 Morayfield Road, Caboolture South - Proposed Resumption [HWLE-Matter.C0132892.688403] [TGLAW-Legal.FID1792719]

Dear Mr Walker

Your email did not include any attached letter containing the further objections. Please resend with attachment.

In relation to your query, it is a matter for the Council to determine as to who attends the objection hearing on its behalf.

regards

Michael Marshall | Partner
THOMSON GEER

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Moreton Bay Regional Council

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ITEM 2.1 - PROPOSED RESUMPTION FOR DRAINAGE PURPOSES - 134 MORAYFIELD ROAD,
CABOOLTURE SOUTH - LOT 5 ON RP88015 - DIVISION 3 (Cont.)

From: Luke Walker [mailto:lwalker@hwle.com.au]
Sent: Monday, 15 January 2018 5:29 PM
To: Marshall, Michael <mmarshall@tglaw.com.au>; 'Richard Duhig' <Richard.Duhig@moretonbay.qld.gov.au>
Cc: Peter Bittner <pbittner@hwle.com.au>
Subject: RE: 134-140 Morayfield Road, Caboolture South - Proposed Resumption [TGLAW-Legal.FID1792719] [HWLE-Matter.C0132892.688403]

Dear Michael

Please see **attached** correspondence concerning our client's further objections.

Noting that Mr Duhig left the room at the Landholder's request on the last occasion, could you please clarify whether you now propose to include a representative of the Council at the resumed hearing?

Yours faithfully

Luke Walker
Solicitor



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From: Marshall, Michael [mailto:mmarshall@tglaw.com.au]
Sent: Monday, 15 January 2018 1:09 PM
To: Luke Walker; 'Richard Duhig'
Cc: Peter Bittner
Subject: RE: 134-140 Morayfield Road, Caboolture South - Proposed Resumption [HWLE-Matter.C0132892.688403] [TGLAW-Legal.FID1792719]
Importance: High

Dear Sirs

I refer to the letter from Council dated 15 December 2017 and the letter from HWLE dated 22 December attaching additional documentation for consideration as part of the objection hearing process.

In my letter dated 4 December 2017, I proposed that the objection hearing re-commence at **11 am on Wednesday 17 January 2018**. I have not received any response proposing any alternative time. Accordingly, I confirm that the objection hearing will re-commence at that time, at this office. Could both parties please confirm their attendance.

If the landowner has any supplementary/further written objections to deliver (refer para 4 of my letter dated 4 December 2017), please forward these to me as soon as possible.

I look forward to hearing from each of you.

regards

Michael Marshall | Partner
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*ITEM 2.1 - PROPOSED RESUMPTION FOR DRAINAGE PURPOSES - 134 MORAYFIELD ROAD,
CABOOLTURE SOUTH - LOT 5 ON RP88015 - DIVISION 3 (Cont.)*

Level 16, Waterfront Place, 1 Eagle Street, Brisbane QLD 4000 Australia
mmarshall@tqlaw.com.au | tqlaw.com.au

Advice | Transactions | Disputes

From: Luke Walker [<mailto:lwalker@hwle.com.au>]
Sent: Friday, 22 December 2017 1:02 PM
To: Marshall, Michael <mmarshall@tqlaw.com.au>
Cc: 'Richard Duhig' <Richard.Duhig@moretonbay.qld.gov.au>; Peter Bittner <pbittner@hwle.com.au>
Subject: 134-140 Morayfield Road, Caboolture South - Proposed Resumption [HWLE-Matter.C0132892.688403]

Dear Michael

Please see **attached** correspondence.

The enclosures will be sent by way of a separate link.

Yours faithfully

Luke Walker
Solicitor



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*ITEM 2.1 - PROPOSED RESUMPTION FOR DRAINAGE PURPOSES - 134 MORAYFIELD ROAD,
CABOOLTURE SOUTH - LOT 5 ON RP88015 - DIVISION 3 (Cont.)*

Batty, Nathan

From: Richard Duhig <Richard.Duhig@moretonbay.qld.gov.au>
Sent: Tuesday, 16 January 2018 11:03 AM
To: Marshall, Michael
Cc: Peter Bittner; Luke Walker
Subject: RE: 134-140 Morayfield Road, Caboolture South - Proposed Resumption [HWLE-Matter.C0132892.688403] [TGLAW-Legal.FID1792719]

Dear Michael,

I shall be contactable as requested on 3480 6661 or 0414 448 745.

Regards,

Richard Duhig
Senior Legal Officer
Office of the Chief Executive Officer
Moreton Bay Regional Council
220 Gympie Road
Strathpine Qld 4500
P: (07) 3480 6661
E: richard.duhig@moretonbay.qld.gov.au
www.moretonbay.qld.gov.au

From: Marshall, Michael [mailto:mmarshall@tglaw.com.au]
Sent: Tuesday, 16 January 2018 10:52 AM
To: Richard Duhig
Cc: Peter Bittner ; Luke Walker
Subject: RE: 134-140 Morayfield Road, Caboolture South - Proposed Resumption [HWLE-Matter.C0132892.688403] [TGLAW-Legal.FID1792719]

Dear Mr Duhig

It appears from the earlier email from Mr Walker of HWLE that they maintain their objection to you being in attendance at the objections hearing.

There is no requirement in the legislation for there to be an employee or representative of the constructing authority present at an objection hearing conducted by a delegate of the Council.

Accordingly I am content to proceed with the objection hearing tomorrow without you being in attendance. However, I ask that you be contactable by telephone between the hours of 11am and 1pm in the event that the landowner's representatives and I consider it appropriate to raise any matters with you for discussion.

regards

Michael Marshall | Partner
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Moreton Bay Regional Council

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*ITEM 2.1 - PROPOSED RESUMPTION FOR DRAINAGE PURPOSES - 134 MORAYFIELD ROAD,
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Level 16, Waterfront Place, 1 Eagle Street, Brisbane QLD 4000 Australia

mmarshall@tglaw.com.au | tglaw.com.au

Advice | Transactions | Disputes

From: Richard Duhig [<mailto:Richard.Duhig@moretonbay.qld.gov.au>]
Sent: Tuesday, 16 January 2018 10:38 AM
To: Marshall, Michael <mmarshall@tglaw.com.au>
Cc: Peter Bittner <pbittner@hwle.com.au>; Luke Walker <lwalker@hwle.com.au>
Subject: RE: 134-140 Morayfield Road, Caboolture South - Proposed Resumption [HWLE-Matter.C0132892.688403] [TGLAW-Legal.FID1792719]

Dear Michael,

Further to your e-mail below I am agreeable to the objection hearing recommencing at 11am, tomorrow 17 January.

Given the land owner's representatives objection to a representative of the Council being present, I do not intend being in attendance unless you or the land owner's representatives think it appropriate I'm available.

Regards,

Richard Duhig
Senior Legal Officer
Office of the Chief Executive Officer
Moreton Bay Regional Council
220 Gympie Road
Strathpine Qld 4500
P: (07) 3480 6661
E: richard.duhig@moretonbay.qld.gov.au
www.moretonbay.qld.gov.au

From: Marshall, Michael [<mailto:mmarshall@tglaw.com.au>]
Sent: Monday, 15 January 2018 1:09 PM
To: Luke Walker <lwalker@hwle.com.au>; Richard Duhig <Richard.Duhig@moretonbay.qld.gov.au>
Cc: Peter Bittner <pbittner@hwle.com.au>
Subject: RE: 134-140 Morayfield Road, Caboolture South - Proposed Resumption [HWLE-Matter.C0132892.688403] [TGLAW-Legal.FID1792719]
Importance: High

Dear Sirs

I refer to the letter from Council dated 15 December 2017 and the letter from HWLE dated 22 December attaching additional documentation for consideration as part of the objection hearing process.

In my letter dated 4 December 2017, I proposed that the objection hearing re-commence at **11 am on Wednesday 17 January 2018**. I have not received any response proposing any alternative time. Accordingly, I confirm that the objection hearing will re-commence at that time, at this office.

Could both parties please confirm their attendance.

If the landowner has any supplementary/further written objections to deliver (refer para 4 of my letter dated 4 December 2017), please forward these to me as soon as possible.

Moreton Bay Regional Council

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ITEM 2.1 - PROPOSED RESUMPTION FOR DRAINAGE PURPOSES - 134 MORAYFIELD ROAD,
CABOOLTURE SOUTH - LOT 5 ON RP88015 - DIVISION 3 (Cont.)

I look forward to hearing from each of you.

regards

Michael Marshall | Partner

THOMSON GEER

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From: Luke Walker [<mailto:lwalker@hwle.com.au>]

Sent: Friday, 22 December 2017 1:02 PM

To: Marshall, Michael <mmarshall@tglaw.com.au>

Cc: 'Richard Duhig' <Richard.Duhig@moretonbay.qld.gov.au>; Peter Bittner <pbittner@hwle.com.au>

Subject: 134-140 Morayfield Road, Caboolture South - Proposed Resumption [HWLE-Matter.C0132892.688403]

Dear Michael

Please see **attached** correspondence.

The enclosures will be sent by way of a separate link.

Yours faithfully

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CABOOLTURE SOUTH - LOT 5 ON RP88015 - DIVISION 3 (Cont.)*

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ITEM 2.1 - #4 PROPOSED RESUMPTION FOR DRAINAGE PURPOSES - 134 MORAYFIELD ROAD,
CABOOLTURE SOUTH - LOT 5 ON RP88015 - DIVISION 3 (Cont.)

#4 Judgment of the Planning and Environment Court

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**PLANNING AND ENVIRONMENT COURT
OF QUEENSLAND**

CITATION: *Genamson Holdings Pty Ltd v Moreton Bay Regional Council*
[2017] QPEC 56

PARTIES: **GENAMSON HOLDINGS PTY LTD**
(Appellant)

v

MORETON BAY REGIONAL COUNCIL
(Respondent)

FILE NO/S: 3265 of 2016

DIVISION: Planning and Environment

PROCEEDING: Appeal

ORIGINATING COURT: Planning and Environment Court of Queensland

DELIVERED ON: 11 September 2017

DELIVERED AT: Brisbane

HEARING DATE: 30, 31 January, 1, 2, 3 February, 10, 27 March and 24 April
2017

JUDGE: Rackemann DCJ

ORDER: **The appeal is adjourned to allow the parties to formulate
conditions of approval**

CATCHWORDS: PLANNING AND ENVIRONMENT – APPLICANT
APPEAL – REFUSAL OF EXTENSION SHOPPING
CENTRE – proposal for suspended slab supported by piers
over waterway – whether proposal would have unacceptable
impact on flooding/stormwater – the significance of the
potential for the proposal to catch debris – whether the
proposal appropriately responds to the flood hazard constraint
on the site – where the council’s infrastructure planning
includes a detention basin in the vicinity of the site – whether
the proposal would potentially prejudice the council’s
infrastructure planning – where that can be addressed by
conditions – whether the detention basin could be co-located
with the development – where construction could be delayed
to give the council the opportunity to promptly complete its
acquisition of the site

COUNSEL: T P Sullivan QC with M J Batty for the appellant
A N Skoien for the respondent



Moreton Bay Regional Council

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SOLICITORS: HWL Ebsworth for the appellant
Moreton Bay Regional Council Legal Services for the
respondent

Introduction

- [1] This applicant appeal is against the Council's refusal of a development application to facilitate the extension of the existing Heritage Plaza Shopping Centre, which lies on the western side of Morayfield Road at Caboolture South. The existing shopping centre is located at 134/140 Morayfield Road and comprises a lettable area of 3,035m². The extension would increase that by 4,375m², bringing eight additional tenancies varying in size from 205m² to 2,750m², together with 225 further car parking spaces. The extension would be effected in the vacant, low lying, western part of the site which has an area of approximately 12,196m² and would sit atop a suspended slab at ground level supported by piers. A waterway, namely a tributary of Sheepstation Creek, traverses the site.

The locality

- [2] The site is located in an existing commercial and retail area, which extends along both frontages of Morayfield Road. The site otherwise lies within a broader urban context. To the immediate south lies an IGA Supermarket development which is, in part, developed on a suspended slab on piers, partially over the same waterway which traverses the subject site. To the west lies a retirement village. To the south-west lies a park (Kate McGrath Park), which lies at the confluence of drainage lines. There is an urban residential catchment generally to the west.

Timing of the application

- [3] The development application was made on 30 March 2015, during the life of the Caboolture Shire Plan 2005 (2005 planning scheme). The Moreton Bay Regional Council Planning Scheme 2016 (the 2016 planning scheme) took effect on 1 February 2016. The development application was refused on 15 August 2016.

The assessment regime

- [4] This appeal proceeded by way of hearing anew, made under the *Sustainable Planning Act 2009* (SPA). The onus lies upon the appellant. Having been made during the life of the 2005 planning scheme, the development application is assessed and decided under that scheme. It is code assessable under that scheme and accordingly is to be assessed having regard to ss 313(2) and (3) of the SPA and decided in accordance with ss 324 and 326 of SPA. The court's decision must not conflict with a relevant instrument (including a planning scheme) unless there are sufficient grounds to justify the decision. Grounds are matters of public interest. The court may give such weight as it considers appropriate to the 2016 planning scheme, conflict with the 2016 scheme however, does not engage s 326.¹

The issues

- [5] The issues in the appeal were identified by reference to the Council's reasons for refusal, and the appellant's nominated grounds, which it contends are sufficient to justify approval in the event of any conflict with the 2005 planning scheme.
- [6] The Council's reasons for refusal relevantly included those which assert that the proposal would be inappropriate in relation to:
- (i) stormwater and flooding issues; and
 - (ii) infrastructure planning, in particular the potential for the proposal to prejudice implementation of Council's planning for the broader management of stormwater/flooding by the construction of a future regional detention basin in the vicinity of the site.

¹ *Sustainable Planning Act 2009* (Qld) s 495(2).

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- [7] Those two issues were the refusal issues upon which focus centred in the appeal. Other refusal issues fell away. In particular, it was common ground that ecological issues could be dealt with by way of conditions, particularly as to the provision of an ecological offset.
- [8] The conclusion that the proposal is otherwise generally acceptable is consistent with the second joint expert report of the town planning experts in which the following point of agreement was recorded:

“The planners agree:

- (a) the site is appropriately zoned;
- (b) the site is situated within a broader and local commercial precinct;
- (c) the site is currently used for the same purpose, with the proposal representing an extension on the same site of that same purpose;
- (d) adjoining land is already fully developed, with the proposal representing logical infill development in that context;
- (e) the ecological experts agreed in the JER that the site contained some environmental values that would be lost as a result of the proposed development;
- ...
- (g) to the extent (ecological) offsetting is required, it can be conditioned as part of an approval; and
- (h) conditions can be imposed to address all other overlay and practical planning considerations, as is usually the case for urban infill development of this nature.”

- [9] For the reasons discussed later, the infrastructure planning issue, although initially pursued as a refusal issue, was ultimately accepted to be capable of being dealt with by way of conditions if necessary.

Grounds

- [10] The grounds upon which the appellant relies as sufficient to warrant approval in the event of conflict with a relevant instrument were summarised as follows:
- (a) there is an economic and town planning need for the proposed development;

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- (b) the proposed development would provide diversity and choice in respect of commercial and retail outlets in the locality;
- (c) approval of the proposed development would result in an efficient use of well serviced and well located land;
- (d) approval of the proposed development would reinforce a compact form of settlement, resulting in improved efficiency and use of existing infrastructure in the surrounding area;
- (e) the proposed development is of a similar size and scale to existing developments in the local area and is therefore in keeping with community expectations;
- (f) the proposed development represents an excellent opportunity for infill, commercial and retail development in the location which is served by significant levels of private and public infrastructure supporting commercial and retail uses, and
- (g) approval of the proposed development would not generate any unacceptable impacts.

[11] Those grounds were generally supported by the evidence of Mr Reynolds (the town planner engaged by the appellant) and Mr Norling (the economist engaged by the appellant). Mr Norling expressed the view that there is a strong level of community, economic and planning need for the proposed development for the following reasons:

- (a) the subject site forms a convenient and integral part of the dominant Caboolture/Morayfield principal Regional Activity Centre, which is designated to serve a regional population that forms an important part of Greater Brisbane's northern growth corridor;

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- (b) the proposed development would focus employment on the vibrant and accessible Caboolture/Morayfield Regional Activity Centre;
- (c) the proposed development would consolidate and integrate compatible uses to optimise the use of land within an established higher order centre;
- (d) the proposed development would contribute to a more compact urban form and strengthen the network of activity centres by expanding the mix of businesses and services conveniently available in the Region's highest order centre;
- (e) the proposed development would serve the Morayfield Catchment population, which is projected to increase at 2.57% per annum over the next 15 years, significantly above the rates projected for the Moreton Bay Region and Greater Brisbane;
- (f) the proposed development would satisfy a small part of the Morayfield Catchment's increase in demand for retail floor space over the next 15 years, which is estimated at a total of 203,000m², of which about 71,000m² would be directed to the Caboolture/Morayfield Principal Activity Centre;
- (g) interest has been received from prospective tenants wishing to lease 75% of the proposed floor space, which is considered to be strong evidence of need, especially given that a formal marketing campaign has yet to commence and the current successful anchor tenant wishes to expand into the proposed major tenancy in order to better satisfy its existing customer base;

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- (h) the proposed development would increase the range, convenience and competition of retail facilities available to the Morayfield Catchment, and
- (i) the proposed site is centrally located within the northern part of the Morayfield Centre, such that its development would contribute to the consolidation, integration, vigour, vibrancy and convenience of the Centre.

[12] I accept that the subject proposal would assist in meeting a need for further development of the broader Regional Activity Centre over time and would generally have the benefits otherwise referred to by Mr Norling. It was submitted for the respondent however, that the appellant had failed to demonstrate a public or community need which could not be met by another development elsewhere. I accept that there is a level of need, although I do not regard the need case as particularly strong. In any event:

- (a) the appellant relies upon its grounds in the event that conflict is found with a “relevant instrument”, for the purposes of s 326 of SPA which, in this case, is the 2005 Planning Scheme;
- (b) insofar as the stormwater/flooding issues are concerned:
 - (i) the respondent asserts conflict with 1 DEO of the 2005 Planning Scheme, but for the reasons discussed later, I am satisfied that:
 - A. the proposal will have no unacceptable impact in terms of flooding/stormwater, and
 - B. there is no conflict with the nominated DEO in the 2005 Planning Scheme.

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- (ii) any conflict with the provisions of the 2016 Planning Scheme does not engage s 326 of SPA.
- (c) insofar as the infrastructure planning issue is concerned:
 - (i) the respondent's concern relates to the potential for the proposal to remove the subject site as a potential site for the location of a planned regional detention basin, and
 - (ii) it was ultimately accepted that the respondent's concern, to the extent it is legitimate, can be accommodated by a condition of approval, rather than by refusal of the application.

In the circumstances, there is no need for the appellant to rely on its "grounds" to justify an approval.

Stormwater/flooding impact

- [13] It has already been observed that the subject site is relatively low-lying and is traversed by a tributary of Sheepstation Creek. The site lies towards, but not at, the downstream extremity of the catchment of the waterway which enters the site at its southwest corner and exits at its north-eastern corner, via culverts. It then proceeds east, via the culverts, under Morayfield Road, under the retail and commercial premises to the east, and out into the natural waterway to the east. The waterway is fed from a significant catchment, primarily from the west.
- [14] The proposed development would extend above the areas which would be inundated in times of flood, including the waterway. It is however, proposed to be, in effect, substantially vertically separated from those areas by being built on a platform, supported by piers, so as to minimise the interference with those parts of the site or with stormwater/floodwater. The piers are to be placed at least 10m apart and are to be kept clear of the high hazard flow area. It is proposed for there to be some

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earthworks to achieve the development, but this would result in a net increase in flood storage within the site of in excess of 3000m³ in the 100 year ARI event.²

- [15] It was contended, on behalf of the respondent that, notwithstanding the appellant's endeavours to design the proposal to take account of potential impacts on stormwater and floodwater, it had nevertheless failed to demonstrate that the proposal would have no significant adverse impact. Consequently, it was contended that the proposal conflicts with Desired Environmental Outcome (c)(iv) of the 2005 planning scheme, which speaks of the adverse effects of naturally occurring and man-made hazards on the natural environment and human communities being minimised.
- [16] The 2005 Planning Scheme was supported by, amongst other things, planning policy 19, which related to stormwater. It provided a guide to the council's requirements for information that should be included in a flood study to address stormwater quantity and quality. Relevantly to quantity, it sought a certified flood study from a registered professional engineer to determine, amongst other things, whether the development is likely to cause any nuisance to adjoining, upstream or downstream properties or whether the cumulative impact of development is likely to cause any adverse impact on other properties. The policy provided that the flood study should be based on flood height data up to and including a 100 year ARI storm event.
- [17] The impact of the proposal in terms of stormwater and flooding was examined by two suitably qualified engineers, namely Dr Johnson (who was engaged by the appellant) and Mr Clark (who was engaged by the Council). Those experts participated in a joint meeting and report process, in accordance with the usual practice in this court.

² Exhibit 11, page 13.

- [18] In their second joint report, the experts agreed that the sub-model of the proposed development site and the immediate vicinity, as then established by Dr Johnson's firm, was generally suitable and that the proposed solution:

“With reference to the previous planning scheme as outlined in the Flood Report provides a satisfactory outcome in respect of flood level increases (i.e. flood level increases beyond the boundaries of the site are acceptable) in the absence of debris loading, when considering the Q100 event. However, it is agreed that this analysis does not consider debris loading, and there is disagreement... as to whether this further analysis is required.”

The conclusion of the Flood Report referenced in that point of agreement included that “the proposal development does not cause an actionable adverse impact on flood levels external to the site.” Accordingly, subject to the issue of debris loading, there was agreement between the two nominated experts that the proposed development was acceptable in terms of the 2005 planning scheme.

- [19] Mr Clark's residual concern was that the proposed development could result in unacceptable upstream flood level increases if flood debris came to create a blockage within the pier arrangement and/or the underside of the development platform. Dr Johnson, on the other hand, did not consider blockage by reason of debris to be likely, and disagreed with Mr Clark's assessment of the potential impact and significance of debris.
- [20] It was pointed out for the appellant that there is no provision of the 2005 planning scheme, or the relevant planning scheme policy, which expressly requires a consideration of debris loading. That does not however, justify ignoring Mr Clark's concern. The relevant provision of the planning scheme does not provide any detail in relation to the matters to be considered. The planning scheme policy provides some greater detail, but is only a guide and does not purport to be a comprehensive list of every matter which could potentially be relevant to a consideration of whether

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a given development is, in the circumstances, likely to cause a nuisance or adverse impact.

[21] The concern about debris in this case should however, be put into perspective. In that regard:

(i) Not all catchments have the same degree of risk in terms of debris or, more particularly, debris of a kind likely to create a blockage across a well-spaced and placed pier arrangement. The subject catchment, as Mr Clark acknowledged,³ is relatively highly urbanised. In the second joint report, Dr Johnson expressed the view that any debris would largely be urban detritus and not be expected to cause significant disruption to flow.⁴ In his trial report, Mr Clark spoke of a “significant” potential for debris (both vegetation and urban detritus) to be generated within the catchment.⁵ Whilst at trial he maintained that there is a “foreseeable risk”,⁶ he conceded in cross-examination⁷ that “in terms of standard methodologies... this catchment comes up as generally a low risk catchment for debris.” I am satisfied that the catchment is indeed, relatively low risk in this regard.

(ii) Immediately to the west of the IGA development and to the southwest of the subject site, but east of Adelaide Drive, lies Kate McGrath Park. That is a relatively modest park with a

³ T6-17.
⁴ Exhibit 11, para 2(a).
⁵ Exhibit 19, p 19.
⁶ T6-29.
⁷ T6-16.

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small number of mature trees in an otherwise open grassed area. The trees are grassed to their roots (they do not sit on a river bank with scour). Mr Clark accepted that this area is not one which has a high potential to produce fallen trees to contribute to debris.⁸

(iii) Significant vegetation is otherwise more removed from the site in the upstream area to the west of Adelaide Drive. The flood prone part of that area is again relatively flat and features mature trees grassed to their trunks. There is no formally defined creek line (or associated scour zones). There is some more dense vegetation in a more natural state to the south of the flood zone that would be affected by low-velocity rainfall runoff only. Mr Clark accepted that, in the circumstances, there is a low prospect of trees in this area becoming debris as a result of flooding.⁹

(iv) Mr Clark's residual concerns about vegetation was not related to trees becoming debris as a result of stormwater/floodwater but rather by reason of high wind and/or lightning strike. He was also concerned about cars potentially becoming washed off a road, presumably Adelaide Drive. Mr Clark made enquiries of the Council about whether it kept records of complaints or problems in relation to previous instances of that kind, but was unable to be provided with any such information.

⁸ T6-18.

⁹ T6-20.

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The Adelaide Drive crossing would be expected to be closed in the Q100 event.¹⁰

- (v) The concern about debris relates to the proposal potentially creating an adverse upstream impact by reason of a blockage which would not otherwise occur (in a way which caused a like effect) in any event. As Dr Johnson identified however, there are, in any event, numerous culverts and grated inlets in this catchment already, any or all of which could catch such debris if it occurs. It was pointed out by Mr Clark that blockages downstream of the site may not have the same impact, but two of the examples given by Dr Johnson exist upstream as follows:

- (A) There is a road culvert on Adelaide Drive approximately 100m upstream of the land. There is also a guardrail which runs above the level of the road surface. This culvert and guardrail would present a significant impediment to the transmission of debris further downstream. The Q100 flood level at Adelaide Drive is less than the height of the guardrails.¹¹ Mr Clark accepted¹² that if a tree were to fall, by reason of high wind or lightning strike, to the west of Adelaide drive and be caught up in the stormwater/floodwater, it would likely catch on the Adelaide Drive guardrail. Whilst there was no

¹⁰ T6-34.

¹¹ T6-28, 33.

¹² T6-21.

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engineering evidence of its structural strength, it is obviously a substantial structure, permanently attached to the ground, made of steel, located on both sides of the road and non-collapsible.¹³ It presents as at least a significant potential impediment;

- (B) The immediately adjoining IGA development to the south is developed on piers over the same watercourse immediately upstream of the subject site. Its pier arrangement features only 5m spacings. As Dr Johnson pointed out, it is an obvious catch point for any major debris. He pointed to its existence as consistent with his view that debris is not considered to be a significant concern in this catchment. Mr Clark, who considers the IGA pier system is “not a good design”, and one he would not propose,¹⁴ also conceded that it is a likely spot to catch any significant debris which happened to make its way through to that point, although he thought there was some residual risk of debris making its way to the subject site notwithstanding.¹⁵

- (vi) Whilst the proposal is not cantilevered, and would introduce a greater number of piers across a broader area, the arrangement under the subject proposal features relatively generous spacing of at least double that which is provided for under the adjacent

¹³ T6-8.

¹⁴ T6-26.

¹⁵ T6-60.

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IGA development. The proposal is for a minimum spacing of 10m between piers and no pier will be placed within the high flow channel of the waterway.

- [22] Given the nature of the catchment, the potential for debris to be caught in any event before it arrives at the site, the relatively open pier structure and strategic placement of piers, the risk of the pier system on the subject site causing significant additional blockage by way of debris is, I find, relatively low.
- [23] Each of the experts considered the impact of a potential blockage in the event that it did occur. Initially, Mr Clark did so by revising Dr Johnson's model simply by increasing hydraulic roughness to 0.3. This, in effect, modelled a partial blockage across the whole development.¹⁶ That is an unrealistic scenario, given the nature of the development and, not surprisingly, resulted in significantly inflated and overstated predictions of increases in flood levels as a consequence of the development. It is unnecessary to delay upon the approach because Mr Clark, in the course of cross-examination, readily conceded that it was better to consider specific debris scenarios.¹⁷ Each of Dr Johnson and Mr Clark considered some such scenarios.
- [24] Dr Johnson's analysis considered blockages in areas more towards the downstream part of the site and out of the high hazard area, where no piers will be placed. He was criticised on that basis. It is unnecessary for me to discuss those criticisms further because, for the reasons which follow, I am satisfied that the proposal will not have an undue impact even having regard to Mr Clark's more conservative scenario.

¹⁶ It is the value which would be adopted for a solid building located across the site. See T6-56.
¹⁷ T6-59.

[25] Mr Clark, on the other hand, chose what he acknowledged to be the worst case blockage scenario to give the highest level of upstream increase.¹⁸ That is, a blockage across the high velocity part of the channel (albeit that no pier is, itself, within that part of the channel) near the upstream entry of the site towards the southwest corner proximate to the IGA site. It is also the relatively deep part of the channel. Having selected that part for the scenario, Mr Clark then chose to model a complete (that is 100 percent) blockage for a 10m section. That is a very conservative scenario, which makes the following assumptions:

- (i) debris, capable of extending across a 10m span width, is produced upstream in the catchment;
- (ii) if it is produced west of the eastern side of Adelaide Drive, it nevertheless makes its way past the culverts and guardrails of Adelaide Drive;
- (iii) notwithstanding that the higher velocity part of the channel flows directly under the IGA development before emerging on to the subject site to the point of the assumed blockage, the debris either gets through that tighter pillar arrangement under the IGA before getting blocked at the more widely spaced piers at the assumed blockage point on the subject site or, alternatively, skirts around the IGA and enters the site outside of the high flow channel before entering it in time to create a blockage at the assumed spot.
- (iv) Not only does the debris create a blockage at the assumed point, but it also creates a complete (100 percent) blockage for

¹⁸ T6-29, 30.

the entire 10m width for the entire depth of that section such, such that the entire section is impermeable. Mr Clark conceded, in cross-examination, that “I absolutely accept that you won’t have a metal sheet that 100 percent blocks those piers”.¹⁹

- [26] The evidence of Dr Johnson was that, in the area of high velocity/risk, the piers either are or could be placed further apart, to further reduce any risk of blockage. That is a matter which could be addressed in conditions. Mr Clark modelled a 10m blockage.
- [27] There was, it seems, some attempt by Mr Clark to compare the consequences of his assumed blockage to those which might otherwise occur at the IGA and also at the culverts at the north-eastern part of the site. Unfortunately, they were not very useful comparisons, because he did not model similar blockages. Instead of modelling the same 10m wide debris which, absent the subject development, could be caught, in any event, at the IGA, Mr Clark blocked a 5m blockage at that location. Insofar as the north-eastern culvert is concerned, he modelled only a 50 per cent blockage.
- [28] Mr Clark’s hypothetical complete blockage of the most sensitive cell of the proposed development on the subject site produced results which were far from alarming.²⁰ It revealed that, in such circumstances, there would, as a consequence, be some increase in areas already subject to flood, but no inundation of any habitable building as a consequence. The greatest increase in levels external to the subject site would be below the suspended slab of the piers on the IGA site. That would appear to raise no concern. It would also potentially cause an increase of between 1 and 2 cm in the

¹⁹ T6-29.

²⁰ Even ignoring an afflux which might otherwise occur in any event if, in the absence of the subject development, the debris created a blockage downstream.

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levels in the already flooded Kate McGrath park east of Adelaide Drive and, to a very minor extent, within the yards of some residential properties which adjoin that park. Mr Clark accepted that there would be no increased damage associated with that afflux.²¹ To the west of Adelaide Drive the level of afflux is generally 1cm or less which, it was common ground, is not of significance.

- [29] The Adelaide Drive crossing is already inundated during the Q100 year flood. At its centre, it is inundated by between 75cm and 1m and would be expected to be closed to traffic due to the level of hazard.²² In the event of a blockage on the subject site as modelled by Mr Clark, there would be some additional flooding, but the increase would be relatively minor (of the order of 10 or 11mm).²³
- [30] Whilst I understand Mr Clark's reluctance to see floodwater on an already flooded and hazardous road increase or indeed to see flood levels on the property of third parties (adjacent to Kate McGrath Park) increased by more than the 1cm generally accepted by hydraulic engineers as within a "no-worsening", there are some things which need to be borne in mind. Firstly, as Dr Johnson pointed out, the proposal has not been designed to produce greater than 1cm of afflux in a 100 year event. It has been designed to achieve a no-worsening (absent debris). The scenario which has been considered is in the nature of a sensitivity test, in the event that a blockage by way of debris also occurs.²⁴ Secondly, the likelihood of that afflux occurring is low, bearing in mind the nature of the catchment and the conservative nature of the scenario modelled. Thirdly, as Dr Johnson pointed out, the extent of afflux, if it were to occur, would not have undue adverse effects.²⁵ In those circumstances, I prefer Dr

²¹ T6-33.

²² T6-34.

²³ T6-35, 6-87.

²⁴ T6-87.

²⁵ T6-87, 88.

Johnson's opinion that the proposal would not have an undue adverse impact in terms of stormwater and flooding.

- [31] I find that the proposal does not conflict with DEO(c)(iv) of the 2005 planning scheme.

2016 planning scheme with respect to flood hazard

- [32] The respondent alleged conflict with provisions of the 2016 planning scheme with respect to flood hazard.
- [33] The subject site falls within the Morayfield Centre Precinct under the 2016 planning scheme. The overall outcomes for that precinct include the following:

- “p Development avoids areas subject to constraint... where development cannot avoid these identified areas, it responds by:
- (i) adopting a ‘least risk, least impact’ approach when designing, siting and locating development in any area subject to a constraint... to minimise the potential risk to people, property and the environment.”

- [34] It was submitted that the proposal involves developing an area subject to a constraint, that is a flood hazard, and that even if it be assumed that the development could not avoid that constraint it did not adopt a “least risk, least impact approach” and did not provide an appropriate response to the flood hazard.

- [35] Flood Hazard is more particularly dealt with in the Flood Hazard Overlay Code. That Code applies to land in the Flood Planning Area identified on a flood hazard overlay map and includes land in the following sub-categories:

- (a) High risk area
- (b) Medium risk area
- (c) Balance flood planning area

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The subject site is identified on a flood hazard overlay map as containing each of those 3 sub-categories.

- [36] The respondent alleges conflict with overall outcomes b and c of the Flood Hazard Overlay Code under the 2015 planning scheme which seeks to avoid inappropriate development in high risk and medium risk hazard areas.
- [37] Overall Outcome (b) provides that development in the high risk area is to manage and mitigate the risk of flood hazard by ensuring that a material change of use is only for one of seven types of uses being a dwelling house, outdoor sport and recreation, park, permanent plantation, cropping, tourist park or a home based business. Further, pursuant to this provision, earthworks are not permitted to occur except where associated with a previous approval.
- [38] Overall Outcome (c) provides that development in the medium risk area is to manage and mitigate the risk of flood hazard by ensuring that the use of the premises is limited to eight types of uses, being those uses set out above for Overall Outcome (b), but in addition, provides that non-residential uses where not involving a vulnerable land use (flood and coastal) can be accommodated. Again, the provision provides that earthworks do not occur except where associated with a previous approval.
- [39] The overall outcomes are designed to achieve the purpose of the flood hazard overlay code which is to:
- “(a) identify whether an area is subject to a flood hazard;
 - (b) minimise the risk to life, property, community, economic development and the environment from the flood hazard by:
 - (i) limiting development in an area of extremely unacceptable, intolerable risk of flood hazard to avoid the risk of the flood hazard;
 - (ii) managing development in an area of unacceptable, intolerable risk of flood hazard to mitigate the risk of flood hazard;

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- (c) ensure that development does not increase the potential for adverse impacts on the premises or other premises, public land, watercourses, roads or infrastructure without appropriate mitigation.”

[40] Insofar as the High Risk area is concerned, it was pointed out, on behalf of the appellant, that whilst its proposed use is not one of those contemplated within such an area under the 2015 planning scheme:

- (i) the proposal vertically separates the development from the area of high risk by suspending it, such that it is immune from flood for the Q100 and even for the Q1000 events;
- (ii) there will be no piers or associated earth works in the actual area of high risk – noting that the evidence established that the mapping of the high risk area in the 2016 planning scheme is somewhat inaccurate.

[41] It was submitted that, in those circumstances, the court ought find that there is no conflict with Overall Outcome (b). That was based on a contention that the High Risk area should not be identified as applying to that part of the airspace above the surface of the land where the proposed development would be suspended. It is unnecessary however for me to deal with that issue of construction. The provisions of the 2016 planning scheme area a matter of weight only in the assessment of this application. Even assuming that the three-dimensional approach to construction contended for on behalf of the appellant is incorrect, I would not be minded to refuse the development on the basis of the resulting conflict, given that the proposal effectively physically separates the development from the flood risk.

[42] The use does fall within the range of uses contemplated in the medium risk area.

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- [43] Insofar as earthworks are concerned, the provisions of the 2016 Planning Scheme for both the high and medium risk areas provide that earthworks do not occur except where associated with a previous approval. It was submitted for the appellant that this should not be constructed as a prohibition on new approvals, but rather as a prohibition on earthworks without approval. In any event, the provisions of the 2016 scheme are a matter of weight only. In this case the earthworks are relatively modest²⁶ and achieve a net increase in flood storage.
- [44] Mr Clark raised concerns about covering the area of hazard with a slab. He pointed out that the proposal offered a confined space for anyone underneath who might need to escape, but Dr Johnson pointed out that the slab could, and in his view should, be raised to afford a comfortable head height in any event. Mr Clark raised a concern about a lack of casual surveillance, but accepted that this part of the site has low surveillance in any event. Issues of safety associated with covering the site with a slab, and the means by which those concerns can be addressed through conditions are discussed later in the context of a suggested detention basin.
- [45] I am satisfied that the proposal, which separates persons and property from the potential flood hazard by vertically removing development clear of the floodwater, whilst sensitively placing the supporting piers in the areas beyond the highest risk, whilst maintaining and modestly increasing on-site flood storage, appropriately responds, or could be conditioned to appropriately respond, to the flood hazard constraint on the site and appropriately minimise the risk.

Infrastructure planning/detention basin

²⁶ Obviously greater earthworks will be involved if the site is used for a regional detention basin as council contends it should be for infrastructure planning reasons.

[46] In 2009 a report was prepared by the Moreton Bay Regional Council's Drainage Waterways and Coastal Planning Unit (the 2009 report). The purpose of that report was to identify the stormwater quantity trunk infrastructure required to meet the future development demands in the Caboolture district.²⁷ The 2009 report identified many items of future trunk infrastructure, one of which was a proposed 21,000m³ detention basin in Morayfield described as being on Sheepstation Creek and given the code SSC_DB_3. It was described as requiring an area of 12,600m² which, as it happens, is close in size to the vacant rear portion of the subject land which is proposed for development. The required land was described as being privately owned. The total estimated cost was \$1,525,650, composed of a land cost of \$387,450 and a construction cost of \$1,138,200. It was then projected to be built in 2012.

[47] In 2011, the Council adopted an infrastructure charges resolution (the 2011 resolution) which referenced a number of future infrastructure projects which were the basis for the calculation of charges. One of those projects was SSC_DB_3, which was described as Sheepstation Creek detention basin and shown on the relevant map symbolically by a coloured box straddling the boundary of the subject site and the IGA site to the south. There followed further iterations of the infrastructure resolutions prior to the coming into force of the 2016 planning scheme. The same detention basin was included in each of those iterations and symbolically shown on the accompanying plans, although a future water quality treatment device was symbolically added in the area of Kate McGrath Park to the southwest. The estimated year of completion was moved to 2015.²⁸

²⁷ Exhibit 6 p 223.

²⁸ See exhibit 6, pages 113, 176.

[48] The 2011 infrastructure resolution stated that it did not form part of the planning scheme. Further, it was conceded, on behalf of the respondent, that neither the 2011 resolution nor any of the subsequent iterations constituted a relevant instrument under ss 313 and 326 of the SPA for the purpose of assessing and deciding the subject development application. The respondent did however, point to its infrastructure planning in the context of alleging conflict with DEO(c)(ix) of the 2005 Planning Scheme, which provided as follows:

“The efficient and effective use and provision of physical and social infrastructure in the shire is maximised.”

[49] Further, since the application was made, the 2016 planning scheme has come into effect and its provisions are a matter of weight in the determination of this application. The Council’s infrastructure planning is now embodied in the priority infrastructure plan (PIP) which forms part of the 2016 planning scheme. The purpose of the PIP is to:

- (a) integrate and coordinate land use planning and infrastructure planning;
- (b) ensure trunk infrastructure is planned and provided in an efficient and orderly manner.

The SSC_DB_3 detention basin is shown on the PIP stormwater network map.

[50] The respondent submitted that the appellant has failed to show its proposal will not have an adverse effect on the Council’s longstanding planning for the provision of planned infrastructure, including as most recently reflected in the PIP.

[51] It was initially contended that the Council’s concern in this respect, if otherwise valid, was a reason for refusal of the development application. The potential for impact upon the realisation of Council’s infrastructure planning however, is related not to an

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approval of the application per se, but rather to the construction of the development across the site prior to the Council having the opportunity to utilise it for the SSC-DB-3 detention basin. It has already been noted that the council's infrastructure planning initially contemplated the basin being constructed by now. The council has already given notice of its intention to resume the subject land for the purposes of constructing the basin. In response to a question from the bench, it was accepted, on behalf of the respondent, that its concern would be adequately addressed by condition of approval which postponed the right to commence construction of the development for a reasonable time to give Council the opportunity to complete the acquisition process. Senior counsel for the appellant also embraced the suggestion that such a condition could address any potential prejudice, although reserved the right to be heard about the time to be allowed. Further it was contended for the appellant that any potential prejudice to the council's infrastructure planning could be met by giving the council the opportunity to impose a different condition.

[52] Ultimately then, at worst for the appellant, this issue goes to conditions of approval rather than to refusal of the application.

[53] The appellant's primary submission was that no condition to address the asserted potential prejudice ought be attached to an approval of its application, because the site is now simply irrelevant to the Council's planning for the proposed detention basin, as part of its broader infrastructure planning, as reflected in the PIP. The basis for that submission is the PIP stormwater map, which shows the SSC_DB_3 detention basin by a circular symbol near the common boundary of the subject site and the IGA site. No part of the symbol however, intrudes over the boundary of the appellant's site.

