



I hereby give notice that an Ordinary Meeting of Council will be held on:

Date: Tuesday, 23 January 2024

Time: 9.00am

Location: Torres Shire Council Office

68 Douglas Street - Thursday Island

AGENDA AND BUSINESS PAPERS

Ordinary Council Meeting

23 January 2024

DEPUTATION: 10:00am – 10:20am Torres Strait Regional Authority

Chair Pedro Stephen AM

**Dalassa Yorkston
Chief Executive Officer**

ORDER OF BUSINESS

AGENDA CONTENTS.....	2
ATTENDANCE	2
MEETING OPENED	2
APOLOGIES	2
ACKNOWLEDGEMENT OF COUNTRY.....	2
CONDOLENCES	2
DECLARATIONS OF INTEREST	2
CONFIRMATION OF MINUTES	2
BUSINESS ARISING	2
NOTIFIED MOTIONS.....	2
COUNCILLORS REPORTS.....	2
EXECUTIVE SERVICES REPORTS.....	2
LATE ITEMS	2
CONFIDENTIAL REPORTS	2
GENERAL BUSINESS.....	2
8.1 Confirmation of Minutes Ordinary Meeting 5 December 2023	3
11.1 Councillor's Monthly Reports.....	4
12.1 Chief Executive Officer's Monthly Report.....	5
12.2 Corporate and Community Services – Financial Report	6
12.3 Capital Works Program Report	8
12.4 Animal Management Update	10
12.5 Development Application – IDAS23/19 – Ergon Energy - 5 & 7 Aplin Street, Thursday Island – Lot 1 & 2 on RP748738	14
12.6 Caretaker period for local government elections.....	36
13.1 Australia Day Awards 2024	40
14.1 In Committee – Finance Report	41

AGENDA CONTENTS**ATTENDANCE****MEETING OPENED****APOLOGIES****ACKNOWLEDGEMENT OF COUNTRY**

On behalf of all Councillors, the Mayor acknowledged the Kaurareg people, Traditional Custodians of the land on which we meet today, and paid respects to their Elders past, present and emerging.

CONDOLENCES

A minute's silence will be observed as a mark of respect in memory of a deceased person or persons of our community and/or area of the Torres Strait.

DECLARATIONS OF INTEREST**CONFIRMATION OF MINUTES**

Ordinary Meeting – 5 December 2023

BUSINESS ARISING**NOTIFIED MOTIONS**

Nil

COUNCILLORS REPORTS**EXECUTIVE SERVICES REPORTS****LATE ITEMS**

Nil

CONFIDENTIAL REPORTS**GENERAL BUSINESS**

8.1 Confirmation of Minutes Ordinary Meeting 5 December 2023

File Number BSC/Governance/ Reporting/ Executive Services Report/2023
Author: Chief Executive Officer
Authoriser: Dalassa Yorkston, Chief Executive Officer
Attachments: Minutes Ordinary Council Meeting 5 December 2023

RECOMMENDATION

That the minutes of the Ordinary Council Meeting held on 5 December 2023 be confirmed.

11.1 Councillor's Monthly Reports

File Number	BSC/Governance/ Reporting/ Executive Services Report/ 2024
Author:	Executive Secretary
Authoriser:	Dalassa Yorkston, Chief Executive Officer
Attachments:	Cr. Yen Loban – Monthly Report

SUMMARY

Councillors' monthly activity reports.

BACKGROUND/HISTORY

Each month the Councillors report on their external activities. An endorsement of the report is an endorsement of the attended and future activities. Not all activities will be listed in advance due to time constraints. Councillors who are unable to provide a written report will have the opportunity to provide verbal updates at the Ordinary Council Meeting.

LINK TO CORPORATE PLAN

Our Community

1.5 Our Reputation for Integrity and Services (PROVIDE)

A well-informed community with a great awareness of Council's achievements.

Our People

2.4 Our Organisational Alignment and Performance Planning (PROVIDE)

Council delivered strategic outcomes and is resilient and responsive to change.

Our Business

3.3 Our Governance (LEAD)

Council maintain effective governance processes

- Maintain best practice financial and risk management practices
- Maintain policies, procedures, frameworks and registers
 - Maintain and meet audit requirements.

CONSULTATION

As per Mayoral Report.