- [54] The nature and purpose of the map must however, be kept in mind. It shows a planned future infrastructure network, rather than a series of existing or proposed projects which have been the subject of detailed design. Whilst the network is depicted over a cadastral base, it does not depict the precise size, shape, area, dimensions or exact location of individual components of the network. The small circle which appears beside SSC_DB_3 could not be anything like the size and shape of a detention basin to serve as trunk infrastructure as contemplated. That which is shown is symbolic and indicative. Relevantly, for present purposes, it reflects the Council's infrastructure planning for a detention basin in that vicinity.
- [55] Given the development which has now occurred over the IGA development to the south, the subject site presents as the obvious site, in the vicinity, which is capable of accommodating the planned detention basin. Council's interest in acquiring the site and the Council's concern about the prejudicial effect which development otherwise on the subject site may have on the realisation of its planned infrastructure is understandable. The appellant however, pointed to alternatives to achieve the infrastructure whilst permitting development to proceed.
- [56] In his further statement of evidence, Mr Clark pointed out that the subject site is unique in its location at the junction of three separate sub-catchments, such that a detention basin, located on the subject site, can mitigate flows from all three tributaries, prior to flow reaching Morayfield Road. Dr Johnson did not cavil with that, but pointed out that on appropriately sized and located detention basin somewhere further upstream, on one or more catchments, rather than here, could also achieve appropriate attenuation.²⁹ That however, is not the Council's infrastructure

²⁹ T2-89.

planning and Mr Clark pointed to the potential inefficiency that could result from such an approach.³⁰

[57] Kate McGrath Park, which lies to the immediate southwest, provides an opportunity to provide at least some of the detention basin function. It is, however, in accordance with the PIP, proposed to be developed with a stormwater quality device, most likely a bio remediation device. Dr Johnson pointed out that a detention basin can be co-located with such a device. Mr Clark accepted as much. As he pointed out, and Dr Johnson acknowledged however, there are issues with collocating such devices. Those include as to functional (including the potential for scour and erosion issues) and increased maintenance issues.³¹ He accepted that, if space were not an issue, he would try to separate the devices³² with the high flows diverted to the detention basin.³³ That is consistent with what is shown on the PIP Stormwater map.

[58] Quite apart from the functional and maintenance issues, there is also, as Dr Johnson acknowledged, a potential limitation in terms of capacity. The park, at about 8000m²,³⁴ is significantly smaller than the subject site, thereby limiting the size of the basin that could be achieved. If something of about the order of 21,000m³ were required (a matter discussed later), then the park would need to be excavated below the level of the existing outlet in order to achieve that volume. If that complication were to be avoided, then only part of the detention volume would be able to be achieved within the park, with Council having to look to implement measures elsewhere to find remaining detention volume.

³⁰ T5-26.
³¹ T3-42, 43.
³² T3-44.
³³ T3-45.
³⁴ T2-67.

[59] In those circumstances, attention shifts back to the subject site to achieve a regional detention basin in this vicinity. The appellant's preferred option (supported by Dr Johnson) is that it be achieved on the subject site, underneath the development. This option would see the detention basin being constructed as trunk infrastructure, pursuant to a condition of approval, prior to construction of the appellant's development over the top and subject to an appropriate infrastructure set off or refund. Appropriate arrangements, including easements, would need to be put in place to facilitate Council's ongoing access to, and maintenance of, the detention basin.

[60] In the course of the hearing and in submissions, Mr Clark and counsel for the respondent raised concerns about that option in various respects. In the course of addresses however, counsel for the respondent made it clear that the respondent would wish to at least consider that option in the event that the court were to find a co-located basin to be an acceptable option.

[61] The appellant's preferred alternative condition can be seen in light of the council's information request of 14 May 2015, in which it drew attention to the infrastructure charges resolution, asserted that the "infrastructure has been identified as a regional device for the catchment and is to have a total capacity of 21,000m³" and asked the then applicant (now appellant) to demonstrate how a detention basin, with a total capacity of 21,000m³, could be achieved on the site, whilst still maintaining conveyance of stormwater conveyance across the site.

[62] The response to that information request demonstrated that it is technically feasible to construct a detention basin of that size on the site. That, of course, involves excavation across the site, so as to provide the storage, whilst still providing a fall, towards the north-eastern end of the site, so that the site drains to the outlet at 7.0

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AHD. That involves excavating the site from 8.3AHD to an average 7.5 AHD. The development could then be built over that basin.

[63] The co-location option has the obvious potential benefit of providing a detention basin without prejudice to the potential for the appellant's site to be developed in a way which I am satisfied is otherwise appropriate from a town planning perspective and provides some benefits as generally described in the appellant's grounds. Mr Clark however, raised three concerns about the co-location option.

[64] One of Mr Clark's concerns relates to safety. Whilst there are other developments in the area which feature slabs supported by piers over waterways, Mr Clark was concerned about the safety implications of creating a regional detention basin covered by a slab. Of particular concern to him is the potential for people to be underneath the slab at the start of a rainfall event large enough to cause flooding such as to create a risk of drowning. His concern was exacerbated by the lack of visibility to persons potentially in trouble. He pointed out that this would require the site to be fenced, but that such an arrangement is contrary to best practice detention basin design and that the fence would potentially catch debris.

[65] Dr Johnson acknowledged that, were the co-location option to be adopted then exclusion fencing would be required. He also acknowledged that the relevant section from the Queensland Urban Drainage Manual (QUDM) nominates the provision exclusion fencing as a "last resort", with minimisation of safety risks through appropriate design being the first preference. He pointed out however, that the depth of water in a 21,000m³ detention basin on the subject site, as shown in the design provided in response to the information request, would be such as to trigger a requirement for fencing in accordance with QUDM, even if it were open. Mr Clark suggested that a standalone detention basin could potentially be designed in such a

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way that there were some areas of lesser depth which were unfenced. Dr Johnson contended that the site should, and likely would, be fenced off, if it were developed for either a standalone or co-located basin. It appears likely, that a detention basin on the subject site, if of the order of 21,000m³, would involve a level of fencing, whether it is co-located or freestanding.

[66] Insofar as the concern about fencing creating debris issues is concerned, Mr Clark acknowledged that collapsible or swing fences could be used so as to dissuade people from entering the site without causing an issue in terms of debris blockage.³⁵

[67] Mr Clark also acknowledged, in the course of his testimony, that the exclusion of people from this part of the site could also be reinforced via conditions requiring both security surveillance of the underside of the slab and daily checks of the fencing.³⁶

[68] Mr Clark also acknowledged that a design response could be imposed by way of conditions to also ensure that there are means of escape for anyone who nevertheless finds themselves under the slab in times of a rainfall event. In that regard, as Mr Clark acknowledged, stairs could be provided from the detention basin to one way exit doors, made prominent by illuminated "emergency exit" signage at appropriate locations to provide such opportunities.³⁷

[69] The presence of the slab will obviously impede surveillance, although the subject part of the site is one which currently has a fairly low degree of casual surveillance in any event.³⁸

³⁵ T6-43, 44.

³⁶ T-44.

³⁷ T6-41.

³⁸ T6-46; T4-62.

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- [70] Whilst Mr Clark's safety concerns are understandable, they are, on the evidence, substantially capable of being addressed by way of the imposition of conditions and do not of themselves make the co-location option unacceptable.
- [71] The next issue related to maintenance. Mr Clark pointed out that it will not be possible to see the underside of the slab from surrounding areas. Regular inspections will be necessary to determine whether or not there is debris which needs to be removed. The development as proposed (with no detention basin) provides for a working head height of only 1.6m. Working in such a space is not impossible but, as Mr Clark pointed out, is more resource intensive.³⁹ Dr Johnson suggested that the underside of the slope could be raised by 400 mm to provide a more comfortable working height. With greater excavation, to achieve a detention basin of 21,000m³ however, an ample head height (of 2.4m) should be available.
- [72] That is not to say that the presence of a slab would not likely have some consequences for maintenance. For example, it makes under slab inspections necessary and introduces the need for cleaning any debris from around the piers that are introduced into what would otherwise be an open detention basin. It may limit the exit points to which debris has to be taken and access points for vehicles.⁴⁰ Dr Johnson accepted that it would involve a different maintenance regime under the slab, although he said that it was beyond his expertise to say whether it was greater or lesser.⁴¹ He did however, acknowledge that it would be more difficult to remove sediment.⁴² These are matters of convenience, and of efficiency.

³⁹ T6-48.

⁴⁰ T6-49.

⁴¹ T4-30.

⁴² T4-30.

- [73] The third issue in relation to the co-location option relates to the benefit from the volume of storage that can be achieved. It has already been noted that the Council, by its information request, asked the appellant to demonstrate “how the identified trunk infrastructure, and detention basin with a total capacity of 21,000^{m3}, can be achieved on the site whilst also maintaining conveyance of storm water drains across the site”. The appellant, by its response, demonstrated that is achievable. In practical terms⁴³ however, a greater capacity cannot be achieved.⁴⁴ Mr Clark claims that the appellant has failed to show that it can provide a sufficient quantity of storage to both provide the benefits of the trunk infrastructure being SSC_DB_3 and to mitigate the effects of its own proposal.
- [74] A 21,000^{m3} co-located detention basin does not necessarily provide the same benefit for the broader catchment as a free-standing detention basin of the same size on an otherwise undeveloped site. That is because, as Dr Johnson acknowledged,⁴⁵ the development of the site increases its runoff characteristics and so, there is a need to compensate for the effects of the development itself. Accordingly, as Dr Johnson also acknowledged,⁴⁶ a co-located basin potentially needs to provide a greater volume if it is to provide the attenuation, for the broader catchment, which would otherwise be provided by a standalone detention basin. Further, if the benefits which could otherwise be achieved from a free-standing basin on the subject site were limited in some way, then the council would have to look to achieve that elsewhere.⁴⁷
- [75] Dr Johnson suggested that the appellant’s development should be viewed as part of the urbanisation for which the detention basin is to be provided, but he acknowledged,

⁴³ Without excavating below the level of the outlet.
⁴⁴ T4-80.
⁴⁵ T2-83.
⁴⁶ T4-110.
⁴⁷ T4-112.

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in the course of cross-examination,⁴⁸ that the model which was used for the purposes of the flood report assumed no increase in upstream flows onto the subject site and that it did so on the assumption that there will be sufficient detention of those upstream flows through appropriate detention mechanisms, one of which is the plan for a detention basin.

[76] The extent of which the impacts of the development itself consumes the broader benefit which would otherwise flow from a 21,000m³ detention basin was the subject of debate. Dr Johnson pointed to the limited quantity of excavation required on the site, to achieve a no-worsening as modelled in the Flood Report for the subject proposal (without the co-located basin). Mr Clark however, opined that the effect of the development may be the consumption of the flood storage (including airspace) down to the excavated level of RL 8.3 AHD. In the absence of modelling which compares the performance of the co-located and standalone options, there is uncertainty surrounding the extent to which the co-location option would compromise the benefits which could otherwise be achieved from a regional detention basin on the subject site.⁴⁹

[77] Any deficiency on the subject site could potentially be made up elsewhere. Mr Clark initially answered in the affirmative to a question from the bench as to whether that could be accomplished relatively easily,⁵⁰ but later (reasonably) qualified that answer by saying that he had simply meant that it was physically possible to achieve. He explained that, in the absence of the impact of the development being quantified, he was uncertain of the quantity of storage that might be required to make up for the

⁴⁸ T4-99, 100.

⁴⁹ As to the modelling which could have been conducted, see Johnson T4-106, 107, Clark T5-23,24.

⁵⁰ T5-27.

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deficiency.⁵¹ Reliance on the potential to make up an unknown deficiency in an unknown way elsewhere carries the risk of prejudicing the efficiency in the provision of infrastructure.

[78] Dr Johnson dismissed suggestions that he ought to have carried out any further modelling or investigation into the combined requirements for the detention basin and development. He drew attention to the information request, which asked only for the demonstration of how a detention basin with a total capacity of 21,000m³ can be achieved on site and also to a subsequent e-mail exchange between his office and a council officer which confirmed the summary of a discussion. That discussion referred to a regional detention basin with a storage volume of approximately 21,000m³ being required. Dr Johnson took it that a co-located basin of 21,000m³ would be satisfactory. It should be noted that the volume nominated in the information request was for the regional detention basin. Further, the summary in the e-mail exchange went on to say “if council decides a basin is required, council will likely need to purchase the necessary land for the owner, although other engineering options may also be available”. The documents did not expressly raise an issue about the effect of any co-location on the performance of the regional detention basin, but that does not justify the Court ignoring the issue.

[79] Dr Johnson also pointed out that the justification for, or benefits of, a detention basin with the particular volume of 21,000m³ are unknown. The 2009 report (which was withheld from Dr Johnson for some time) referred to a figure of 21,000m³, but is dated and, in his view, unsubstantiated at this time. Mr Clark’s evidence was to the effect that there is the potential for the increase in upstream intensification of development to produce significant increases in inflows in Sheepstation Creek and a

⁵¹ T5-30.

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detention basin is needed, but the council did not rely on his evidence to justify a particularly sizing. The figure of 21,000m³ was not picked up in any of the infrastructure charging resolutions or in the PIP and the planned detention basin has not been the subject of detailed design. The sizing was referred to in an investigation report which became an exhibit, but that was admitted into evidence on the basis that it was not evidence of the truth of its contents. It remains the case however, that a regional detention basin is a longstanding component of the council's infrastructure planning for the benefit of the community.

[80] The evidence satisfies me that it is possible to develop a detention basin with a total capacity of 21,000m³ on the site below the proposed development. It would be accompanied by some safety issues, albeit not, of themselves, unacceptable. It would also be accompanied by some maintenance issues, which would likely affect efficiency, to some extent, compared with a free-standing detention basin. It would provide some benefit to the wider catchment, beyond offsetting the impacts of the development of the site itself, but the extent to which it would also do so have not been ascertained. It carries the potential to limit the extent to which the benefits of the council's planned regional detention basin, if developed on the subject land, can be maximised and also carries the potential to require compensatory benefits to be found elsewhere.

[81] I am satisfied that the proposal has the potential, if constructed prematurely, to prejudice the Council's infrastructure planning. That does not call for refusal of the development application. It is however, relevant to impose conditions to address that potential prejudice. In my view it is, in the circumstances of this case, and notwithstanding the attractions of co-location, not unreasonable, having regard to matters including maximising the efficient provision of infrastructure, to do so by

Moreton Bay Regional Council

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imposing a condition which delays commencement of construction for a reasonable, but certainly not elongated, time to afford the council an opportunity to promptly complete its proposed acquisition without prejudice to the development of a standalone basin, unless it is prepared, on reflection, to consent to the appellant's preferred alternative condition involving the co-location option.

Conclusion

[82] For the above reasons, I am satisfied that the appellant has discharged the onus. The appeal will be allowed. The further hearing will, at this time, be adjourned to enable the parties to formulate conditions of approval.

Moreton Bay Regional Council

COORDINATION COMMITTEE MEETING
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In the Planning and Environment Court

No. BD3265 of 2016

Held at: Brisbane



Between: GENAMSON HOLDINGS PTY LTD (ACN 053 174 271) Appellant
And: MORETON BAY REGIONAL COUNCIL Respondent

JUDGMENT

Before His Honour Judge Rackemann

Date of Hearing: 1 August 2018

Date of Judgment: 1 August 2018

THIS MATTER HAVING on this day come on for hearing by way of appeal against the refusal of the Respondent dated 15 August 2016 and received by the Appellant on 15 August 2016 of a development application for a Development Permit for a Material Change of Use for Retail Showroom, Restaurants, Shops and Take Away Food Outlets and a Preliminary Approval for building works (**Application**) on land located at 134 to 140 Morayfield Road, Caboolture South and more particularly described as Lot 5 on Registered Plan 88015 (**Land**)

AND UPON HEARING the solicitor for the Appellant and the solicitor for the Respondent

AND UPON READING the Order of his Honour Judge Everson dated 1 September 2016

IT IS ADJUDGED THAT:

1. the Appeal be allowed.
2. the Application be approved subject to the conditions attached hereto and marked "A", comprising pages 1 to 67; and
3. each party bear its own costs of, and incidental to, the proceeding.

UPON THE COURT BEING SATISFIED THAT the change to the finished levels of the land to the levels shown on Cardno Drawings 350186 - SK01 Rev. A and 350186 - SK02 Rev. A is a minor change within the meaning of section 350 of the Sustainable Planning Act 2009,

JUDGMENT

Filed on behalf of the Appellant

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*ITEM 2.1 - #4 PROPOSED RESUMPTION FOR DRAINAGE PURPOSES - 134 MORAYFIELD ROAD,
CABOOLTURE SOUTH - LOT 5 ON RP88015 - DIVISION 3 (Cont.)*

- 2 -

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Registrar



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ITEM 2.1 - #4 PROPOSED RESUMPTION FOR DRAINAGE PURPOSES - 134 MORAYFIELD ROAD, CABOOLTURE SOUTH - LOT 5 ON RP88015 - DIVISION 3 (Cont.)

"A"

DA/30058/2015/V2C - Material Change of Use - Development Permit for Retail showroom, Restaurant, Shop and Take away food outlet, located 134-140 Morayfield Road, Caboolture South

Plans and Documents to be Amended			
Plan / Document Name	Reference Number	Prepared By	Dated
Locality Plan	AT1417, DA01, Revision F	Aquatonic	Dec 2015
Existing Site Plan	AT1417, DA02, Revision F	Aquatonic	2 Mar 2015
General Site Arrangement	AT1417, DA03, Revision F	Aquatonic	2 Mar 2015
New Development Plan	AT1417, DA04, Revision F	Aquatonic	2 Mar 2015
New Development Plan	AT1417, DA05, Revision F	Aquatonic	2 Mar 2015
New Roof Plan	AT1417, DA06, Revision F	Aquatonic	2 Mar 2015
Elevations	AT1417, DA07, Revision F	Aquatonic	March 2015
Sections	AT1417, DA08, Revision F	Aquatonic	March 2015
Regional Detention Basin Layout Plan	350186-SK01 Rev A	Cardno	18/11/15
Regional Detention Basin Section Plan	350186-SK02 Rev A	Cardno	18/11/15
Stormwater Management Plan	3501-86 Ver 1	Cardno	30/3/15

MATERIAL CHANGE OF USE - DEVELOPMENT PERMIT		
DEVELOPMENT PLANNING		
1	Approved Plans and documents	
	Undertake development generally in accordance with the approved plans and documents (as amended in accordance with condition 2). These plans will form part of the approval, unless otherwise amended by conditions of this approval.	Prior to commencement of use and to be maintained at all times.
2	Amended Plan Required	
A	Submit an amended Proposal Plan suite incorporating the following: <ol style="list-style-type: none"> 1. Clearly identify all works associated with the approved detention basin configuration, and other stormwater management works within the site. 2. Clearly identify all stormwater quality treatment measures. 	Prior to any approval of Building Works or . Operational Works.

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	3. Appropriate vertical clearances to allow for Council's plant to undertake maintenance of the detention basin. A clearance height of 2.4 m will be required for maintenance purposes.	
B	Obtain approval from Council for the amended Proposal plan suite in accordance with (A) above.	Prior to any approval of Building Works or Operational Works.
C	Implement the requirements and recommendations of the approved plan(s). The approved amended plan(s) will form part of the approval.	Prior to any approval of Building Works or Operational Works.
3	Water and/or Sewerage	
	Submit to Council a Certificate of Completion or Provisional Certificate of Completion for the development from the Northern SEQ Distributor-Retailer Authority (Unitywater) confirming: (a) a reticulated water supply network connection is available to the land; and (b) a sewerage network connection is available to the land; and (c) all the requirements of Unitywater have been satisfied	Prior to commencement of use.
4	On-Site Car Spaces	
A	Provide car parking as generally shown on the approved plans .	Prior to commencement of use and to be maintained at all times.
B	Provide for the manoeuvring of vehicles on site, generally in accordance with the approved plan. Car spaces, access lanes and driveways shown on the approved plan must not be used for any other purpose.	Prior to commencement of use and to be maintained at all times.
5	Bicycle Parking	
	Install secure bicycle parking and associated support facilities for a minimum of 6 bicycles. All works are to comply with: Caboolture: Council's Design and Development Manual and Austroads Austroads (2008), Guide to Traffic management - Part 11: Parking.	Prior to commencement of use and to be maintained.
6	Building Appearance	
	Where facing residential properties (western elevation), the exterior elements of the building are to be rendered or painted in a range of compatible colours. Unfinished concrete surfaces facing residential purposes are not permitted.	
7	Electrical Transformer	
	Ensure that where electrical transformers are located in the front setback (only where an internal road is not	Prior to the commencement of the

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	<p>proposed) it is screened so that the transformer is not visible from any road frontage and achieves the following:</p> <ul style="list-style-type: none"> • A combination of screening device and landscaping; • The screening device is constructed of durable, weather resistant materials; and • Is integrated with the design of the development and positively contributes to the streetscape. <p>Where an internal road is proposed the transformer is to be located at the end of the roadway internal to the site with provision made for maintenance access through the site.</p> <p>Note: The use of barbed wire or metal prongs is not permitted</p>	use and to be maintained at all times.
8	Street Numbering and Building Names (All Developments)	
	Prominently display street numbers and any building names at the road frontage of the site, to enable identification by emergency services.	Prior to commencement of use and to be maintained at all times.
9	Internal Fire System – Commercial	
A	Provide an internal Fire Hydrant System with fire hydrants placed at intervals of no more than 90 metres from each other. Hydrants may have a single outlet and be located above or below ground.	Prior to commencement of the use or Council's endorsement of any Community Management Statement, whichever occurs first, and to be maintained at all times.
B	Maintain the Fire Hydrant System at no cost to Council or Unitywater.	Prior to commencement of the use or Council's endorsement of any Community Management Statement, whichever occurs first, and to be maintained at all times.
C	Identify hydrants as specified in 'Identification of street hydrants for fire fighting purposes' available under 'Publications' on the Department of Transport and Main Roads website www.tmr.qld.gov.au/~media/busind/techstdpubs/trum/125Amend18.pdf or as amended.	Prior to commencement of the use or Council's endorsement of any Community Management Statement, whichever occurs first, and to be maintained at all times.
10	External Lighting	

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A	Install external lighting in accordance with AS4282-1997 - (Control of the Obtrusive Effects of Outdoor Lighting) or as amended.	Prior to commencement of use and to be maintained at all times.
B	Provide certification from a suitably qualified person that any external lighting is to be installed in accordance with AS4282-1997 - (Control of the Obtrusive Effects of Outdoor Lighting) or as amended.	Prior to commencement of use and to be maintained at all times.
11	Pedestrian Lighting	
A	Any pedestrian areas utilised during night-time hours are to be installed with lighting in accordance with <i>AS 1158.3.1 Pedestrian Area (Category P) Lighting – Performance and installation design requirements</i> or as amended.	Prior to commencement of use and to be maintained at all times.
B	Provide certification from a suitably qualified person that lighting for pedestrian areas complies with <i>AS 1158.3.1 Pedestrian Area (Category P) Lighting – Performance and installation design requirements</i> .	Prior to commencement of use.
12	Waste Management	
	Manage waste in accordance with Council's General Waste and Recyclable Waste Storage and Collection for Residential and Commercial Developments Policy (Policy No: 48-2150-002) and Technical Guideline.	Prior to commencement of use and to be maintained at all times.
13	Landscaping	
A	Carry out landscaping on site in accordance all of the Probable Solutions of the Landscaping Code as well as Planning Scheme Policy 14 in the Caboolture Shire Plan. Where there is no Probable Solution listed for a corresponding Specific Outcome, submit certification from a suitably qualified person that the landscaping complies with the Specific Outcome. In addition, provide for the following on site: <ol style="list-style-type: none"> 1. A minimum of one (1) shade tree per six (6) car parking spaces or, where no tree is provided, equivalent shade structures. 2. Screening shrubs with a mature height of up to 2m in height at a minimum rate of two (2) shrubs per square metre along the northern half of the western boundary of the site, adjoining the undercroft of the building. 	Prior to works commencing on site and to be maintained.
B	Submit certification from a landscape designer or other suitably qualified person that the landscaping works have been installed on site in accordance with (a) above.	Prior to works commencing on site and to be maintained.
14	Vehicle Encroachment	

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	Protect all landscaped areas and pedestrian paths adjoining any car parking areas from vehicular encroachment by wheel stops, kerbing or similar barrier approved by the Council.	Prior to commencement of use.
15	Screening (Commercial/Industrial)	
	Screen any loading/unloading facilities, plant equipment areas, refuse storage areas and any other outdoor storage areas on the site from direct view from any adjoining road or public space. Where landscaping is used for screening it is to be detailed on an approved landscape plan.	Prior to commencement of use.
16	On Site Services	
	Ensure garbage bin areas, rainwater tanks, hot water tanks, gas bottles and air conditioners are; <ol style="list-style-type: none"> 1. located in the rear setback; or 2. located in the side setbacks and include screening (e.g. fencing or landscaping) from view of any road frontage; or 3. entirely underground where located in the front setback. <p>Note: Rainwater tanks are not permitted within easements.</p>	Prior to commencement of use and to be maintained.
17	Premises – Hours of Operation	
	Limit the hours of operation for all retail/commercial activities to between 7am and 10pm daily, except for food and drink establishments which shall be limited to 7am to 12am daily.	At all times.
18	Loading Bays – Hours of Operation	
	Limit the loading and unloading of vehicles in the northern loading area to between 7am and 10pm. Note: Loading hours are unrestricted for the southern loading bay.	At all times.
19	Infrastructure to the Site – MCU - Single	
A	Provide Fibre-Ready telecommunications infrastructure (Internal and External conduit paths) in accordance with NBN Co Guideline New Developments or NBN Co. Preparation and Installation Guide for SDUs and MDUs as amended, that: <ol style="list-style-type: none"> 1. Extends the service drop conduit from the property boundary to the external Premises Connection Device (PCD) or the likely location of the PCD; and 2. Extends a communications conduit with drawstring from the external PCD or the likely location of the PCD to the internal Fibre Wall Outlet (FWO) or the likely location of the FWO. 	Prior to commencement of use or Council's endorsement of any Community Management Statement, whichever occurs first.

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B	Provide certification to Council from the installer or an RPEQ engineer (electrical engineer) that the works and infrastructure required in (a) above has been done. Note: A template for certification is available from council for the purpose of this condition.	Prior to commencement of use or Council's endorsement of any Community Management Statement, whichever occurs first.
20	Internal Wiring - Material Change of Use	
A	Install internal wiring (Category 6 or better) within each tenancy from the expected location of any future Network Termination Device (NTD) for High Speed Broadband (based on the recommended locational criteria in the NBN Co Guideline (MDU Building Design Guide OR New Developments or NBN Co. Preparation and Installation Guide for SDUs and MDUs) to the same connection points in the tenancy that would have been or have been installed for telephone and television connections; including but not limited to bedrooms, family/living rooms, and study/office.	Prior to commencement of use or Council's endorsement of any Community Management Statement, whichever occurs first.
B	Provide certification from the installer or an RPEQ engineer (electrical engineering) that the wiring required in (a) above has been done. Note: A template for certification is available from Council for the purpose of this condition. Note: Installers are recommended to be a registered cabler.	Prior to commencement of use or Council's endorsement of any Community Management Statement, whichever occurs first.
21	Management of Wildlife	
A	Carry out approved vegetation clearing under the supervision of a Fauna Spotter Catcher holding a valid Rehabilitation Permit from the relevant State Government Agency.	Prior to and during site works.
DEVELOPMENT ENGINEERING		
22	Replace Existing Council Infrastructure	
	Replace existing Council infrastructure (including but not limited to street trees and footpaths) that is damaged as part of construction works, to a standard which is consistent with Council's standards.	Prior to commencement of use.
23	Alterations and Relocation of Existing Services	
	Any alteration or relocation in connection with or arising from the development to any service, installation, plant, equipment or other item belonging to or under the control of the telecommunications authority, electricity authorities, the Council or other person engaged in the provision of public utility services is to be carried with the development and at no cost to Council.	Prior to commencement of use.
24	Construction Management Plan	

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A	<p>Submit a Construction Management Plan (CMP) prepared by a suitably qualified person. The CMP is required to ensure the development works (including all construction, demolition and excavation) do not adversely affect the health, safety, amenity, traffic or environment in the surrounding area. The plan is to include (but is not limited to) at least the following:</p> <ul style="list-style-type: none"> • Proposed construction program; • Public safety, amenity and site security; • Operating Hours, Noise and Vibration Controls; • Air & dust management; • Stormwater runoff, erosion & sediment control; • Waste & materials refuse management; • Traffic management; • Construction materials delivery & storage; • Construction office accommodation; and • Contractors vehicle parking arrangements. 	Not less than two (2) weeks prior to any works commencing on site.
B	Obtain approval from Council for the Construction Management Plan.	Prior to works commencing on site.
C	Implement the approved Construction Management Plan and keep a copy of the CMP on site at all times during construction.	At all times during construction of the development.
	<p>Notes:</p> <ul style="list-style-type: none"> • The CMP should be based on the following: • Council will generally only approve early starts for large concrete pours (e.g. monolithic concrete pours for basements and suspended floor slabs) during summer. • Dewatering directly into Council's stormwater system (pipes or overland flow) without appropriate water quality treatment/improvement is not acceptable. • Materials unloading and loading must occur on-site unless prior written approval is given by Council. • All construction office accommodation and associated temporary buildings is to be contained within the site or on a nearby site. 	
25	Access, Internal Roadways, Parking and Servicing Areas	
A	Design, construct and maintain, all line-marking, accesses, internal roadways, parking and servicing areas, in accordance with the approved plan(s) of layout, MUTCD and Australian Standard AS2890. The works must be designed, constructed and maintained in accordance with good engineering practices and Council's Planning Scheme requirements unless conditioned otherwise.	Prior to commencement of use and to be maintained.

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B	Provide a 'Level V' allotment drainage system in accordance with the Queensland Urban Drainage Manual (QUDM). The design ARI for the system shall be in accordance with QUDM but in no circumstance shall the ARI be less than that for the Minor Stormwater System in the adjacent road system.	Prior to commencement of use and to be maintained.
C	Provide certification from an RPEQ that all works have been designed and constructed in accordance with this permit condition.	Prior to commencement of use.
26	Stormwater Management & Drainage Infrastructure – Design & Construction	
	<p>Design and construct at no cost to Council all necessary stormwater management and drainage works (associated with draining this site) in accordance with Council's design standard current at the time of development.</p> <p>Note: The current design standards and relevant planning scheme codes are:</p> <ol style="list-style-type: none"> 1. Planning Scheme Policy - Design and Development Manual; 2. Stormwater Code. <p>This condition has been imposed under section 665 of the Sustainable Planning Act 2009.</p> <p>Note: A separate Concurrence Agency condition has also been imposed in relation to stormwater.</p>	Prior to commencement of use.
27	Stormwater Drainage - Lawful Discharge	
	Ensure that stormwater from the proposed development is lawfully discharged from the subject land without causing nuisance and annoyance to any person.	At all times.
28	Stormwater Management Plan (Quantity & Quality) – Amended Plan Required	
A	<p>Submit and have approved by Council, an amended Stormwater Management Plan to demonstrate how stormwater from the proposed development can be managed in accordance with Council's planning scheme requirements and design standards, the "Healthy Waterways Water Sensitive Urban Design Technical Guidelines for South East Queensland" and other relevant legislative requirements.</p> <p>In particular the following issues must be addressed in the amended plan:</p> <ul style="list-style-type: none"> • Changes to treatment train locations based on the approved plans and final detention basin configuration. • Modelling of the proposed proprietary products is to be carried out using only the manufacturers 	Prior to any development application for reconfiguring a lot, operational works or building works - whichever occurs first.

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	<p>recommended parameters. A statement by the RPEQ is to be provided confirming that the MUSIC model was prepared using the appropriate parameters.</p> <ul style="list-style-type: none"> • Provide a maintenance plan. • Provide a copy of a long-term maintenance agreement. • Provide a drainage catchment plan indicating the various catchment types with a table of areas. Include information regarding the open area at the western side and corner of the site. • Remove any detention basin treatment nodes. • Undertake stormwater quality modelling in accordance with the most current version of the MUSIC Modelling Guidelines for South East Queensland and provide electronic copies of the MUSIC files to Council. <p>Notes:</p> <ol style="list-style-type: none"> 1. The Stormwater Management Report must be prepared by a suitably qualified and experienced RPEQ. 2. The current design standards and relevant planning scheme codes are: <ol style="list-style-type: none"> a. Planning Scheme Policy 4 - Design and Development Manual; and b. Stormwater Code. 	
B	<p>Implement the works identified in the approved Stormwater Management Plan and provide certification from an RPEQ that all works have been designed and constructed in accordance with this permit condition.</p> <p>Provide Council with "As Built" drawings and specifications of the stormwater management devices certified by an RPEQ</p>	<p>Prior to lodging a request for compliance assessment of subdivision plans or commencement of use - whichever occurs first.</p>
29	Overland Flow Management	
	<ol style="list-style-type: none"> 1. Provide measures to properly manage overland flows draining to and through the land to ensure no nuisance or annoyance is created to any person or premises as a result of the development. The development must not result in any increased ponding on adjacent land, redirection of overland flows to other premises or blockage of an overland flow relief path for flows exceeding the design flows for any underground system within the development. 2. The major and minor drainage systems through the subject land are to be designed to cater for a fully developed (in accordance with the planning scheme) upstream catchment. 	<p>All prior to commencement of use.</p>

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	<p>3. The roads, drainage pathways, drainage features and waterways safely convey the stormwater flows for the major storm event without causing actionable nuisance upon lots.</p> <p>4. Stormwater drainage infrastructure through or within private land is protected by easements in favour of Council (at no cost to Council) with easement areas and dimensions conforming to Council's standards.</p> <p>Note: The current design standards and relevant planning scheme codes are:</p> <ul style="list-style-type: none"> • Planning Scheme Policy Integrated Design; • Works Code. <p>This condition has been imposed under section 665 of the Sustainable Planning Act 2009.</p>	
30	Provision of Trunk Infrastructure –Stormwater Construction	
	<p>Provide the following necessary trunk infrastructure:</p> <ul style="list-style-type: none"> • SSC_DB_3, to be constructed beneath the elevated concrete slab as shown on the approved plans; • Varied pier dimensions to reflect the additional depth of excavation for the detention basin beneath the development; • Adequate under-slab clearance is to be provided to allow for access for Council's skid steer loader with 2.4m minimum clearance under croft height to be provided; • Allowance for Council's skid steer loader to enter and exit the basin in the south-western corner of the site with the required 2.4m height clearance to load within the 6m wide rear setback and park (access to be via park / drainage easement at rear); The floor of the detention basin is to be constructed from concrete and is to be clear of obstructions to enable the plant to efficiently remove the material to load the truck; • The floor of the detention basin is to be free draining and generally at the levels shown on Cardno plan 350186 - SK01 Revision A dated 18/11/2015; • The provision of easements in accordance with drawing titled "Easement Requirements Feb 2018" as included as Attachment A of this decision notice. and the requirements of the Planning Scheme (piers are to be placed at least 10 metres apart and are to be kept clear of the high hazard flow area). 	<p>Prior to site works associated with the use commencing.</p>

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	<p>Design and construct the works in accordance with Council's standards to meet the required standard of service nominated in the Local Government Infrastructure Plan (LGIP).</p> <p>The design must consider the requirements of the Stormwater Code and Planning Scheme Policy 4 - Design and Development Manual.</p> <p>The trunk infrastructure required under this condition is to be identified as the works for the detention basin SSC_DB_3:</p> <ul style="list-style-type: none"> (a) less works that would be required for a detention basin to accommodate the development; and (b) less the works required to facilitate the avoidance of the development in high hazard flow areas. 	
	<p>Notes:</p> <ol style="list-style-type: none"> 1. Where an offset amount or refund has not been stated in the relevant infrastructure charges notice issued with this approval the amount of any offset or refund will, unless agreed otherwise, be calculated based on the default methodology prescribed in section 4.1.4 of Statutory Guideline 03/14 and included in a subsequently amended infrastructure charges notice. 2. Operational works approval will be required from Council for these works. <p>This condition has been imposed under section 646 of the Sustainable Planning Act 2009.</p>	
31	Minimum Finished Floor Levels	
	<p>The finished floor level is to be located, designed and constructed to at least the Flood Planning Level as identified in Council's Planning Scheme.</p> <p>Note: The Flood Planning Level used for development can be obtained from the relevant section of the Flood Check Development Report available via Council's website: www.moretonbay.qld.gov.au.</p>	Prior to commencement of use.
32	Building Materials Below the Flood Planning Level	
A	<p>Building works which are below the Flood Planning Level are to be constructed from materials with a high water resistance.</p>	Prior to commencement of use
	<p>Notes:</p> <ol style="list-style-type: none"> 1. The Flood Planning Level used for development can be obtained from the relevant section of the Flood Check Development Report available via Council's website: www.moretonbay.qld.gov.au. 	

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	2. The Queensland Government Fact Sheet 'Rebuilding after a flood' provides information about water resilient products and building techniques. Available at www.hpw.qld.gov.au .	
33	Drainage Easement	
A	<p>Provide a drainage easement/s in Council's favour over the detention basin for the purposes of drainage, access and maintenance in accordance with drawing titled "Easement Requirements Feb 2018" as included as Attachment A of this decision notice, and the requirements of Planning scheme policy - Design and Development Manual, Stormwater Code and to the satisfaction of Council's Legal Services Department.</p> <p>The provision of easements beyond a width of 10m along the main drainage channel to be considered trunk infrastructure.</p>	Prior to any development application for operational works or building works - whichever occurs first.
B	The basin shall not be modified in any way without prior written approval from Council.	To be maintained.
34	Emergency/Risk and Maintenance Management Plan	
	<p>Submit and have approved by Council, an Emergency Management Plan.</p> <p>In particular the following issues must be addressed in the plan:</p> <ul style="list-style-type: none"> • Identify the locations and types of exclusion fencing and lighting to dissuade people from entering the detention basin. Such fencing could include collapsible or swing fencing. • Identify the locations and methods of security and surveillance of the detention basin. • Identify a suitable means of escape from the detention basin. This may include stairs from the detention basin to one-way exit doors and/or illuminated emergency exit signage at appropriate locations. • Provide an inspection schedule and management plan for corrective actions for the exclusion fencing. • Provide an inspection schedule for regular inspections and management plan for corrective actions to determine whether or not there is debris which requires removal. <p>Notes:</p> <ol style="list-style-type: none"> 1. The Emergency Management Plan must be prepared by a suitably qualified and experienced 	Prior to any development application for operational works or building works - whichever occurs first.

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	<p>Registered Professional Engineer of Queensland (RPEQ).</p> <p>2. The current design standards and relevant planning scheme codes are:</p> <p style="padding-left: 40px;">a. Planning Scheme Policy 4 - Design and Development Manual; and</p> <p style="padding-left: 40px;">b. Queensland Urban Drainage Manual.</p>	
B	<p>Implement the works identified in the approved Emergency Management Plan and provide certification from an RPEQ that all works have been designed and constructed in accordance with this permit condition.</p> <p>Provide Council with "As Built" drawings and specifications of the emergency management devices certified by an RPEQ.</p>	Prior to commencement of use and to be maintained.
C	<p>Monitor the detention basin and its associated works to ensure its ongoing effectiveness in accordance with the approved Emergency/Risk/Maintenance plan.</p>	At all times.
35	Development Timing	
	<p>There shall be no steps taken to progress the Development permitted under this approval, including the making of any related development application or the commencement of the Development:</p> <p style="padding-left: 20px;">(a) until after 12 October 2018; or</p> <p style="padding-left: 20px;">(b) in the event of the receipt by the owner of the land on or before 12 October 2018 of notice of the making of an application under section 9(1) of the Acquisition of Land Act 1967 for the taking of the land for the purpose of a regional detention basin on the land, until after the making of a decision by the relevant minister under section 9(5) of the Acquisition of Land Act 1967 in respect of the application under section 9(1) of the Acquisition of Land Act 1967;</p> <p style="padding-left: 20px;">whichever is the later.</p>	As specified in (a) and (b) of this condition.

ADVICES	
1	Aboriginal Cultural Heritage Act 2003
	<p>The <i>Aboriginal Cultural Heritage Act 2003</i> commenced in Queensland on April 16, 2004. Under the Act, indigenous parties are key in assessing cultural heritage significance.</p> <p>The <i>Aboriginal Cultural Heritage Act 2003</i> establishes a Duty of Care for indigenous cultural heritage. This applies on all land and water, including freehold land. The Cultural Heritage Duty of Care lies with the person or entity conducting the activity.</p> <p>Penalty provisions apply for failing to fulfil the Cultural Heritage Duty of Care.</p>

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	<p>Those proposing an activity that involves additional surface disturbance beyond that which has already occurred on the proposed site need to be mindful of the Duty of Care requirement.</p> <p>Details of how to fulfill the Duty of Care are outlined in the Duty of Care Guidelines gazetted with the Act.</p> <p>Council strongly advises that you contact the relevant state agency to obtain a copy of the Duty of Care Guidelines and further information on the responsibilities of developer under the terms of the <i>Aboriginal Cultural Heritage Act 2003</i>.</p>
2	Adopted Charges
	<p>Payment of an Adopted Infrastructure Charge in accordance with Council's Infrastructure Charges Resolution (No. 7) dated 11 December 2017 or as amended apply to this development approval.</p> <p>From 1 July 2014, Moreton Bay Regional Council no longer issues an Infrastructure Charges Notice on behalf of Unitywater for water supply and sewerage networks and therefore a separate Infrastructure Charges Notice may be issued directly to the applicant by Unitywater in respect to this development approval.</p> <p>Payment of Infrastructure Charges is to be in accordance with the Infrastructure Charges Notice issued with this development approval and any Infrastructure Charges Notice issued by Unitywater. From 1 July 2014, all Infrastructure Charges for infrastructure networks controlled by Unitywater (eg. water and/or sewerage) regardless of when the Infrastructure Charges Notice was issued are to be paid directly to Unitywater while Infrastructure Charges for networks controlled by Moreton Bay Regional Council will continue to be paid directly to Moreton Bay Regional Council.</p> <p>Note: The applicant may seek re-calculation of the Infrastructure Charges Notice to include any establishment costs as 'credits' within the notice, once the establishments cost can be ascertained.</p>
3	Food Premises - Food Business Licence Advice
	<p>In accordance with the Food Act 2006 the following must be submitted to Council prior to the commencement of construction or fit out of any licensable food business:</p> <ul style="list-style-type: none"> (a) An application for food business licence. (b) Plans and elevations (refer to note below). (c) Supporting documentation. (d) Relevant fee. <p>Please Note: The application is assessed against the provisions of the <i>Food Act 2006, Australia and New Zealand Food Standards Code</i> and <i>AS 4674 – Design, construction and fit-out of food premises</i>.</p>
4	Concurrence Agency Conditions
	<p>Comply with the conditions of Department of Infrastructure, Local Government and Planning response dated 19 February 2017 (reference: SDA-0415-020110) or as amended.</p>

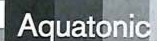
ITEM 2.1 - #4 PROPOSED RESUMPTION FOR DRAINAGE PURPOSES - 134 MORAYFIELD ROAD, CABOOLTURE SOUTH - LOT 5 ON RP88015 - DIVISION 3 (Cont.)



Locality Plan - 140 Morayfield Road Caboolture
nts

15

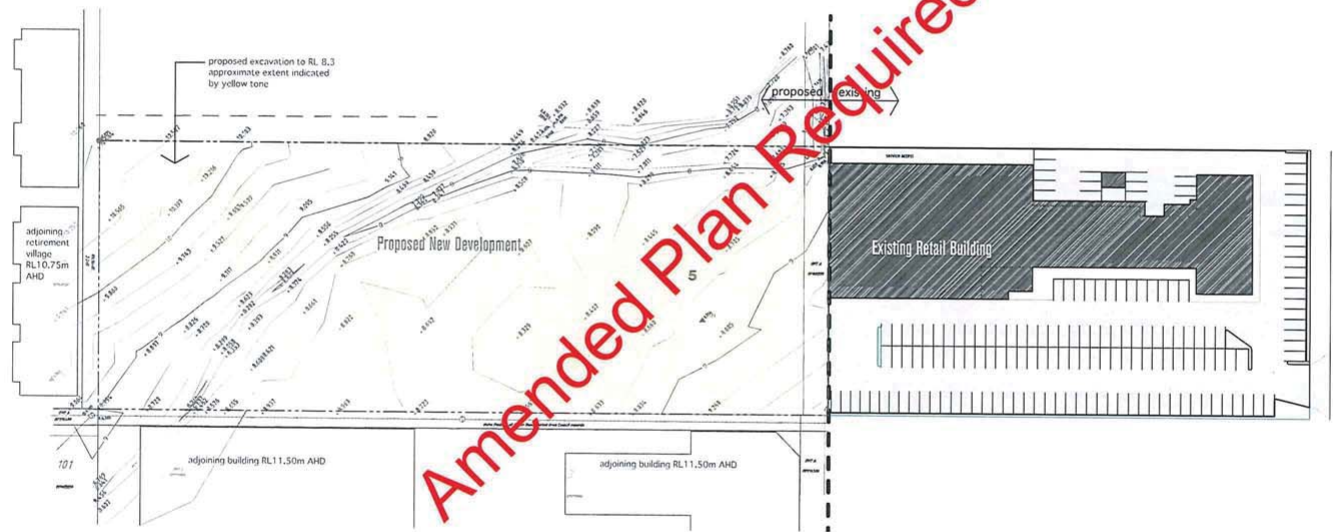
	G. Lowe Group of Companies Client	Proposed Retail Center Project	140 Morayfield Road CABOOLTURE Location	Locality Plan Drawing	12/1/17 Date	Revised Issue for Approval Date required for information	Not for Construction	mg to
					LU Drawn	MG Checked	NTS Scale	A3 paper size
© 2013 A&N 92119766986					81 Lugg Street, BARKDON QLD 4066, BRISBANE AUSTRALIA 4117 3366 2633			



ITEM 2.1 - #4 PROPOSED RESUMPTION FOR DRAINAGE PURPOSES - 134 MORAYFIELD ROAD, CABOOLTURE SOUTH - LOT 5 ON RP88015 - DIVISION 3 (Cont.)

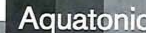
DEVELOPMENT DATA
RPD L 5
RP 88015

EXISTING DEVELOPMENT
Approx. GFA 2600m²
150 cars provided



16

	G. Lowe Group of Companies Client	Proposed Retail Center Project	140 Morayfield Road CABOOLTURE Location	Existing Site Plan Drawing	F 12/1/17 E 16/2/18 Revised leave for approval. Extent of excavation added DA request for information	mg lu
					LU Checked MG scale 1:1000 A3 Mar 15 © 2015 ARN 92119766988	



ITEM 2.1 - #4 PROPOSED RESUMPTION FOR DRAINAGE PURPOSES - 134 MORAYFIELD ROAD, CABOOLTURE SOUTH - LOT 5 ON RP88015 - DIVISION 3 (Cont.)

DEVELOPMENT DATA

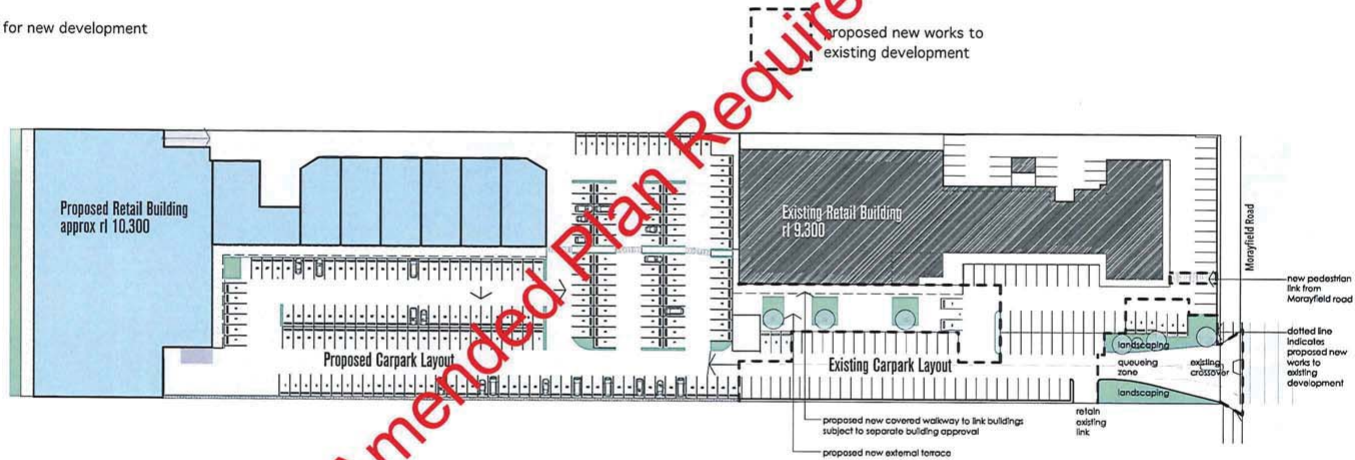
RPD L 5
RP 88015

EXISTING DEVELOPMENT

Approx. GFA 2600m²
150 cars provided
20 extra cars provided

NEW DEVELOPMENT

Total GFA for tenancies 4375m²
18 cars lost to existing development
218 cars required
220 cars provided for new development



17

	G. Lowe Group of Companies	Proposed Retail Center	140 Morayfield Road CABOOLTURE	General Site Arrangement	F 12/1/17 E 9/2/15 Revised Issue for Approval Dik request for Information	Not for Construction	mg lu
	Client	Project	Location	Drawing	shown LU checked MG scale 1:1000 paper size A3 date Mar 15 job number AT 1417 drawing number DA03 revision F	Aquatonic	© 2010 ABN 9211956988 61 Lugd Street BARDON Q-4033 BRISBANE AUSTRALIA +617 3268 2633

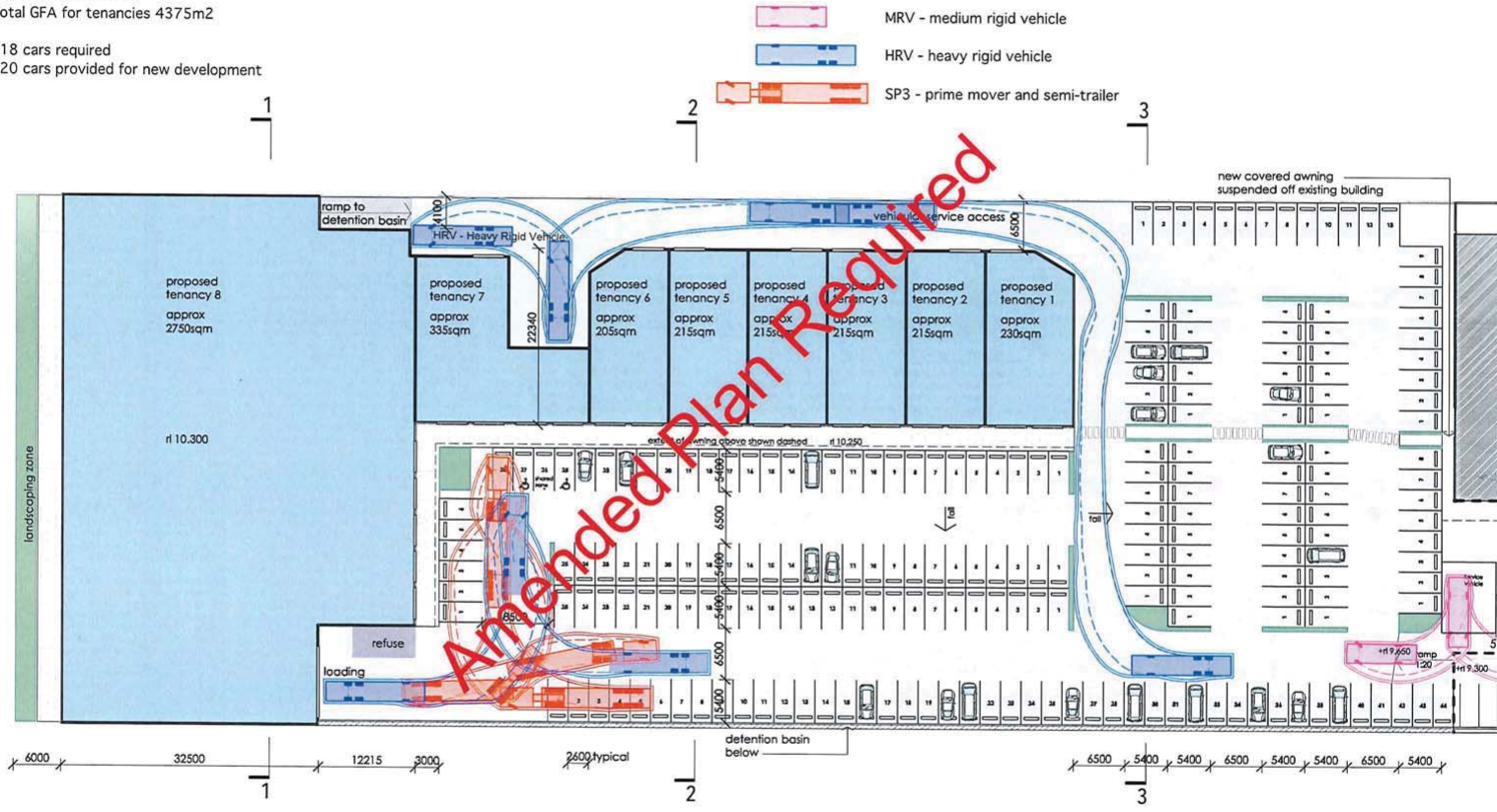
ITEM 2.1 - #4 PROPOSED RESUMPTION FOR DRAINAGE PURPOSES - 134 MORAYFIELD ROAD, CABOOLTURE SOUTH - LOT 5 ON RP88015 - DIVISION 3 (Cont.)

DEVELOPMENT DATA

Total GFA for tenancies 4375m²

218 cars required

220 cars provided for new development



18

	G. Lowe Group of Companies Client	Proposed Retail Center Project	140 Morayfield Road CABOOLTURE Location	New Development Plan Drawing	Date: 12/1/17 Status: E Note: Revised Issue for Approval DA Request for Information	Scale: 1:500 Date: A3 Mar 15 Job number: AT 1417 Dwg number: DA04 Revision: F	Not for Construction	Date: 12/1/17 Status: E Note: Revised Issue for Approval DA Request for Information
					Checked: MG Scale: 1:500 Date: A3 Mar 15 Job number: AT 1417 Dwg number: DA04 Revision: F			

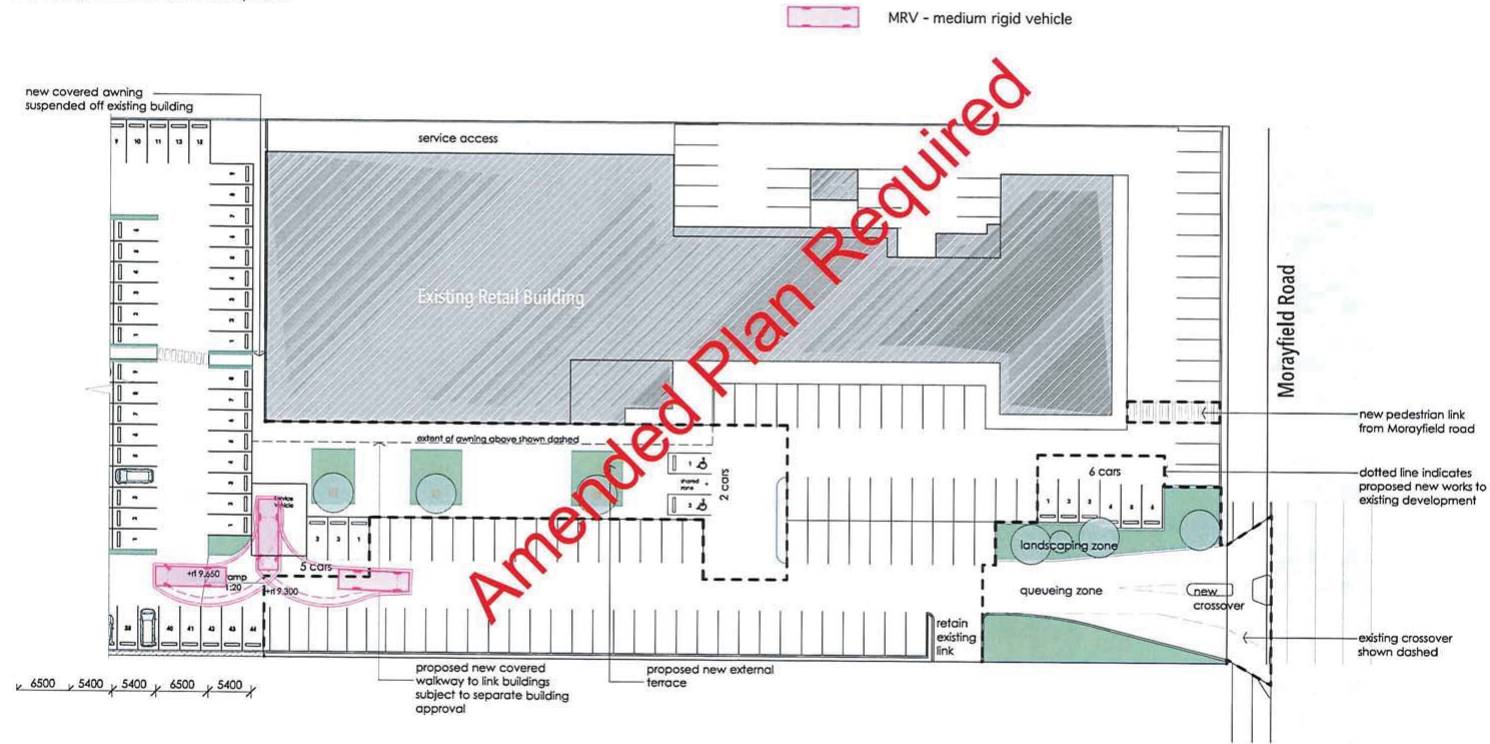
© 2013 AARN 921197667958 81 Lugd Street, BAYCON Q 4002, BRISBANE AUSTRALIA +617 3358 2633

Aquatic

ITEM 2.1 - #4 PROPOSED RESUMPTION FOR DRAINAGE PURPOSES - 134 MORAYFIELD ROAD, CABOOLTURE SOUTH - LOT 5 ON RP88015 - DIVISION 3 (Cont.)

DEVELOPMENT DATA

Total GFA for tenancies 4375m²
18 cars lost to existing development (20 in excess)
218 cars required for new development
220 cars provided for new development



19

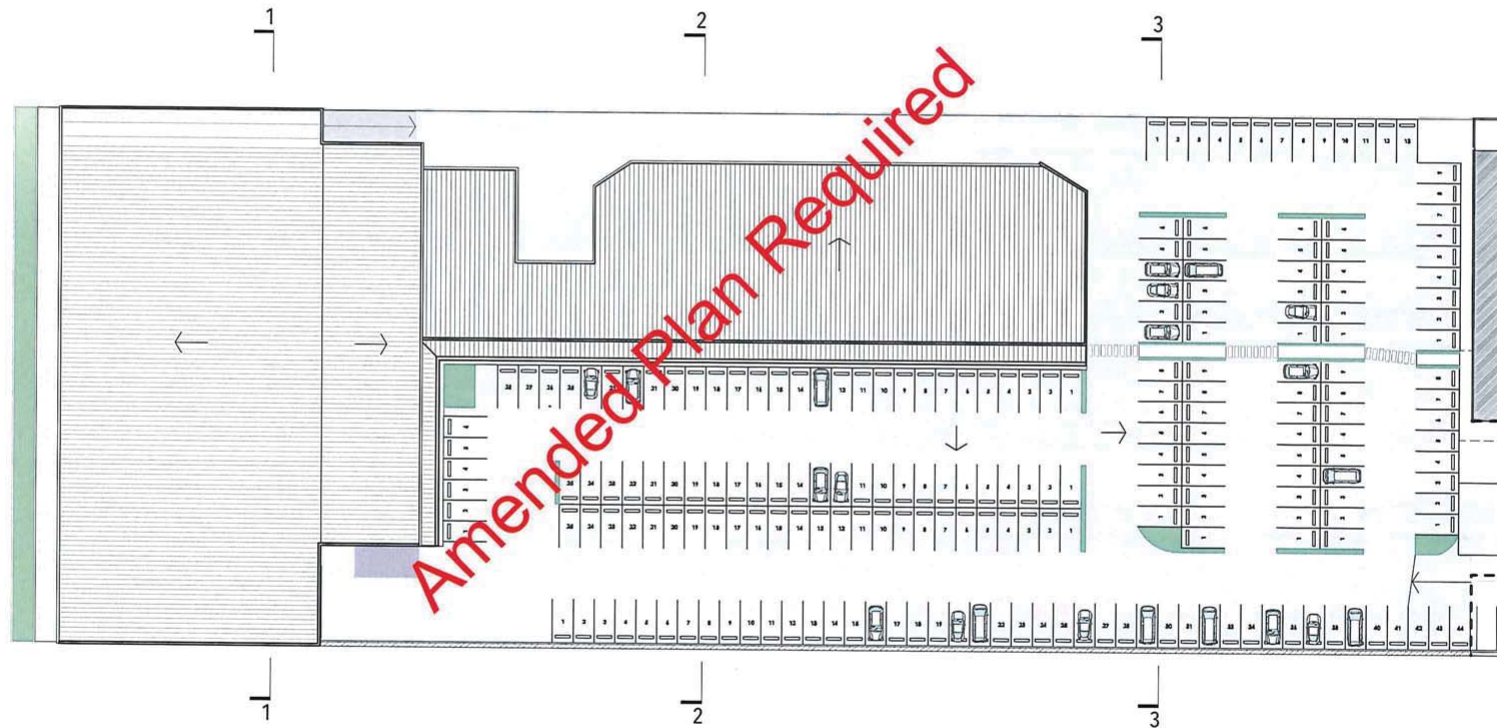
	G. Lowe Group of Companies Client	Proposed Retail Center Project	140 Morayfield Road CABOOLTURE Location	New Development Plan Drawing	F 12/1/17 Revised Issue for Approval	mg lu
					E 10/2/15 DA Request for Information	F 10/2/15 Not for Construction
Scale: 1:500 Date: A3 Mar 15 Job Number: AT 1417 Drawing Number: DA05 Revision: F					© 2015 ARN 92119968928 41 Lugg Street, BARDON QLD 4005, BRISBANE AUSTRALIA +617 3368 2833 	

Moreton Bay Regional Council

COORDINATION COMMITTEE MEETING
18 September 2018

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ITEM 2.1 - #4 PROPOSED RESUMPTION FOR DRAINAGE PURPOSES - 134 MORAYFIELD ROAD, CABOOLTURE SOUTH - LOT 5 ON RP88015 - DIVISION 3 (Cont.)



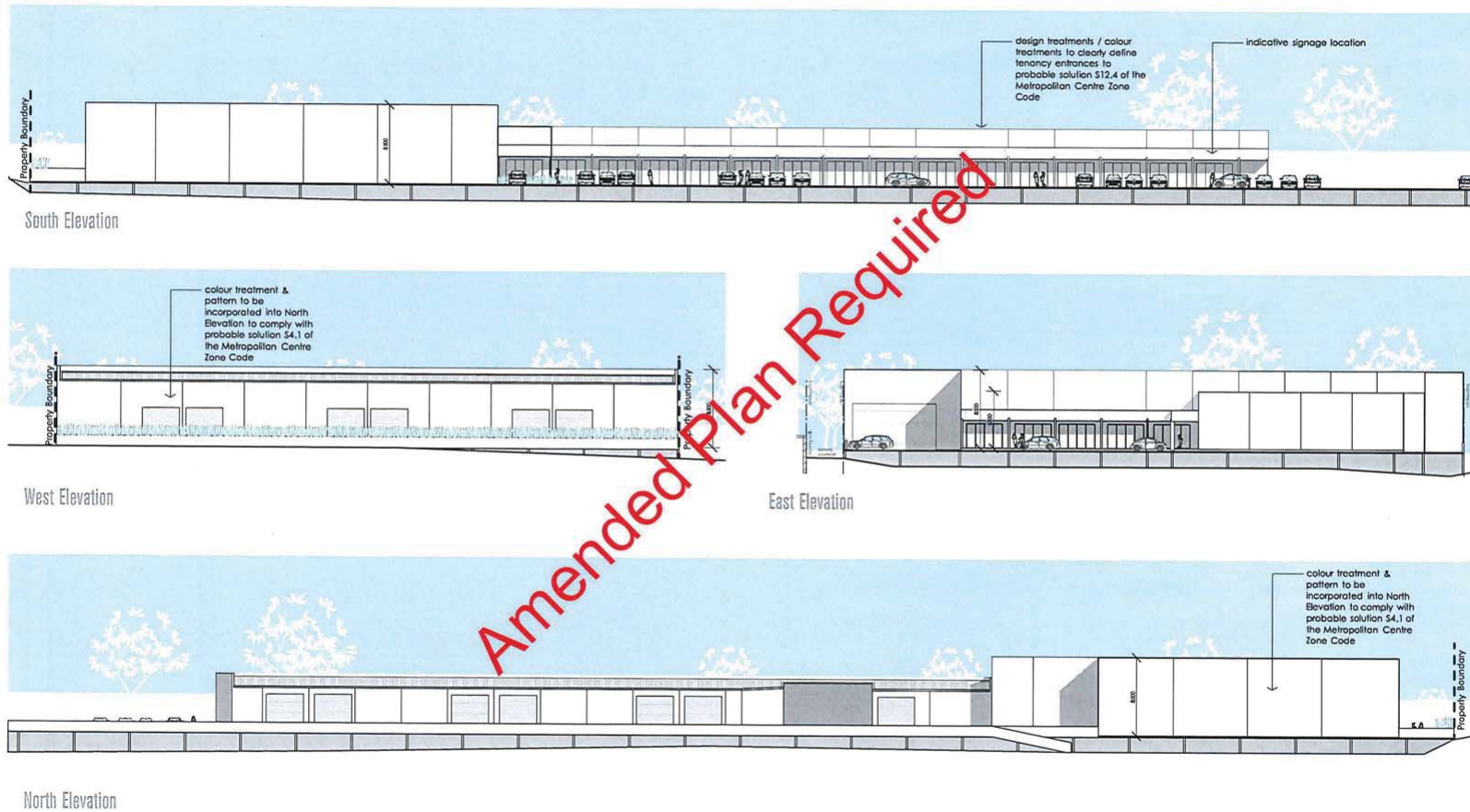
20

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					© 2013 ABN 92119966988 61 Lugg Street BARKON Q 4063 BREBANE AUSTRALIA +617 3368 2833			

COORDINATION COMMITTEE MEETING
18 September 2018

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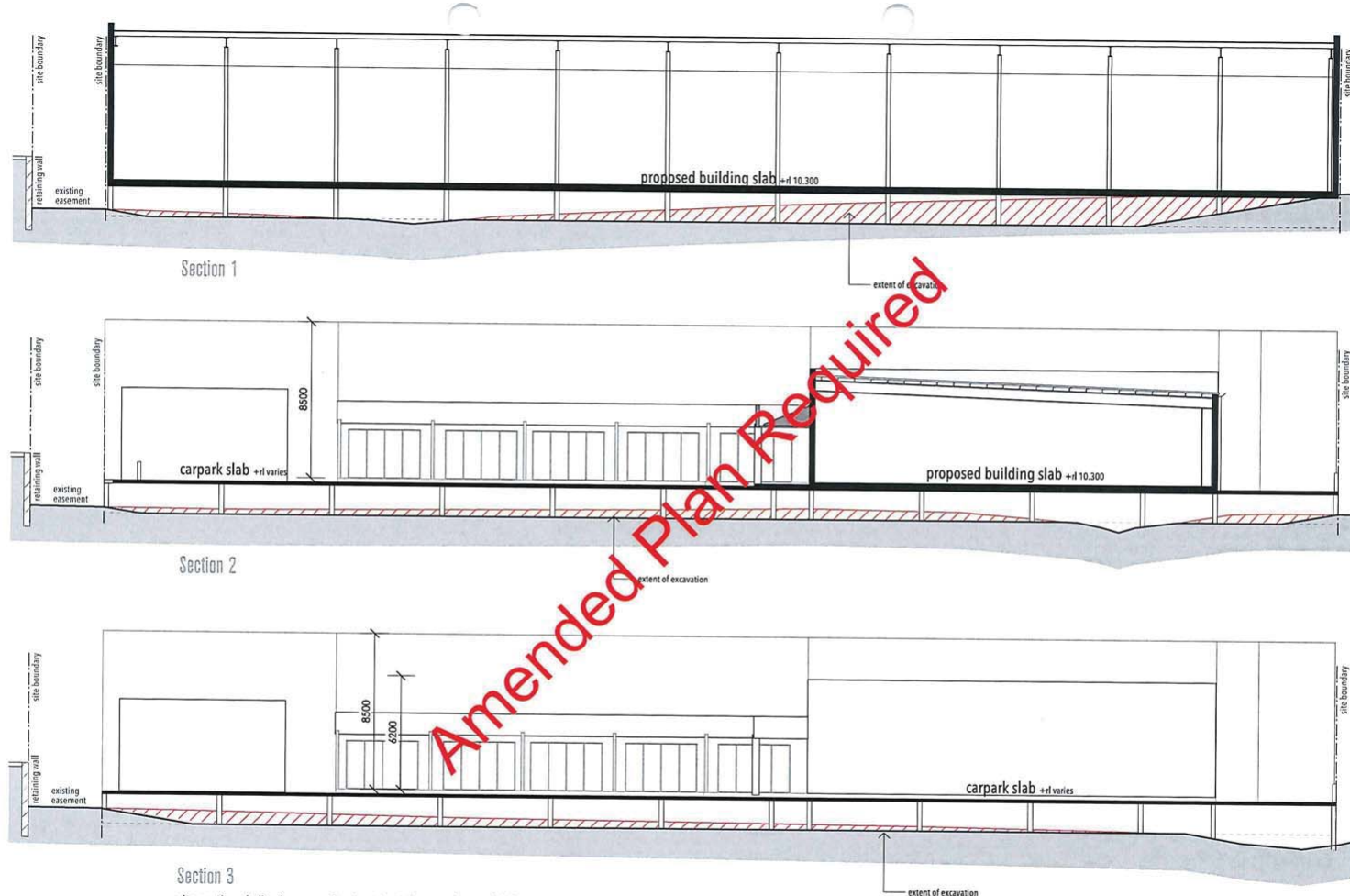
ITEM 2.1 - #4 PROPOSED RESUMPTION FOR DRAINAGE PURPOSES - 134 MORAYFIELD ROAD, CABOOLTURE SOUTH - LOT 5 ON RP88015 - DIVISION 3 (Cont.)



21

	G. Lowe Group of Companies Client	Proposed Retail Center Project	140 Morayfield Road CABOOLTURE Location	Elevations Drawing	F 12/1/17 E 10/12/15 Scale per date Status: MC Not for Construction	Revised issue for Approval DA request for information	mg lu
					1:400 A3 Mar 15 © 2015 ARN 92119760968	Job number: AT 1417 \$1 Lugg Street BAYDON G 4003 BRISBANE AUSTRALIA +617 5368 7833	Job number: DA07 Revision: F

ITEM 2.1 - #4 PROPOSED RESUMPTION FOR DRAINAGE PURPOSES - 134 MORAYFIELD ROAD, CABOOLTURE SOUTH - LOT 5 ON RP88015 - DIVISION 3 (Cont.)



Section 3
site sections indicating approximate extent of excavation to rl 8.3
suspended slab supports indicative only, structural system indicative only
piles to be min. 10m apart and no piles to be located within the high risk
area of the Flood Hazard Overlay

22

	G. Lowe Group of Companies	Proposed Retail Center	140 Morayfield Road CABOOLTURE	Sections	F 13/1/17 E 17/2/16 Issue LU MG 1:200 A3 Mar 15 © 2015 A/N F 211/9946/68	Revised Issue for Approval DA required for information Not for Construction 100 number AT 1417 1000 number DA08 10000 number F © 1 Lugg Street BARDON Q 4008 BRISBANE AUSTRALIA +617 3338 2633	mg lu 100 1000 10000
	Client	Project	Location	Drawing			

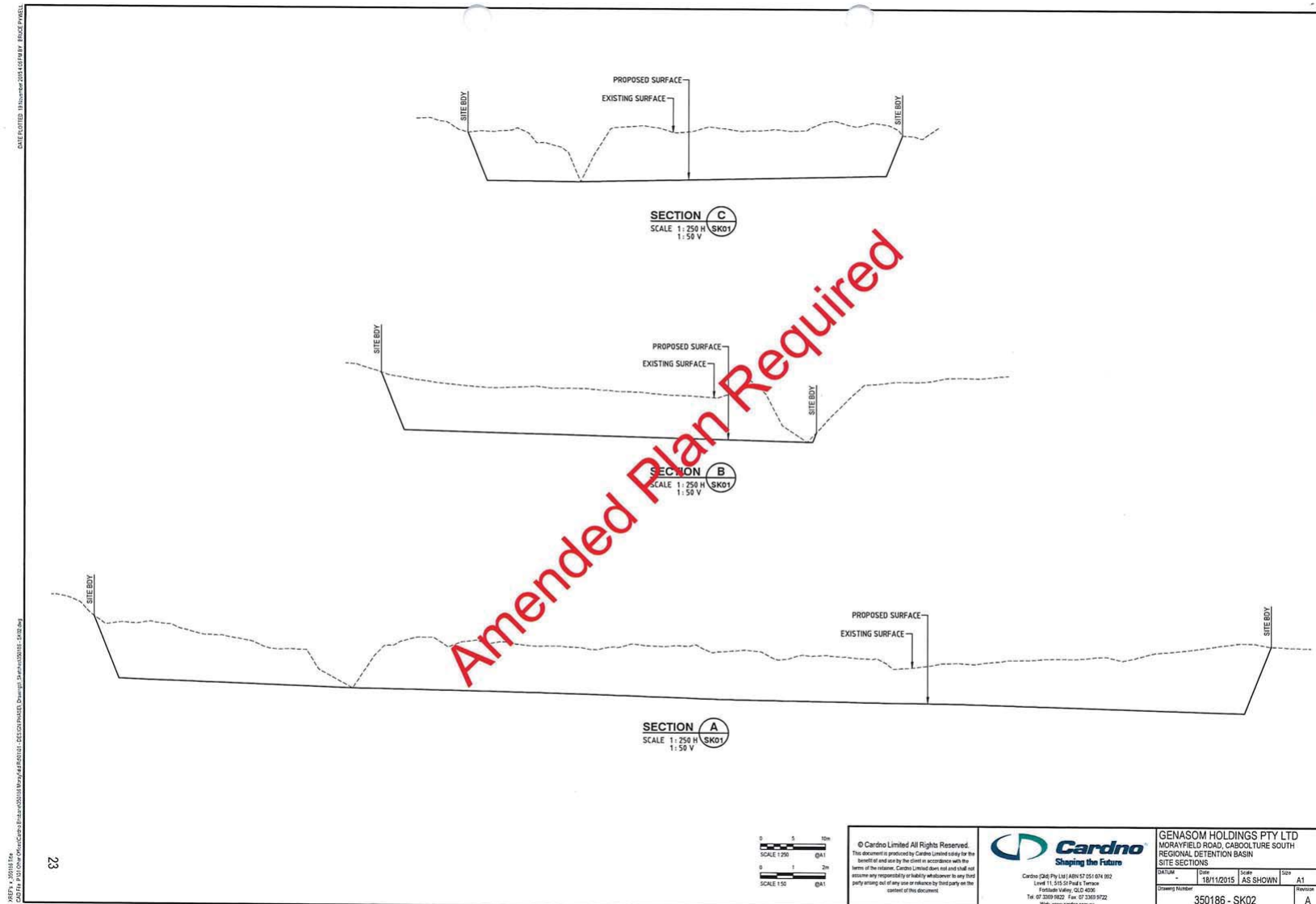
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ITEM 2.1 - #4 PROPOSED RESUMPTION FOR DRAINAGE PURPOSES - 134 MORAYFIELD ROAD, CABOOLTURE SOUTH - LOT 5 ON RP88015 - DIVISION 3 (Cont.)



22A

ITEM 2.1 - #4 PROPOSED RESUMPTION FOR DRAINAGE PURPOSES - 134 MORAYFIELD ROAD, CABOOLTURE SOUTH - LOT 5 ON RP88015 - DIVISION 3 (Cont.)



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GENASOM HOLDINGS PTY LTD MORAYFIELD ROAD, CABOOLTURE SOUTH REGIONAL DETENTION BASIN SITE SECTIONS			
DATE:	18/11/2015	DATE:	AS SHOWN
DRAWING NUMBER:	350186 - SK02	DATE:	A1

ITEM 2.1 - #4 PROPOSED RESUMPTION FOR DRAINAGE PURPOSES - 134 MORAYFIELD ROAD,
CABOOLTURE SOUTH - LOT 5 ON RP88015 - DIVISION 3 (Cont.)

130-140 Morayfield Rd,
● Caboolture South

Stormwater Management Plan

3501-86

Prepared for
Genasom Holdings Pty Ltd

30 March 2015

Amended Plan Required



ITEM 2.1 - #4 PROPOSED RESUMPTION FOR DRAINAGE PURPOSES - 134 MORAYFIELD ROAD, CABOOLTURE SOUTH - LOT 5 ON RP88015 - DIVISION 3 (Cont.)

130-140 Morayfield Rd, Caboolture South
Stormwater Management Plan



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Prepared for Genasom Holdings Pty Ltd
Project Name 130-140 Morayfield Rd, Caboolture South
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Date 30 March 2015

Document Control

Version	Date	Description of Revision	Prepared By	Prepared (Signature)	Reviewed By	Reviewed (Signature)
1	30 March 2015		YY		MD	

Version	Reason for Issue	Approved for Release By	Approved (Signature)	Approved Release Date

Amended Plan Required

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ITEM 2.1 - #4 PROPOSED RESUMPTION FOR DRAINAGE PURPOSES - 134 MORAYFIELD ROAD, CABOOLTURE SOUTH - LOT 5 ON RP88015 - DIVISION 3 (Cont.)

130-140 Morayfield Rd, Caboolture South
Stormwater Management Plan



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Figure 1 Stormwater Management Plan

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Appendix B	Stormwater 360 Details
Appendix C	SPP Code

ITEM 2.1 - #4 PROPOSED RESUMPTION FOR DRAINAGE PURPOSES - 134 MORAYFIELD ROAD,
CABOOLTURE SOUTH - LOT 5 ON RP88015 - DIVISION 3 (Cont.)

130-140 Morayfield Rd, Caboolture South
Stormwater Management Plan



1 Introduction

It is proposed to develop a Commercial Use site on land located at 130-140 Morayfield Road, Caboolture South. The location of the site is shown in the Locality Plan below with the proposed development layout presented in Appendix A.

The eastern portion of the site has already been developed. The proposed development referenced in this report is located adjacent to the existing shopping centre complex in the eastern portion of the site and has a total area of approximately 1.2 hectares.



Locality Plan
(Source: Google Maps)

This Stormwater Management Plan has been prepared to ensure that appropriate management of the quality of stormwater discharging from the site complies with the following requirements:

- Moreton Bay Regional Council (MBRC) Policies and Guidelines;
- *State Planning Policy* (Department of State Development, Infrastructure and Planning (DSDIP), July 2014;
- Standard engineering procedures; and
- Incorporates current Best Management Practices and Water Sensitive Urban Design (WSUD) principles.

The SMP in this report provides detailed information about the proposed management of stormwater quality from the development site and aims to demonstrate compliance with the relevant Water Quality Objectives.

ITEM 2.1 - #4 PROPOSED RESUMPTION FOR DRAINAGE PURPOSES - 134 MORAYFIELD ROAD, CABOOLTURE SOUTH - LOT 5 ON RP88015 - DIVISION 3 (Cont.)

130-140 Morayfield Rd, Caboolture South
Stormwater Management Plan



2 Stormwater Quality Management

Stormwater quality produced from the developed site is to comply with the following criteria:

The total effect of permanent water quality control measures achieve reductions in the mean annual load generated by the development site to a minimum of:

- i. 80% for Total Suspended Sediment (TSS);
- ii. 45% for Total Nitrogen (TN);
- iii. 60% for Total Phosphorus (TP); and
- iv. 90% reduction in gross pollutants.

The above criteria are the same as the current applicable *State Planning Policy (SPP) (DSDIP, 2014)*. In line with adopting current Best Practice, the SPP objectives detailed below have been adopted for this assessment.

2.1 Applicable Objectives

The *State Planning Policy (DSDIP, 2014)* provides the following construction and post-construction phase stormwater management design objectives as shown in Table 2-1 and Table 2-2.

Table 2-1 SPP Table A - Construction Phase Design Objectives

Issue			Design Objective
Drainage Control	Temporary Works	Drainage	1. Design life and design storm for temporary drainage works: <ul style="list-style-type: none"> • Disturbed area open for <12 months—1 in 2-year ARI event • Disturbed area open for 12–24 months—1 in 5-year ARI event • Disturbed area open for > 24 months—1 in 10-year ARI event 2. Design capacity excludes minimum 150 mm freeboard 3. Temporary culvert crossing—minimum 1 in 1-year ARI hydraulic capacity
Erosion Control	Erosion Control Measures		1. Minimise exposure of disturbed soils at any time 2. Divert water run-off from undisturbed areas around disturbed areas 3. Determine the erosion risk rating using local rainfall erosivity, rainfall depth, soil-loss rate or other acceptable methods 4. Implement erosion control methods corresponding to identified erosion risk rating
Sediment Control	Sediment control measures Design storm for sediment control basins Sediment basin dewatering		1. Determine appropriate sediment control measures using: <ul style="list-style-type: none"> • potential soil loss rate, or • monthly erosivity, or • average monthly rainfall 2. Collect and drain stormwater from disturbed soils to sediment basin for design storm event: <ul style="list-style-type: none"> • design storm for sediment basin sizing is 80th% five-day event or similar 3. Site discharge during sediment basin dewatering: <ul style="list-style-type: none"> • TSS < 50 mg/L TSS, and • Turbidity not >10% receiving waters turbidity, and • pH 6.5–8.5

ITEM 2.1 - #4 PROPOSED RESUMPTION FOR DRAINAGE PURPOSES - 134 MORAYFIELD ROAD, CABOOLTURE SOUTH - LOT 5 ON RP88015 - DIVISION 3 (Cont.)

130-140 Morayfield Rd, Caboolture South
Stormwater Management Plan



Issue		Design Objective
Water Quality	Litter and other waste, hydrocarbons and other contaminants	<ol style="list-style-type: none"> 1. Avoid wind-blown litter; remove gross pollutants 2. Ensure there is no visible oil or grease sheen on released waters 3. Dispose of waste containing contaminants at authorised facilities
Waterway Stability and Flood Flow Management	Changes to the natural waterway hydraulics and hydrology	For peak flow for the 1-year and 100-year ARI event, use constructed sediment basins to attenuate the discharge rate of stormwater from the site

Table 2-2 SPP Table B - Post-Construction Phase Design Objectives

Climatic Region	Design Objective	Application
South East Queensland	<p>The development is required to achieve the following minimum reductions in total pollutant load, compared with that in untreated stormwater runoff, from the developed part of the site:</p> <ul style="list-style-type: none"> • 80% reduction in total suspended solids • 60% reduction in total phosphorus • 45% reduction in total nitrogen • 90% reduction in gross pollutants 	<p>Development for urban purposes within population centres greater than 3000 persons</p> <p>Excludes development that is less than 25% impervious. In lieu of modelling, the default bio-retention treatment area to comply with load reduction targets for all Queensland regions is 1.5% of the contributing catchment area.</p>
All	<p>Waterway stability management</p> <ul style="list-style-type: none"> • Limit the peak 1 year ARI event discharge within receiving waterway to the pre-development peak 1 Year ARI event discharge 	<p>Catchments contributing to un-lined receiving waterway. Local government may not require compliance if the waterway is degraded.</p> <p>The results from Cardno's flood study of the site, <i>130-140 Morayfield Rd, Caboolture South – Flood Study (20 March 2015)</i>, demonstrate that the proposed development causes a negligible change in peak discharge in the waterway downstream of the site (i.e. just downstream of Morayfield Road) for all ARI flood events. This finding is consistent with the fact that the proposed works will slightly increase the flood storage volume on the site.</p>

Amended Plan Required

2.2 Construction Phase Water Quality

During the construction phase, the potential exists for increases in the amount of pollutants, particularly sediment, exported from the site. During this period, an Erosion and Sediment Control Plan will be required as part of the overall Environmental Management Plan prepared for the construction phase.

It is considered that the completion of construction activities in accordance with an Erosion and Sediment Control Plan developed using the following guidelines will minimise the nature of any adverse impacts during the construction phase.

- *Best Practice Erosion & Sediment Control 2008* International Erosion Control Association Australasia; and.
- Institution of Engineers Australia. 1996, *Soil Erosion and Sediment Control, Engineering Guidelines for Queensland Construction Sites*. June.

ITEM 2.1 - #4 PROPOSED RESUMPTION FOR DRAINAGE PURPOSES - 134 MORAYFIELD ROAD, CABOOLTURE SOUTH - LOT 5 ON RP88015 - DIVISION 3 (Cont.)