LEGAL IMPLICATIONS

Nil

POLICY IMPLICATIONS

Nil

FINANCIAL AND RESOURCE IMPLICATIONS (BUDGETARY)

Approved Operational Budget

RECOMMENDATION

That the activities contained in the Mayoral monthly report be endorsed by Council.

12.1 Chief Executive Officer's Monthly Report

File Number	BSC/Governance/ Reporting/ Executive Services Report/ 2024
Author:	Executive Secretary
Authoriser:	Dalassa Yorkston, Chief Executive Officer
Attachments:	CEO Monthly Report

SUMMARY

Chief Executive Officer's monthly report.

BACKGROUND/HISTORY

Each month the Chief Executive Office reports on her external activities. An endorsement of the report is an endorsement of the attended and future activities. Not all activities will be listed in advance due to time constraints.

LINK TO CORPORATE PLAN

Our Community

1.5 Our Reputation for Integrity and Services (PROVIDE)

A well-informed community with a great awareness of Council's achievements.
Develop and implement a communication strategy.

Our People

2.4 Our Organisational Alignment and Performance Planning (PROVIDE)

Council delivered strategic outcomes and is resilient and responsive to change.

Our Business

3.3 Our Governance (LEAD)

Council maintain effective governance processes

- Maintain best practice financial and risk management practices
- Maintain policies, procedures, frameworks and registers
 - Maintain and meet audit requirements.

CONSULTATION

Various groups and community members as indicated in the attached.

LEGAL IMPLICATIONS

Nil

POLICY IMPLICATIONS

Nil

FINANCIAL AND RESOURCE IMPLICATIONS (BUDGETARY)

As per approved Operational Budget

RECOMMENDATION

That the activities contained in the Chief Executive Officer's monthly report be endorsed by Council.

12.2 Corporate and Community Services – Financial Report

File Number	Corporate and Community Services COUNCIL January 2024
Author:	Harish Nair, Director Corporate and Community Services
Authoriser:	Dalassa Yorkston, Chief Executive Officer
Items:	Financial Statements – December 2023 <ol style="list-style-type: none">1. Statement of Comprehensive Income2. Revenue Graph - YTD Actuals vs YTD Budget3. Expenses Graph – YTD Actuals vs YTD Budget4. Statement of Financial Position5. Balance Sheet Graph6. Cash Position7. Capital Grants

SUMMARY

Presentation of the financial reports for December 2023 as required under Section 204 of the *Local Government Regulation 2012*. The report is presented for noting and indicates that Council progressing favourably against the adopted 2023/2024 budget.

Cash Position

As of 31 December 2023, Council has \$21.52m of net cash on hand. This includes \$17.81m restricted cash and \$3.70m unrestricted cash.

Income & Expenditure-Airport

Revenue for December was \$649k & expenses were at \$261k, resulting in a gross surplus of \$388k.

Net surplus for the month was higher due to payments from Qantas not being received prior to Council Festive Season closure therefore, funds for investment not deposited into QTC Airport Fund. Current airport capital works balance sits at \$376k which is purely funded out of airport revenue.

Income & Expenditure-All of Council

The reported YTD operating deficit is \$2.02m against a Budget estimate deficit of \$2.3m.

YTD operating income was \$3.55m under Budget mainly due to lower operating grants (\$3.66m), fees & charges (\$296k) and interest revenue (\$192k) but higher rates & charges (\$373k)

YTD operating expenses were \$2.30m above Budget due to higher materials & services (\$794k) and depreciation (\$526k) but lower employee expenses (\$973k).

LINK TO CORPORATE PLAN***Our Business:*****3.3. Our Governance (LEAD)**

Council maintain effective governance processes

- Maintain best practice financial and risk management practices;
- Maintain policies, procedures, frameworks and register;
- Maintain and meet audit requirements.

Our Future:**4.1. Our Revenue Generation**

Provide a sustainable Community

- Research and build a long-term approach to diversifying Council's revenue streams to support strategic planning imperatives and reduce reliance of rates income;
- Research, plan and implement an approach to securing funding for key elements of Council's accountabilities to ensure sustainability of service provision and asset maintenance.

CONSULTATION

- Executive Leadership Team
- Managers and relevant operational staff

LEGAL IMPLICATIONS (STATUTORY, BASIS, LEGAL RISKS)

Local Government Regulation 2012 Section 204, which states:

- (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.

POLICY IMPLICATIONS

The following Council policies are relevant to the financial statements.

- Investment Policy
- Debt Policy
- Revenue Policy
- Procurement Policy

FINANCIAL AND RESOURCE IMPLICATIONS (BUDGETARY)

The report identifies that Council performing favourably against the adopted 23/24 Budget.

RECOMMENDATION

That Council :

- note the Financial Report for December 2023.

12.3 Capital Works Program Report

File Number BSC/Governance/ Reporting/ Executive Services Report/ 2024
Author Edward Kulpa, Director Engineering and Infrastructure Services
Authoriser Dalassa Yorkston, Chief Executive Officer
Attachments Nil

SUMMARY

The report outlines progress of Council's Capital Works Program for January 2024. The following covers engineering and infrastructure capital works for the Torres Shire Council.

Project Name (Magiq ref)	Funding Scheme	Budget (\$ ex GST)	Expend. to date (\$ ex GST)	Remaining Funds (\$ ex GST)	Comment
TI Cycleway Stg 4 (23717)	DTMR	724,564	74,496	650,068	Awaiting final DTMR approval.
HI Landfill Stg 2 (18500)	TSRA, CMIG round 3 18/19	1,000,000	189,578	810,422	Request for additional funding underway due to rise in civil costs
HI Landfill Metal Shredder (18502)	DLGRMA	2,699,400	1,544,573	1,154,827	Shed slab built
TI stormwater drains (23023)	NQNDMP	857,263	61,492	795,771	Scope review underway
Road Repairs (23006)	R2R	285,000	285,632	- 632	Access road to TI depot, Fire Station complete
HI Affordable Housing S/Division (147032/ 033/ 034)	TSRA, DSDMIP, DHPW	6,834,476	5,814,265	1,020,211	Subdivision practically complete. Display home design underway
HI Community Housing (147035)	DCHDE	8,374,733	6,644,438	1,730,295	Construction started.
Lion Lookout Heritage Trail WW2 walk (40300)	Dept Veteran Affairs	139,487	56,542	82,945	DVA approached for additional funding for structure repairs

Sand Mine and quarry rehab (26224)	Council Internal Project	-	133,619	-	Planning for final rock face blast
TI Splash park (30700)	DSDSATSIP	2,901,000	2,354,940	546,060	Construction started
Council housing (35023)	DSDILGP (W4Q)	1,349,900	1,250,300	99,600	Underway
TI and HI roadworks (23025)	NDRRA		47,700		Tender docs to be issued
POW Island Waste Bins	Regional and Remote Recycling Modernisation Fund	115,000	-	-	Funding grant executed. Seeking of towable skip bin quotes.

LINK TO CORPORATE PLAN

Our People (PROVIDE)

2.4 Our Organisation Alignment and Performance Planning

- Council delivers strategic outcomes and is resilient and responsive to change

Our Governance (LEAD)

3.3 Council maintains effective governance processes

- Maintains best practice financial and risk management procedures
- Maintains policies, procedures, frameworks and registers;
 - Maintain and meet audit requirements

CONSULTATION

- Executive Leadership Team
- Stakeholder Funding Bodies

LEGAL IMPLICATIONS

- Nil

POLICY IMPLICATIONS

- Nil

FINANCIAL AND RESOURCE IMPLICATIONS (BUDGETARY)

- As per approved Operational Budget

RECOMMENDATION

That Council receives and notes the Capital Works Program Report for January 2024.

12.4 Animal Management Update

File Number	BSC/Governance/ Reporting/ Executive Services Report/ 2024
Author:	Phil Turner, Director Governance & Planning Services
Authoriser:	Dalassa Yorkston, Chief Executive Officer
Attachments:	Nil

EXECUTIVE SUMMARY

The purpose of the *Animal Management (Cats and Dogs) Act 2008* (AMCDA) is to facilitate responsible pet ownership by—

- (a) providing for the identification of cats and dogs;
- (b) providing for the registration of dogs;
- (c) providing for the effective management of regulated dogs;
- (d) promoting the responsible ownership of cats and dogs; and
- (e) promoting the responsible breeding of dogs.