130-140 Morayfield Rd, Caboolture South
Stormwater Management Plan



2.3 Post-Construction Phase Water Quality

2.3.1 Stormwater Management Practices

The formulation and implementation of the water quality management plan for the development is based on the following key principles:

- Adoption of Water Sensitive Urban Design (WSUD) principles throughout the site. This includes consideration of features such as preventing the concentration of flow in downstream areas and the use of constructed wetland systems to manage runoff water quality.
- Management and control of water quality both during and after construction. A detailed Erosion and Sedimentation Control Plan will need to be developed in accordance with recognised standards during the detailed design phase and implemented on site during the subdivision construction process.

2.3.2 Proposed Stormwater Quality Treatment Train

For commercial developments of this nature, typical stormwater quality treatment measures generally consist of the use of bio-retention systems or proprietary treatment devices (maintained and operated by the owner of the development).

To provide some initial guidance to the respective future lot owners the State Planning Policy provides the following option for sizing the bio-retention area:

"In lieu of modelling, the default bio-retention treatment area to comply with load reduction targets for all Queensland regions is 1.5% of the contributing catchment area."

For a total development area of 1.2ha, the required bio-retention treatment area would be approximately 180m². It should be noted that this area is for the filter area and does not include allowance for batters, sediment forebays (if the contributing catchment area is sufficiently large to warrant a forebay) or other maintenance related requirements.

While the current development layout does not specifically detail the proposed landscape areas, which could be utilised as treatment areas, throughout the site, it is preferable to minimise the number of individual bio-retention devices for both maintenance and cost efficiency.

Given that the site will be privately managed and not handed over to Council, it is proposed to utilise a proprietary system to treat the stormwater runoff generated from the development.

For design purposes, the StormFilter360 system was considered. It is noted that an alternate system may be substituted by the contractor provided it can be demonstrated that the alternate system can achieve the water quality objectives applicable to the site and the system is acceptable to Council.

The StormFilter360 treatment system comprises EnviroPods to provide pre-treatment, followed by the StormFilter Cartridge system. Each of these measures is described below.

• **EnviroPod**

Being inserted into the gully pits, EnviroPods will be used as pre-treatment devices to treat the runoff from roofs, carparks, driveways and other hardstand areas, before being further treated via the StormFilter cartridge system. A total of eleven (11) EnviroPods are proposed to be installed across the site.

The EnviroPods were modelled as a Gross Pollutant Trap providing pollutant reduction of 75.2%, 30%, 21% and 100% for TSS, TP, TN and GP respectively. These figures were advised by the product manufacturer based on their testing.

• **StormFilter Cartridge**

The StormFilter Cartridge is a stormwater filtration device integrated into the manhole as the final treatment measure. It is proposed to use a total of thirty (30) 690mm StormFilter Cartridges. The StormFilter cartridges were modelled as a generic treatment device providing pollutant reductions of 90.8%, 56%, 36% and 100% for TSS, TP, TN and GP respectively. These figures were advised by the product manufacturer based on their testing of the performance of the devices.

ITEM 2.1 - #4 PROPOSED RESUMPTION FOR DRAINAGE PURPOSES - 134 MORAYFIELD ROAD, CABOOLTURE SOUTH - LOT 5 ON RP88015 - DIVISION 3 (Cont.)

130-140 Morayfield Rd, Caboolture South
Stormwater Management Plan



Table 2-3 Stormwater 360 Treatment System

EnviroPod 200 Units	StormFilter Units
11	2 x 15 Cartridge 690mm Manhole StormFilter

It is noted that rainwater tanks for re-use of rainwater do not form part of the current treatment chain and are no longer required due to the recent changes to the Queensland Development Code.

2.3.3 Design and Performance of Treatment Measures

In order to determine the effectiveness of the adopted treatment train in meeting the WQOs, a stormwater quality analysis was performed using the Model for Urban Stormwater Improvement Conceptualisation (MUSIC) Version 6.1.0.

The model requires the user to specify meteorological data (rainfall and evaporation), soil properties and pollutant loads for each catchment. Suitable parameters for the MUSIC model have been adopted in accordance with the recommendations of Water by Design *MUSIC Modelling Guidelines (Version 1) – 2010*.

The rainfall data corresponding to the Dayboro Post Office rainfall station was input to the model, with a 6 minute time step over the period 1 January 1989 to 31 December 1989, as per the recommendations of the Water by Design *MUSIC Modelling Guidelines (Version 1) – 2010*.

The Commercial Source node has been adopted within the MUSIC modelling. Further, the development has been divided into roof areas (total 0.48ha), car park and driveway areas (total 0.54ha) and balance ground (0.06ha) based on the supplied development layout.

The pollutant export parameters adopted are shown in Table 2-4.

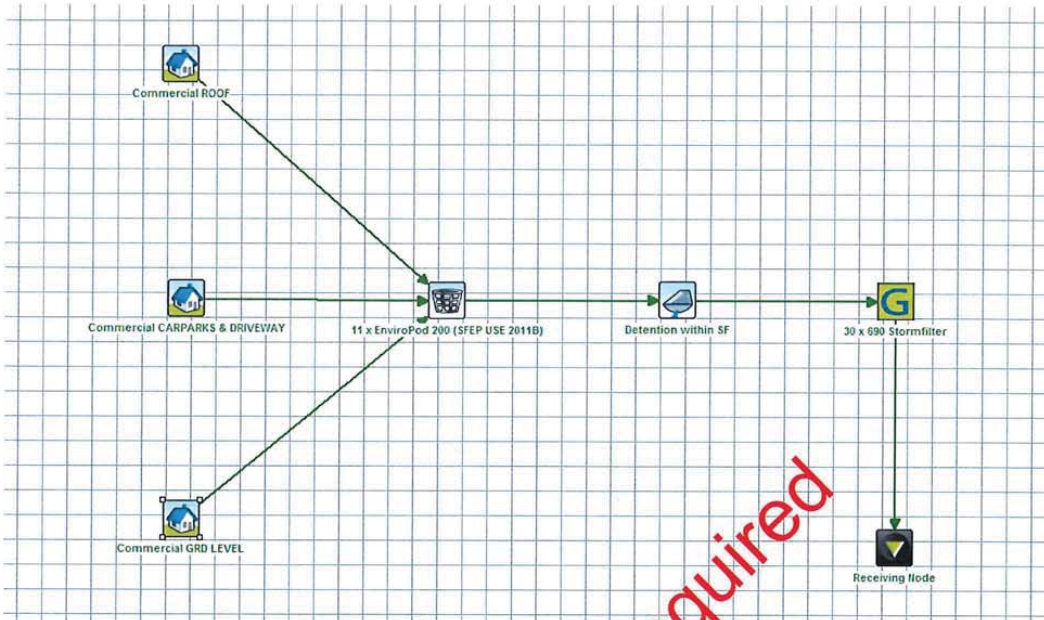
Table 2-4 Pollutant Export Parameters (baseflow) for Split Catchment Commercial (log₁₀ values)

Source Node		TSS (log ₁₀ values)		TP (log ₁₀ values)		TN (log ₁₀ values)	
		Mean	St. Dev.	Mean	St. Dev.	Mean	St. Dev.
Baseflow	Roads (car parks)	0.78	0.39	-0.60	0.50	0.32	0.30
	Ground Level	0.78	0.39	-0.60	0.50	0.32	0.30
Stormflow	Roof	1.30	0.38	-0.89	0.34	0.37	0.34
	Roads (car parks)	2.43	0.38	-0.30	0.34	0.37	0.34
	Ground Level	2.16	0.38	-0.39	0.34	0.37	0.34

The conceptual MUSIC model details are shown below with typical device drawings shown in Appendix B.

ITEM 2.1 - #4 PROPOSED RESUMPTION FOR DRAINAGE PURPOSES - 134 MORAYFIELD ROAD, CABOOLTURE SOUTH - LOT 5 ON RP88015 - DIVISION 3 (Cont.)

130-140 Morayfield Rd, Caboolture South
Stormwater Management Plan



Conceptual MUSIC Model

The results of the MUSIC modelling, shown as total annual loads, are presented in Table 2-5.

Table 2-5 Predicted Stormwater Discharge Characteristics with Stormwater 360 Treatment

Parameter	Generated Load	Post-development (Mitigated) Load	% Reduction
TSS (kg/yr)	2,756	278	89.9
TP (kg/yr)	5.53	1.92	65.5
TN (kg/yr)	49.7	21.7	45.3
Gross Pollutants (kg/yr)	284	0	100

The results presented above demonstrate that the proposed stormwater treatment measures for the development will satisfy the adopted Water Quality Objectives for all pollutants modelled in MUSIC and therefore the State Planning Policy criteria for water quality have been appropriately addressed.

A detailed response to SPP Code: Water Quality has also been prepared and is included in Appendix C.

ITEM 2.1 - #4 PROPOSED RESUMPTION FOR DRAINAGE PURPOSES - 134 MORAYFIELD ROAD,
CABOOLTURE SOUTH - LOT 5 ON RP88015 - DIVISION 3 (Cont.)

130-140 Morayfield Rd, Caboolture South
Stormwater Management Plan



3 Conclusions

A stormwater management plan has been prepared for the proposed development at 130-140 Morayfield Road, Caboolture South. The stormwater management plan is required to demonstrate that the adverse impacts of the proposed development on stormwater quality can be effectively ameliorated to satisfy Moreton Bay Regional Council and State Planning Policy requirements.

The proposed stormwater management plan for the development includes the use of a proprietary stormwater quality treatment system such as Stormwater360, to treat the runoff quality.

MUSIC modelling was used to estimate the pollutant reduction efficiency of the Stormwater360 system. MUSIC results have demonstrated that the proposed mitigation measures will ensure the development satisfies the stormwater quality objectives as required by Council and the State Planning Policy.

Amended Plan Required

ITEM 2.1 - #4 PROPOSED RESUMPTION FOR DRAINAGE PURPOSES - 134 MORAYFIELD ROAD,
CABOOLTURE SOUTH - LOT 5 ON RP88015 - DIVISION 3 (Cont.)

130-140 Morayfield Rd, Caboolture South

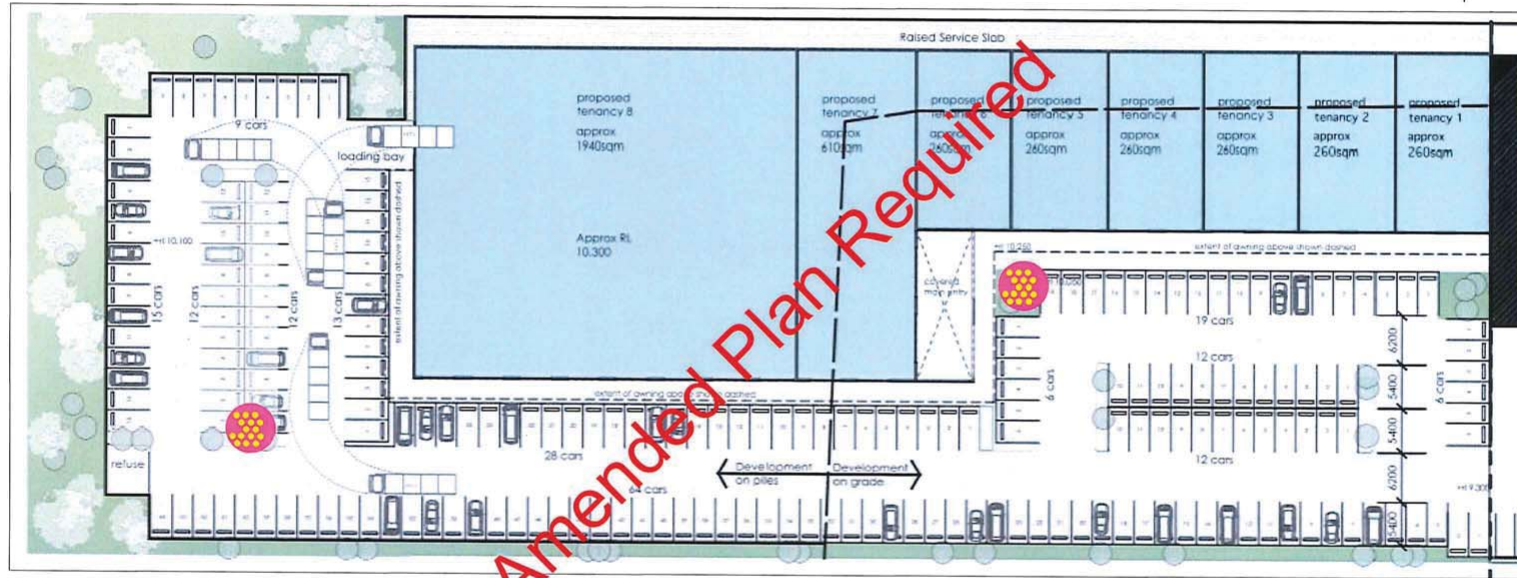


Figure 1 Stormwater Management Plan

Amended Plan Required

ITEM 2.1 - #4 PROPOSED RESUMPTION FOR DRAINAGE PURPOSES - 134 MORAYFIELD ROAD, CABOOLTURE SOUTH - LOT 5 ON RP88015 - DIVISION 3 (Cont.)

134-140 Morayfield Rd, Caboolture South
Stormwater Management Plan



Legend
 StormFilter Cartridge System (indicative size and location)

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 This plan is prepared by Cardno (Qld) Pty Ltd solely for the benefit and use of the client and is not to be used for any other purpose. Cardno (Qld) Pty Ltd does not accept any liability for any loss or damage caused by the use of this plan for any purpose other than that for which it was prepared.
 Rev: Orig. Date: March 2015
 Genasom Holdings Pty Ltd
 CAD FILE: 0-1341-140-RP88015-Div3-134-140.dwg
 XREF:



Scale 1:500 (A3)

FIGURE 1
STORMWATER MANAGEMENT PLAN

Project No.: 3501-06
 PRINT DATE: 31 March, 2015 - 11:44am

ITEM 2.1 - #4 PROPOSED RESUMPTION FOR DRAINAGE PURPOSES - 134 MORAYFIELD ROAD,
CABOOLTURE SOUTH - LOT 5 ON RP88015 - DIVISION 3 (Cont.)

130-140 Morayfield Rd, Caboolture South

APPENDIX

A

Proposed Development Layout

Amended Plan Required

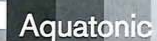
ITEM 2.1 - #4 PROPOSED RESUMPTION FOR DRAINAGE PURPOSES - 134 MORAYFIELD ROAD, CABOOLTURE SOUTH - LOT 5 ON RP88015 - DIVISION 3 (Cont.)



Locality Plan - 140 Morayfield Road Caboolture
nts

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	G. Lowe Group of Companies Client	Proposed Retail Center Project	140 Morayfield Road CABOOLTURE Location	Locality Plan Drawing	24/3/15 Issue for DA	ground floor amended Issue for DA	mg mg				
					20/3/15 Issue for DA	Preliminary	mg mg				
Drawn: EK		Checking: MG		Issue: NTS		paper size: A3	date: Mar 15	job number: AT1417	dwg number: DA01	revision: B	
© 2013 ABN 92119969788					81 Lugg Street SARDON QLD 4065 BRISBANE AUSTRALIA +617 3588 2233						



ITEM 2.1 - #4 PROPOSED RESUMPTION FOR DRAINAGE PURPOSES - 134 MORAYFIELD ROAD, CABOOLTURE SOUTH - LOT 5 ON RP88015 - DIVISION 3 (Cont.)

DEVELOPMENT DATA

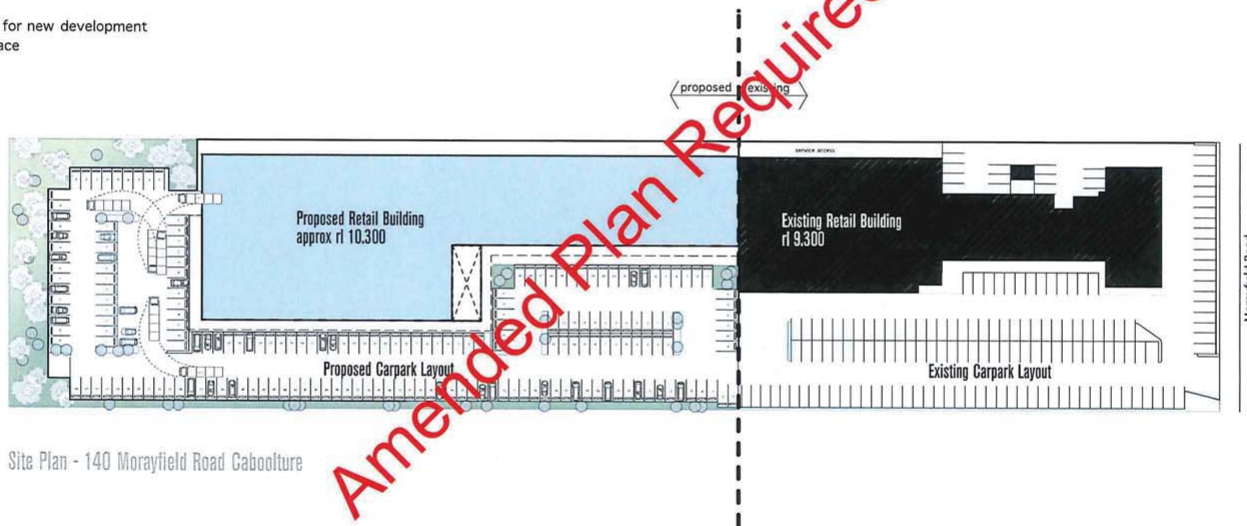
RPD L 5
RP 88015

EXISTING DEVELOPMENT

Approx. GFA 2600m²
150 cars provided

NEW DEVELOPMENT

Total GFA for tenancies 4120m²
206 cars required
208 cars provided for new development
1458m² green space



Site Plan - 140 Morayfield Road Caboolture

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	G. Lowe Group of Companies Client	Proposed Retail Center Project	140 Morayfield Road CABOOLTURE Location	General Site Arrangement Drawing	A 24/3/15 ground floor amended	A 20/3/15 issue for DR	mg mg	
					EK down	MG checking	Preliminary status	scale 1:1000

© 2013 A&N 92119956788 31 Lugg Street BARDON QLD 4005 IPBISAFE AUSTRALIA +617 3368 2833

Aquatic

ITEM 2.1 - #4 PROPOSED RESUMPTION FOR DRAINAGE PURPOSES - 134 MORAYFIELD ROAD, CABOOLTURE SOUTH - LOT 5 ON RP88015 - DIVISION 3 (Cont.)

DEVELOPMENT DATA

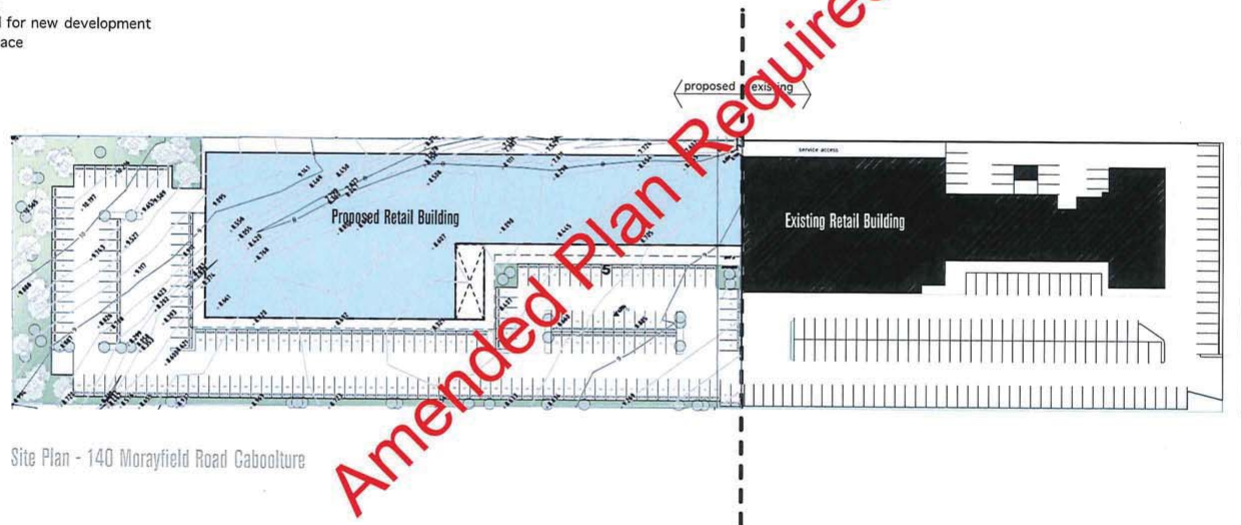
RPD L 5
RP 88015

EXISTING DEVELOPMENT

Approx. GFA 2600m²
150 cars provided

NEW DEVELOPMENT

Total GFA for tenancies 4120m²
206 cars required
208 cars provided for new development
1458m² green space



Site Plan - 140 Morayfield Road Caboolture

39

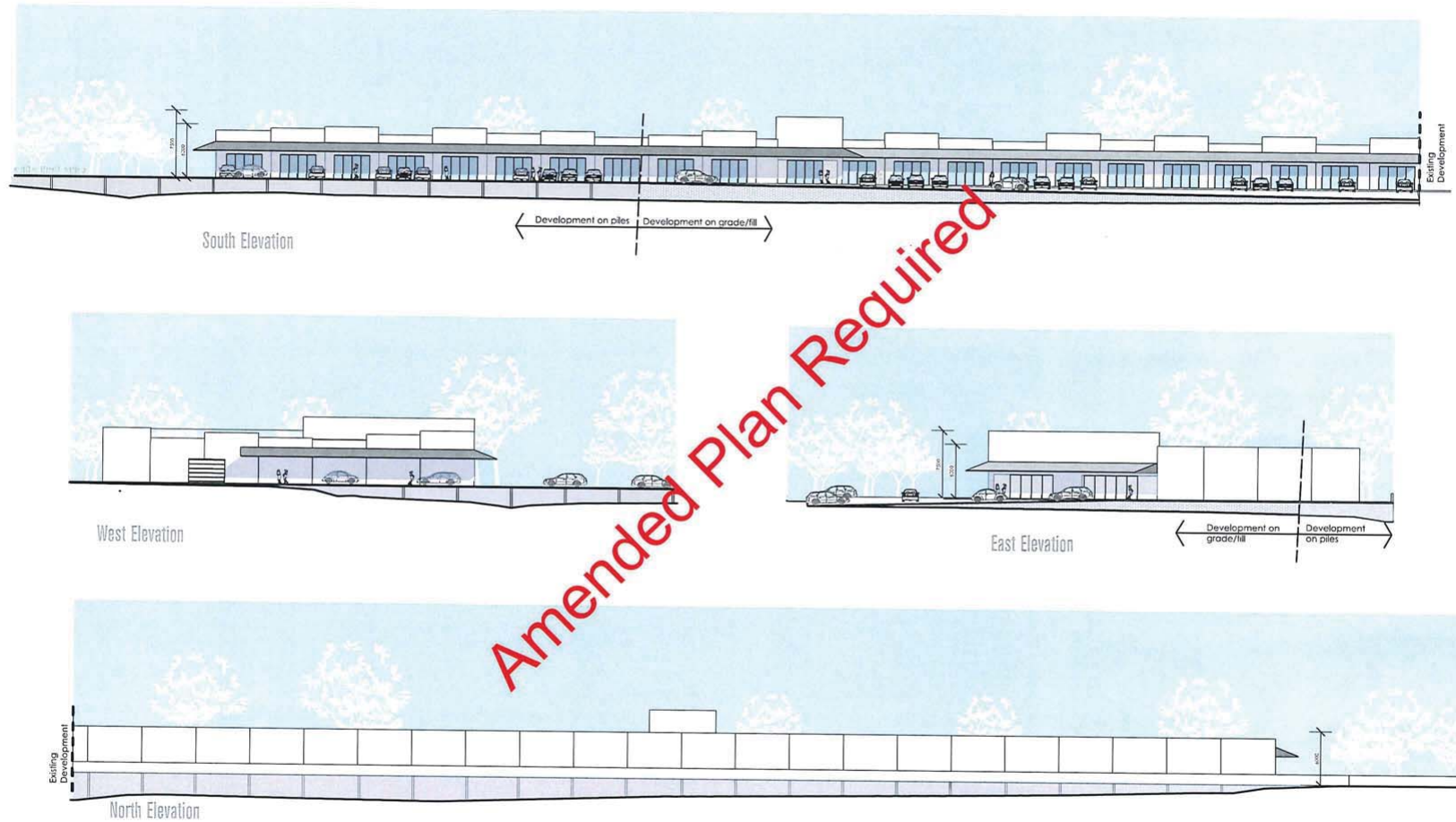
	G. Lowe Group of Companies Client	Proposed Retail Center Project	140 Morayfield Road CABOOLTURE Location	Site Plan Drawing	26/3/15 Date	ground floor amended Issue for DA	mg
					EK Designer	MG Checked by	1:1000 A3 Mar 15 Scale: (approx. 1:1000)
© 2013 AEN 9211994699 01 Luggal Street GARDON QLD 4065 BRISBANE AUSTRALIA 617 3358 2633					Aquatic		

Moreton Bay Regional Council

COORDINATION COMMITTEE MEETING
18 September 2018

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ITEM 2.1 - #4 PROPOSED RESUMPTION FOR DRAINAGE PURPOSES - 134 MORAYFIELD ROAD, CABOOLTURE SOUTH - LOT 5 ON RP88015 - DIVISION 3 (Cont.)



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	G. Lowe Group of Companies Client	Proposed Retail Center Project	140 Morayfield Road CABOOLTURE Location	Elevations Drawing	20/3/15 Issue	20/3/15 Date	mg mg
					EK Drawn	MG Checked	1:400 A3 Mar 15 Scale / Paper Size / Date

© 2013 AIN P2119946780 41 Hogg Street BARDON QLD 4015 BRISBANE, AUSTRALIA +617 3388 2833

COORDINATION COMMITTEE MEETING
18 September 2018

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ITEM 2.1 - #4 PROPOSED RESUMPTION FOR DRAINAGE PURPOSES - 134 MORAYFIELD ROAD,
CABOOLTURE SOUTH - LOT 5 ON RP88015 - DIVISION 3 (Cont.)

130-140 Morayfield Rd, Caboolture South

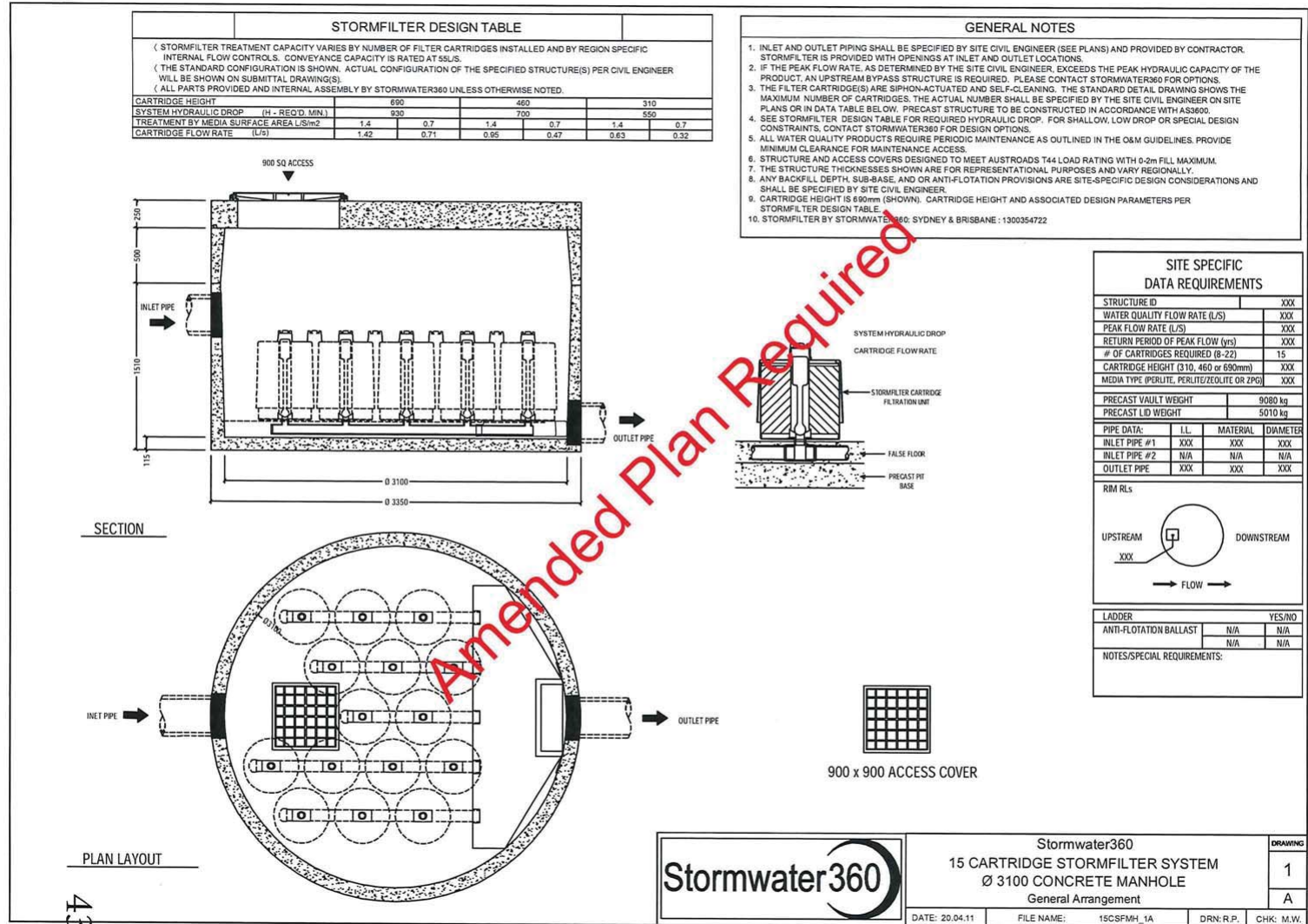
APPENDIX

B

Stormwater360 Details

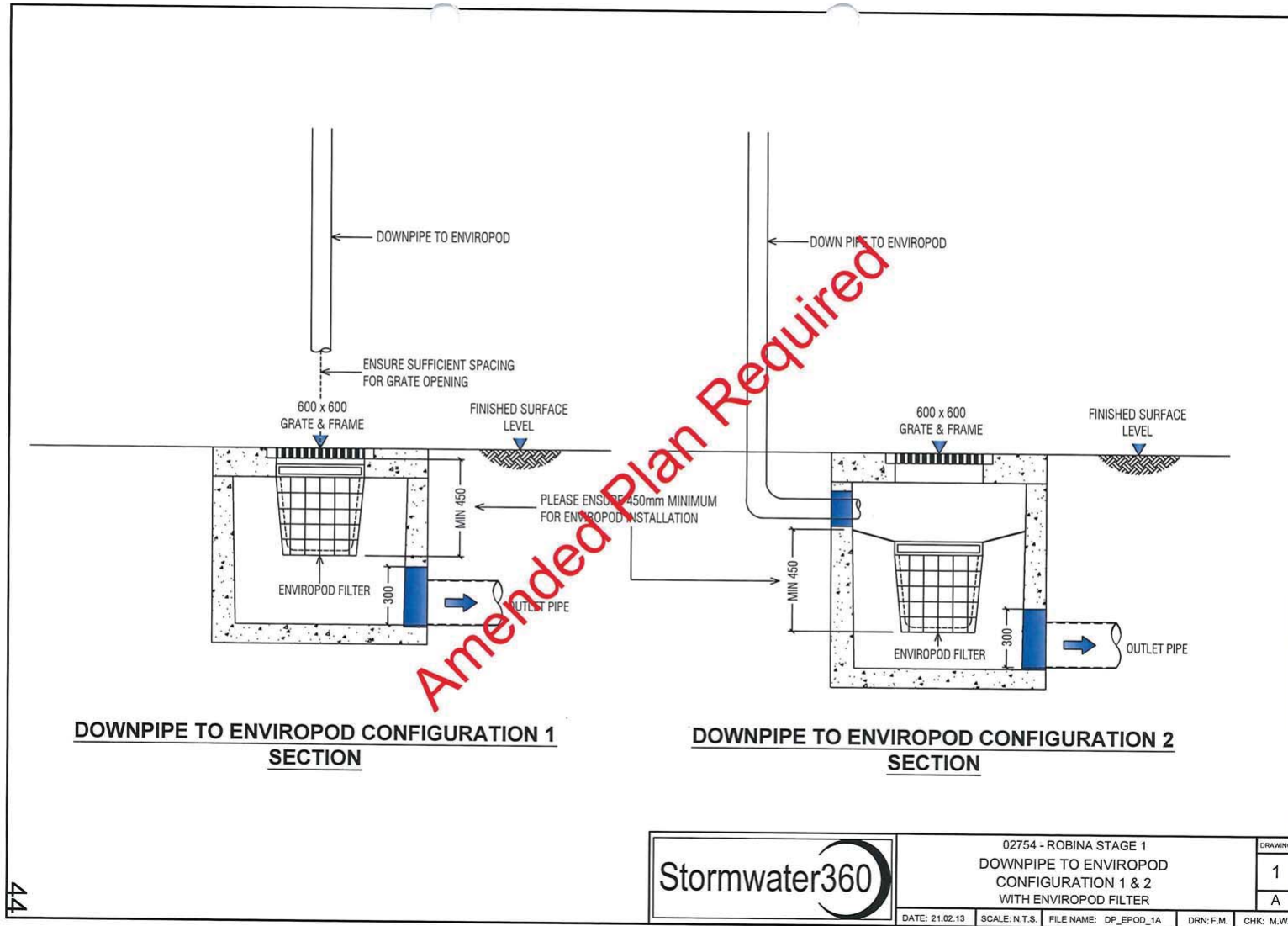
Amended Plan Required

ITEM 2.1 - #4 PROPOSED RESUMPTION FOR DRAINAGE PURPOSES - 134 MORAYFIELD ROAD, CABOOLTURE SOUTH - LOT 5 ON RP88015 - DIVISION 3 (Cont.)



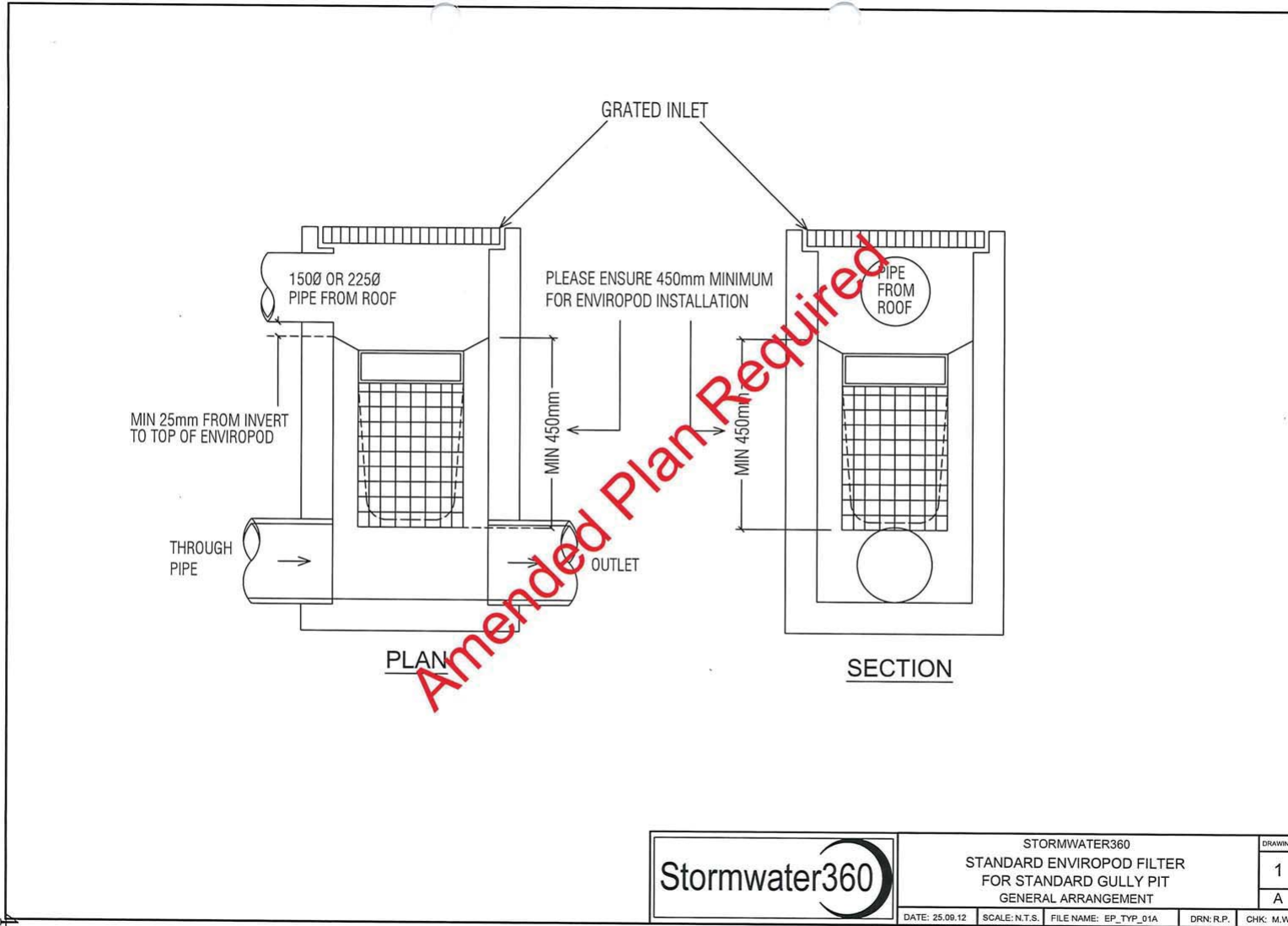
43

ITEM 2.1 - #4 PROPOSED RESUMPTION FOR DRAINAGE PURPOSES - 134 MORAYFIELD ROAD,
CABOOLTURE SOUTH - LOT 5 ON RP88015 - DIVISION 3 (Cont.)

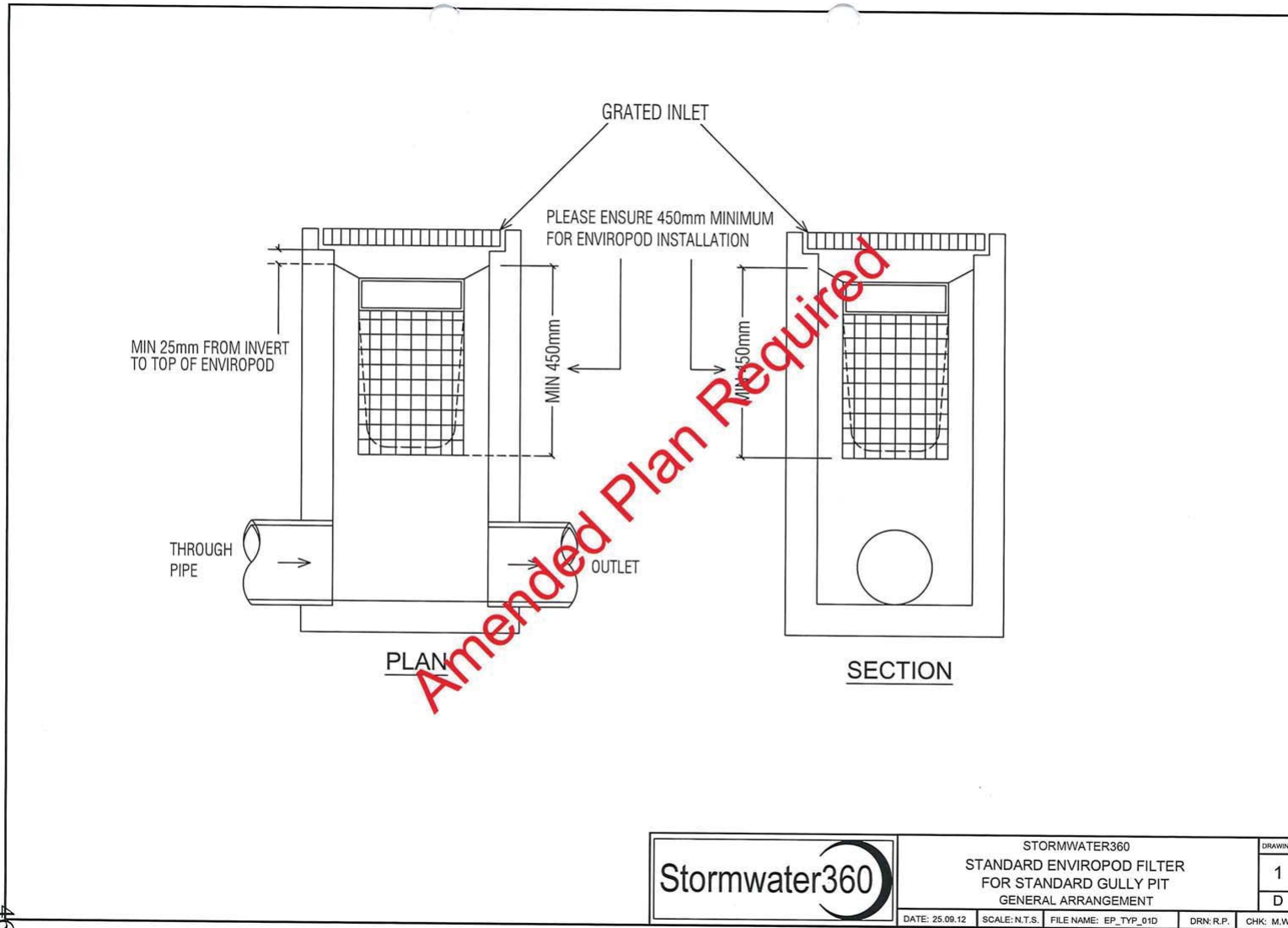


44

ITEM 2.1 - #4 PROPOSED RESUMPTION FOR DRAINAGE PURPOSES - 134 MORAYFIELD ROAD,
CABOOLTURE SOUTH - LOT 5 ON RP88015 - DIVISION 3 (Cont.)



ITEM 2.1 - #4 PROPOSED RESUMPTION FOR DRAINAGE PURPOSES - 134 MORAYFIELD ROAD,
CABOOLTURE SOUTH - LOT 5 ON RP88015 - DIVISION 3 (Cont.)



ITEM 2.1 - #4 PROPOSED RESUMPTION FOR DRAINAGE PURPOSES - 134 MORAYFIELD ROAD,
CABOOLTURE SOUTH - LOT 5 ON RP88015 - DIVISION 3 (Cont.)