Section 113 (1) of the AMCDA provides that Council may, by resolution, approve an inspection program, generally of not more than six months, under which an authorised person may enter a place to monitor compliance with the Act generally, or specific conditions of permits. The Approved Inspection Program (AIP) must be either selective (a selection of places within the local government area or part thereof) or systematic (all places within the local government area or part thereof), and programs may be carried out simultaneously.

Further, under s 134 *Local Government Act 2009*, Council may also approve an inspection program however, the period in which the programs may run is three (3) months.

The purpose of this report is to seek the approval by Council to conduct systematic inspection program for a period of six (6) months, targeting all properties within the Local Government Area being from 1 March 2024 to 31 August 2024 to ensure that dog owners have:

1. registered their dog for the 2023/24 and 2024/25 periods respectively.
2. implanted their dog with a Prescribed Permanent Identification Device (PPID); and

3. provided a proper enclosure in accordance with s 14 Torres Shire Council *Local Law No. 2 (Animal Management) 2013*.

BACKGROUND

In May 2023, following a dog attack incident, compliance officers undertook a 'blitz' on wandering dogs. In total around 16 dogs were impounded between Thursday and Horn Islands, of that number none were registered or microchipped. Statutory powers allow Council to selectively or systematically inspect properties to ensure compliance.

Animal Management (Cats and Dogs) Act 2008 (AMCDA) and the *Local Government Act 2009* (LGA) both provide powers to a Local Governments to conduct Approved Inspection Programs (AIP) on an annual basis. An AIP under both acts can be either a selective inspection program or a systematic inspection program. Such programs are designed to be carried out on an annual basis to check if animal owners are complying with the requirements to register and microchip their cats and dogs and to ensure the owners are complying with the requirements to provide a proper enclosure to prevent the dog from wandering.

While the act applies to both cats and dogs, the requirement for registering cats is left up to Council's to regulate in its local laws. Many council opted not to continue with cat registration. Torres Shire Council currently does not have provision for cat registration in its *Local Law No. 2 (Animal Management) 2013*.

During the 'Blitz' registrations increased from approximately 50 to 90. However, current year registrations are approximately 47. Approximately 85 - 90% of dog complaints that regulatory compliance officers are attending, the dogs are not registered. Conducting an approved inspection program would assist compliance officers to enforce compliance with the AMCDA.

An approved inspection requires a resolution of Council. Officers are seeking approval from Council to conduct an AIP for a period of six (6) months from 1 March 2024 to 31 August 2024 to follow up the dog owners who have not registered their dog and or paid renewals for 2024/25 and an AIP under the *Local Government Act 2009* for *Local Law No.2 (Animal Management) 2013* for a period of three (3) months from 1 March 2024 to 31 May 2024, to

ensure dog owners generally are providing an appropriately enclosed area to prevent their dog from wandering. It is the regulatory compliance team's objective to conduct AIPs as a business-as-usual activity as part of its annual program of works each year to assist with animal management.

Further to the AIP, officers are working on a draft animal management strategy which includes initiatives, including community education on responsible pet ownership, collaboration with other stakeholders and identification of future resource and infrastructure requirements for service delivery.

Another short-term action aimed at assisting with long-term animal management goals is to refer people to the existing visiting clinics run by Vets Beyond Borders, currently coordinated by the Thursday Island Animal Support Group Inc (TIASG).

To encourage people to desex their animals, the AMCDA requires local governments to set their registration fees to provide an incentive to have their dogs desexed. This means that in setting its fees and charges, Council should consider making registration for desexed animal considerably cheaper, or free. With the free desexing services currently being provided by Vet Beyond Borders, council officer could inform the community that they could save money going forward by ensuring that their dog is desexed prior to the implementation of registration fees.

PROJECT OBJECTIVE AND SCOPE

Applies to all pet owners in the local government area, and the objective is to promote and influence responsible pet ownership and reduce the number of unidentified and wandering animals and ensure compliance of regulated dogs.

Council officers would visit every property on Thursday Island, Horn Island and Prince of Wales Island to collect the baseline data.

LINK TO CORPORATE PLAN***Our Business:*****3.3. Our Governance (LEAD)**

Council maintain effective governance processes

- Maintain policies, procedures, frameworks and registers

LEGAL IMPLICATIONS (STATUTORY, BASIS, LEGAL RISK)

- *Local Government Act 2009*
- *Local Government Regulation 2012*
- *Animal Management (Cats & Dogs) Act 2008*

POLICY IMPLICATIONS

N/A

CONSULTATION

Regulatory Manager

Thursday Island Animal Support Group Inc

RECOMMENDATION

That Council resolve to:

1. *Approve a selective Approved Inspection Program to be carried out for a period of six (6) months from 1 March 2024 to 31 August 2024 to ensure compliance with under the Animal Management (Cats and Dogs) Act 2008, including but not limited to registration and microchipping requirements; and*
2. *Approve a selective Approved Inspection Program to be carried out for a period of three (3) months from 1 March 2024 to 31 May 2024 to ensure compliance with section 14 of Torres Shire Council Local Law No.2 (Animal Management) 2013 – duty to provide a proper enclosure and prevent the animal from wandering."*

12.5 Development Application – IDAS23/19 – Ergon Energy - 5 & 7 Aplin Street, Thursday Island – Lot 1 & 2 on RP748738

File Number: BSC/Governance/Reporting/Executive Services Report/2024
Author: Reel Planning Pty Ltd
Authoriser: Dalassa Yorkston, Chief Executive Officer
Attachments: A – Proposed Plans of Development
 B – Referral Agency Response
 C – Infrastructure Charges Calculations

PROPERTY DETAILS	
Site Address	5 & 7 Aplin Road, Thursday Island
RPD	Lot 1 and Lot 2 on RP748738
Site Area	Total Area - 3,296m ² Lot 1 – 1,849m ² Lot 2 – 1,447m ²
Landowner	Ergon Energy
Tenure	Freehold
Existing Use of Land	Thursday Island Ergon Energy Depot
APPLICATION DETAILS	
Application No.	IDAS 23/19
Applicant	Ergon Energy
Application Description	Development Permit for a Material Change of Use
Proposal	Office
Council Meeting	23 January 2024
Decision Due Date	9 February 2024

EXECUTIVE SUMMARY

This application seeks Council approval for a Development Permit for Material Change of Use for an Office at the Ergon Energy Depot located at Aplin Road, Thursday Island. The depot has been in operation at this location since approximately 1991.

This application is seeking approval for a new two storey building to be used as an Office. In conjunction with the new building, minor building work will be undertaken to existing buildings including relocation of a building, internal carparking changes and landscaping.

Under the *Torres Shire Planning Scheme 2022*, the subject site is in the Community Facilities Zone, Operational and Utility Services Precinct and is affected by a number of overlays. The application is subject to Code Assessment and therefore does not require public notification.

In summary, it is considered that the proposed use is appropriate for the site and has been appropriately designed and sited.

The application is recommended for approval subject to conditions.

RECOMMENDATION A – DECISION NOTICE

That Torres Shire Council approves the application for a Development Permit for Material Change of Use – Office on land located at 5 & 7 Aplin Road, Thursday Island, formally described as Lot 1 and Lot 2 on RP748738, subject to the following conditions:

1.0 PARAMETERS OF APPROVAL

- 1.1 The Developer is responsible for ensuring compliance with this development approval and the conditions of the approval by an employee, agent, contractor, or invitee of the Developer.

Timing: *At all times.*

- 1.2 Where these conditions refer to “TSC” in relation to requiring Torres Shire Council to approve or be satisfied as to any matter, or conferring on the TSC a function, power or discretion, that role of the TSC may be fulfilled in whole or in part by a delegate appointed for that purpose by TSC.

Timing: *At all times.*

- 1.3 The cost of all works associated with the development and construction of the development including services, facilities and/or public utility alterations required are met at no cost to the Council or relevant utility provider, unless otherwise stated in a development condition.

Timing: *At all times.*

- 1.4 The developer is required to have repaired any damage to existing infrastructure that may have occurred during any works carried out associated with the development. To the extent the damage is deemed to create a hazard to the community, it must be repaired immediately.

Timing: *At all times.*

- 1.5 Unless otherwise stated, all works must be designed, constructed, and maintained in accordance with the relevant Council policies, guidelines, and standards, and the FNQROC Development Manual.

Timing: *At all times.*

- 1.6 All engineering drawings/specifications, design and construction works must comply with the requirements of the relevant Australian Standards and must be approved, supervised, and certified by a Registered Professional Engineer of Queensland (RPEQ).

Timing: *At all times.*

- 1.7 All development conditions contained in this development approval about *infrastructure* under Chapter 4 of the *Planning Act 2016* (the Act), should be read as

being non-trunk infrastructure conditioned under section 145 of the Act, unless otherwise stated.