130-140 Morayfield Rd, Caboolture South

APPENDIX
C
SPP Code

Amended Plan Required

Moreton Bay Regional Council

ITEM 2.1 - #4 PROPOSED RESUMPTION FOR DRAINAGE PURPOSES - 134 MORAYFIELD ROAD, CABOOLTURE SOUTH - LOT 5 ON RP88015 - DIVISION 3 (Cont.)

*SPP Code- Water Quality
Performance Outcomes and Acceptable Outcomes*



1. Solution: ✓ = Acceptable Solution
A/S = Alternative Solution
N/A = Not applicable to this proposal

PERFORMANCE OUTCOME	ACCEPTABLE OUTCOME	SOLUTIONS ¹	COMMENTS	REVIEWER USE ONLY
Plan to avoid/minimise new impacts				
PO1 The development is planned and designed considering the land use constraints of the site for achieving stormwater design objectives.	AO1.1 A site stormwater quality management plan (SQMP) is prepared, and: <ul style="list-style-type: none"> a. is consistent with any local area stormwater management planning, and b. provides for achievable stormwater quality treatment measures meeting design objectives listed below in Table A (construction phase) and Table B (post construction phase), or current best practice environmental management, reflecting land use constraints, such as: <ul style="list-style-type: none"> • erosive, dispersive and/or saline soil types • landscape features (including landform) • acid sulfate soil and management of nutrients of concern • rainfall erosivity. 	✓	A Site Based Stormwater Management Plan has been developed. The plan is consistent with requirements for Moreton Bay Regional Council. The plan details the measures likely to be necessary during the construction phase to meet the requirements of Table A and the measures required for the operational phase to satisfy the requirements of Table B.	
PO2 Development does not discharge wastewater to a waterway or off site unless demonstrated to be best practice environmental management for that site.	AO2.1 A wastewater management plan (WWMP) is prepared by a suitably qualified person and addresses: <ul style="list-style-type: none"> a. wastewater type, and b. climatic conditions, and c. water quality objectives (WQOs), and d. best-practice environmental management, and 	N/A	All wastewater from site to be directed by a sewerage reticulation system to a Council operated sewage treatment plant for treatment and disposal. A WWMP is not considered to be necessary.	
	AO2.2 The WWMP provides that wastewater is managed in accordance with a waste management hierarchy that: <ul style="list-style-type: none"> a. avoids wastewater discharges to waterways, or b. if wastewater discharge to waterways cannot practicably be avoided, minimises wastewater discharge to waterways by re-use, recycling, recovery and treatment for disposal to sewer, surface water and groundwater. 	N/A	All wastewater from site to be directed by a sewerage reticulation system to a Council operated sewage treatment plant for treatment and disposal. A WWMP is not considered to be necessary.	

Moreton Bay Regional Council

ITEM 2.1 - #4 PROPOSED RESUMPTION FOR DRAINAGE PURPOSES - 134 MORAYFIELD ROAD, CABOOLTURE SOUTH - LOT 5 ON RP88015 - DIVISION 3 (Cont.)

*SPP Code- Water Quality
Performance Outcomes and Acceptable Outcomes*



PERFORMANCE OUTCOME	ACCEPTABLE OUTCOME	SOLUTIONS ¹	COMMENTS	REVIEWER USE ONLY
PO3 Any non-tidal artificial waterway is located in a way that is compatible with the land use constraints of the site for protecting water environmental values in existing natural waterways.	AO3.1 If the proposed development involves a non-tidal artificial waterway: a. environmental values in downstream waterways are protected, and b. any groundwater recharge areas are not affected, and c. the location of the waterway incorporates low lying areas of a catchment connected to an existing waterway, and d. existing areas of ponded water are included, and	N/A	Development does not include the construction of a waterway.	
	AO3.2 Non-tidal artificial waterways are located: a. outside natural wetlands and any associated buffer areas and b. to minimise disturbing soils or sediments, and c. to avoid altering the natural hydrologic regime in acid sulfate soil and nutrient hazardous areas.	N/A	Development does not include the construction of a waterway.	
PO4 Any non-tidal artificial waterway is located in a way that is compatible with existing tidal waterways.	AO4.1 Where a non-tidal artificial waterway is located adjacent to, or is connected to, a tidal waterway by means of a weir, lock, pumping system or similar: a. there is sufficient flushing or a tidal range of >0.3 m, or b. any tidal flow alteration does not adversely impact on the tidal waterway, or c. there is no introduction of salt water into freshwater environments.	N/A	Development does not include the construction of a waterway.	
Design to avoid/minimise new impacts				

Amended Plan Required

Moreton Bay Regional Council

ITEM 2.1 - #4 PROPOSED RESUMPTION FOR DRAINAGE PURPOSES - 134 MORAYFIELD ROAD, CABOOLTURE SOUTH - LOT 5 ON RP88015 - DIVISION 3 (Cont.)

*SPP Code- Water Quality
Performance Outcomes and Acceptable Outcomes*



PERFORMANCE OUTCOME	ACCEPTABLE OUTCOME	SOLUTIONS ¹	COMMENTS	REVIEWER USE ONLY
PO5 Any non-tidal artificial waterway is not designed only for stormwater flow management or stormwater quality management.	AO5.1 Any non-tidal artificial waterway is designed and managed for any of the following end-use purposes: a. amenity including aesthetics, landscaping and recreation, or b. flood management, or c. stormwater harvesting as part of an integrated water cycle management plan, or d. aquatic habitat, and	N/A	Development does not include the construction of a waterway.	
	AO5.2 The end-use purpose of any non-tidal artificial waterway is designed and operated in a way that protects water environmental values.	N/A	Development does not include the construction of a waterway.	
Construct to avoid/minimise new impacts				
PO6 Construction activities for the development avoid or minimise adverse impacts on stormwater quality.	AO6.1 An erosion and sediment control plan (ESCP) that states that release of sediment-laden stormwater is avoided for the nominated design storm, and minimised when the nominated design storm is exceeded, by addressing design objectives listed below in Table A (construction phase) or local equivalent, for: a. drainage control, and b. erosion control, and c. sediment control, and d. water quality outcomes, and	✓	The SBSMP recommends that the approval be conditioned to require the completion of an Erosion and Sediment Control Plan in accordance with best practice guidelines and to satisfy the requirements of Table A.	
	AO6.2 Erosion and sediment control practices (including any proprietary erosion and sediment control products) are designed, installed, constructed, operated, monitored and maintained, and any other erosion and sediment control practices are carried out in accordance with local conditions and appropriate recommendations from a suitably qualified person, or	✓	The SBSMP recommends that the approval be conditioned to require the completion of an Erosion and Sediment Control Plan in accordance with best practice guidelines and to satisfy the requirements of Table A.	

Moreton Bay Regional Council

COORDINATION COMMITTEE MEETING
18 September 2018

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ITEM 2.1 - #4 PROPOSED RESUMPTION FOR DRAINAGE PURPOSES - 134 MORAYFIELD ROAD, CABOOLTURE SOUTH - LOT 5 ON RP88015 - DIVISION 3 (Cont.)

*SPP Code- Water Quality
Performance Outcomes and Acceptable Outcomes*



PERFORMANCE OUTCOME	ACCEPTABLE OUTCOME	SOLUTIONS ¹	COMMENTS	REVIEWER USE ONLY
	<p>AO6.2 The ESCP demonstrates how stormwater quality will be managed in accordance with an acceptable regional or local guideline so that target contaminants are treated to a design objective at least equivalent to Acceptable Outcome AO6.1</p>	✓	The SBSMP recommends that the approval be conditioned to require the completion of an Erosion and Sediment Control Plan in accordance with best practice guidelines and to satisfy the requirements of Table A.	
Operate to avoid/minimise new impacts				
<p>PO7 Operational activities for the development avoid or minimises changes to waterway hydrology from adverse impacts of altered stormwater quality and flow.</p>	<p>AO7.1 Development incorporates stormwater flow control measures to achieve the design objectives set out below in Table A (construction phase) and Table B (post construction phase). Both the construction and operational phases for the development comply with design objectives in Table A (construction phase), and Table B (post construction phase), or current best practice environmental management, including management of frequent flows, peak flows, and construction phase hydrological impacts.</p>	✓	The plan details the measures likely to be necessary during the construction phase to meet the requirements of Table A and the measures required for the operational phase to satisfy the requirements of Table B.	
<p>PO8 Any treatment and disposal of waste water to a waterway accounts for:</p> <ul style="list-style-type: none"> the applicable water quality objectives for the receiving waters, and adverse impact on ecosystem health or receiving waters, and in waters mapped as being of high ecological value, the adverse impacts of such releases and their offset. 	<p>AO8.1 See AO2.1</p>	N/A	<p>Wastewater from site to be directed by a sewerage reticulation system to a Council operated sewage treatment plant for treatment and disposal.</p> <p>Stormwater runoff from the site will be treated to achieve the water quality objectives nominated in the SPP.</p>	

Amended Plan Required

Moreton Bay Regional Council

ITEM 2.1 - #4 PROPOSED RESUMPTION FOR DRAINAGE PURPOSES - 134 MORAYFIELD ROAD, CABOOLTURE SOUTH - LOT 5 ON RP88015 - DIVISION 3 (Cont.)

*SPP Code- Water Quality
Performance Outcomes and Acceptable Outcomes*



PERFORMANCE OUTCOME	ACCEPTABLE OUTCOME	SOLUTIONS ¹	COMMENTS	REVIEWER USE ONLY
P09 Wastewater discharge to a non-tidal artificial waterway is managed in a way that maintains ecological processes, riparian vegetation, waterway integrity, and downstream ecosystem health.	AO9.1 Wastewater discharge to non-tidal artificial waterways is managed to avoid or minimise the release of nutrients of concern so as to minimise the occurrence, frequency and intensity of coastal algal blooms, and	N/A	Wastewater from site to be directed by a sewerage reticulation system to a Council operated sewage treatment plant for treatment and disposal. Stormwater runoff from the site will be treated to achieve the water quality objectives nominated in the SPP.	
	AO9.2 Development in coastal catchments avoids or minimises and appropriately manages soil disturbance or altering natural hydrology, and <i>Editor's note: Compliance with this outcome may be demonstrated by following the management advice in the guideline: Implementing Policies and Plans for Managing Nutrients of Concern for Coastal Algal Blooms in Queensland by the Department of Environment and Heritage Protection.</i>	N/A	Development is not located in a coastal catchment.	
	AO9.3 Development in coastal catchments: <ul style="list-style-type: none"> a. avoids lowering groundwater levels where potential or actual acid sulfate soils are present, and b. manages wastewaters so that: <ul style="list-style-type: none"> i. the pH of any wastewater discharged is maintained between 6.5 and 8.5 to avoid mobilisation of acid, iron, aluminium, and metals, and ii. holding times of neutralised wastewaters ensures the flocculation and removal of any dissolved iron prior to release, and iii. visible iron floc is not present in any discharge, and iv. precipitated iron floc is contained and disposed of, and wastewater and precipitates that cannot be contained and treated for discharge on site are removed and disposed of through trade waste or another lawful method. 	N/A	Development is not located in a coastal catchment.	

Moreton Bay Regional Council

ITEM 2.1 - #4 PROPOSED RESUMPTION FOR DRAINAGE PURPOSES - 134 MORAYFIELD ROAD, CABOOLTURE SOUTH - LOT 5 ON RP88015 - DIVISION 3 (Cont.)

*SPP Code- Water Quality
Performance Outcomes and Acceptable Outcomes*



PERFORMANCE OUTCOME	ACCEPTABLE OUTCOME	SOLUTIONS ¹	COMMENTS	REVIEWER USE ONLY
PO10 Any non-tidal artificial waterway is managed and operated by suitably qualified persons to achieve water quality objectives in natural waterways.	AO10.1 Any non-tidal artificial waterway is designed, constructed and managed under the responsibility of a suitably qualified registered professional engineer, Queensland (RPEQ) with specific experience in establishing and managing artificial waterways, and	N/A	Development does not include the construction of a waterway.	
	AO10.2 Monitoring and maintenance programs adaptively manage water quality in any non-tidal artificial waterway to achieve relevant water-quality objectives downstream of the waterway, and	N/A	Development does not include the construction of a waterway.	
	AO10.3 Aquatic weeds are managed in any non-tidal artificial waterway to achieve a low percentage of coverage of the water surface area (less than 10%). Pests and vectors (such as mosquitoes) are managed through avoiding stagnant water areas, providing for native fish predators, and any other best practices for monitoring and treating pests, and	N/A	Development does not include the construction of a waterway.	
	AO10.4 Any non-tidal artificial waterway is managed and operated by a responsible entity under agreement for the life of the waterway. The responsible entity is to implement the deed of agreement for the management and operation of the waterway that: <ol style="list-style-type: none"> a. identifies the waterway, and b. states a period of responsibility for the entity, and c. states a process for any transfer of responsibility for the waterway, and d. states required actions under the agreement for monitoring the water quality of the waterway and receiving waters, and e. states required actions under the agreement for maintaining the waterway to achieve the outcomes of this code and any relevant conditions of a development approval, and f. identifies funding sources for the above, including bonds, headworks charges or levies. 	N/A	Development does not include the construction of a waterway.	

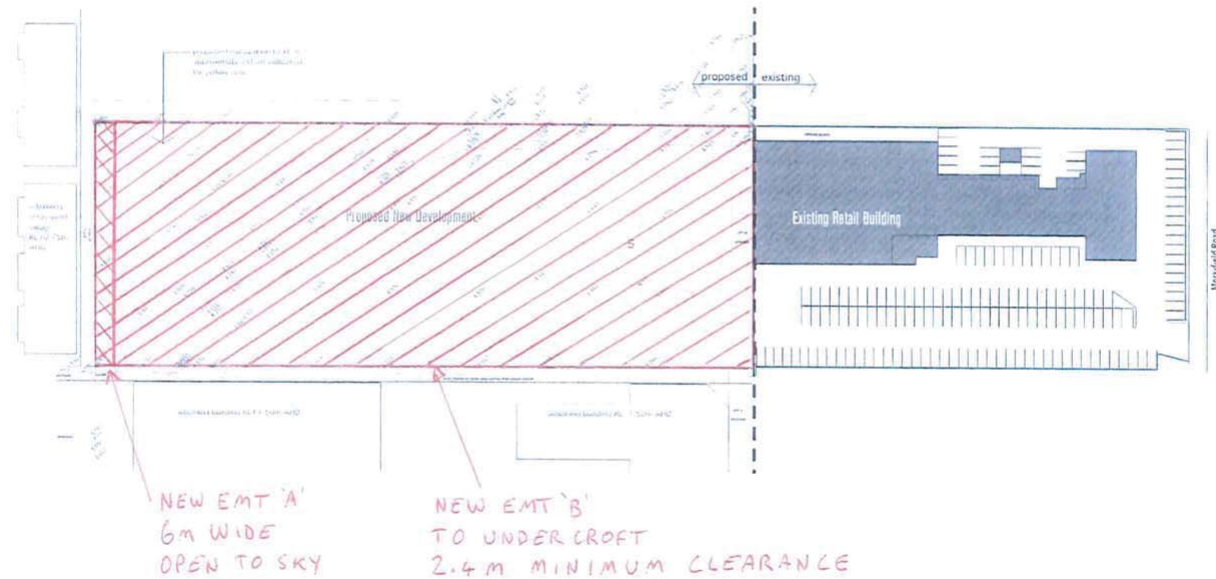
Amended Plan Required

ITEM 2.1 - #4 PROPOSED RESUMPTION FOR DRAINAGE PURPOSES - 134 MORAYFIELD ROAD, CABOOLTURE SOUTH - LOT 5 ON RP88015 - DIVISION 3 (Cont.)

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DEVELOPMENT DATA
RPD L 5
RP 88015

EXISTING DEVELOPMENT
Approx. GFA 2600m²
150 cars provided



EASEMENT REQUIREMENTS (FEB 2018):

	G-tower Group of Companies Client	Proposed Retail Center Project	134 Morayfield Road CABOOLTURE Location	Existing Site Plan Drawing	12/11/17 6/12/15	Revised Issue for approval. Extent of excavation added. DA required for stormwater.	FIG 14
					LU	MG	
© 2013 AECOM 101/17/14/18					Not for Construction		
Aquatonic					41 Lucas Street, SANDTON Q 4013, QUEENSLAND, AUSTRALIA. +61 7 3366 2633		

Moreton Bay Regional Council

COORDINATION COMMITTEE MEETING
18 September 2018

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ITEM 2.1 - #4 PROPOSED RESUMPTION FOR DRAINAGE PURPOSES - 134 MORAYFIELD ROAD,
CABOOLTURE SOUTH - LOT 5 ON RP88015 - DIVISION 3 (Cont.)



Department of Infrastructure,
Local Government and Planning

Our reference: SDA-0415-020110
Your reference: DA/30058/2015/V2C

19 February 2016

The Chief Executive Officer
Moreton Bay Regional Council
PO Box 159
CABOOLTURE QLD 4510
mbrc@moretonbay.qld.gov.au

Attn: Ms Elissa McConaghy

Dear Ms McConaghy

Concurrence agency response—with conditions

134-140 Morayfield Road, Caboolture South
(Given under section 285 of the *Sustainable Planning Act 2009*)

The referral agency material for the development application described below was received by the Department of Infrastructure, Local Government and Planning under section 272 of the *Sustainable Planning Act 2009* on 11 May 2015.

Applicant details

Applicant name:	Genamson Holdings Pty Ltd
Applicant contact details:	C/- Urban Systems Ply Ltd PO Box 12, Paddington QLD 4064

Site details

Street address:	134-140 Morayfield Road, Caboolture South
Lot on plan:	Lot 5 on RP88015
Local government area:	Moreton Bay Regional Council

Application details

Proposed development:	Development Permit for a Material Change of Use for Retail Showroom, Restaurant, Shop and Take Away Food Outlet
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Page 1

SEQ West Region
Level 4, 117 Brisbane Street
PO Box 129
Ipswich QLD 4305

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ITEM 2.1 - #4 PROPOSED RESUMPTION FOR DRAINAGE PURPOSES - 134 MORAYFIELD ROAD, CABOOLTURE SOUTH - LOT 5 ON RP88015 - DIVISION 3 (Cont.)

SDA-0415-020110

Aspects of development and type of approval being sought

Nature of Development	Approval Type	Brief Proposal of Description	Level of Assessment
Material Change of Use	Development Permit	Mixed use development comprising retail showroom, restaurants, shops, take away food outlet and 208 space car parking area	Code Assessment

Referral triggers

The development application was referred to the department under the following provisions of the *Sustainable Planning Regulation 2009*:

Referral trigger Schedule 7, Table 3, Item 1 – State-controlled road

Conditions

Under section 287(1)(a) of the *Sustainable Planning Act 2009*, the conditions set out in Attachment 1 must be attached to any development approval.

Reasons for decision to impose conditions

Under section 289(1) of the *Sustainable Planning Act 2009*, the department must set out the reasons for the decision to impose conditions. These reasons are set out in Attachment 2.

Further advice

Under section 287(6) of the *Sustainable Planning Act 2009*, the department offers advice about the application to the assessment manager—see Attachment 3.

Approved plans and specifications

The department requires that the following plans and specifications set out below and in Attachment 4 must be attached to any development approval.

Drawing/Report Title	Prepared by	Date	Reference no.	Version /Issue
Aspect of development: Material Change of Use				
Site Plan	Aquatonic	March 2015	DA03	E

Moreton Bay Regional Council

COORDINATION COMMITTEE MEETING
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ITEM 2.1 - #4 PROPOSED RESUMPTION FOR DRAINAGE PURPOSES - 134 MORAYFIELD ROAD,
CABOOLTURE SOUTH - LOT 5 ON RP88015 - DIVISION 3 (Cont.)

SDA-0415-020110

A copy of this response has been sent to the applicant for their information.

For further information, please contact Kieran Hanna, Principal Planning Officer, SARA SEQ West on (07) 3432 2404, or email lpwchSARA@dilgp.qld.gov.au who will be pleased to assist.

Yours sincerely



Darren Cooper
A/Manager – Planning

enc: Attachment 1—Conditions to be imposed
Attachment 2—Reasons for decision to impose conditions
Attachment 3—Further advice
Attachment 4—Approved Plans and Specifications

cc: Genamson Holdings Pty Ltd care of Urban Systems Ply Ltd, flannanmorley@gmail.com
Department of Transport and Main Roads, north.coast.idas@tmr.qld.gov.au

Moreton Bay Regional Council

ITEM 2.1 - #4 PROPOSED RESUMPTION FOR DRAINAGE PURPOSES - 134 MORAYFIELD ROAD, CABOOLTURE SOUTH - LOT 5 ON RP88015 - DIVISION 3 (Cont.)

SDA-0415-020110

Our reference: SDA-0415-020110
Your reference: DA/30058/2015/V2C

Attachment 1—Conditions to be imposed

No.	Conditions	Condition timing
Development Permit for a Material Change of Use for Retail Showroom, Restaurant, Shop and Take Away Food Outlet		
Schedule 7, Table 3, Item 1 – State-controlled road—Pursuant to section 255D of the <i>Sustainable Planning Act 2009</i> , the chief executive administering the Act nominates the Director-General of the Department of Transport and Main Roads to be the assessing authority for the development to which this development approval relates for the administration and enforcement of any matter relating to the following condition(s):		
1.	The development must be carried out generally in accordance with the following plans: <ul style="list-style-type: none"> • Site Plan, Drawing No. DA03 Revision E, prepared by Aquatonic and dated March 2015. 	At all times
2.	(a) Stormwater management of the development must ensure no worsening or actionable nuisance to the state-controlled road. (b) Any works on the land must not: <ul style="list-style-type: none"> (i) create any new discharge points for stormwater runoff onto the state-controlled road; (ii) interfere with and/or cause damage to the existing stormwater drainage on the state-controlled road; (iii) surcharge any existing culvert or drain on the state-controlled road; and (iv) reduce the quality of stormwater discharge onto the state-controlled road. (c) RPEQ certification with supporting documentation must be provided to the Department of Transport and Main Roads, North Coast Region via North.Coast.IDAS@tmr.qld.gov.au (please quote TMR15-013897) confirming that the development has been designed and constructed in accordance with parts (a) and (b) of this condition.	(a) At all times (b) Prior to the commencement of use

*ITEM 2.1 - #4 PROPOSED RESUMPTION FOR DRAINAGE PURPOSES - 134 MORAYFIELD ROAD,
CABOOLTURE SOUTH - LOT 5 ON RP88015 - DIVISION 3 (Cont.)*

SDA-0415-020110

Our reference: SDA-0415-020110
Your reference: DA/30058/2015/V2C

Attachment 2—Reasons for decision to impose conditions

The reasons for this decision are:

- To ensure the development is undertaken generally in accordance with the submitted plans of development submitted with the application.
- To ensure that the impacts of stormwater events associated with development are minimised and managed to avoid creating any adverse impacts on the state-controlled road.

ITEM 2.1 - #4 PROPOSED RESUMPTION FOR DRAINAGE PURPOSES - 134 MORAYFIELD ROAD,
CABOOLTURE SOUTH - LOT 5 ON RP88015 - DIVISION 3 (Cont.)

SDA-0415-020110

Our reference: SDA-0415-020110
Your reference: DA/30058/2015/V2C

Attachment 3—Further advice

General advice	
1.	Stormwater Compliance: To ensure compliance with Condition 1, the applicant is requested to submit the detailed stormwater management design to the Development Assessment Team via North.Coast.IDAS@tmr.qld.gov.au of the Department of Transport and Main Roads for review and endorsement, before construction commences (please quote TMR15-013897). The review and endorsement of the stormwater management design, will ensure that the detention basin and stormwater management system complies with the requirements of Condition 1 and achieve a "no worsening" outcome

Moreton Bay Regional Council

COORDINATION COMMITTEE MEETING
18 September 2018

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Agenda

*ITEM 2.1 - #4 PROPOSED RESUMPTION FOR DRAINAGE PURPOSES - 134 MORAYFIELD ROAD,
CABOOLTURE SOUTH - LOT 5 ON RP88015 - DIVISION 3 (Cont.)*

SDA-0415-020110

Our reference: SDA-0415-020110
Your reference: DA/30058/2015/V2C

Attachment 4—Approved plans and specifications

ITEM 2.1 - #4 PROPOSED RESUMPTION FOR DRAINAGE PURPOSES - 134 MORAYFIELD ROAD, CABOOLTURE SOUTH - LOT 5 ON RP88015 - DIVISION 3 (Cont.)

DEVELOPMENT DATA

RPD L 5
RP 88015

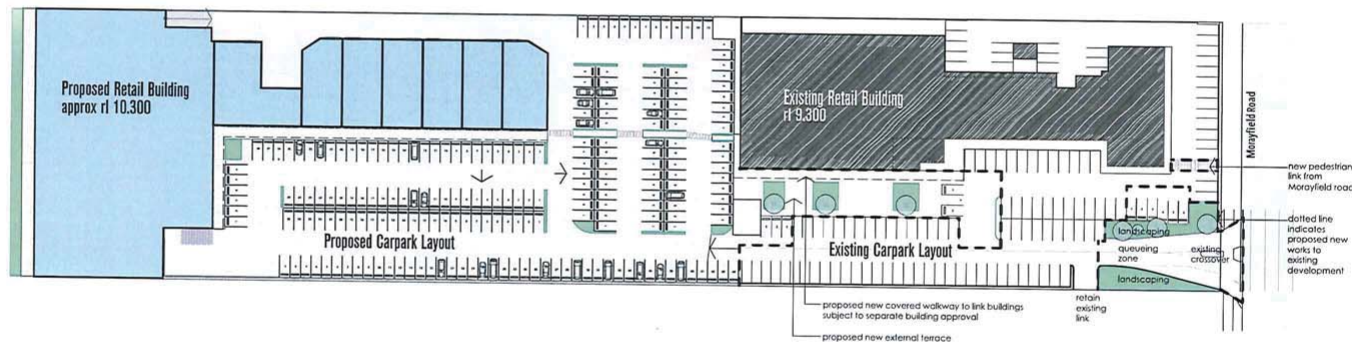
EXISTING DEVELOPMENT

Approx. GFA 2600m²
150 cars provided
20 extra cars provided

NEW DEVELOPMENT

Total GFA for tenancies 4375m²
18 cars lost to existing development
218 cars required
220 cars provided for new development

proposed new works to existing development



PLANS AND DOCUMENTS
Referred to in the
DEVELOPMENT APPROVAL
Date: 19/02/2016
QUEENSLAND GOVERNMENT

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	G. Lowe Group of Companies Client	Proposed Retail Center Project	140 Morayfield Road CABOOLTURE Location	General Site Arrangement Drawing	5/12/15 Date	DA request for information Assignment	Preliminary Status	LU Drawn	MG Checked	1:1000 A3 Mar 15 Scale sheet size date	AT 1417 Job number	DA03 Ewg number	E Revision	
					© 2015 ABN 921 17766788 31 Lugga Street, BARDON QLD 4055 BRISBANE AUSTRALIA +617 3353 2633									

ITEM 2.1 - #4 PROPOSED RESUMPTION FOR DRAINAGE PURPOSES - 134 MORAYFIELD ROAD, CABOOLTURE SOUTH - LOT 5 ON RP88015 - DIVISION 3 (Cont.)

Infrastructure Charges Notice



Original Notice (s640 SPA)

ABN 92 967 232 136

Moreton Bay Regional Council
Caboolture Office, 2 Hasking Street, Caboolture Qld 4510
PO Box 159, CABOOLTURE QLD 4510

Approval No:	DA/30058/2015/V2C	Applicant:	Genamson Holdings Pty Ltd
Approval Description:	Proposed commercial development	Stage:	1
Based On:	2018/19 financial year	Applicant Address:	Genamson Holdings Pty Ltd C/- Urban Systems Pty Ltd PO Box 12 PADDINGTON QLD 4064
Version of Charges Resolution:	Ver 7 - 11 December 2017	Owner:	Genamson Holdings Pty Ltd
Proportional Split (MBRC/UW):	2017/18 financial year Adopted 60/40	Owner Address:	Genamson Holdings Pty Ltd Suite 44 650 George Street SYDNEY NSW 2000
Total Levied Charges:	\$485,191.20	Date Charges Payable:	In accordance with the Sustainable Planning Act 2009
			The Total Levied Charge is calculated as the Total Charge less any Offset available as identified below in an Infrastructure Agreement or a condition of the development approval. Where the Offset exceeds the Total Charge and a refund is available, the Total Levied Charge is zero and any refund is addressed in the Refund section of this Infrastructure Charges Notice.

Property Details

Property Address	Real Property Description
134-140 Morayfield Road, CABOOLTURE SOUTH QLD 4510	Lot 5 RP 88015

Charge Details

Description	Existing Demand (Credit)	Proposed Demand	Unit of Demand	Demand Factor	Charge Rate per Unit of Demand	Total Charge
NON-RESIDENTIAL						
Commercial (bulk goods)						
Proposed Showroom tenancy	0.0000	2750.0000	m2 GFA	1.0000	\$84.99	\$233,722.50
Commercial (bulk goods) - Stormwater (Impervious)						
Additional impervious area	0.0000	12100.0000	m2 impervious area	1.0000	\$6.06	\$73,326.00
Commercial (retail)						
Proposed Shop, Resturant and take away food outlet tenancies	0.0000	1630.0000	m2 GFA	1.0000	\$109.29	\$178,142.70
SUB TOTAL						\$485,191.20
TOTAL GST						\$0.00
GRAND TOTAL						\$485,191.20

Infrastructure Agreement Offset Details

IA Number (Council Ref)	
Description	

ITEM 2.1 - #4 PROPOSED RESUMPTION FOR DRAINAGE PURPOSES - 134 MORAYFIELD ROAD, CABOOLTURE SOUTH - LOT 5 ON RP88015 - DIVISION 3 (Cont.)

Infrastructure Charges Notice



Original Notice (s640 SPA)

ABN 92 967 232 136

Moreton Bay Regional Council
Caboolture Office, 2 Hasking Street, Caboolture Qld 4510
PO Box 159, CABOOLTURE QLD 4510

Agreement Date	
----------------	--

Infrastructure ID Number	Infrastructure Item Description	Delivery Status ¹	Original Agreed Value of Item ²	Previous Value of Item Used ³	New Value of Item Used ⁴	Value of Item left Available ⁵

Notes

- Where an Infrastructure Item has not been delivered, the value of the Infrastructure Item as an offset has been deducted from the charge on an expectation that the Infrastructure Item will be delivered concurrently with, or before, payment of the Levied Charge is due as payable to Council. AVAILABLE means the item has been delivered at the date of issue of this Infrastructure Charges Notice whereas FUTURE means the item has not yet been delivered at the date of issue of this Infrastructure Charges Notice.
- Represents the amount of the Original Agreed Value of the Infrastructure Item.
- Represents the amount of the Original Agreed Value of the Infrastructure Item used in another Infrastructure Charges Notice (e.g. an earlier stage of the development).
- Represents the amount of the Original Agreed Value of the Infrastructure Item used in this Infrastructure Charges Notice to determine the Total Levied Charge.
- Represents the amount of the Original Agreed Value of the Infrastructure Item remaining after the issuing of this Infrastructure Charges Notice.

In respect to the Notes above, where provided for in an Infrastructure Agreement or the Council's Infrastructure Charges Resolution, the value of the infrastructure has been indexed to the date of issue of this Infrastructure Charges Notice.

Development Condition Offset Details

Condition and DA Number	Infrastructure Item Description	Delivery Status ¹	Original Agreed Value of Item ²	Previous Value of Item Used ³	New Value of Item Used ⁴	Value of Item left Available ⁵

Notes - refer to Notes above

Refund Details

In accordance with s637(1)(f) of the Sustainable Planning Act 2009, any refund applicable is listed below and will be refunded in accordance with the terms listed in an infrastructure agreement, or if there is no infrastructure agreement, in accordance with the Council's Infrastructure Charges Resolution Implementation Policy in effect at the date when the refund is payable and the Infrastructure Item has been Delivered⁶ to Council.

Infrastructure Item	Condition Number	Value of the Infrastructure Item Used as Offset in this ICN	Value of Offset available for Refund or transfer to other development ⁷

ITEM 2.1 - #4 PROPOSED RESUMPTION FOR DRAINAGE PURPOSES - 134 MORAYFIELD ROAD,
CABOOLTURE SOUTH - LOT 5 ON RP88015 - DIVISION 3 (Cont.)

Infrastructure Charges Notice

Original Notice (s640 SPA)



ABN 92 967 232 136

Moreton Bay Regional Council
Caboolture Office, 2 Hasking Street, Caboolture Qld 4510
PO Box 159, CABOOLTURE QLD 4510

Notes

6. Delivered is taken to be (a) for land, the date when the land is transferred to Council in fee simple or dedicated as a reserve (e.g. road reserve), and/or (b) for works, the date when the works are accepted by Council in writing and in full as being 'On Maintenance', unless agreed to otherwise by Council in writing.
7. Where an Infrastructure Item has not been Delivered, the value of any refund is not available until the Infrastructure Item has been delivered to Council and has been confirmed by the Council as exceeding any Offset available and is in accordance with the Council's Infrastructure Charges Resolution Implementation Policy.

INFORMATION NOTICE

THE DECISION AND REASONS FOR IT:

The decision to issue this Infrastructure Charges Notice is to support the objectives of the Sustainable Planning (Infrastructure Charges) and Other Legislation Amendment Act 2014 that provides for the establishment of a long-term local infrastructure planning and charging framework in Queensland that supports local government's sustainability and development feasibility.

The Notice has been compiled in accordance with the statutory requirements of the:

- Moreton Bay Regional Council Infrastructure Charges Resolution (as amended)
- State Planning Regulatory Provision (adopted charges) July 2012 (as amended)
- Sustainable Planning Act 2009
- Sustainable Planning (Infrastructure Charges) Amendment Act 2014.

SUBMISSIONS REGARDING THIS NOTICE

The recipient of an Infrastructure Charges Notice may make a submission about the Notice within the relevant appeal period (20 days from receipt of the Notice) in accordance with Chapter 8 Part 2 Subdivision 5 of the Sustainable Planning Act 2009.

APPEALS ABOUT AN INFRASTRUCTURE CHARGES NOTICE

The recipient of an Infrastructure Charges Notice may appeal to the court about the decision to give the notice in accordance with Chapter 7 Part 1 Division 10 s 478 of the Sustainable Planning Act 2009.

TO WHOM THE CHARGE MUST BE PAID

Payment of the Charge must be made payable to MORETON BAY REGIONAL COUNCIL via Customer Service or Development Services, PO Box 159, Caboolture Qld 4510

The Infrastructure Charge has been calculated in accordance with the charges stated in Council's Infrastructure Charges Resolution. This notice will be escalated to time of payment to the extent permitted under legislation in force at that time.

PAYMENT DUE BY:

ITEM 2.1 - #4 PROPOSED RESUMPTION FOR DRAINAGE PURPOSES - 134 MORAYFIELD ROAD,
CABOOLTURE SOUTH - LOT 5 ON RP88015 - DIVISION 3 (Cont.)

Infrastructure Charges Notice

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ABN 92 967 232 136

Moreton Bay Regional Council
Caboolture Office, 2 Hasking Street, Caboolture Qld 4510
PO Box 159, CABOOLTURE QLD 4510

In accordance with the Sustainable Planning Act 2009 - extract as follows:

A levied charge is payable -

- (a) if the charge applies to reconfiguring a lot that is assessable development or development requirement compliance assessment - before the local government approves the plan of subdivision for the reconfiguration;
- or
- (b) if the charge applies to building work - before the certificate of classification or final inspection certificate for the building work is given;
- or
- (c) if the charge applies to a material change of use - before the change happens;
- or
- (d) otherwise - on the day stated in the infrastructure charges notice, negotiated infrastructure charges notice or amended infrastructure charges notice.

Notice is hereby given that the abovementioned infrastructure charges levied by Moreton Bay Regional Council in compliance with the Sustainable Planning Act 2009, Chapters 8 and 9 on land described for the period described, and such charges are DUE AND PAYABLE BY THE TIME STIPULATED IN THIS NOTICE. These charges plus any arrears and interest thereon may be recovered by legal process without further notice if unpaid after the time stipulated in this notice.

Infrastructure Charges Notice IMPORTANT INFORMATION

PAYMENT

This notice is due and payable by the due time shown. Cheques, money orders or postal notes should be made payable to MORETON BAY REGIONAL COUNCIL and crossed "Not Negotiable". Change cannot be given on cheque payments. Property owners will be liable for any dishonour fees.

OVERSEAS PAYEES

Please forward your infrastructure charges payment by way of a bank draft for the required amount in Australian dollars.

GOODS AND SERVICES TAX

GST is not applicable to the Infrastructure Charges contained in this Notice.

INFRASTRUCTURE CHARGE IS SUBJECT TO PRICE VARIATION

The Levied Charge in this notice will be escalated to time of payment to the extent permitted under legislation and the Council's Infrastructure Charges Resolution in force at that time.

Where indexation is applicable, an online spreadsheet calculator is available to assist with making the calculation <https://www.moretonbay.qld.gov.au/general.aspx?id=155295>

Council takes no responsibility for the accuracy of the calculator.

PLEASE CONTACT DEVELOPMENT SERVICES BEFORE MAKING PAYMENT.

INFRASTRUCTURE CHARGE ENQUIRIES

ITEM 2.1 - #4 PROPOSED RESUMPTION FOR DRAINAGE PURPOSES - 134 MORAYFIELD ROAD,
CABOOLTURE SOUTH - LOT 5 ON RP88015 - DIVISION 3 (Cont.)

Infrastructure Charges Notice

Original Notice (s640 SPA)



ABN 92 967 232 136

Moreton Bay Regional Council
Caboolture Office, 2 Hasking Street, Caboolture Qld 4510
PO Box 159, CABOOLTURE QLD 4510

Enquiries regarding this infrastructure charge notice should be directed to MORETON BAY REGIONAL COUNCIL, Development Services, Caboolture Office, during office hours, Monday to Friday on phone (07) 3205 0555.

METHODS OF PAYMENT

PAYMENT BY MAIL

Confirm the current Infrastructure Charge applicable and obtain an updated payment notice from Council's Development Services.

Present this updated payment notice immediately with your payment to: MORETON BAY REGIONAL COUNCIL, PO Box 159, Caboolture Qld 4510

NOTE: Cheques must be made payable to MORETON BAY REGIONAL COUNCIL

PAYMENT AT COUNCIL OFFICES

Confirm the current Infrastructure Charge applicable and obtain an updated payment notice from Council's Website.

Present this updated payment notice with your payment to Moreton Bay Regional Council at the Customer Service Counters.

NOTE: Cheques must be made payable to MORETON BAY REGIONAL COUNCIL

PAYMENT MADE BY CREDIT CARD

Credit Cards accepted: Mastercard or Visa

ITEM 2.1 - PROPOSED RESUMPTION FOR DRAINAGE PURPOSES - 134 MORAYFIELD ROAD,
CABOOLTURE SOUTH - LOT 5 ON RP88015 - DIVISION 3 (Cont.)

#5 Letter of Objection from HWL Ebsworth 7 June 2018



Our Ref: PJB:LIW:688403
Your Ref:

7 June 2018

Chief Executive Officer
Moreton Bay Regional Council
220 Gympie Road
STRATHPINE QLD 4500

Email: ceo@moretonbay.qld.gov.au
CC: angus.conaghan@moretonbay.qld.gov.au;

This document, including any attachments, may contain privileged and confidential information intended only for the addressee named above. If you are not the intended recipient please notify us. Any unauthorised use, distribution or reproduction of the content of this document is expressly forbidden.

Dear Sir

**Genamson Holdings Pty Ltd and Moreton Bay Regional Council
134-140 Morayfield Road, Caboolture South**

We act for Genamson Holdings Pty Ltd (**Genamson**), the registered owner of the above land.

We refer to:

- our client's Notice of Objection dated 29 March 2018 (**Notice of Objection**); and
- the report prepared by Mr Michael Marshall (**Delegate**) as delegate of the Moreton Bay Regional Council (**Council**) dated 24 May 2018 (**Second Delegate Report**).

We repeat and rely upon the matters contained in the Notice of Objection and otherwise comment on the Second Delegate Report (and the resumption process more generally) as outlined below.

1. No authority to issue NIR or Amended NIR

1.1 It has recently come to our client's attention that the proposed resumption of its land has not been properly authorised by the Council.

1.2 In that respect, it is our client's position that the Chief Executive Officer (**CEO**) was not authorised to issue:

- (a) the Notice of Intention to Resume dated 12 October 2017 (**NIR**); and

Adelaide
Brisbane
Canberra
Darwin
Hobart
Melbourne
Norwest
Perth
Sydney

Doc ID 563128443/v1
Level 19, 480 Queen Street, Brisbane QLD 4000 Australia
GPO Box 2033, Brisbane QLD 4001 Australia

Telephone +61 7 3169 4700
Facsimile 1300 368 717 (Australia) +61 2 8507 6581 (International)
hwlebsworth.com.au

ABN 37 246 549 189

ITEM 2.1 - PROPOSED RESUMPTION FOR DRAINAGE PURPOSES - 134 MORAYFIELD ROAD,
CABOOLTURE SOUTH - LOT 5 ON RP88015 - DIVISION 3 (Cont.)

- (b) the Amended Notice of Intention to Resume dated 20 February 2018
(Amended NIR).

- 1.3 This is a serious issue as there is no ability for the Council to retrospectively remedy these matters, and in the circumstances the NIR and Amended NIR are void ab initio.

Facts

- 1.4 On 19 July 2016, the Coordination Committee of the Council passed a resolution (**19 July Resolution**) in the following terms:

1. That the Council acquire the land described in the confidential report in accordance with Policy No. 12-2150-057 Resumption and Acquisition of Land.¹

2. That the Council authorise the Chief Executive Officer to do all things necessary to give effect to recommendation 1.

(emphasis ours)

- 1.5 The 19 July Resolution was adopted by the General Meeting of the Council on 19 July 2016.

- 1.6 On 31 January 2017, the Coordination Committee of the Council passed the following resolution (**31 January Resolution**):

1. That Council, having duly considered this report, is of the opinion that part of Lot 5 on RP88015 containing an approximate area of 1.22 hectares and being part of the land contained in Title Reference 18406052 and an easement over part of Lot 5 on RP88015 containing an approximate area of 720 square metres and being part of the land contained in Title Reference 18406052 be acquired for drainage purposes, and for purposes incidental to carrying out drainage purposes, respectively.

2. That the Chief Executive Officer submit the necessary application to the Department of Natural Resources and Mines requesting that the above land, and interest in land, be taken and vested in the Council, in accordance with the Acquisition of Land Act 1967.

3. That Council confirms that it remains willing to acquire by agreement the land, and interest in land, the subject of the Notice of Intention to Resume.