Timing: *At all times*

2.0 APPROVED PLANS AND DOCUMENTS

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

Plan/Document Name	Drawing Number	Issue	Date
Existing Site Plan	1634-SD-A-01	TP1	Nov 23
Proposed Site Plan	1634-SD-A-02	TP1	Nov 23
Floor Plans	1634-SD-A-03	TP1	Nov 23
Elevations	1634-SD-A-04	TP1	Nov 23
Elevations	1634-SD-A-05	TP1	Nov 23

Timing: *At all times.*

- 2.2 Where there is any conflict between the conditions of this approval and the details shown on the approved plans and documents, the conditions of approval must prevail.

Timing: *At all times*

3.0 AMALGAMATION OF LOTS

- 3.1 The lots must be amalgamated to form one (1) title.

Timing: *Within two (2) years of the development approval taking effect.*

4.0 PARKING AND ACCESS

- 4.1 A minimum of eight (8) car parking spaces must be provided on site. Car parking spaces and internal driveways must be located as per the approved plan of development and be concrete or bitumen sealed, comply with Australian Standard 2890.1 – Parking Facilities – off-street parking, and be constructed to the requirements of the FNQROC Development Manual.

Timing: *At all times.*

- 4.2 The parking spaces must be kept available for use and must not be used for the storage of goods at any time.

Timing: At all times.

- 4.3 Access to the proposed development must be provided in accordance with the approved plans of development.

Timing: At all times.

- 4.4 A minimum of five (5) bicycle parking spaces and end of trip facilities must be provided.

Timing: At all times.

5.0 STORMWATER

- 5.1 Stormwater drainage must be directed to a lawful point of discharge being Aplin Street.

Timing: At all times.

- 5.2 Site works must not adversely affect flooding or drainage characterises of properties that are upstream, downstream, or adjacent to the development site.

Timing: At all times.

- 5.3 All stormwater infrastructure must be designed, constructed, and maintained in accordance with the *FNQROC Development Manual* and the *Queensland Urban Drainage Manual*.

Timing: At all times.

6.0 SEWERAGE AND WATER

- 6.1 Connect the development to Council's reticulated sewerage and water network. Sufficient reticulated water capacity must be provided for domestic and firefighting purposes.

Timing: Prior to the commencement of the use and at all times thereafter.

- 6.2 Design and construct all sewerage and water works in accordance with the approved plans, *FNQROC Development Manual*, *Water Supply (Safety and Reliability) Act* and the *Plumbing and Drainage Act*.

Timing: Prior to the commencement of the use and at all times thereafter.

- 6.3 Remove all redundant sewerage and water infrastructure, including but not limited to pipes and connection points.

Timing: Prior to the commencement of the use and at all times thereafter.

7.0 BUSHFIRE HAZARD SIGNAGE

- 7.1 Signage must be installed at the entrance to the carparking area identifying that the car parking area is within an identified bushfire hazard area.

Timing: Prior to the commencement of use and maintained at all times.

- 7.2 Signage must be installed at the entrance to the Office building identifying that the building is located within an identified bushfire hazard area.

Timing: Prior to the commencement of use and maintained at all times.

8.0 LANDSCAPING

- 8.1 Landscaping must include suitable native tree and plant species and must be provided in accordance with the approved plans of development. The landscaping must be subject to ongoing maintenance and replanting programme (if necessary).

Timing: Prior to the commencement of the use and at all times thereafter.

9.0 AMENITY – GENERAL

- 9.1 Install and maintain suitable screening to all air conditioning and plant and service facilities located on the top or external face of the building. The screening structures must be constructed from materials that are consistent with materials used elsewhere on the façade of the building.

Timing: At all times.

10.0 AMENITY - LIGHTING

- 10.1 Maintain outdoor lighting to comply with AS4282:1997 - Control of the obtrusive effects of outdoor lighting.

Timing: At all times.

11.0 AMENITY AND ENVIRONMENTAL HEALTH

- 11.1 Undertake the approved development so there is no environmental nuisance or detrimental effect on any surrounding land uses and activities by reason of the

emission of noise, vibration, odour, fumes, smoke, vapour, steam soot, ash, wastewater, waste products, oil or otherwise.