- 1.7 The 31 January Resolution was adopted by the General Meeting of the Council on 31 January 2017.

- 1.8 On 21 March 2017, the Coordination Committee of the Council passed the following resolution (**21 March Resolution**):

1. That Council repeal its decision to take part of lot 5 on RP88015, and an easement over part of lot 5 on RP88015, which is recorded at:

a) item 2.3, page 17/82 of Council's Coordination Committee Report dated 31 January 2017; and

¹ The land being the subject land.

ITEM 2.1 - PROPOSED RESUMPTION FOR DRAINAGE PURPOSES - 134 MORAYFIELD ROAD,
CABOOLTURE SOUTH - LOT 5 ON RP88015 - DIVISION 3 (Cont.)

b) item 12.1, page 17/38 of Council's General Meeting Minutes dated 31 January 2017.

2. That Council note that a fresh objection hearing will be scheduled to allow the landowner to be heard on its objections to the proposed taking of part of lot 5 on RP88015, and an easement over part of lot 5 on RP88015, described in the Notice of Intention to Resume issued to the landowner dated 11 August 2016.

- 1.9 The 21 March Resolution was adopted by the General Meeting of the Council on 21 March 2017 and accordingly, the 31 January Resolution was repealed.
- 1.10 By resolution dated 28 March 2017 and adopted 28 March 2017 (**28 March Resolution**), the Coordination Committee of the Council delegated certain powers of the Council under the *Acquisition of Land Act 1967 (AOLA)* to the Chief Executive Officer, including *inter alia*:
 - (a) power to prepare, serve and amend a Notice of Intention to Resume land, to discontinue a resumption and to give notice to the land registry; and
 - (b) power to consider the grounds of objection to the taking of land and to amend the notice of intention to resume or discontinue the resumption.²
- 1.11 On 12 October 2017, the Director of Executive and Property Services of the Council purported to issue the NIR under delegated authority from the Chief Executive Officer.
- 1.12 On 20 February 2018, the Director of Executive and Property Services of the Council purported to issue the Amended NIR under delegated authority from the Chief Executive Officer.
- 1.13 Since the 21 March Resolution, the Council has not:
 - (a) passed any further resolutions authorising the Chief Executive Officer to acquire the Land;
 - (b) passed any resolutions authorising:
 - (i) the issue of the NIR;
 - (ii) the issue of the Amended NIR; or
 - (iii) the taking of any step in the resumption process pursuant to the AOLA

No proper delegation

- 1.14 Point 2 of the 19 July Resolution authorises the Chief Executive Officer of the Council to "do all things necessary" to give effect to Point 1 of that resolution.
- 1.15 By Point 1 of the 19 July Resolution, the Council resolved to acquire the subject land "in accordance with Policy No. 12-2150-057 Resumption and Acquisition of Land" (**Policy**).

² Items 1 and 2 of Schedule 1 of Appendix A of the Supporting Information.

ITEM 2.1 - PROPOSED RESUMPTION FOR DRAINAGE PURPOSES - 134 MORAYFIELD ROAD,
CABOOLTURE SOUTH - LOT 5 ON RP88015 - DIVISION 3 (Cont.)

1.16 Accordingly, the Chief Executive Officer was only authorised to do all things necessary insofar as he was authorised to do those things under the Policy.

1.17 Relevantly, the Policy provides as follows:

3. The Chief Executive Officer is also delegated power to undertake the resumption process necessary to secure land without further reference to Council in each of the following situations where the Chief Executive Officer, in consultation with the Mayor, is satisfied appropriate funding will be available for the acquisition costs:

(i) The land is required within 5 years for projects contained in Council's current capital works program adopted by resolution of Council;

(ii) The land is identified for a project in a Planning report previously approved by the Council;

(iii) The land is required for a project (Divisional Works Program) identified in accordance with the Allocation of Divisional Funds to Capital Works Policy;

(iv) The Chief Executive Officer is satisfied the resumption is minor.

1.18 The effect of the Policy is that the Chief Executive Officer may only undertake the resumption process without further notice to the Council where:

(a) he is satisfied (in consultation with the Mayor) that there is appropriate funding for the acquisition cost; and

(b) one of the conditions in 3(i) to 3(iv) of the Policy is met.

1.19 There is no evidence that:

(a) the Chief Executive Officer consulted with the Mayor concerning funding for the acquisition cost; and

(b) if such consultation occurred, there is no evidence that the Chief Executive Officer could be satisfied that appropriate funding was available.

1.20 Further, none of the conditions in 3(i) to 3(iv) of the Policy is met in respect of the subject acquisition.

1.21 It follows that the issue of the NIR and the Amended NIR (purportedly under delegation from the Chief Executive Officer), in the absence of any further resolution by the Council, were each *ultra vires*.

1.22 Even if the Chief Executive Officer was said to be acting under the powers delegated to him by the 28 March Resolution, the delegation of those powers was expressly limited as follows:

The powers delegated to the CEO under Schedule 1 (in Appendix A of the Supporting Information for this Item) are only exercisable by the CEO in respect of land, if the CEO in consultation with the Mayor is satisfied that appropriate funding will be available for any relevant acquisition costs and:

ITEM 2.1 - PROPOSED RESUMPTION FOR DRAINAGE PURPOSES - 134 MORAYFIELD ROAD,
CABOOLTURE SOUTH - LOT 5 ON RP88015 - DIVISION 3 (Cont.)

- a. the land is required within five years for projects contained in Council's current capital works program adopted by resolution of Council; or
- b. the land is identified for a project in a Planning report previously approved by the Council; or
- c. the land is required for a project (Divisional Works Program) identified in accordance with the Allocation of Divisional Funds to Capital Works Policy; or
- d. the Chief Executive Officer is satisfied that the resumption is minor.

1.23 In the circumstances, the issuance of the NIR and Amended NIR was outside of the Chief Executive Officer's delegation.

Expired delegation

1.24 Section 257 of the *Local Government Act 2009 (LGA)* provides as follows:

(1) A local government may, by resolution, delegate a power under this Act or another Act to—

(a) the mayor; or

(b) the chief executive officer...

...

(4) A delegation to the chief executive officer under subsection (1) must be reviewed annually by the local government.

1.25 Point 2 of the 19 July Resolution authorises the Chief Executive Officer the power to "do all things necessary to give effect to recommendation 1". This purported authorisation is clearly in the nature of a delegation under s257(1) of the LGA as:

- (a) it purports to authorise the Chief Executive Officer to exercise powers that would otherwise only be able to exercised by the Council; and
- (b) each of the NIR and the Amended NIR is purported to be issued under the delegated authority of the Chief Executive Officer.

1.26 The delegation to the Chief Executive Officer pursuant to the 19 July Resolution was not reviewed by the Council on or before 19 July 2017 and accordingly, has expired.

1.27 In the circumstances, the Chief Executive Officer was not entitled to act under any authority delegated to him by the 19 July Resolution after 19 July 2017. Accordingly, he was not empowered to issue the NIR or the Amended NIR pursuant to the 19 July Resolution.

2. Second Delegate Report

2.1 Our comments in respect of the Second Delegate Report are outlined below.

ITEM 2.1 - PROPOSED RESUMPTION FOR DRAINAGE PURPOSES - 134 MORAYFIELD ROAD,
CABOOLTURE SOUTH - LOT 5 ON RP88015 - DIVISION 3 (Cont.)

Apprehended bias

- 2.2 Our client maintains its position that a reasonable apprehension of bias arises from the appointment of Mr Michael Marshall as the Council's delegate to hear objections in response to the Amended NIR.
- 2.3 The Delegate's response to this is troubling, as he asserts:
- (a) he is not acting as a judicial officer nor as an administrator and therefore "the actions of the delegate cannot be impugned on the basis of an apprehension of bias";
 - (b) he has no power to make a decision as to whether the resumption ought to proceed but only to hear objections and provide a report to the Council (which, as the constructing authority, will make the decision); and
 - (c) he cannot make findings of fact but nonetheless can express "views, opinions and conclusions" about matters raised in the objection hearing.
- 2.4 At a general level, it is necessary to emphasis that the Delegate is performing a role that the Council would otherwise be required to undertake itself. Accordingly, it is incumbent upon the Delegate to conduct the hearing according to the same standards to which the Council itself would be held, had it chosen to conduct the hearing itself.
- 2.5 Indeed, this was recognised by Wilson J in *Council of the City of Caloundra v Minister for Natural Resources & Ors* (1999) 106 LGERA 233 at [15]:
- The function of the delegate under s 8 is to hear and report as an alternative to a hearing by the constructing authority itself. It is then for the constructing authority to consider the grounds of the objection and, unless it decides to discontinue the resumption or to amend the notice of intention to resume, to make an application to the Minister under s 9(3). That the delegate does not consider and/or make the application to the Minister does not detract from the fact that he or she is doing something which otherwise the constructing authority would be required to do itself.*
- (emphasis ours)
- 2.6 Further, in considering the Second Delegate Report, it is important for the Council to be cognisant of the fact that any error in any part of the Second Delegate Report that is adopted by the Council in making its decision will similarly infect the Council's decision with error.³
- 2.7 In this respect, the Delegate's reliance upon his duty to prepare a report (and not make a final decision) is misplaced in circumstances where:
- (a) he is, in effect, standing in the shoes of the Council in conducting the hearing;
 - (b) his report must be based on all relevant facts and evidence;⁴ and

³ *Sean Investments Pty Ltd v Mackellar* (1981) 38 ALR 363, 371; *Minister for Aboriginal Affairs v Peko-Wallsend Ltd* (1986) 162 CLR 24, 66.

⁴ *White v Ryde Municipal Council* [1977] 2 NSWLR 909.

ITEM 2.1 - PROPOSED RESUMPTION FOR DRAINAGE PURPOSES - 134 MORAYFIELD ROAD,
CABOOLTURE SOUTH - LOT 5 ON RP88015 - DIVISION 3 (Cont.)

- (c) if he is to express a "view, opinion or conclusion", it follows that such a "view, opinion or conclusion" must be based on logically probative evidence or it will otherwise infect the Council's decision with error if it is relied upon by the Council.
- 2.8 Indeed, it is difficult to see what use any "view, opinion or conclusion" expressed by the Delegate will be to the Council if that "view, opinion or conclusion" is not based on logically probative facts.
- 2.9 We also have concern with the fact that the Delegate, in both the Second Delegate Report and his previous report, has, in respect of a number of grounds of objection, expressed a "view, opinion or conclusion" that is adverse to our client.
- 2.10 Conversely, a number of grounds that are favourable to our client (and adverse to the continuation of the resumption) have been dismissed by the Delegate as legal matters upon which it is inappropriate for him to comment.
- 2.11 This is curious in circumstances where the Delegate:
 - (a) is an experienced solicitor who maintains a practice which, *inter alia*, deals with matters of administrative law as they relate to local governments;
 - (b) was presumably delegated the power to conduct the objection hearing by the Chief Executive Officer in accordance with s259(1) of the LGA, which requires him to be "appropriately qualified"; and
 - (c) expresses views on other matters based on his "experience in this area of law".

Reliance on previous report

- 2.12 At the outset, it is not appropriate for the Delegate to rely on his report dated 31 January 2018 (**Previous Report**).
- 2.13 That is so because s9(4AB) AOLA provides as follows:

If the constructing authority amends the notice of intention to resume, the period within which an entity may serve on the constructing authority an objection to the taking of the land starts again from the day the notice of the amendment is given to the entity.
- 2.14 In this respect, the AOLA makes it clear that the objection process in respect of the Amended NIR is not an addendum to the objection process for the NIR but that the entire process starts again.
- 2.15 Indeed, the Delegate appears to criticise our client for reprising a number of grounds of objection that he asserts were dealt with in the Previous Report. The statutory language of the AOLA makes it clear that this is not only desirable but is what is required.
- 2.16 Accordingly, it is inappropriate for the Delegate to have regard to the Previous Report or for the Previous Report to be put before the Council in making its decision in respect of the Amended NIR.

*ITEM 2.1 - PROPOSED RESUMPTION FOR DRAINAGE PURPOSES - 134 MORAYFIELD ROAD,
CABOOLTURE SOUTH - LOT 5 ON RP88015 - DIVISION 3 (Cont.)*

- 2.17 This is particularly so in circumstances where the Previous Report made a recommendation to the Council (namely, to proceed with the resumption) from which the Delegate now (appropriately) resiles.⁵

Regard to Judgment

- 2.18 At paragraph 6.14 of the Second Delegate Report, the Delegate addresses the regard that the Council is said to have had to the judgment of his Honour Judge Rackemann⁶ (**Judgment**)).
- 2.19 In that respect, the Delegate seems to assert that:
- (a) the Council had regard to the Judgment in issuing the NIR/Amended NIR; and
 - (b) as the suitability of the Koala Park for the location of any proposed detention basin was a live issue in the proceedings, the Council had regard to that matter in issuing the NIR/Amended NIR.
- 2.20 The Delegate's assertion in this regard is entirely unmeritorious. There is no evidence whatsoever that the Council had regard to the Judgment in issuing the NIR/Amended NIR.
- 2.21 If the Council did, indeed, have regard to the Judgment, it should provide the results of its deliberations to Genamson for comment as a matter of procedural fairness.
- 2.22 We note that the Delegate has appropriately recommended that the Council have regard, or further regard, to the Judgment.

Unreasonableness

- 2.23 At paragraph 6.19 of the Second Delegate Report, the Delegate attempts to dismiss Genamson's objection on the grounds of unreasonableness as, in his opinion, the documents and reports attached to the Amended NIR disclose a reasonable basis for the Council to seek to take part of the Land.
- 2.24 In this respect, the Delegate has failed to justify his opinion and if the Council were to rely upon it in making its decision, it would be led into error.

Procedural Fairness/Natural Justice

- 2.25 Genamson has not been provided with any of the documents to which the Delegate seems to assert that Council had regard in issuing either the NIR or the Amended NIR.
- 2.26 As a matter of procedural fairness, Genamson should be provided with the following documents, and Council's consideration of them, and be given a further opportunity to comment:
- (a) all documents to which the Council had regard in issuing the NIR and the Amended NIR; and

⁵ See paragraph 6.25 of the Second Delegate Report.

⁶ *Genamson Holdings Pty Ltd v Moreton Bay Regional Council* [2017] QPEC 56.

*ITEM 2.1 - PROPOSED RESUMPTION FOR DRAINAGE PURPOSES - 134 MORAYFIELD ROAD,
CABOOLTURE SOUTH - LOT 5 ON RP88015 - DIVISION 3 (Cont.)*

- (b) the results of the Council's consideration of any further material (such as the Judgment or Dr Johnson's report) following its consideration of any report from the Delegate (including any further report).

3. Previous Report

- 3.1 For completeness, we have addressed matters within the Previous Report with which we take issue below.

Procedural Fairness/Natural Justice

- 3.2 At paragraph 8.9 of the Previous Report, the Delegate asserts that procedural fairness/natural justice has been afforded to Genamson by reason of the opportunity afforded to it to request further document from the Council. With respect, that is not the case.

- 3.3 In accordance with the Delegate's directions, HWL Ebsworth, on behalf of Genamson, wrote to the Council seeking:

- (a) the terms and conditions of the Delegate's appointment as the delegate of Council;
- (b) any further information requested by the Delegate, other than that provided in the brief of 20 November 2017;
- (c) any selection criteria documents for the proposed resumption;
- (d) any reports relevant to the assessment of any and all alternative sites for drainage purposes, and easement purposes incidental to carrying out drainage purposes, for the proposed resumption;
- (e) all documents relating to the Council's decision to rescind its previous decision to resume the land;
- (f) any information relating to the value of the land;
- (g) any advice in the Council's possession concerning the resumption of the land and/or the accommodation of the regional detention basin on the land, including, but not limited to:
 - (i) any advice received from external consultants, including Mr Steve Clark; or
 - (ii) any legal advice received either internally, or externally, concerning the proposed resumption, including from Mr Andrew Skoien of counsel;
- (h) any communications to, from, or between Council officers in respect of the proposed resumption, including, but not limited to, emails, letters and internal memorandums; and

ITEM 2.1 - PROPOSED RESUMPTION FOR DRAINAGE PURPOSES - 134 MORAYFIELD ROAD,
CABOOLTURE SOUTH - LOT 5 ON RP88015 - DIVISION 3 (Cont.)

- (i) any communications to, from, or between councillors (in particular, Councillors Hain, Sutherland and Charlton) concerning the proposed resumption, including, but not limited to, emails, letters and internal memorandums.

(Requested Documents)

- 3.4 On 15 December 2017, the Council wrote to HWL Ebsworth declining to provide any of the Requested Documents.
- 3.5 Accordingly, Genamson has been deprived of the opportunity to consider and comment upon any documents considered by the Council in issuing the NIR, other than:
 - (a) the Stormwater Quantity Infrastructure for Caboolture and Burpengary Catchments 2009 report, which has been overtaken by events; and
 - (b) the draft Feasibility Study, which is neither soundly-based, nor in final form.
- 3.6 In the circumstances, Genamson has not been afforded natural justice and/or procedural fairness.

Locate Infrastructure Elsewhere

- 3.7 At paragraph 8.29 of the Previous Report, the Delegate criticises Genamson, and its expert Dr Johnson, for not identifying any alternative sites for the location of the proposed detention basin other than the Koala Park and/or 44 Adelaide Drive. This assertion appears to misapprehend the role of the objector landholder in the objection process.
- 3.8 Rather than Genamson being required to provide the Council with a list of alternative sites to the subject land, it is for the Council to prove to Genamson that it has considered such alternative sites. With the exception of a few lines within the draft Feasibility Study (which has not been updated following the Judgment) there has been no evidence provided to Genamson that any alternative sites have been considered in any detail whatsoever.
- 3.9 Further, at paragraph 8.30 of the Previous Report, the Delegate attempts to construe the Judgment as supporting the resumption of the subject land (as opposed to locating the proposed detention basin on the Koala Park). That is simply not the case.
- 3.10 The Judgment, in fact, acknowledged that:
 - (a) the Koala Park provided an opportunity to locate "at least some" of the detention basin function;⁷ and
 - (b) locating the proposed detention basin on the Koala Park was only an issue if detention in the order of 21,000m³ were required.⁸
- 3.11 In that respect, the comments of his Honour Judge Rackemann in respect of the size of the proposed detention basin are as follows:

⁷ Ibidem, [57].

⁸ Ibid. [58].

ITEM 2.1 - PROPOSED RESUMPTION FOR DRAINAGE PURPOSES - 134 MORAYFIELD ROAD,
CABOOLTURE SOUTH - LOT 5 ON RP88015 - DIVISION 3 (Cont.)

[79] Dr Johnson also pointed out that the justification for, or benefits of, a detention basin with the particular volume of 21,000m³ are unknown. The 2009 report (which was withheld from Dr Johnson for some time) referred to a figure of 21,000m³, but is dated and, in his view, unsubstantiated at this time. Mr Clark's evidence was to the effect that there is the potential for the increase in upstream intensification of development to produce significant increases in inflows in Sheepstation Creek and a detention basin is needed, but the council did not rely on his evidence to justify a particular sizing. The figure of 21,000m³ was not picked up in any of the infrastructure charging resolutions or in the PIP and the planned detention basin has not been the subject of detailed design.

- 3.12 There has been no evidence provided to Genamson that the Council has considered in detail, or at all:
- (a) the possibility of locating part of the detention basin upon the Koala Park; or
 - (b) whether the particular volume of 21,000m³ is, in fact, required, such that the entirety of the detention basin could be located on the Koala Park (in the event that a lesser capacity is required).
- 3.13 Accordingly, the conclusion of the Delegate at paragraph 8.31 of the Previous Report that it is "self-evident" that the Council has considered the Koala Park as an alternative location is incorrect, especially in circumstances where the Council has refused to provide any documents post-dating the Judgment evidencing its considerations. Further, if the Council has, in fact, considered these matters, Genamson should be provided with evidence of its deliberations as well as an opportunity to provide comment upon them.
- 3.14 Finally, the Delegate's criticism of Genamson at paragraph 8.32 for providing "very little information" concerning the possibility of locating the proposed detention basin (or part of the proposed detention basin) at 44 Adelaide Drive is misplaced. The correct test is to examine whether or not the Council has considered this site, of which there has been no evidence provided to Genamson.

Co-Location

- 3.15 At the outset, paragraph 8.34 mischaracterises the nature of Genamson's objection in this regard. This ground of objection relates to not only the Council's failure to demonstrate that the drainage purpose cannot be adequately accommodated on the land without taking the part of the land outlined in the NIR but a failure to demonstrate that all of the land proposed to be taken is required for the purpose stated in the NIR.
- 3.16 Further, the conclusion reached by the Delegate in paragraphs 8.36 and 8.37 of the Report is unsupported by any evidence that has been provided to Genamson. Far from being clear, there is, in fact, no evidence whatsoever that the Council has, in any way, considering the findings contained in the Judgment.
- 3.17 Indeed, the only consideration given by the Council (albeit very briefly) to the Co-Location Option is contained in the draft Feasibility Study, which was undertaken (although never completed) well before the consideration of the Co-Location by the parties' hydraulic experts and the findings of his Honour Judge Rackemann contained in the Judgment. Curiously, to Genamson's knowledge, there have been no updates or attempts to complete the draft Feasibility Study since the Judgment was delivered.

ITEM 2.1 - PROPOSED RESUMPTION FOR DRAINAGE PURPOSES - 134 MORAYFIELD ROAD, CABOOLTURE SOUTH - LOT 5 ON RP88015 - DIVISION 3 (Cont.)

- 3.18 In any event, paragraph 80 of the Judgment does not provide a basis for the Council to conclude that the public interest is better served by the taking of the land and the construction of a standalone detention basis as the Delegate concludes in paragraph 8.38 of the Previous Report.
- 3.19 In the Judgment, his Honour was concerned only as to whether it was technically feasible to provide 21,000m³ of detention co-located with the proposed development without unacceptable impacts, which he indeed concluded it was. It follows that the drainage purposes can be accommodated without taking the land as proposed in the NIR.
- 3.20 Section 9(1) of the AOLA, requires that, in order to make an application that the land be taken, the Council must be of the opinion that the land is required for the drainage purposes. This goes beyond the land being taken being the Council's preferred option. Given that the Judgment establishes that a Co-Location option is technically feasible without unacceptable impacts, there is no reasonable basis upon which the Council could be satisfied that the land is required for the drainage purposes.
- 3.21 At paragraph 8.49 of the Previous Report, the Delegate concludes that the materials contained in the Council's brief provide a reasonable basis for the Council to seek to resume the land. This is curious in circumstances where that material did not disclose any consideration of the Judgment, which the Delegate concludes, at paragraph 8.31, the Council self-evidently considered.

Financial Implications of Alternative Courses of Action

- 3.22 At paragraph 8.51 of the Previous Report, the Delegate concedes that the Council has not had regard to the financial implications of taking the land, despite that being a matter specifically contemplated by the Guideline.
- 3.23 Although it is ultimately a matter for the Council, Genamson submits that it ought to give serious consideration to less costly courses of action (such as using land that it already owns, being the Koala Park) before incurring an as yet to be quantified liability in resuming the subject land.

Dr Johnson Report/Supplementary Material

- 3.24 In paragraph 8.54 of the Previous Report, the Delegate seeks to dismiss the report of Dr Johnson provided by Genamson on the basis that he is unable to make findings of fact in respect of it due to his lack of hydraulic engineering qualifications.
- 3.25 Putting aside the fact that decision-makers (such as judicial officers) routinely make findings of fact in areas in which they are not qualified based on the evidence provided by appropriately-qualified experts (such as Dr Johnson), the Council must consider Dr Johnson's report in deciding whether or not to take the subject land.
- 3.26 This is because Dr Johnson is the only expert who has provided any detailed consideration of whether there is a hydraulic engineering basis for resuming the subject land.

Moreton Bay Regional Council

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*ITEM 2.1 - PROPOSED RESUMPTION FOR DRAINAGE PURPOSES - 134 MORAYFIELD ROAD,
CABOOLTURE SOUTH - LOT 5 ON RP88015 - DIVISION 3 (Cont.)*

3.27 In this respect, we note that in the Second Delegate Report, the Delegate has appropriately recommended that the Council give consideration, or further consideration, to the report of Dr Johnson.

Yours faithfully



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CC: Mr Angus Conaghan - MBRC Legal Services

ITEM 2.1 - PROPOSED RESUMPTION FOR DRAINAGE PURPOSES - 134 MORAYFIELD ROAD,
CABOOLTURE SOUTH - LOT 5 ON RP88015 - DIVISION 3 (Cont.)

#6 Council's response to the letter dated 7 June 2018



Phone: 3480 6749
Our Ref: A17558587
Your Ref: PJB:LIW:688403
Date: 12 September 2018

Peter Bittner and Luke Walker
HWL Ebsworth Lawyers
Level 19
480 Queen Street
BRISBANE QLD 4001

By e-mail only: pbittner@hwle.com.au
walker@hwle.com.au

Dear Sirs,

**Proposed Resumption of Land - Part of Lot 5 on RP88015 - 134-140 Morayfield Road,
Caboolture South**

We refer to your letter dated 7 June 2018.

In particular, we refer to your assertion that the Council's Chief Executive Officer (CEO) had no authority to issue the notice of intention to resume dated 12 October 2017 (NIR) or Amended Notice of Intention to Resume dated 20 February 2018 (Amended NIR).

With respect, we disagree with your conclusions.

You have identified that Council's Policy No. 12-2150-057 Resumption and Acquisition of Land (Policy), referred to in the resolution of 19 July 2016, refers to certain situations whereby the CEO is delegated power to undertake resumptions without further reference to the Council.

Item 3(ii) of the Policy refers to situations where the land is identified for a project in a Planning report previously approved by the Council.

It is clearly the case in respect of the proposed resumption that your client's land was identified for trunk infrastructure in various Council planning reports. For example, we note the need for the detention basin was designated in the former Caboolture Shire Council's Infrastructure Charges Resolution. It was maintained in the subsequent Moreton Bay Regional Council Infrastructure Charges Resolution and the Priority Infrastructure Plan that commenced with the introduction of the MBRC Planning Scheme on 1 February 2016.

We consider the situation referred to in item 3(ii) of the Policy clearly responds in the present circumstances.

Next steps

We advise the Council's intention to consider the proposed resumption at its meeting on 18 September 2018.

Customer Service Contacts

PO Box 159 Caboolture QLD 4510 | T (07) 3205 0555 | F (07) 3205 0599 | E mbrcc@moretonbay.qld.gov.au | W www.moretonbay.qld.gov.au

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*ITEM 2.1 - PROPOSED RESUMPTION FOR DRAINAGE PURPOSES - 134 MORAYFIELD ROAD,
CABOOLTURE SOUTH - LOT 5 ON RP88015 - DIVISION 3 (Cont.)*

2

As previously advised, the report prepared by the Council's delegate dated 24 May 2018 and all relevant correspondence (including your letter dated 7 June 2018) will be made available for the Council's consideration.

For your reference, the agenda for the Council meeting together with supporting documentation will be published on the Council's website in advance of the meeting.

Yours sincerely,



Angus Conaghan
Legal Officer
Legal Services Department

Customer Service Contacts

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3 CORPORATE SERVICES SESSION

(Cr M Constance)

ITEM 3.1

MONTHLY REPORTING PACKAGE - AUGUST 2018 - REGIONAL

Meeting / Session: 3 CORPORATE SERVICES
Reference: A17546569 : 10 September 2018 - **Refer Supporting Information A17546509**
Responsible Officer: DW, Coordinator Management Accounting (CEO Accounting Services)

Executive Summary

The purpose of this report is to present the Financial Reporting Package for the year to date period ending 31 August 2018.

OFFICER'S RECOMMENDATION

That the Financial Reporting Package for the year to date period ending 31 August 2018 be received.

ITEM 3.1 MONTHLY REPORTING PACKAGE - AUGUST 2018 - REGIONAL - A17546569 (Cont.)

REPORT DETAIL

1. Background

The Financial Reporting Package for the month ending 31 August 2018 is contained within the supporting information to this report.

This package contains a number of financial statements with relevant commentary to provide a breakdown of key financial data and includes.

- ✓ Financial Statements
 - Statement of Comprehensive Income shows all income and expenditure as at the end of the August period.
 - The Statement of Financial Position highlights Council's position at the end of August and itemises assets, liabilities and community equity.
 - Statement of Cash Flows which represents the cash inflows and outflows during the month.
 - Statement of sources and applications of capital funding.
- ✓ Treasury Report
 - The Treasury Report highlights key areas of performance relating to Council's investments and borrowings.

2. Explanation of Item

The financial results for the month of August are complete. A commentary is provided on significant matters that occurred during the month.

3. Strategic Implications

3.1 Legislative/Legal Implications

Part 9, section 204 of the Local Government Regulation 2012, (regulation) states the following:

- (1) The local government must prepare a financial report.
- (2) The chief executive officer must present the financial report—
 - (a) if the local government meets less frequently than monthly—at each meeting of the local government; or
 - (b) otherwise—at a meeting of the local government once a month.
- (3) The financial report must state the progress that has been made in relation to the local government's budget for the period of the financial year up to a day as near as practicable to the end of the month before the meeting is held.

3.2 Corporate Plan / Operational Plan

Strengthening Communities: Strong local governance - strong leadership and governance.

3.3 Policy Implications

Compliance to the Council's Investment Policy is confirmed for the month of August.

3.4 Risk Management Implications

The Council is subject to numerous risks associated with revenue and expenses that can impact upon Councils financial performance and position. Those risks are documented and evaluated as part of the operational plan preparation in conjunction with the annual budget cycle.

3.5 Delegated Authority Implications

There are no delegated authority implications arising as a direct result of this report.

Moreton Bay Regional Council

ITEM 3.1 MONTHLY REPORTING PACKAGE - AUGUST 2018 - REGIONAL - A17546569 (Cont.)

3.6 Financial Implications

As at the end of August 2018 Council's operating surplus is \$49.98 million and the capital expenditure incurred amounted to \$11.42 million (excluding the University Project).

3.7 Economic Benefit

There are no economic benefit implications arising as a direct result of this report.

3.8 Environmental Implications

There are no environmental implications arising as a direct result of this report.

3.9 Social Implications

There are no social implications arising as a direct result of this report.

3.10 Consultation / Communication

Chief Executive Officer, Manager Financial and Project Services and Accounting Services Manager.

SUPPORTING INFORMATION

Ref: [A17546509](#)

The following list of supporting information is provided for:

ITEM 3.1

MONTHLY REPORTING PACKAGE - AUGUST 2018 - REGIONAL

#1 Monthly Financial Report - 31 August 2018

ITEM 3.1 - MONTHLY REPORTING PACKAGE - AUGUST 2018 - REGIONAL (Cont.)
#1 Monthly Financial Report - 31 August 2018

Moreton Bay Regional Council

Monthly Financial Report

Year to date result as at: 31 August 2018

Contents	Page No
Financial Statements	1 to 3
Statement of Sources and Application of Capital Funding	4
Segment Analysis	5
Commentary on Financial Results and Graphs	6 to 9
Treasury Report	10

Moreton Bay Regional Council

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ITEM 3.1 - MONTHLY REPORTING PACKAGE - AUGUST 2018 - REGIONAL (Cont.)

Moreton Bay Regional Council STATEMENT OF COMPREHENSIVE INCOME For the period ended 31 August 2018

17% of the year
elapsed

	2018/19 Original Budget	2018/19 Revised Budget	2018/19 YTD Actuals	Actuals to Revised Budget 2018/19
Revenue				
Operating Revenue				
Rates and utility charges	\$307,250,103	\$307,263,703	\$75,667,143	24.63%
Fees and charges	\$35,381,922	\$35,381,922	\$6,238,426	17.63%
Rental income	\$6,010,669	\$6,010,669	\$801,733	13.34%
Grants, subsidies and contributions	\$19,749,473	\$20,871,093	\$2,516,925	12.06%
Interest revenue	\$47,066,855	\$47,066,855	\$7,627,536	16.21%
Sales revenue	\$2,992,740	\$2,992,740	\$410,614	13.72%
Other revenue	\$21,566,080	\$21,566,080	\$2,631,910	12.20%
Share of profit of associate - Operating Cash	\$25,558,000	\$25,558,000	\$4,259,667	16.67%
Total Operating Revenue	\$465,575,842	\$466,711,062	\$100,153,954	21.46%
Expenses				
Operating Expenses				
Employee benefits	(\$134,361,703)	(\$134,361,703)	(\$18,271,394)	13.60%
Materials and services	(\$162,882,508)	(\$162,783,857)	(\$21,439,694)	13.17%
Depreciation and amortisation	(\$91,236,382)	(\$91,236,382)	(\$15,206,064)	16.67%
Finance costs	(\$23,102,171)	(\$23,102,171)	(\$3,918,899)	16.96%
Total Operating Expenses	(\$411,582,764)	(\$411,484,113)	(\$58,836,051)	14.30%
Operating Result	\$53,993,078	\$55,226,949	\$41,317,903	74.81%
Share of Profit of Associate - Capital Non-cash	\$52,000,000	\$52,000,000	\$8,666,667	16.67%
Capital Revenue	\$77,650,653	\$83,594,472	\$9,301,443	11.13%
Capital Expenses	\$0	\$0	(\$1,428,087)	No Budget
NET RESULT	\$183,643,731	\$190,821,421	\$57,857,926	30.32%
Other Comprehensive Income				
Items that will not be reclassified to net result				
Increase/(decrease) in asset revaluation surplus	\$0	\$0	\$0	No Budget
Items that may be reclassified subsequently to net result				
Net change in available-for-sale financial assets	\$0	\$0	(\$123,998)	No Budget
Total other comprehensive income for the year	\$0	\$0	(\$123,998)	No Budget
TOTAL COMPREHENSIVE INCOME FOR THE YEAR	\$183,643,731	\$190,821,421	\$57,733,928	30.26%

Moreton Bay Regional Council

COORDINATION COMMITTEE MEETING
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ITEM 3.1 - MONTHLY REPORTING PACKAGE - AUGUST 2018 - REGIONAL (Cont.)

Moreton Bay Regional Council STATEMENT OF FINANCIAL POSITION As at 31 August 2018

	2018/19 Budget as at 30 June 2019	2018/19 YTD Actual
Assets		
Current Assets		
Cash and cash equivalents	\$321,620,000	\$356,074,901
Trade and other receivables	\$45,769,000	\$33,726,778
Inventories	\$1,081,000	\$1,118,417
	\$368,470,000	\$390,920,096
Non-current assets held for sale	\$0	\$402,200
Total Current Assets	\$368,470,000	\$391,322,296
Non-Current Assets		
Trade and other receivables	\$677,576,000	\$677,576,094
Other financial assets	\$0	\$101,549,919
Investments	\$15,000	\$15,000
Investment property	\$44,970,000	\$28,635,000
Investment in associate	\$1,152,610,000	\$1,138,134,760
Property, plant and equipment	\$4,559,380,000	\$4,634,867,210
Intangible assets	\$280,000	\$326,343
Total Non-Current Assets	\$6,434,831,000	\$6,581,104,326
Total Assets	\$6,803,301,000	\$6,972,426,622
Liabilities		
Current Liabilities		
Trade and other payables	\$39,783,000	\$28,682,565
Borrowings	\$33,881,000	\$31,532,941
Provisions	\$12,889,000	\$13,359,308
Other	\$1,673,000	\$158,141
Total Current Liabilities	\$88,226,000	\$73,732,955
Non-Current Liabilities		
Trade and other payables	\$213,000	\$0
Borrowings	\$345,187,000	\$354,462,899
Provisions	\$33,712,000	\$43,896,035
Total Non-Current Liabilities	\$379,112,000	\$398,358,934
Total Liabilities	\$467,338,000	\$472,091,889
NET COMMUNITY ASSETS	\$6,335,963,000	\$6,500,334,733
Community Equity		
Retained surplus	\$5,437,673,000	\$5,576,836,051
Asset revaluation surplus	\$898,290,000	\$923,498,682
TOTAL COMMUNITY EQUITY	\$6,335,963,000	\$6,500,334,733

Moreton Bay Regional Council

COORDINATION COMMITTEE MEETING
18 September 2018

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ITEM 3.1 - MONTHLY REPORTING PACKAGE - AUGUST 2018 - REGIONAL (Cont.)

Moreton Bay Regional Council STATEMENT OF CASH FLOWS For the period ended 31 August 2018

	2018/19 Budget as at 30 June 2019	2018/19 YTD Actuals
Cash flows from operating activities		
Receipts from customers	\$387,202,000	\$97,655,889
Payments to suppliers and employees	(\$290,593,000)	(\$61,050,843)
Interest received	\$47,067,000	\$10,730,568
Rental income	\$5,718,000	\$801,733
Non capital grants and contributions	\$18,789,000	\$2,516,925
Borrowing costs	(\$21,322,000)	(\$3,741,855)
Net cash inflow/(outflow) from operating activities	\$146,861,000	\$46,912,417
Cash flows from investing activities		
Payments for property, plant and equipment	(\$230,286,000)	(\$13,991,299)
Payments for intangible assets	\$0	\$0
Payments for investment property	\$0	\$0
Payments for available for sale investment	\$0	\$0
Proceeds from sale of property, plant and equipment	\$21,800,000	\$186,928
Net movement in loans to community organisations	\$0	\$0
Grants, subsidies and contributions	\$37,424,000	\$9,114,515
Net cash inflow/(outflow) from investing activities	(\$171,062,000)	(\$4,689,856)
Cash flows from financing activities		
Proceeds from borrowings	\$24,518,000	\$0
Repayment of borrowings	(\$30,771,000)	\$0
Net cash inflow/(outflow) from financing activities	(\$6,253,000)	\$0
Net increase/(decrease) in cash held	(\$30,454,000)	\$42,222,561
Cash and cash equivalents at the beginning of the financial year	\$352,074,000	\$313,852,340
Cash and cash equivalents at the end of the period	\$321,620,000	\$356,074,901

Moreton Bay Regional Council

COORDINATION COMMITTEE MEETING
18 September 2018

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ITEM 3.1 - MONTHLY REPORTING PACKAGE - AUGUST 2018 - REGIONAL (Cont.)

Moreton Bay Regional Council STATEMENT OF SOURCES AND APPLICATIONS OF CAPITAL FUNDING For the period ended 31 August 2018

	Original Budget 2018/19	Revised Budget 2018/19	YTD Actuals 2018/19
<u>Capital Funding Sources</u>			
Cash Utilised	\$222,365,224	\$242,513,517	\$11,900,255
Capital Grants and Subsidies received	\$13,923,653	\$19,867,472	\$2,091,044
Contributed Assets and assets not previously recognised	\$40,227,000	\$40,227,000	-
Loans received	\$24,517,864	\$24,517,864	-
Total Capital Funding Sources	\$301,033,741	\$327,125,853	\$13,991,299
<u>Capital Funding Applications</u>			
Capital Expenditure	\$230,036,000	\$256,128,112	\$13,991,299
Contributed Assets and assets not previously recognised	\$40,227,000	\$40,227,000	-
Loan Redemption	\$30,770,741	\$30,770,741	-
Total Capital Funding Applications	\$301,033,741	\$327,125,853	\$13,991,299

Moreton Bay Regional Council

ITEM 3.1 - MONTHLY REPORTING PACKAGE - AUGUST 2018 - REGIONAL (Cont.)

Analysis of Results by Operational Plan

For the period ended 31 August 2018						
Operational Plan	Operating Revenue	Operating Expenses	Operating Result	Capital Revenue	Capital Expenses	Net Result
Engineering, Construction & Maintenance	\$11,986,928	(\$16,444,489)	(\$4,457,561)	\$1,785,794	-	(\$2,671,767)
Community & Environmental Services	\$4,871,516	(\$7,338,935)	(\$2,467,419)	\$5,000	-	(\$2,462,419)
Governance	\$90,148,981	(\$33,362,004)	\$56,786,977	\$7,510,649	(\$1,428,087)	\$62,869,540
Planning and Economic Development	\$1,813,195	(\$1,690,623)	\$122,573	-	-	\$122,573
Total Council	\$108,820,620	(\$58,836,051)	\$49,984,570	\$9,301,443	(\$1,428,087)	\$57,857,926

Analysis of Results by Entity

For the period ended 31 August 2018						
Entity	Operating Revenue	Operating Expenses	Operating Result	Capital Revenue	Capital Expenses	Net Result
General	\$97,240,266	(\$53,961,586)	\$43,278,679	\$9,301,443	(\$1,428,087)	\$51,152,036
Waste	\$11,177,622	(\$4,850,301)	\$6,327,321	-	-	\$6,327,321
Canals	\$402,732	(\$24,163)	\$378,569	-	-	\$378,569
Total Council	\$108,820,620	(\$58,836,051)	\$49,984,570	\$9,301,443	(\$1,428,087)	\$57,857,926

The Performance at a Glance **as at 31 August 2018**

Synopsis

- * 17% of the financial year is complete.
- * The operating surplus is \$49.98 million.

Operating Revenue

- * Rates and Utility Charges are on track to budget following the first quarterly rates levy.
- * Operating Grants and Subsidies and Other Revenue are tracking below budget which is expected at this point in the financial year.
- * In total all other revenue categories are performing to the revised budget target at this time of the year.

Operating Expenditure

- * Employee Expenses and Materials and Services are tracking below budget at this point in the year.
- * Finance Costs are tracking significantly under budget.
- * All other expenditure is on track for this stage of the financial year.

Capital Revenue

- * Infrastructure Cash Contributions are tracking above budget.
- * No contributed assets have been recognised to date.
- * Grants, Subsidies and Other Contributions are below budget.

Capital Expenditure

- * To date \$11.42 million has been spent on capital works, (which represents 6.14% of the capital program). This excludes the University project costs.

Moreton Bay Regional Council

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ITEM 3.1 - MONTHLY REPORTING PACKAGE - AUGUST 2018 - REGIONAL (Cont.)