Timing: At all times.

12.0 WASTE STORAGE

- 12.1 All bins and waste storage areas must be located on site, and not visible from the street or neighbouring properties.

Timing: At all times.

13.0 ELECTRICITY & TELECOMMUNICATIONS

- 13.1 Connect the development to reticulated electricity supply and telecommunications to the standard of the relevant service provider.

Timing: Prior to the commencement of the use and at all times thereafter.

14.0 FILLING AND EXCAVATION

- 14.1 Any excavating and filling activities are to be carried out in accordance with the *FNQROC Development Manual*, ensuring works do not result in the ponding or permanent retention of surface water either on the site or on adjoining land.

Timing: At all times.

15.0 SITE WORKS AND EROSION AND SEDIMENT CONTROL

- 15.1 Site works must be constructed such that they do not, at any time, in any way restrict, impair, or change the natural flow of runoff water, or cause a nuisance or worsening to adjoining properties or infrastructure.

Timing: Prior to the commencement of any construction works required by this development.

- 15.2 Prepare and implement an Erosion and Sediment Control Strategy (ESCS) in accordance with the *FNQROC Development Manual* as it relates to the construction phase. The ESCS must be available for inspection by TSC officers during the construction phase.

Timing: Prior to commencement of the use.

- 15.3 Implement the ESCS for the duration of the construction phase and until such time all exposed soils areas are permanently stabilised (for example, turfed, hydro mulched, concreted, or landscaped).

Timing: Prior to commencement of the use.

16.0 CONSTRUCTION AND ENVIRONMENTAL MANAGEMENT PLAN

16.1 The applicant must submit a Construction and Environmental Management Plan (CEMP) to Council for review and approval. The CEMP must be prepared by a suitably qualified professional and adequately demonstrate how:

- (i) Traffic and parking generated during construction activities and works will be managed to minimise impacts on the surrounding area;
- (ii) Best practice waste management strategies during the construction phase; and
- (iii) Mitigate potential adverse impacts associated with dust, noise and lighting emissions, sediment and stormwater run-off.

Timing: Prior to the commencement of construction and at all times during construction.

B. ASSESSMENT MANAGER (COUNCIL) ADVISORY NOTES

1. This approval, granted under the provisions of the Planning Act 2016, shall lapse six (6) years from the day the approval takes effect in accordance with the relevant provisions of s85 of the Planning Act 2016.
2. Prior to commencing any construction activities, the applicant/developer will be required to obtain further development permits for building work, and plumbing and drainage work, as required under relevant legislation for this work.
3. Infrastructure Charges must be paid to Council as indicated on the Infrastructure Charges Notice at the rate applicable at the time of payment.
4. This approval does not negate the requirement for compliance with all other relevant Local Laws and other statutory requirements.
5. No building materials or the like are to be stored on the footpath unless an appropriate approval from Council is obtained, including the payment of associated fees.
6. All building site managers must take all action necessary to ensure building materials and/or machinery on construction sites are secured immediately following the first potential cyclone warning and that relevant emergency telephone contacts are provided to Council Officers, prior to Commencement of Works.
7. The Environmental Protections Act 1994 states a person must not carry out any activity that causes, or is likely to cause, environmental harm unless the person takes all reasonable and practicable measures to prevent or minimise the harm. Environmental harm includes environmental nuisance. In this regard, persons and entities, involved in civil, earthworks and construction phases of this development,

are to adhere to their 'general environmental duty' to minimise the risk of causing environmental harm.

8. Environmental harm is defined by the Act as any adverse effect, or potential adverse effect whether temporary or permanent and of whatever magnitude, duration or frequency on an environmental value and includes environmental nuisance. Therefore, no person should cause any interference with the environment or amenity of the area by reason of the emission of noise, vibration, smell, fumes, smoke vapour, steam, soot, ash, dust, wastewater, waste products, grit, sediment, oil or otherwise, or cause hazards likely in the opinion of the Council.
9. This development approval does not authorise any activity that may harm Aboriginal and Torres Strait Islander cultural heritage. It is also advised that any land use activities must comply with the Aboriginal Cultural Heritage Act 2003 or the Torres Strait Islander Heritage Act 2003.
10. The Commonwealth Environment Protection and Biodiversity Conservation Act 1999 applies to action that has, will have or is likely to have a significant impact on matters of national environmental significance. Further information on the EPBC Act can be obtained from the Department of Agricultural, Water and the Environment website <https://www.environment.gov.au/epbc/about>

RECOMMENDATION B

That an Infrastructure Charges Notice be issued for the amount of \$65,348.40 in relation to the development application for a Development Permit for Material Change of Use – Office at 5 & 7 Aplin Street, Thursday Island, formally described as Lot 1 on RP748738 and Lot 2 on RP 748738.