Moreton Bay Regional Council

Comparative Table 2016/17 and 2017/18 to 2018/19*

Year to date result as at: 31 August 2018

17% of the year elapsed

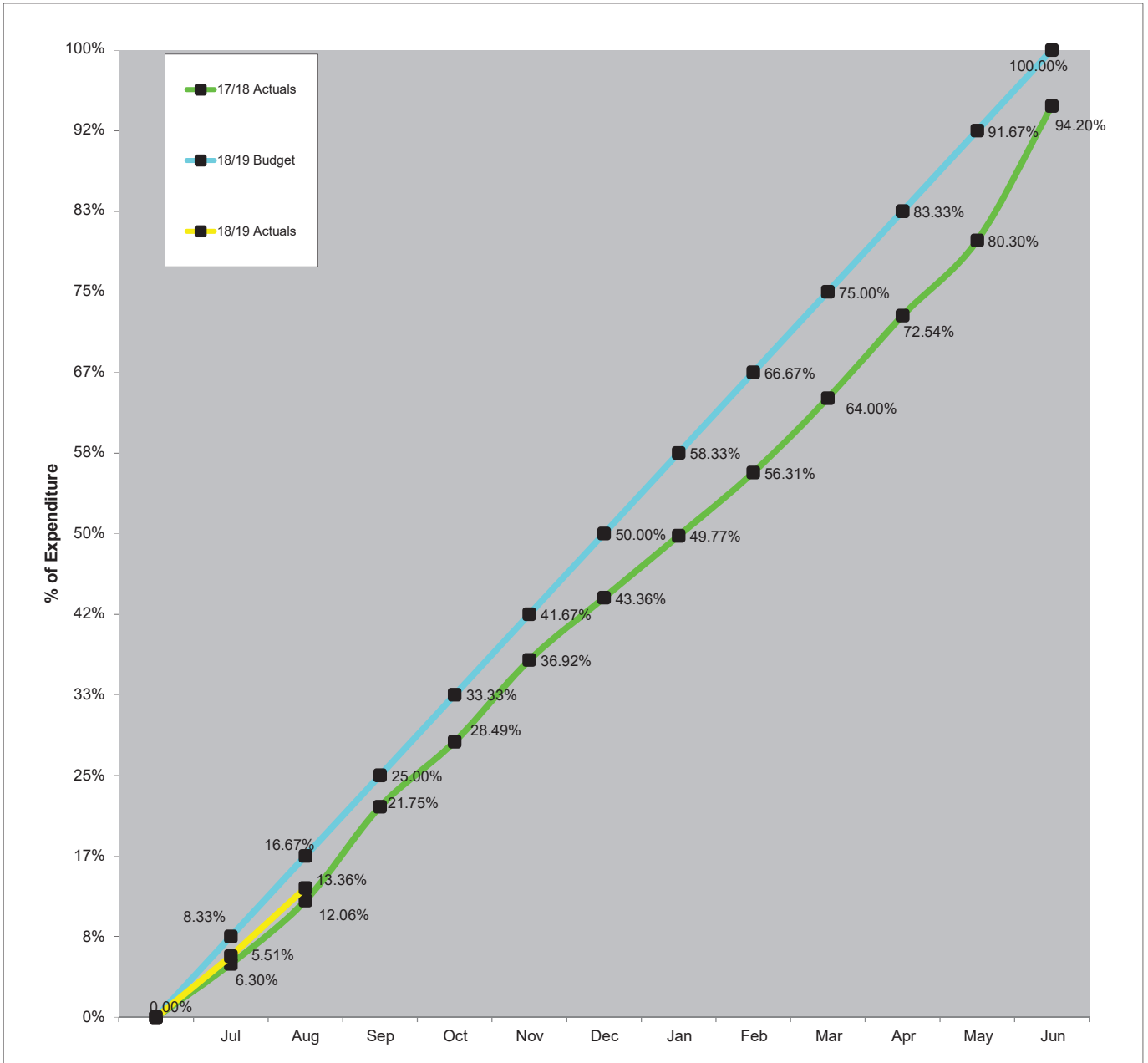
	Revised Budget 2018/19 \$'000	YTD Actuals 2018/19 \$'000	Actuals to Revised Budget 2018/19 %	Actuals to Revised Budget 2017/18 %	Actuals to Revised Budget 2016/17 %	Comments
Operating Revenue						
Rates & Utility Charges	\$307,264	\$75,667	25%	25%	25%	Revenue is on target after the first quarter rates levy.
User Fees & Charges	\$35,382	\$6,238	18%	19%	16%	Revenue is tracking to budget and is consistent with the previous year.
Interest Revenue	\$47,067	\$7,628	16%	17%	17%	The % for 2018/19 is tracking to budget and is consistent with previous years.
Operating Expenses						
Employee Expenses & Material and Services	\$297,146	\$39,711	13%	12%	13%	Expenditure is tracking below budget but is comparable to the previous years.
External Loan Interest Expense	\$21,322	\$3,742	18%	17%	17%	Expenditure is tracking to budget and is comparable to previous years.
Capital Revenues						
Infrastructure Cash Contributions	\$23,500	\$7,023	30%	34%	29%	Infrastructure cash contributions are tracking above budget but is below the previous year.
Contributed Assets	\$40,227	\$0	0%	0%	0%	No contributed assets have been recognised to date.
Grants & Subsidies	\$19,867	\$2,091	11%	15%	7%	The % of grants and subsidies received is tracking below budget and is below the previous year.
Capital Expenditure						
Total Capital Expenditure**	\$186,128	\$11,420	6%	7%	7%	Capital expenditure remains behind budget.
<p>* The data presented reflects the position of Council as at 31 August 2018 compared to the position of Council as at 31 August 2017 and 31 August 2016. ** Capital Expenditure excludes the University Projects.</p> <p>The table focuses on key items of revenue and expenses across the comparative period and is useful guide in understanding what may have changed with regard to revenue and expense streams across the three financial years.</p>						

ITEM 3.1 - MONTHLY REPORTING PACKAGE - AUGUST 2018 - REGIONAL (Cont.)

Operating Expenditure

This graph compares the major components of operating expenditure (being employee expenses plus materials and services) on a percentage expended basis for the 2018/19 and 2017/18 years. The graph includes continuing service delivery expenses and operating initiative expenses.

The budgeted expenditure trend is set at 8.33% for each month. The cumulative actual expenditure trend for each month is graphed alongside the budget expenditure.

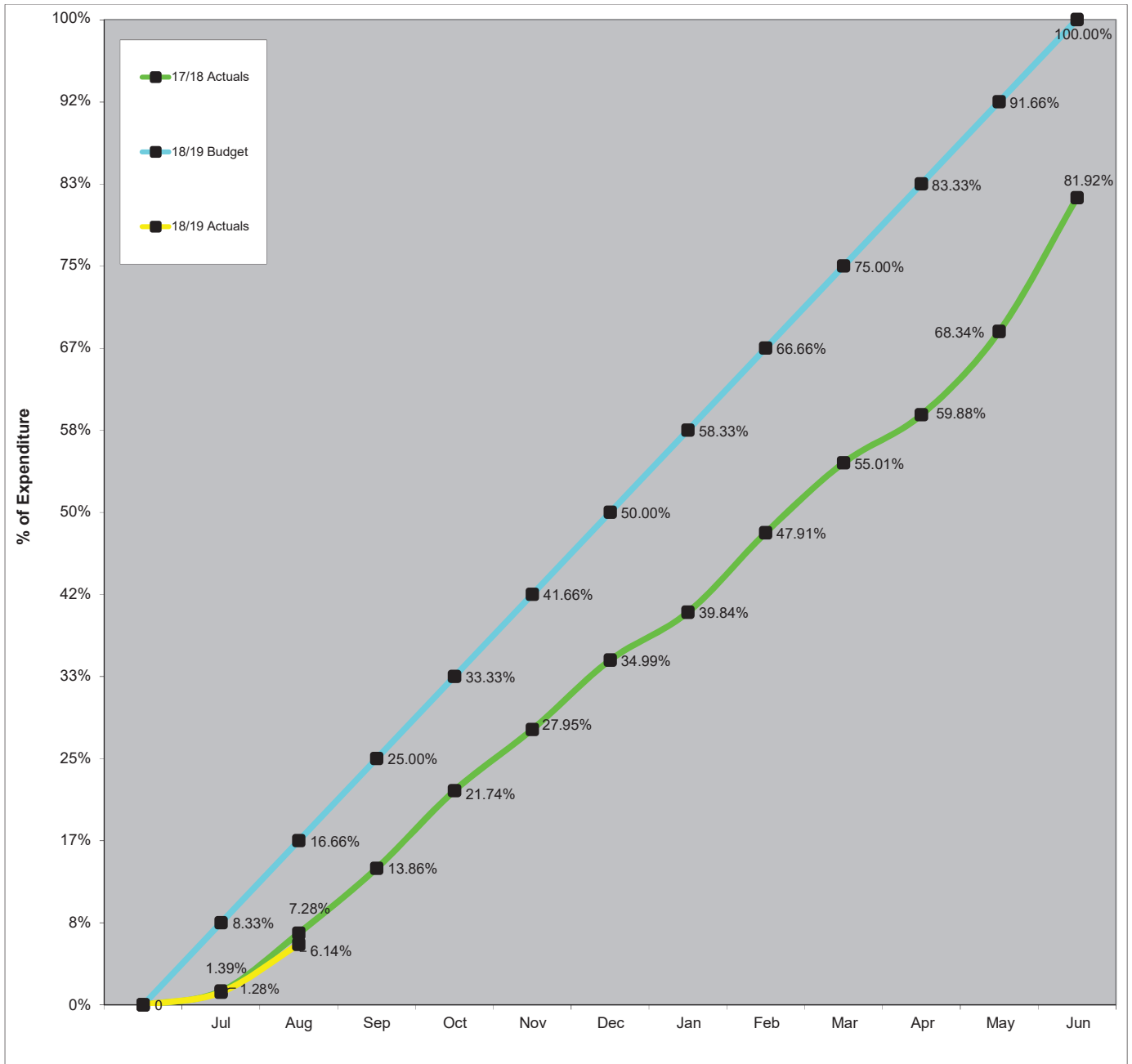


	Annual Revised Budget \$'000	Actuals to August \$'000	Actuals to Budget % spent
2017/18	\$ 282,486	\$ 34,055	12.06%
2018/19	\$ 297,146	\$ 39,711	13.36%

ITEM 3.1 - MONTHLY REPORTING PACKAGE - AUGUST 2018 - REGIONAL (Cont.)

Capital Expenditure

This graph compares the capital percentage expended for the 2018/19 and 2017/18 years. The budgeted expenditure trend is set at 8.33% for each month. The cumulative actual expenditure trend for each month is graphed alongside the budget expenditure.



	Annual Revised Budget \$'000	Actuals to August \$'000	Actuals to Budget % spent
2017/18	\$ 173,378	\$ 12,629	7.28%
2018/19	\$ 186,128	\$ 11,420	6.14%

Moreton Bay Regional Council

ITEM 3.1 - MONTHLY REPORTING PACKAGE - AUGUST 2018 - REGIONAL (Cont.)

TREASURY REPORT

The Treasury Report highlights key areas of performance and compliance relating to Council's cash, investments and borrowings.

Investments

At 31 August 2018 all of Council's investments are in accordance with the approved Investment Policy. As at this date Council held 80.38% of funds outside of the Queensland Treasury Corporation (QTC). Term Deposit rates have increased slightly in recent times, providing better returns.

Investment Portfolio - Summary of Cash and Investments Held

Current Cash Investments					
Short Term Rating	Institution	Return	Term	Cash and Investment balance as at 31 August 2018	Interest earned YTD
A1+	Qld Treasury Corp*	2.47%	Short Term (45 days)	69,990,996	323,674
A1+	ANZ	1.97%	At Call	11,271,887	38,230
A1+	National Australia Bank	2%	At Call	129,812,017	767,372
A1+	ANZ	2.55% to 2.75%	364 to 365 days	40,000,000	178,663
A1+	Bankwest	2.6%	364 days	20,000,000	88,329
A1+	National Australia Bank	2.65% to 2.8%	125 to 182 days	20,000,000	92,575
A1	Suncorp	2.65% to 2.8%	174 to 184 days	30,000,000	138,260
A2	Bank of Queensland	2.55%	210 days	10,000,000	43,315
A2	Bendigo and Adelaide Bank	2.7% to 2.75%	182 to 273 days	20,000,000	88,836
A2	IMB	2.55%	364 days	5,000,000	21,658
	Trust Investments				43,928
				*	
				356,074,900	1,824,841

* The QTC rate presented is the annualised interest rate for the month as provided by the Queensland Treasury Corporation.

Council has achieved a weighted average interest rate on all cash held of 2.52% pa in 2018/19, and has earned an additional -\$127,585.77 from investing funds with financial institutions outside QTC.

Non-Current Investments				
Institution	Product	Term	Current Value	Invested Value
Queensland Investment Corporation	QIC Growth Fund	Greater than 5 years	101,549,919	100,000,000

Performance to Budget - Year to Date (YTD) Summary

17% of the year has elapsed

	Original Budget \$'000	Revised Budget \$'000	Actual YTD \$'000	Actual % Achieved \$'000	Comments
Interest Revenue on Investments	9,962	9,962	1,825	18%	Higher cash balance than expected
Interest on Debt held in Unitywater	36,085	36,085	5,664	16%	Tracking as per Budget
Total Investment Income	46,047	46,047	7,489	16%	

Borrowings

Debt Position	\$ '000
Debt held as at 1 July 2018	385,996
New borrowings	0
Borrowings repaid	0
Debt held as at 31 August 2018	385,996

As at 31 August 2018 the weighted average interest rate of all Council debt is 5.65%

4 ASSET CONSTRUCTION & MAINTENANCE SESSION

(Cr A Hain)

ITEM 4.1

JEFFREY STREET, REDCLIFFE - ROAD REHABILITATION AND DRAINAGE UPGRADE - DIVISION 6

Meeting / Session: 4 ASSET CONSTRUCTION & MAINTENANCE
Reference: A17495189 : 28 August 2018 - Refer **Confidential** Supporting Information
A17433795
Responsible Officer: CB, Project Engineer (ECM Project Management & Construction)

Executive Summary

Tenders were invited for the 'Redcliffe - Jeffrey Street - Drainage Construction Upgrade 2 and Road Rehabilitation (MBRC007779)' project. The tender closed on 16 August 2018, with a total of five tenders received, all of which were conforming.

It is recommended that Council award the contract to CES Civil Pty Ltd for the sum of \$1,427,938.10 (excluding GST) as this tender was evaluated as representing the best overall value to Council.

OFFICER'S RECOMMENDATION

That the tender for the 'Redcliffe - Jeffrey Street - Drainage Construction Upgrade 2 and Road Rehabilitation (MBRC007779)' project be awarded to CES Civil Pty Ltd for the sum of \$1,427,938.10 (excluding GST).

ITEM 4.1 JEFFREY STREET, REDCLIFFE - ROAD REHABILITATION AND DRAINAGE UPGRADE - DIVISION 6 - A17495189 (Cont.)

REPORT DETAIL

1. Background

The project is located on Jeffrey Street, Redcliffe and extends from Oxley Avenue to Humpybong Esplanade. This project will reduce flooding on private property by increasing the capacity of the underground drainage network and the capture of overland flow within the road corridor. Works also include renewal of the Jeffrey Street road pavement.

Currently, residential properties on the northern side of Jeffrey Street are serviced by an historic drainage system which has less than a 1 year ARI capacity. Following the works, the drainage system will have a 10 year ARI capacity and the combined system, including overland flow within the road reserve, will have a capacity between a 20 year ARI event and a 50 year ARI event.

The project includes the construction of 225m of 1200mm diameter stormwater pipe along Jeffrey Street to a discharge point at Humpybong Creek. To improve the capacity of overland flow, works will include raising of the footpath outside 20 Jeffrey Street to contain major storm flows within the street. Together these elements will improve flood immunity for residential properties along the northern side of Jeffrey Street.

The existing road pavement in Jeffrey Street is showing significant signs of defects including cracking, rutting and fatigue and will be renewed in conjunction with the drainage improvements.



Figure 1 - Jeffrey Street, Redcliffe - Locality Plan

2. Explanation of Item

Tenders for the 'Redcliffe - Jeffrey Street - Drainage Construction Upgrade 2 and Road Rehabilitation (MBRC007779)' project closed on 16 August 2018, with a total of five tenders received, all of which were conforming. The tenders were assessed by the assessment panel in accordance with Council's Purchasing

ITEM 4.1 JEFFREY STREET, REDCLIFFE - ROAD REHABILITATION AND DRAINAGE UPGRADE - DIVISION 6 - A17495189 (Cont.)

Policy and the selection criteria as set out in the tender documents. All tenderers and their evaluation scores are tabled below (ranked from highest to lowest):

RANK	TENDERER	EVALUATION SCORE
1	CES Civil Pty Ltd	94.55
2	Auzcon Pty Ltd	94.29
3	Allroads Pty Ltd	86.88
4	Allencon Pty Ltd	86.65
5	McIlwain Civil Engineering Pty Ltd	82.08

CES Civil Pty Ltd submitted a competitively priced tender and appropriate accompanying documentation. A tender clarification meeting was held on 23 August 2018 at which CES Civil Pty Ltd detailed their experience on road and drainage projects of a similar scale, type and complexity. CES Civil Pty Ltd confirmed their capability and methodology to complete the project.

Auzcon Pty Ltd submitted a well-priced tender, their submission confirmed their capability to complete the project, however there was no additional benefits for the higher price.

Allroads Pty Ltd submitted a well-priced tender, their submission confirmed their capability to complete the project, however there was no additional benefits for the higher price.

3. Strategic Implications

3.1 Legislative/Legal Implications

Due to value of work being greater than \$200,000, Council called a public tender for the work through the LG Tender system in accordance with the *Local Government Act 2009*.

3.2 Corporate Plan / Operational Plan

This project is consistent with the Corporate Plan outcome - Creating Opportunities: Well-planned growth - a sustainable and well-planned community.

3.3 Policy Implications

This project has been procured in accordance with the provisions of the following documents:

- Council's Procurement Policy 10-2150-006
- *Local Government Act 2009*
- Local Government Regulation 2012 Chapter 6.

3.4 Risk Management Implications

The project risk has been assessed and the following issues identified. The way in which the potential impact of these risks is minimised is detailed below.

Financial Risks:

A third-party review of financial status has been undertaken and the successful tenderer was rated 'satisfactory'.

ITEM 4.1 JEFFREY STREET, REDCLIFFE - ROAD REHABILITATION AND DRAINAGE UPGRADE - DIVISION 6 - A17495189 (Cont.)

Construction Risks:

- a. The recommended contractor will provide a program of works, traffic management plan, and safety plan and will be required to fence off the areas where construction is being undertaken to meet relevant workplace health and safety requirements as part of the contract, including safe work method statements.
- b. The recommended contractor has demonstrated their understanding of constructability challenges and their technical capability to complete the works to a high quality.
- c. Works adjacent to Oxley Avenue will require TMR approval and may include some night works to minimise traffic impacts on the TMR Road (Oxley Avenue). The contractor is aware of the process to obtain TMR approval and has acknowledged a suitable allowance has been provided in their submission to manage the TMR approval and works accordingly.

3.5 Delegated Authority Implications

There are no delegated authority implications arising as a direct result of this report.

3.6 Financial Implications

Council has allocated a total of \$1,170,000 (excluding GST) in the 18-19 Capital Projects Program, budget number 102100.

The 2018-19 FY project sites comprises both the road rehabilitation and a stormwater upgrade portion of the project.

Adjusted Tender Price (Construction)	\$1,427,938.10
Contingency (10%)	\$ 142,793.81
QLeave	\$ 6,782.97

Total Project Cost	\$1,577,514.88
	=====

Estimated ongoing operational/maintenance costs \$ 700.00 per F/Y.

The budget amount for this Project is insufficient. An additional \$400,000 of funds will be sought at a quarterly budget review.

3.7 Economic Benefit

The restoration of the deteriorating surface along Jeffrey Street combined with the stormwater drainage upgrade is expected to reduce the overall maintenance costs for the area. The project will also reduce flooding impacts on residential properties in Jeffrey Street. Completing the drainage upgrade project in conjunction with the road pavement renewal project is anticipated to provide cost savings.

3.8 Environmental Implications

The project aims to reduce the amount of flooding on private property in the area by allowing a greater amount of stormwater to flow through to Humpybong Creek.

3.9 Social Implications

These works will greatly benefit the community: firstly, the road rehabilitation aspect of the project is expected to provide an adequate level of service for transport users. Secondly, it is expected that the drainage upgrade will reduce the amount of flooding on private property in the area.

3.10 Consultation / Communication

A detailed communication plan has been prepared and involves project notices, signage, door knocking and online updates. Variable Message Boards (VMS) will be placed on Oxley Avenue to advise motorists of the works. Weekly project updates via email will be provided to the councillor. The Divisional Councillor have been consulted and is supportive of the project.

SUPPORTING INFORMATION

Ref: A17433795

The following list of supporting information is provided for:

ITEM 4.1

JEFFREY STREET, REDCLIFFE - ROAD REHABILITATION AND DRAINAGE UPGRADE - DIVISION 6

Confidential #1 Tender Assessment - Jeffrey Street, Redcliffe

ITEM 4.2

MORETON BAY LOCAL DISASTER MANAGEMENT GROUP AND MORETON DISTRICT DISASTER MANAGEMENT GROUP - MEETING MINUTES 18 JULY 2018 - REGIONAL

Meeting / Session: 4 ASSET CONSTRUCTION & MAINTENANCE
Reference: A17537708 : 7 September 2018 - **Refer Supporting Information A17222924**
Responsible Officer: CP, Coordinator Disaster Management (ECM Infrastructure Planning)

Executive Summary

The Moreton Bay Local Disaster Management Group (LDMG) and Moreton District Disaster Management Group (DDMG) conducted a combined Ordinary meeting on 18 July 2018 and the meeting minutes are provided for reference.

OFFICER'S RECOMMENDATION

That the combined Moreton Bay Local Disaster Management Group and Moreton District Disaster Management Group meeting minutes of 18 July 2018 be adopted.

ITEM 4.2 MORETON BAY LOCAL DISASTER MANAGEMENT GROUP AND MORETON DISTRICT DISASTER MANAGEMENT GROUP - MEETING MINUTES 18 JULY 2018 - REGIONAL - A17537708 (Cont.)

REPORT DETAIL

1. Background

In accordance with section 29 of the *Disaster Management Act 2003*, a local government is required to establish a Local Disaster Management Group for its local government area. Section 12 of the *Disaster Management Regulation 2014* states that 'disaster management group meetings must be held at least once in every six months at the times and places decided by the chairperson of the group'.

To meet these minimum requirements, the Moreton Bay LDMG conducts Ordinary meetings every four months, generally during the months of March, July and November. Extraordinary meetings of the LDMG are also held as required before, during or after disaster events.

2. Explanation of Item

On 18 July 2018, the Moreton Bay LDMG and Moreton DDMG held a combined meeting of the groups as a trial, given that both groups cover similar areas and the membership is often duplicated. This meeting which combined the two groups was the inaugural meeting. If permanently adopted, combined meetings will assist in reducing red-tape and the number of meetings required by its members to attend. In addition, such meetings provide an opportunity for both groups to fully understand each other's role and ensure consistent messaging.

It is proposed that combined meetings would be chaired on a rotational basis. Cr Peter Flannery (Chairperson, Moreton Bay LDMG) assumed the Chair for this meeting and Queensland Police Service Superintendent Michael Brady APM (Chairperson Moreton DDMG) will chair the next meeting scheduled to occur on Wednesday, 21 November 2018.

3. Strategic Implications

3.1 Legislative/Legal Implications

It is a requirement under section 18 of the *Disaster Management Regulation 2014* that a disaster management group must keep minutes of its meetings.

3.2 Corporate Plan / Operational Plan

Strengthening Communities: Safe neighbourhoods - a safe and resilient community.

3.3 Policy Implications

The meeting was advised of the release of the new Prevention, Preparedness, Response and Recovery (PPRR) Disaster Management Guideline. The new document is a single source document that highlights the dependencies and interrelationships between functions across PPRR, describes the high-level process with supporting toolkit items for specific functions and clearly defines the roles and responsibilities across Queensland's Disaster Management Arrangements. This document provides Council clear direction about its disaster management obligations.

3.4 Risk Management Implications

No risk management implications arising as a direct result of this report.

3.5 Delegated Authority Implications

No delegated authority implications arising as a direct result of this report.

3.6 Financial Implications

No financial implications arising as a direct result of this report.

3.7 Economic Benefit

No economic benefit implications arising as a direct result of this report.

3.8 Environmental Implications

No environmental implications arising as a direct result of this report.

ITEM 4.2 MORETON BAY LOCAL DISASTER MANAGEMENT GROUP AND MORETON DISTRICT DISASTER MANAGEMENT GROUP - MEETING MINUTES 18 JULY 2018 - REGIONAL - A17537708 (Cont.)

3.9 Social Implications

A presentation was provided by Council's Manager Development Services, Ms Kate Isles, on the Lockyer Valley Regional Council and Queensland Reconstruction Authority recovery planning and implementation of the Grantham Development Scheme following the 2011 floods. This presentation provided the group with a contemporary case study to analyse and consider in the context of what could be done in Moreton Bay if a similar event was to impact our community.

3.10 Consultation / Communication

Regular ongoing consultation/communication takes place between all members and advisors of the Moreton Bay LDMG, Moreton DDMG and various State government entities such as the Queensland Police Service, Queensland Fire and Emergency Services, the Office of the Inspector-General Emergency Management and the Queensland Reconstruction Authority.

SUPPORTING INFORMATION

Ref: [A17222924](#)

The following list of supporting information is provided for:

ITEM 4.2

**MORETON BAY LOCAL DISASTER MANAGEMENT GROUP AND MORETON DISTRICT DISASTER
MANAGEMENT GROUP - MEETING MINUTES 18 JULY 2018 - REGIONAL**

#1 Meeting Minutes 18 July 2018

ITEM 4.2 - MORETON BAY LOCAL DISASTER MANAGEMENT GROUP AND MORETON DISTRICT
DISASTER MANAGEMENT GROUP - MEETING MINUTES 18 JULY 2018 - REGIONAL (Cont.)
#1 Meeting Minutes 18 July 2018



**Moreton Bay LDMG and Moreton DDMG
Ordinary Meeting**

Wednesday, 18 July 2018
commencing at 12:30pm
Strathpine Chambers
220 Gympie Road, Strathpine

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Moreton Bay Regional Council

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ITEM 4.2 - MORETON BAY LOCAL DISASTER MANAGEMENT GROUP AND MORETON DISTRICT DISASTER MANAGEMENT GROUP - MEETING MINUTES 18 JULY 2018 - REGIONAL (Cont.)



INVITEES

Agency	Name	LDMG	DDMG	Attended
APA Group	Josh Hankey	Advisor	N/A	Yes
Australian Defence Force	Jim Paris	N/A	Member	Yes
Australian Defence Force	Vacant	N/A	Deputy	No
Australian Red Cross (Qld)	Collin Sivalingum	Deputy	N/A	Yes
Beachmere Community Disaster Management Team	Terry Poole	Guest	N/A	Yes
Department of Agriculture and Fisheries	Paul Willett	Advisor	N/A	No
Department of Agriculture and Fisheries	Craig Mathisen	N/A	Advisor	No
Department of Communities, Disability Services and Seniors	Chantal Devereaux-Larkin	Member	Advisor	Yes
Department of Communities, Disability Services and Seniors	Terry O'Connor	N/A	Member	Apology
Department of Education	Rob Baker	Member	Deputy	Yes
Department of Education	Trevor Schulz	Deputy	Member	No
Department of Education	Annie Erickson	Guest	N/A	Yes
Department of Employment, Small Business and Training	John Suthers	N/A	Member	Apology
Department of Employment, Small Business and Training	Tim Cunnington	N/A	Member	Yes
Department of Environment and Science	Matt Karle	N/A	Member	No
Department of Environment and Science	Leonie Clough	N/A	Advisor	No
Department of Environment and Science	Leo Peach	Guest	N/A	Yes
Department of Housing and Public Works	Greg Smith	N/A	Member	No
Department of Housing and Public Works	Chris Short	N/A	Deputy	Apology
Department of Housing and Public Works	Dave Reberger	N/A	Deputy	Apology
Department of State Development, Manufacturing, Infrastructure and Planning	Frances Bottle	N/A	Member	Yes
Department of State Development, Manufacturing, Infrastructure and Planning	David Licence	N/A	Deputy	Yes
Department of Transport and Main Roads	Ian Haidley	N/A	Member	Yes
Department of Transport and Main Roads	Gary Carr	N/A	Deputy	No
Department of Transport and Main Roads	Gerard Logan	Advisor	N/A	No
Department of Transport and Main Roads	Anthony Bougoure	Advisor	N/A	No
Department of Transport and Main Roads	Peter Harkin	Advisor	N/A	No
Energex	Greg Bartlett	Member	Advisor	Apology
Energex	Steven Lynch	Deputy	Advisor	No
Maritime Safety Queensland	Glenn Hale	Advisor	Member	Apology
Maritime Safety Queensland	Rachael Marshall	Advisor	N/A	No
Maritime Safety Queensland	Keith Vince	N/A	Deputy	Yes
Moreton Bay Regional Council	Cr Allan Sutherland	Member	N/A	Apology
Moreton Bay Regional Council	Cr Mike Charlton	Deputy	N/A	Apology
Moreton Bay Regional Council	Cr Peter Flannery	Member	N/A	Yes
Moreton Bay Regional Council	Cr Matt Constance	Member	N/A	Apology
Moreton Bay Regional Council	Anthony Martini	Member	Advisor	Yes
Moreton Bay Regional Council	Bart Bartley	Deputy	N/A	No
Moreton Bay Regional Council	Bill Halpin	Member	N/A	Yes
Moreton Bay Regional Council	Mark McCormack	Deputy	N/A	Apology
Moreton Bay Regional Council	Corinne Mulholland	Deputy	N/A	No
Moreton Bay Regional Council	Carl Peterson	Member	Member	Yes
Moreton Bay Regional Council	Chris Barnes	Deputy	Deputy	Yes
Moreton Bay Regional Council	Vicki Anderson	Guest	N/A	Yes
Moreton Bay Regional Council	Diane Bradford	Guest	N/A	Yes
Moreton Bay Regional Council	Kate Isles	Guest	N/A	Yes
Moreton Bay Regional Council	Kathrine Crocker	Secretariat	N/A	Yes

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COORDINATION COMMITTEE MEETING
18 September 2018

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ITEM 4.2 - MORETON BAY LOCAL DISASTER MANAGEMENT GROUP AND MORETON DISTRICT DISASTER MANAGEMENT GROUP - MEETING MINUTES 18 JULY 2018 - REGIONAL (Cont.)



Agency	Name	LDMG	DDMG	Attended
Moreton Bay Regional Council	Erica Ross	Secretariat	N/A	Apology
Queensland Ambulance Service	Pat Lynch	Member	N/A	Apology
Queensland Ambulance Service	Ben Lu	Proxy	N/A	Apology
Queensland Ambulance Service	Graham Allan	Deputy	Member	Apology
Queensland Ambulance Service	Darren Darlington	N/A	Member	No
Queensland Fire and Emergency Services	Lance Duncan	Member	Member	Apology
Queensland Fire and Emergency Services	Wayne Waltisbuhl	Advisor	Member	Apology
Queensland Fire and Emergency Services	Konrad Sawczynski	Advisor	N/A	No
Queensland Fire and Emergency Services	David Brazel	Deputy	N/A	Yes
Queensland Fire and Emergency Services	John Hannan	Member	Advisor	Yes
Queensland Fire and Emergency Services	Rick Murdoch	Advisor	N/A	Apology
Queensland Health	Bevan Marks	Member	Deputy	Yes
Queensland Health	Lyn Neilson	Deputy	N/A	No
Queensland Health	Janene Farr	Advisor	Member	Apology
Queensland Health	Di Bretherton	N/A	Member	Apology
Queensland Health	Bogdan Lew	N/A	Member	Yes
Queensland Health	Melinda Lennon	Advisor	Deputy	Apology
Queensland Health	Jael Phillipe-Janon	Advisor	N/A	Yes
Queensland Health	Christian Pattison	Advisor	N/A	No
Queensland Health	Kaylene De Vries	Advisor	N/A	Yes
Queensland Parks and Wildlife	Andrew Kingston	Advisor	N/A	Apology
Queensland Police Service	Michael Brady	Advisor	Member	Yes
Queensland Police Service	Lee Jefferies	Advisor	Deputy	Yes
Queensland Police Service	John Hallam	Member	Advisor	Apology
Queensland Police Service	Richard Kroon	Deputy	Advisor	Yes
Queensland Police Service	Julia Cook	Advisor	Member	Yes
Queensland Police Service	Melissa Bicanic	Advisor	Deputy	Apology
Queensland Police Service	Peter Thompson	Advisor	Deputy	Apology
Queensland Police Service	Pat Howard	N/A	Deputy	Apology
Queensland Police Service	Sarah Grayson	N/A	Advisor	Yes
Queensland Rail	Maurice Tauletta	Advisor	Member	Apology
Queensland Rail	Dan Lecole	Advisor	N/A	No
Queensland Rail	James Stewart	N/A	Deputy	Yes
Redcliffe Coast Guard	Ed Endicott	Advisor	N/A	No
Seqwater	Jason Boldeman	Advisor	N/A	Apology
Seqwater	Rob Drury	Advisor	N/A	No
State Emergency Service	Henk van den Ende	Member	N/A	Yes
State Emergency Service	Alan Peterson	Deputy	N/A	Apology
Surf Life Saving Queensland	Calan Lovitt	Advisor	N/A	No
Surf Life Saving Queensland	Greg Cahill	Advisor	N/A	No
Surf Life Saving Queensland	George Hill	Advisor	N/A	Apology
Telstra	May Boisen	N/A	Member	Apology
Telstra	Gary McCulloch	Advisor	N/A	Apology
Unitywater	Ashley Lorenz	Member	Advisor	Apology
Unitywater	Greg Burnett	Advisor	Advisor	Yes
Unitywater	Phil Johnson	Deputy	Advisor	Apology
Volunteer Marine Rescue	Graham Gibb	Advisor	N/A	Yes
Volunteer Marine Rescue	Noel Wendt	Advisor	N/A	No

ITEM 4.2 - MORETON BAY LOCAL DISASTER MANAGEMENT GROUP AND MORETON DISTRICT DISASTER MANAGEMENT GROUP - MEETING MINUTES 18 JULY 2018 - REGIONAL (Cont.)



1. WELCOME AND APOLOGIES

Michael Brady (QPS) opened the meeting and welcomed all agency representatives.

The meeting was advised that the concept of conducting a combined meeting of the DDMG and LDMG was a trial, given that the groups covered similar areas and membership was often duplicated.

The combined meetings would reduce red-tape and the number of meetings required to attend, as well as providing an opportunity for both groups to fully understand each other's role and ensuring consistent messaging having a 'one-message communication point' which is critical in times of an event.

Meetings would be chaired on a rotational basis with Cr Peter Flannery (Chairperson, LDMG) assuming the Chair for this meeting. Feedback regarding the conduct of combined meetings would be welcomed.

Agency representatives introduced themselves to the meeting.

Apologies were received and noted in the attendance list above.

2. PREVIOUS MINUTES

2.1 Confirmation of Previous Minutes

Moreton Bay LDMG

The minutes of the meeting held on 21 March 2018 (pages 337 to 352) are provided for confirmation.

Moreton DDMG

The minutes of the 7 March 2018 meeting of the Redcliffe DDMG (subsequently renamed the Moreton DDMG) have been distributed and are provided for confirmation.

RECOMMENDATION ADOPTED:

That the minutes of the meetings held on 7 March 2018 (DDMG) and 21 March 2018 (LDMG) be confirmed.

2.2 Business Arising From Previous Minutes

Moreton Bay LDMG

- Council officers and QPS work together to run a combined LDMG and DDMG meeting from July 2018 onwards (completed).

Moreton DDMG

- Follow up inquiries regarding review of DDMG membership/meeting format and schedule
- Compile Independent Schools/childcare list to improve readiness

RECOMMENDATION ADOPTED:

That the updates provided as part of Business Arising from previous minutes, be noted.

3. CORRESPONDENCE

3.1 Correspondence In/Correspondence Out

Moreton Bay LDMG

Correspondence In:

- 21 March 2018 - Office of the Inspector-General. Invitation for a council officer to attend the third annual Disaster Management Officers Network Forum in Townsville in May.

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- 3 April 2018 - Queensland Reconstruction Authority. Letter regarding State Recovery Coordinator information sheets.
- 4 April 2018 - Queensland Reconstruction Authority. Letter advising the 2017-18 Natural Disaster Resilience Program (NDRP) is open for funding applications for projects supporting natural disaster resilience activities.
- 23 April 2018 - Office of Inspector-General. Advice regarding the commencement of a refresh of the Emergency Management Assurance Framework.
- 1 May 2018 - Disaster Management Guidelines Unit, QFES. Advice that the Prevention, Preparedness, Response and Recovery Disaster Management Guideline comes into effect 1 May 2018.
- 12 June 2018 - Queensland Reconstruction Authority. Email advising the streamlining of funding arrangements and the introduction of a single head of agreement to manage all funding administered by QRA.
- 18 June 2018 - Queensland Reconstruction Authority. Email advising the Commonwealth has finalised its Disaster Recovery Funding Arrangements (DRFA) with date of effect 1 November 2018

Correspondence Out:

- 28 March 2018 - Chair of LDMG to Seqwater. Letter from Cr Flannery with regards to the North Pine Dam Emergency Action Plan.
- 28 March 2018 - Chair of LDMG to Seqwater. Letter from Cr Flannery with regards to the Sideling Creek Emergency Action Plan.

Moreton DDMG

Correspondence In:

- 11 May 2018 - Department of Employment, Small Business and Training. Nomination of John Suthers as Primary and Tim Cunnington as Secondary members.
- 28 May 2018 - Department of Agriculture and Fisheries. Nomination of Craig Mathisen as Advisor.
- 7 June 2018 - Maritime Safety Queensland. Nomination of Keith Vince as replacement member.

Correspondence Out:

- Nil

RECOMMENDATION ADOPTED:

That the correspondence for DDMG and LDMG be noted.

4. AGENDA ITEMS

4.1 Grantham Development Scheme

Kate Isles, Manager Development Services, Moreton Bay Regional Council, provided a comprehensive presentation on the Lockyer Regional Council's and Queensland Reconstruction Authority's recovery planning and implementation of the Grantham Development Scheme following the 2011 floods. This presentation provided the group a contemporary case study to analyse and consider in the context of what could be done in Moreton Bay if a similar event was to impact our community.

Following the disaster event the overwhelming response from the community was to stay within Grantham but to feel safe and move to higher ground., To facilitate this goal the following key steps were identified to assist the community recover:

- Finalise the Local Recovery Plan.
- Develop a community-led master plan.
- Declare the reconstruction area.
- Prepare the development scheme.
- Undertake a land ballot.
- Commence land and house construction.

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The implementation strategy focussed on the following:

- Facilitation of Council's land swap program for displaced residents.
- Fulfilling the vision for the Grantham community, particularly in the initial 2-year period to meet many of the critical reconstruction needs, which are likely to occur mainly with the construction of the first stage of new development by mid-2011.
- Recognising that any changes to circumstances can be reflected in a revised master plan through future reviews of Council's Planning Scheme.
- Facilitation of Council's land swap program and the costs associated with the program, including sufficient additional development to cover these costs removal of regulatory hurdles and ensuring flexibility is provided in the final development form.

Some of the key lessons identified throughout this challenging situation was ensuring:

- Community planning is about listening to your community, engaging with them the whole way, understanding their needs and tailoring the response through risk-based planning.
- In challenging situations, don't try to be the expert or the local – because the reality is you are not – use the community for this purpose.
- Always focus on the outcome not the process, there is always another way.
- Don't underestimate the value a community can bring.
- Understand that it will take true collaboration to deliver – everyone plays a role they just need to know what that is.
- Not all communities are the same - one size does not fit all.
- Keep it simple when communicating with the community. Ask questions in plain English, and when communicating back, tell them what they need to hear, use language they understand – not planning jargon.
- Be clear and succinct in what you want to ask them/tell them - there is no point in dwelling on something where there is no value-add to them – you risk losing them.
- Know the community vision and help it be realised.
- Remember the "P" in Planning should always be about the People.
- You will be a better planner if you understand and work with a community.

4.2 Coastal Impacts

Leo Peach, Senior Scientist and Disaster Management Coordinator, Department of Environment and Science (DES), provided an outline of the capability and role of the Coastal Impacts Unit in the Department when monitoring storm tide activity and discuss how they can assist in disaster preparedness and events.

The Group were advised the Coastal Impact Unit is part of DES and are one of a number of agencies involved in the management of a storm tide event in Queensland. As outlined in the Tropical Cyclone Storm Tide Warning Response System Handbook, DES's responsibilities are to:

- Monitor water levels using a network of storm tide gauges.
- Liaise with the BoM to confirm information in Storm Tide Warnings.
- Provide technical advice on storm tide to the local, district and State groups before and during a storm tide event.

An update was provided on the Storm Tide Reference Landmark project. DES has provided a report and an interactive mapping tool to help relate elevations provided by the Bureau of Meteorology's Storm Tide Advice to easily recognisable landmarks and geographic features throughout the State. This tool has been created in order to aid understanding and communicating information through Storm Tide Advice Graphics.

For each of the 64 sites identified in the Queensland Tropical Cyclone Storm Tide Warning Response System Handbook, storm tide advice graphics, also known as Totem Poles, have been generated showing the relative heights of each identified feature, as well as an image indicating the exact reference point to which is being referred. The Scarborough Boat Harbour is the identified location within the Moreton Bay Regional Council area that a storm tide advice graphic has been created. In response to a query raised, the meeting was advised that there is a process available to add landmarks to the tool, despite the Storm Tide Reference Landmark Project itself being completed.

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4.3 Emergency Management and School Security in Queensland State Schools

Annie Erichsen, Manager Emergency and School Security, Department of Education (DoE) provided an insight into how Education Queensland manage emergencies and security in State schools. The Group was advised that the role of the DoE Emergency Response Team (ERT) was as follows:

- Provide overall strategic direction.
- Provide support, guidance and problem solving capacity to the Executive Response Coordinator (ERC) and Regional Response Coordinator (RRC).
- Monitor the role and performance of the Regional Response Teams (RRT's).
- Provide support to the Director-General at the Queensland Disaster Management Committee (QDMC), the State Disaster Coordination Group (SDCG) or at the State Disaster Coordination Centre (SDCC).
- De-conflict issues raised through mainstream lines and resolve or redirect (into ERT).
- Be accountable to the Director-General, DoE.

DDMG (and LDMG) members can support the Department through ongoing relationship building; getting to know the DoE Regional Director and school Principals; engage in exercises; use available DoE resources; support the schools during business-as-usual activities; and review school Emergency Response Plans.

The meeting was advised that a link would be provided to the Department's "Lessons Learned" website page that is updated after each event. It was also acknowledged that any encouragement for non-State Schools and Early Childhood Centres to have Emergency Response Plans (ERP) in place would be appreciated.

4.4 QFES Disaster Management Update

John Hannan, Emergency Management Coordinator, Queensland Fire and Emergency Services, provided a brief update on emergency management including the upgraded Disaster Management portal, State Disaster Management Plan progress, Disaster Management Guideline and Emergency Alerts.

The State Disaster Management Plan is currently awaiting approval by the Queensland Disaster Management Committee. Pending this approval key plan inclusions include:

- New chapters
 - Governance
 - Risk
 - Public Information
 - Resilience
 - Research
 - Assurance
- New features
 - Maps – Queensland's Disaster Districts, Referable dams and Disaster management documents
 - Links – Hyperlinks to reference documents and websites
 - Table outlining roles and responsibilities of disaster management stakeholders
 - Disaster management workflow chart

The Group was advised of the release of the new Prevention, Preparedness, Response and Recovery (PPRR) Disaster Management Guideline. The new document is a single source document that highlights the dependencies and interrelationships between functions across PPRR, describes the high-level process with supporting toolkit items for specific functions and clearly defines the roles and responsibilities across Queensland's Disaster Management Arrangements.

A 'refreshed' Disaster Management Website was released on 11 January 2018 and includes the new PPRR DM Guideline and Support Toolkit Feature which was released on 19 January 2018. The 'Refresh Tutorials' and Factsheets are available at www.disaster.qld.gov.au.

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Finally, the group were provided an update on the National Emergency Alert system. Key points to note include:

- National telephone warning and alert system.
- One method of delivering disaster or emergency community warnings.
- Can only be used for a likely or actual “disaster” or “emergency situation”.
- Sends voice messages to landline telephones and text messages to mobile telephones within a defined area.
- Cannot be used for “emergency situation” recovery operations.
- Emergency Alert campaigns are not limited by disaster management boundaries.

5. AGENCY/COMMITTEE REPORTS

5.1 APA Group (Advisor)

Preparedness and Planning

- Although this is historically a quieter time of the year for flooding and storms etc., we still recognise that events can occur at any time and in any case, we are now beginning to consider the typical issues that will potentially arise in the later part of the year, during storm/cyclone season.
- As a part of this, we continue our ongoing work with many Qld councils where we have gas network assets, in regard to LDMG emergency management activities, generally. We continue to participate in regular exercises with those councils as well as regularly conducting our own internal exercises.
- Through the strong support of QFES, APA recently participates in a training forum for (10) of its employees, covering modules: QDMA Arrangements - Introduction to Evacuation – Introduction to Recovery. This training, led by John Hannan (QFES) at the State Disaster Centre at Kedron, means that APA will be better placed to ensure more reliable attendance at LDMG meetings, generally.

Emergency Communications - what to do?

- Evacuate the area immediately surrounding any gas escape without using a vehicle or any device that may create a spark, including a mobile phone.
- For a major incident, where there is risk to life or property, call 000
- Call the relevant emergency number below if:
 - you can smell gas
 - you can hear gas escaping
 - there has been a gas explosion or fire
 - you are aware of, or may have caused damage to a gas pipe, meter or pipeline
- Please report all damage, no matter how minor.
- Gas Emergency Contact Numbers
 - Local Natural Gas Distribution Networks - 1800 GAS LEAK (1800 427 532)
 - LPG - 1800 GAS LEAK (1800 427 532)
 - For gas appliance faults, contact your local plumber.
 - Avoid emergencies by using the free Dial Before You Dig service before digging.

General Business

- Through BAU activities and ongoing external and internal training and auditing processes, APA maintains a high level of preparedness for event response. We constantly review our processes and EMP plans, and of course, we have regular, ‘real’ events involving asset strikes, washouts, general maintenance issues, etc., that continue to test and support our preparedness level.

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5.2 Australian Defence Force

Nil to report

5.3 Australian Red Cross Queensland

General Business

- Significant restructure has occurred across the State.
- Zones have been changed resulting in changes to agency representation on certain groups, including this group. A proxy is still to be determined however, Elanor Carter has been identified as the key contact point for the LDMG/DDMG.
- The Attorney-General's department is currently updating the Register.Find.Reunite Operations and Procedures and key messages will be provided once the system is operational (anticipated September 2018).

5.4 Department of Communities, Disability Services and Seniors

Nil to report

5.5 Department of Education

Nil to report

5.6 Department of Employment, Small Business and Training

Preparedness and Planning

- Current contingency and disaster management planning is being developed and implemented as a result of forming this new Department following the last election and Machinery of Government changes.
- Currently the Department of Education strategies are tapped into.

5.7 Department of Environment and Science

Nil to report

5.8 Department of Housing and Public Works

Nil to report

5.9 Department of State Development, Manufacturing, Infrastructure and Planning

Nil to report

5.10 Department of Transport and Main Roads

Nil to report

5.11 Energex

Hazard Mitigation and Risk Reduction

- ENERGEX is continuing to establish "Bushfire Mitigation Projects" based on recent field studies. The projects include the installation of "sparkless" fuses at critical points in the electricity network, overhead conductor "spacers" within nominated bushfire zones, covered high voltage overhead conductor in high risk vegetation zones & enclosed high voltage switches.
- Energex is also continuing their overhead asset refurbishment program to replace high risk small overhead conductors.
- ENERGEX Flood & Bushfire Risk Management Plans can be accessed via the attached link: <https://www.energex.com.au/the-network/network-management-plans-and-reports>

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Preparedness and Planning

- ENERGEX is a Quality Accredited Organisation and as such has registered plans for disaster management. The key plans are as follows:
 - CEMP (Corporate Emergency Management Plan)
 - DAPR (Distribution Annual Planning Report)
 - SPP (Summer Preparedness Plan)
- ENERGEX emergency response plans are integrated into all operations of the business. These plans are documented under AS/NZS ISO 9001 Certified Quality Management System.
- These plans are high level and dictate the delivery of documented "Emergency Response Plans"

General Business

- Energex / Ergon continue to harmonise emergency response processes because of the merging the two businesses to Energy Queensland.
- Energy Queensland summer preparation commenced in mid-June and includes:
 - Technology volume and capacity tests;
 - End to end supply restoration tests;
 - Process reviews; and
 - Personnel training and accreditation
- Energex network capacity capital expenditure programme has steadily reduced as a result of reduced growth.
- Energex capital replacement programme has steadily increased to cater for aging asset replacement.
- Energex is continuing with capital works to treat the effects of embedded generation systems.
- Energex is continuing with bushfire risk reduction programme.
- Energex is continuing with flood risk reduction programme.
- Items of interest:
 - EQL network preparation for Commonwealth Games proved successful with no outages or incidents affecting the Commonwealth Games.
 - Energex is using LIDAR (Light Detection and ranging) to measure overhead power line clearance compliance. This technology has been useful in assisting with overhead power line clearance compliance during flooding.
 - Energex MyPower App, website is being increasingly used by our customers to gain information regarding power outages.
- Pick up a phone NEVER a fallen powerline. Call Energex on 13 19 62

5.12 Maritime Safety Queensland

Nil to report

5.13 Moreton Bay Regional Council

Hazard Identification and Risk Assessment

- A number of hazards have the potential to impact the communities of the Moreton Bay Region and are summarised in the table below:

OVERALL RISK	HAZARD
HIGH	Bushfire Flooding Severe Storm
MEDIUM	Chemical Incident Earthquake Heatwave Landslide Major Fire Major road, rail, air or marine transport incident Pandemic Storm Tide Tsunami

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- A number of hazards have the potential to impact the communities of the Moreton Bay Region. The highest risk hazards identified are: Bushfire, Flooding and Severe Storm.
- Council continues to work with the Local Disaster Management Plan adopted on 12 September 2017. The plan is in line with the IGEM Emergency Management Assurance Framework. This plan will be formally reviewed once the new State Disaster Management Plan has been released.
- Council has commenced a review of its hazard identification and risk assessments with the Queensland Fire and Emergency Services. An initial workshop on the Queensland Emergency Risk Management Framework (QERMF) was held in January 2018. A further workshop occurred on 14 May 2018. Work to assess and record risk in line with the QEMRF will continue into the 2018/19 financial year.
- An assessment of residual risk will be undertaken with the Moreton District Disaster Management Group and, where agreed, elements of residual risk will be formally transferred.
- Likely residual risks include elements of catastrophic events e.g. major earthquake, land inundation tsunami, Category 3+ cyclone with significant storm tide impact, North Pine dam failure etc.

Preparedness and Planning

- Council has recently appointed Mr Chris Barnes to the role of Disaster Preparedness Coordinator with Chris commencing in the role on 2 July 2018. Chris brings extensive crisis management experience following a successful career with both the Royal Air Force and Royal Australian Air Force.

Capability Integration

Date	Type	Persons Exercised	Hours Trained
20 Jul 2017	Emerald City (BCC)	1	8
22 Aug 2017	Exercise Coordinatis Conatu - Mt Nebo Fire (Day 1)	13	39
23 Aug 2017	Exercise Coordinatis Conatu - Mt Nebo Fire (Day 2)	18	144
19 Oct 2017	EX HYDRA 2017 (Seqwater)	1	6
30 Oct 2017	Ex Moreton Storm V2 (FIC/Ops Admin/T&T)	15	37.5
1 Nov 2017	Ex Mountain Recovery - Mt Nebo Fire	18	54
24 Jan 2018	Coordinatis Conatu - Debrief	5	10
21 Feb 2018	North Pine Dam - Emergency Alert Workshop	12	12
21 Feb 2018	North Pine Dam - Evacuation Workshop	10	25
26 Feb 2018	Exercise Emergency Alert	7	21
10 Apr 2018	North Pine Dam sub-plan response workshop	12	18
10 May 2018	North Pine Dam sub-plan search and rescue workshop	10	40
6 Jun 2018	Exercise Intercept - Redcliffe Aerodrome Discussion Exercise	10	30
12 Jun 2018	Exercise Afterburn (RCC)	1	8
TOTAL		133	452.5

- Focus placed on ensuring all LDMG and LDCC staff have completed the minimum training required under the Queensland Disaster Management Training Framework.
- Council has identified 209 persons supporting disaster management activities in the Moreton Bay Region of which 124 have met council's and QFES' core requirements (target in 2018/19 is now 90).

Date	Type	Persons Trained	Hours Trained
17 Aug 2017	QDMA & Coordination Centre (operations and functions)	12	72
29 Aug 2017	QDMA & Coordination Centre (operations and functions)	14	84

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Date	Type	Persons Trained	Hours Trained
6 Sep 2017	QDMA & Coordination Centre (operations and functions)	12	72
30 Nov 2017	QDMA	6	18
30 Nov 2017	Intro to Warnings and Alerts	6	9
30 Nov 2017	Intro to Disaster Coordination Centre	6	18
6 Dec 2017	Intro to Evacuation & Working in an Evac Centre	7	28
10 Jan 2018	QDMA	3	7.5
25 Jan 2018	Guardian Training	3	6
1 Feb 2018	Intro to Warnings and Alerts	1	1.5
27 Feb 2018	Intro to Warnings and Alerts	1	1.5
6 & 7 Mar 2018	Building Local Capability Volunteer Training	20	300
17 May 2018	QDMA	1	2.5
19 Jun 2018	QDMA and Evacuation Training (BCLDMT)	10	30
TOTAL		102	650

Planning - Local Disaster Management Plan (LDMP) and Sub-Plans

- Council adopted its new Local Disaster Management Plan (version 4.0) on 12 September 2017.
- Council noted the finalisation of the Threat Specific - Bribie Island Isolation Sub-Plan on 27 February 2018.
- The latest version of the Local Disaster Management Plan can be found on Council's website at: <https://www.moretonbay.qld.gov.au/local-disaster-management-plan/>
- Work has commenced developing a Threat Specific - North Pine Dam Response Sub-Plan and is near finalisation.
- Work has commenced developing an Impact Assessment sub-plan.

Name of plan	Description	Last reviewed	Status
Local Disaster Management Plan (version 4.0)	LDMP	Approved by Council 12 September 2017	Finalised
Animal Management	Sub-Plan	Endorsed by LDMG (Flying Minute March 2012)	Finalised
Evacuation	Sub-Plan	Endorsed by LDMG 6 February 2013. Adopted at council workshop 7 March 2013	Finalised
Evacuation Centre Management	Sub-Plan	Endorsed by LDMG (Flying Minute March 2012)	Finalised
Evacuation Centre Management - Watson Park	SOP	99% complete. Awaiting sign-off of MoU with ADRA	Pending endorsement
Impact Assessment	Sub-Plan	Commenced	Under development
Public Health	Sub-Plan	Endorsed by LDMG 23 November 2011	Finalised
Threat Specific - Bribie Island Isolation	Sub-Plan	Endorsed by LDMG (Flying Minute 11 January 2018)	Finalised
Threat Specific - Narangba Innovation Precinct Response	Sub-Plan	Endorsed by LDMG (Flying Minute 12 February 2016)	Finalised
Threat Specific - North Pine Dam Response Plan	Sub-Plan	90% complete. Awaiting development of webpage highlighting impact areas and evacuation routes.	Under development

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Emergency Communications

Public Engagement

- Continuing to engage with community groups and provide presentations on preparedness.
- Targeted mailout to over 8,000 residents in flood alert groups to promote MoretonAlert and advise of more locally specific information about river and creek water level gauges was completed by the end of February 2018. As at 14 July 2018 4,091 people are now registered for MoretonAlert within these 32 flood warning groups.
- Get Ready Resilience Initiative funding is now provided by the Queensland Reconstruction Authority and has been set at \$126,100 for the Moreton Bay Regional Council in the 2017/18 financial year. Activities undertaken by Council include the following:
 - Continuation of the human services sector mapping project. Target area in 2017/18 was Toorbul - \$29,000
 - Focus group activities to better gauge community understanding of Council's flood warning and flood check property report initiatives. Contract awarded to Risk Frontiers in March 2018 with 5 focus group activities completed by 7 July 2018. Currently awaiting final report - \$42,000
 - Mail out regarding MoretonAlert to 8,000 higher risk flood properties completed - \$7,000
 - Emergency Service Expos at Bribie Island and Woodford - \$6,000
 - Media and advertising campaign - up to \$42,100
- School Education - the National Curriculum now contains a unit where Year 5 students learn about preparation, planning and response to natural hazards and disasters that could potentially affect Queensland. In 2017/18 staff have addressed more than 1,452 students.

Date	Activity	No of Attendees
5 Oct 2017	Year 5 Presentation - Petrie State School	100
11 Oct 2017	Year 5 Presentation - Genesis College	120
15 Oct 2017	Bribie Island Emergency Expo	~1,200
18 Oct 2017	Year 5 Presentation - Caboolture State School	90
19 Oct 2017	Year 5 Presentation - Muller College	110
30 Oct 2017	Year 5 Presentation - Undurba State School	125
30 Oct 2017	Year 5 Presentation - Christ the King	30
31 Oct 2017	Year 5 Presentation - Burpengary State School	125
2 Nov 2017	Year 5 Presentation - Dayboro State School	85
3 Nov 2017	Beachmere Expo	~300
23 Nov 2017	Year 5 Presentation - Strathpine West	70
7 Feb 2018	Year 5 & 6 Presentation - Scarborough State School	230
14 Feb 2018	Aged Care Forum	70
26 Apr 2018	Year 5 Presentation - Eatons Hills State School	180
30 Apr 2018	Year 5 Presentation - Minimbah State School	120
21 May 2018	Get Ready Toorbul	13
23 May 2018	Get Ready Toorbul	20
27 May 2018	Woodford Emergency Services Expo	~600
21 Jun 2018	Year 5 Presentation - Kippa-Ring State School	57
TOTAL		3,645

ITEM 4.2 - MORETON BAY LOCAL DISASTER MANAGEMENT GROUP AND MORETON DISTRICT DISASTER MANAGEMENT GROUP - MEETING MINUTES 18 JULY 2018 - REGIONAL (Cont.)



Communication Systems

- MoretonAlert is a free SMS, email and voice notification system to provide severe weather warnings, Queensland Fire and Emergency Services' bushfire warning messages, Council prescribed burn notifications, potential flash flooding incidents and planned dam releases within our region. As at 14 July 2018, council has 50,328 residents registered to receive MoretonAlert messages.
- Extensive ongoing social media engagement with the community via Facebook (26,296 followers) and Twitter (2,186 followers) during disaster events.
- Monthly testing of the Mt Nebo / Mt Glorious Early Warning System by QFES continues.

Relief and Recovery

- Council has created a new Disaster Resilience and Recovery Coordinator position to support and drive the development of the Moreton Recovery Groups' capability and capacity. Additionally, this position will focus on expanding Council's community engagement activities. Ms Vicki Anderson commenced in the role on 2 July 2018. Vicki comes to council with extensive experience in disaster management following roles with Brisbane City Council and Redland City Council.
- The development of a SOP for the Watson Park facility continues.
- An audit of all evacuation centre stock has been completed.
- Work continues in the development of SOPs for each of Council's evacuation centres and these will incorporate the floor plans and also include information to assist staff and volunteers to establish and maintain an evacuation centre within the Moreton Bay region.

Expecting approval for Get Ready funding - go to council for activity program approval

5.14 Queensland Ambulance Service

Hazard Identification and Risk Assessment

- Flu Season is expected to cause a 13% increase overall in calls to QAS and a 23% increase in high priority calls from 1 July until 24 September.
- Fleet and equipment has all been recovered from the Commonwealth Games, all stations have returned to BAU
- Ageing population and population expansion into the area is causing increased pressure on services
 - Bribie island in particular has a population last census of 18,000 people, 40.5% were over 65.

Hazard Mitigation and Risk Reduction

- An Ambulance Coordination Centre has been set up over the flu season to assist with identification and mitigation of spikes in demand.
- Local standing order for Bribie Island exists that a unit remains on or near the island at all times where demand allows.
- 100 extra front-line staff and 85 new and replacement vehicles included in recent budget state-wide.

Preparedness and Planning

- The Emergency Management Unit remains ready to respond to major incidents and disasters state-wide.
- The QAS Inspector, Major Events and Planning is in the process of updating the Event Plans (LEP) for the Greater Brisbane region.

Emergency Communications

- QAS remains committed to inter-agency coordination through the Australasian Inter-Service Incident Management System (AIIMS).

Response

- The Emergency Management Unit has not had to be stood up in the Northern Corridor.

5.15 Queensland Fire and Emergency Services

Hazard Identification and Risk Assessment

- The Northern Area Fire Managers group met in March and identified agency bushfire hot spots and solutions to reduce the risk.

ITEM 4.2 - MORETON BAY LOCAL DISASTER MANAGEMENT GROUP AND MORETON DISTRICT DISASTER MANAGEMENT GROUP - MEETING MINUTES 18 JULY 2018 - REGIONAL (Cont.)



- RFS held a workshop for Fire Wardens, First Officers and Volunteer Community Educators in June. Each brigade mapped identified at risk areas and are now working in their brigade areas to reduce these risks.
- All of this information is collated, recorded and reported through "Operation Cool Burn". This operation commenced on 1 April 2018 and continues through to 31 August 2018 with the possibility of extension.
- EM John Hannan and Supt David Brazel attended the MBRC: Risk Assessment Workshop, 14 May 2018.

Hazard Mitigation and Risk Reduction

- All Fire management agencies have provided their hazard mitigation plans for this season to the Fire Managers Group. These have been collated by the RFS Bush Fire Safety Officer and form part of the Northern Zone Bush Fire Risk Management Plan.
- From these plans a number of joint agency operations will occur at Bribie Island and Deception Bay.
- Rural Fire Service are supporting all agencies in completing Hazard Reduction Burns. (HRB's)
- The Woodford Emergency Services Expo was held on Sunday 27 May 2018.

Preparedness and Planning

- The Northern Area Fire Managers Group will meet again in August to discuss the upcoming season, forecast weather and fuel condition.
- We will be conducting a pre -fire season readiness workshop in August that will involve RFB's, Fire management agencies.
- The Brisbane Region Bushfire Management Plan and the Air Operations plans will be completed by the end of July, ready for presentation at the pre- season workshops.
- Operation Knock Knock is planned to be conducted as an official QFES operation on 15 September 2018. This operation is a State-wide multi-agency engagement initiative to mobilise teams for a door knock in their communities to raise awareness of the importance of resilience and preparation for hazards and community connectedness. This initiative includes: QFES, VMR, SLSQ, QPS and Red Cross.
- EM John Hannan attended two Bureau of Meteorology masterclasses during April and May.
- EM John Hanan attended evacuation centre management training at Beachmere.
- Supt David Brazel and Insp Steve Bates attended the Redcliffe aerodrome discussion exercise with MBRC on 6 June 2018. Exercise Intercept.
- Attendance by QFES representatives occurred in numerous meetings with MBRC regarding the North Pine Dam Emergency sub-plan Workshops.

Emergency Communications

- All communication systems are working, both VHF and digital radios.

Response

- Due to the weather, Rural Fire Brigades have been relatively quiet over the past 3 months in the way of response to wildfire suppression.

General Business

- A new Type 2 Urban Pumper appliance has replaced the pump at Bribie Island Station. This pump has CAFS capability for fire suppression. (CAFS: Compressed Air Foam System). This appliance was designed for fire and rescue response as a Medium Urban Pumper/Tanker firefighting appliance. It provides basic capability in Command and Control, Technical Rescue, and Breathing Apparatus/HAZMAT, and intermediate level Road Crash Rescue capability. The appliance has the capacity to deliver three types of firefighting medium—water, Class A Foam, or Compressed Air Foam.
- Agency representatives were reminded of the necessary training required to be undertaken as part of being a member of these two groups. Also, that a needs analysis is being undertaken and the necessary training can be completed on-line.

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DISASTER MANAGEMENT GROUP - MEETING MINUTES 18 JULY 2018 - REGIONAL (Cont.)



5.16 Queensland Health

Hazard Identification and Risk Assessment

- Metro North Hospital and Health Service (MNHHS) is supporting Queensland Department of Health (as lead agency) in the State-wide Heatwave Risk Assessment and will attend the Workshop being led by QFES on 17 July 2018.

Preparedness and Planning

- MNHHS (Caboolture Hospital) is working in partnership with QPS and QAS as an exercise planning member and participant of Exercise Austral Moreton (planned for September 2018). Caboolture Hospital will establish and staff and full 'Sim Emergency Department' and Hospital Incident Management Team to assess response capabilities to a mass casualty event. An exercise is also being developed for Redcliffe Hospital to test the use of redundancy communication systems in emergency events (late 2018).
- MNHHS established Queensland's first Emergo Train System (ETS) Competency Centre in March 2018. The first courses have been completed and further courses are scheduled for this financial year. This training support frontline clinical management in the event of mass casualty events using real-time simulation based exercises.
- Evidentiary collection procedures for frontline QPS and MNHHS Emergency Department staff, in partnership with the QPS and the MNHHS Emergency Departments Network, has been completed with kits and procedures established in each hospital.
- Coordinated in partnership with QFES Australasian Inter-Service Incident Management System (AIIMS) training to 32 staff (May and June 2018). Three further courses are scheduled to occur in this calendar year (August and September 2018).
- The 2018 MNHHS Emergency Management Plan has been published.
- Review of the 2016 MNHHS Emergency Management and Business Continuity Training and Exercise Framework is completed and is pending endorsement. Significant enhancements include integration of business continuity specific roles and lessons identified guidance, processes and templates.
- The MNHHS Emergency Operations Centre (HEOC) has been expanded with a significant upgrade of additional adjacent rooms to support over-flow capability. The newly upgraded spaces include large touch -screen interfaces, connectivity with our near-real time access management coordination centre (showing the location of all in-patients within the HHS) and redundancy power and lighting.
- MNHHS Financial specialists will be attending the QDRRA Workshop being held 12 July to improve understanding of financial arrangements and associated changes.

Emergency Communications

- Government Wireless Radios are in place in all Moreton Bay public hospitals (Redcliffe and Caboolture) have been supplemented with dedicated handsets in each hospital to support emergency response operations in the event of a communication outage affecting mobile towers and the NBN.

Response

- MNHHS is currently at an LEAN FORWARD level of activation for health specific events including an international shortage of radioactive isotopes and the proactive management of influenza surge.
- To support influenza surge response MNHHS has developed an Influenza Surge Business Continuity Action Plan. Implementation is supported by a number of initiatives spanning the PPPR continuum. For example, a live 'dashboard' leverages near-real time information from pathology, emergency departments and hospital wide services and provides a virtual connection between clinicians and service delivery planners. This enables the HHS to take early steps to prevent delays in patient and community care during surge periods.

5.17 Queensland Police Service

Hazard Identification and Risk Assessment

- Moreton Police Blog available for LDMG to submit articles if desired.
- Moreton Police Blog utilised for DM resilience and community engagement
- Participated in workshops to write the North Pine Dam Sub Plan
- Participating in writing Final Exercise Report for Exercise Coordinatus

ITEM 4.2 - MORETON BAY LOCAL DISASTER MANAGEMENT GROUP AND MORETON DISTRICT DISASTER MANAGEMENT GROUP - MEETING MINUTES 18 JULY 2018 - REGIONAL (Cont.)



Hazard Mitigation and Risk Reduction

- Moreton Police Blog utilised for DM resilience and community engagement
- My Resilient Community Project
- Participated in workshops to write the North Pine Dam Sub Plan
- Participating in writing Final Exercise Report for Exercise Coordinatus

Preparedness and Planning

- Moreton Police Blog releases
- Reminder myStreet community campaign. Agencies within the DM framework invited to participate.
- Supporting Isolated Community Project and My Resilient Community Project
- CSAs have been running on 997FM. Topics covered: Disaster Emergency Kit, Disaster Preparedness, Warnings.
- Exercise planning for 2018 commenced.
- Participated in exercise to test and practice Emergency Alerts conducted with SDCC.
- Participated in workshops to write the North Pine Dam Sub Plan
- Participating in writing Final Exercise Report for Exercise Coordinatus
- Volunteers from QPS and NHW completed DM Course to assist with PPRR with other volunteer agencies.
- Participated in workshop for Operation "Knock Knock".

Emergency Communications

- The GWN network fully operational.
- Arrangements made to train new DCPC at Redcliffe in Media Liaison role.

Response

- Envisage continuation of Moreton DDCC activating at Strathpine Council building in the future
- Continuing to develop the new Media Liaison Role that provides significant input for social media releases and monitoring
- Tested the Intell role within local/district levels during Exercise Coordinatus.
- Working with MBRC to streamline SITREPs that meet QDMA requirements.
- Working with MBRC to develop social media mapping capability.
- New LDCC/DDCC structure implemented and tested during Exercise Coordinatus Conatu and some amendments made.
- Change in design of offices to accommodate more effective DDCC.
- Coordinating Exercise Austral Moreton which is a multi-agency response to Active Armed Offenders at Caboolture SHS.
- Volunteers from QPS and NHW completed DM Course to assist with PPRR.

Relief and Recovery

- Coordinating Exercise Austral Moreton which is a multi-agency response to Active Armed Offenders at Caboolture SHS. Recovery discussion exercise planned post exercise.
- Volunteers from QPS and NHW completed DM Course to assist with PPRR.

General Business

- Name change approved for Moreton Disaster District. New business email – DDC.Moreton@police.qld.gov.au implemented.
- XO attended annual XO Conference in Brisbane. Presentation from other agencies re: status re: DM. SDMP to be released in next couple of months.
- Initial meeting with Paul Freeman from Delaney's Creek and MBRC to commence community group to support DM in the Woodford, Mt Mee, Delaney's Creek areas.
- Informed members a new police station to replace Caboolture police station is located on the western side of the city centre (near Cemetery and Aldi out King Street).
- This will entail 2 establishments in Caboolture - the current location will remain to service the court system, watch-house and prosecutions.
- Exercise Austral Moreton - elements of testing of systems in response to number of events.
- Council's Coordinator Disaster Management took the opportunity to congratulate Inspector Lee Jeffries APM who was recently awarded the Australian Police Medal as part of the Queen's Birthday Honour list.

ITEM 4.2 - MORETON BAY LOCAL DISASTER MANAGEMENT GROUP AND MORETON DISTRICT
DISASTER MANAGEMENT GROUP - MEETING MINUTES 18 JULY 2018 - REGIONAL (Cont.)



5.18 Queensland Rail

Hazard Mitigation and Risk Reduction

- Regular maintenance works are carried out by Queensland Rail workers. Queensland Rail continues to work closely with the Moreton DDMG and Moreton Bay LDMG.

Preparedness and Planning

- Queensland Rail has a disaster management plan for South East Queensland, which details roles and responsibilities of the various teams during different types of events, including natural disasters.
- The Emergency Preparedness team undertakes continual monitoring of the Bureau of Meteorology for significant weather events in readiness and to prepare for significant disruptions on the network etc.
- Queensland Rail regularly conducts training and exercises with emergency services, including those from the Moreton DDMG area.

Emergency Communications

- Queensland Rail has appropriate communication processes / plans in place to communicate with customers and external stakeholders. This is managed in consultation with Translink.

Response

- Rail Liaison Officers have been identified, who will support the Moreton DDMG and Moreton Bay LDMG.
- The Emergency Preparedness team undertakes on-call function to assist the organisation and / or managing a significant event or incident.

Relief and Recovery

- Queensland Rail Network capability is able to respond to any type of emergency, including significant types of incidents and is able to effectively transition from response to recovery in a timely manner.
- Additionally, any response would be assisted by Queensland Rail's Incident Coordination Team or Crisis Management Team.

General Business

- Continuing to conduct rail familiarisation activities with emergency service personal across the State.
- Recently undertook a counter-terrorism security exercise in the lead up to the 2018 Gold Coast Commonwealth Games, which included emergency services responding to an active armed offender and suspect device.
- Recently undertook a watch desk capability during the 2018 Gold Coast Commonwealth Games. This included liaison with the GPPT HUB.
- No significant events or learnings came out of Queensland Rail's preparation and conduct during the 2018 Gold Coast Commonwealth Games.
- A Rail Emergency Response video has been produced and uploaded on LMS systems to help manage risks and promote safe operations when entering QRail environments. QAS operational staff have viewed the product.

5.19 State Emergency Service

Preparedness and Planning

- Continuing monthly training members in Operations Management to provide support across the Groups and Unit during major events.
- 21 members have successfully completed a leadership workshop aimed at further building leadership skills in responding to disaster events.

Response

- From 1 March 2018 to 1 July 2018 the Unit attended to 12 storm damage tasks and 7 Agency Support Requests.

ITEM 4.2 - MORETON BAY LOCAL DISASTER MANAGEMENT GROUP AND MORETON DISTRICT DISASTER MANAGEMENT GROUP - MEETING MINUTES 18 JULY 2018 - REGIONAL (Cont.)



General Business

- Construction has commenced on the new Arana Hills SES Group Facilities.
- Three Group Leaders received awards for service to their community, two received the Longman Award and one the Queensland Day Award.
- The Unit has received three additional vehicles increasing the number of teams able to be deployed to tasks.
- Hosted the International Air Cadets Association earlier today (18 July 2018).
- Participated in the Woodford Combined Emergency Services Expo (27 May 2018) and preparing for participation in the Bribie Island Combined Emergency Services Expo (15 October 2018).
- Developing Incident Management Training module in an endeavour to have more people trained to allow spread of capability during events.

5.20 Telstra

Nil to report

5.21 Unitywater

Hazard Mitigation and Risk Reduction

- Maintenance Management - Unitywater has a comprehensive maintenance management program and capability including an inventory of critical spares. This provides capability to efficiently and effectively respond in emergencies.
- Asset Condition Assessments - Unitywater has an ongoing program of work to assess the condition of all assets. The outcomes of this program are used to understand the reliability of the networks and to determine the asset renewals program. This to the greatest extent possible ensures that failure of network assets is minimised and network reliability is optimised.
- Contingency Planning - Unitywater's capital and operational planning processes include the requirement to develop, implement and maintain plans to mitigate the impact of failure of critical assets (e.g. the sewage rising mains that transport sewage from Ningi to the Bribie Island Sewage Treatment Plant and which are attached to the Bribie Island bridge.)
- Risk management – Strategic, Operational and Project - Unitywater maintains and implements a comprehensive risk management system that includes mitigation measures. Unitywater utilises planning information, asset condition assessments and outputs of its contingency planning to guide risk assessment and to formulate risk mitigation measures.

Preparedness and Planning

- The Unitywater Incident Management Plan aims to outline command, control and communication processes and procedures to respond efficiently and effectively to any incident while eradicating or minimising impacts on Unitywater employees, customers, the environment, assets and reputation.
- The Unitywater Business Continuity Management Plan (Plan) aims to outline the Business Continuity Management process Unitywater applies to develop plans and systems that ensure continuity of essential services and critical business functions following an incident or disruption, until it can recover and return to normal operations.

Response

- Unitywater is a member of the Sunshine Coast District Disaster Management Group (DDMG), covering the Noosa and Sunshine Coast LDMGs and the Moreton Bay Local Disaster Management Group.
- A Unitywater manager is appointed to represent Unitywater on each of these groups. Fortnightly rosters of incident management response personnel are maintained including LDMG and DDMG representation.

Currently recruiting for a business review specialist -

Issued purchase orders for hazard reduction burns on bribie island (southern end)

ITEM 4.2 - MORETON BAY LOCAL DISASTER MANAGEMENT GROUP AND MORETON DISTRICT
DISASTER MANAGEMENT GROUP - MEETING MINUTES 18 JULY 2018 - REGIONAL (Cont.)



5.22 Volunteer Marine Rescue (Advisor)

General Business

- On track for hosting of the Bribie Island Combined Emergency Services Expo on 15 October 2018.
- Pledged participation and contributions from agencies has been outstanding.
- Agency assistance in promoting the event where possible would be appreciated.
- On 8 August 2018, will also support the Toorbul community as part of the "Get Ready Toorbul" initiative.
- On 28 September 2018, VMR will host the Emergency Services Cadets (as part of PCYC program).

RECOMMENDATION ADOPTED:

That the reports be received and noted.

6. OTHER BUSINESS

6.1 LDMG

Nil to report

6.2 DDMG

Nil to report

7. REFERRAL

7.1 To Council

Nil to report

7.2 To DDMG

Nil to report

7.3 To SDCC/SDCG/DMU

Nil to report

8. FUTURE AGENDA ITEMS

Nil to report

9. NEXT MEETING

The next LDMG/DDMG meeting is scheduled to occur on Wednesday, 21 November 2018.

RECOMMENDATION ADOPTED:

That the next meeting will occur on Wednesday, 21 November 2018.

10. CLOSE

There being no further business, the Chairperson closed the meeting at 2.40pm.

5 PARKS, RECREATION & SPORT SESSION

(Cr K Winchester)

No items for consideration.

6 LIFESTYLE & AMENITY SESSION

(Cr D Sims)

No items for consideration.

7 ECONOMIC DEVELOPMENT, EVENTS & TOURISM SESSION

(Cr P Flannery)

No items for consideration.

8 REGIONAL INNOVATION

(Cr D Grimwade)

ITEM 8.1

PROPOSED LEASE AT 2204 MT SAMSON ROAD, SAMFORD VALLEY - DIVISION 11

Meeting / Session: 8 Regional Innovation (Cr D Grimwade)
Reference: A17534740 : 6 September 2018 - **Refer Supporting Information A17541138**
Responsible Officer: AS, Enterprise and Investments Officer (CES Property & Commercial Services)

Executive Summary

This report seeks Council's approval to grant a lease, on the terms outlined in this report, over part of Lot 901 on SP 156333 at 2204 Mt Samson Road, Samford Valley.

OFFICER'S RECOMMENDATION

1. That the exception contained in section 236(1)(b)(i) of the Local Government Regulation 2012 applies to the Council regarding the disposal of the property referred to in recommendation 2.
2. That the grant of a lease being part of Lot 901 on SP156333 at 2204 Mt Samson Road, Samford Valley be approved on the terms outlined in this report.
3. That the Chief Executive Officer be authorised to take all action necessary including but not limited to, negotiating, making, amending, signing and discharging the lease and any required variations of the lease on the Council's behalf as described in this report.

*ITEM 8.1 PROPOSED LEASE AT 2204 MT SAMSON ROAD, SAMFORD VALLEY - DIVISION 11 - A17534740
(Cont.)*

REPORT DETAIL

1. Background

The Queensland Parks and Wildlife Service (QPWS) has had their operational base located at the proposed lease site for many years, originally commencing operations in conjunction with CSIRO.

QPWS has been occupying the site on a month to month licence agreement but has requested to enter into a lease to provide their operations with a defined certainty of tenure.

2. Explanation of Item

Council approval is sought to grant a lease to QPWS on the core terms outlined below.

Core Term	Description
Term	3 years
Commencement Date	1 October 2018
Expiry Date	30 September 2021
Option	Nil
Rent	\$20,800 plus GST for the first year, and subject to a 3% or CPI increase, whichever the greater, on each anniversary of the Commencement Date
Permitted Use	Any lawful use under the MBRC Planning Scheme

The lease area is depicted in Supporting Information #1 as Lease G.

3. Strategic Implications

3.1 Legislative/Legal Implications

Under the Local Government Regulation 2012, the Council must lease property pursuant to an auction or tender process unless a relevant exception to this general requirement applies.

Section 236(1)(b)(i) of the Regulation provides an exception whereby the Council may enter into a lease other than by tender or auction if the valuable non-current asset is disposed of to a government agency. The Council may only rely on that exception if, before granting a lease, it resolves that the exception applies.

3.2 Corporate Plan / Operational Plan

Creating Opportunities: Well-planned growth - a sustainable and well-planned community.

3.3 Policy Implications

There are no policy implications arising as a direct result of this report.

3.4 Risk Management Implications

There are no risks arising as a direct result of this report.

3.5 Delegated Authority Implications

The reports seeks delegation for the Chief Executive Officer to do all things necessary to effect Council's resolution.

3.6 Financial Implications

Council will receive rent in the amount of \$20,800 + GST.

3.7 Economic Benefit

There are no economic benefit implications arising as a direct result of this report.

Moreton Bay Regional Council

*ITEM 8.1 PROPOSED LEASE AT 2204 MT SAMSON ROAD, SAMFORD VALLEY - DIVISION 11 - A17534740
(Cont.)*

3.8 Environmental Implications

QPWS provides an important role in managing natural areas within the region. It also assists with bushfire preparedness, implementing prescribed burns and emergency response.

3.9 Social Implications

There are no social implications arising as a direct result of this report.

3.10 Consultation / Communication

Parks and Recreation Planning
Council's commercial agent

SUPPORTING INFORMATION

Ref: [A17541138](#)

The following list of supporting information is provided for:

ITEM 8.1

PROPOSED LEASE AT 2204 MT SAMSON ROAD, SAMFORD VALLEY - DIVISION 11

#1 Proposed lease area

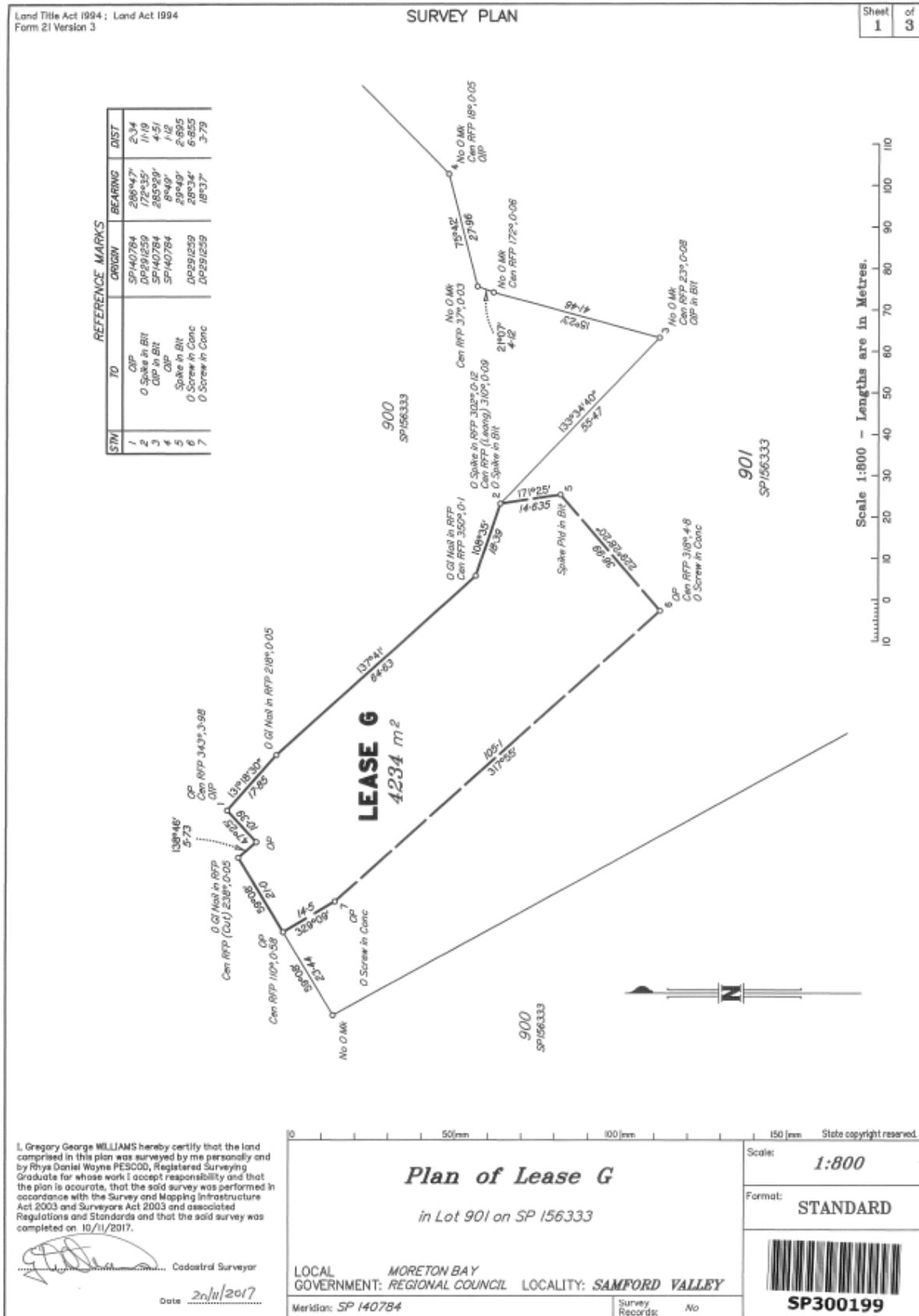
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ITEM 8.1 - PROPOSED LEASE AT 2204 MT SAMSON ROAD, SAMFORD VALLEY (Cont.)

#1 Proposed lease area



9 GENERAL BUSINESS

ANY OTHER BUSINESS AS PERMITTED BY THE MEETING CHAIRPERSON.