RECOMMENDATION C

State Assessment Agency response dated 13 December 2023.

1.0 OVERVIEW

Table 1 below provides an overview of the development application material and assessment details:

TABLE 1 – OVERVIEW	
PROPERTY DETAILS	
Site Address	5 & 7 Aplin Road, Thursday Island
RPD	Lot 1 and Lot 2 on RP748738
Site Area	Total Area - 3,296m ² Lot 1 – 1849m ²

	Lot 2 – 1447m ²
Landowner	Ergon Energy
Tenure	Freehold
Existing Use of Land	Thursday Island Ergon Energy Depot
APPLICATION DETAILS	
Application No.	IDAS 23/19
Applicant	Ergon Energy
Application Description	Development Permit for a Material Change of Use
Proposal	Office
Council Meeting	23 January 2024
Decision Due Date	9 February 2024
STATUTORY DETAILS	
State Planning Policy	<i>State Planning Policy (July 2017)</i>
Mapped SPP Matters	Natural Hazards Risk and Resilience - Flood Hazard Area – Local Government Flood Mapping Area - Bushfire Prone Area – Potential Impact Buffer Strategic Airports and Aviation Facilities - Building Restricted Area – Zone A/B and Area of Interest - Wildlife hazard buffer zone – 8km
Regional Plan	Not applicable. There is no statutory regional plan
Planning Scheme	Torres Shire Council Planning Scheme 2022
Zone	Community Facilities zone, Operational and Utility Services Precinct
Overlays	Airport Environs Overlay - Building Restricted Area – Zone A/B & Area of Interest - Wildlife Hazard Buffer Zone – 8 kilometres Bushfire Hazard Overlay - Potential Impact Buffer Environmental Significance Overlay - Regulated Vegetation – Essential Habitat Flood Hazard Overlay - Flood Hazard Area Buffer Heritage Overlay - Indigenous Heritage High Risk Area Potential and Actual Acid Sulfate Soils Overlay - Land Above 5 Metres AHD and Below 20 Metres AHD Slope Stability Overlay - Moderate and Risk Areas * not identified as an assessment benchmark for assessment of MCU
Level of Assessment	Code Assessment

	Standard Outcomes
	- Community Facilities Zone
	- Landscaping
	- Parking, Access, and Transport
	- Works, Services, and Infrastructure
	- Airport Environs Overlay
	- Bushfire Hazard Overlay
	- Environmental Significance Overlay
	- Flood Hazard Overlay
Planning Scheme	- Heritage Overlay
Assessment	- Potential and Actual Acid Sulfate Soils Overlay
Benchmarks	- Slope Stability Overlay
	Merit Outcomes
	- General
	- Amenity and Privacy
	- Built Form and Development Design
	- Infrastructure and Services
	- Land Constraints
	- Land Use
	- Landscaping
	- Parking, Access, and Transport

2.0 SITE AND SURROUNDING DESCRIPTION

The subject site comprises of two lots currently used as the Ergon Energy depot. Adjoining land uses include the Ergon Power Station to the west, Seaswift depot to the east and undeveloped bushland to the south.

Vehicle access to the site is achieved via a shared access driveway from Aplin Road. The access driveway, internal access and manoeuvring areas and two designated carparking spaces are concrete sealed.

The site is currently improved with four (4) buildings which are used for storage (building 1, 3 & 4), a caretakers residence (building 2) and external storage areas. A portion of an existing building (building 1) has historically been used for office purposes.



FIGURE 1: Subject Site (QLD Globe 01 December 2023)



FIGURE 2: Existing Site Plan

3.0 DESCRIPTION OF PROPOSAL

The application is seeking approval to construct a new two-storey office building with a GFA of 520m².

In conjunction with the new building, minor building work will be undertaken to existing buildings including relocation of a building (building 3), new wash bay, retaining wall and internal carparking changes and landscaping.

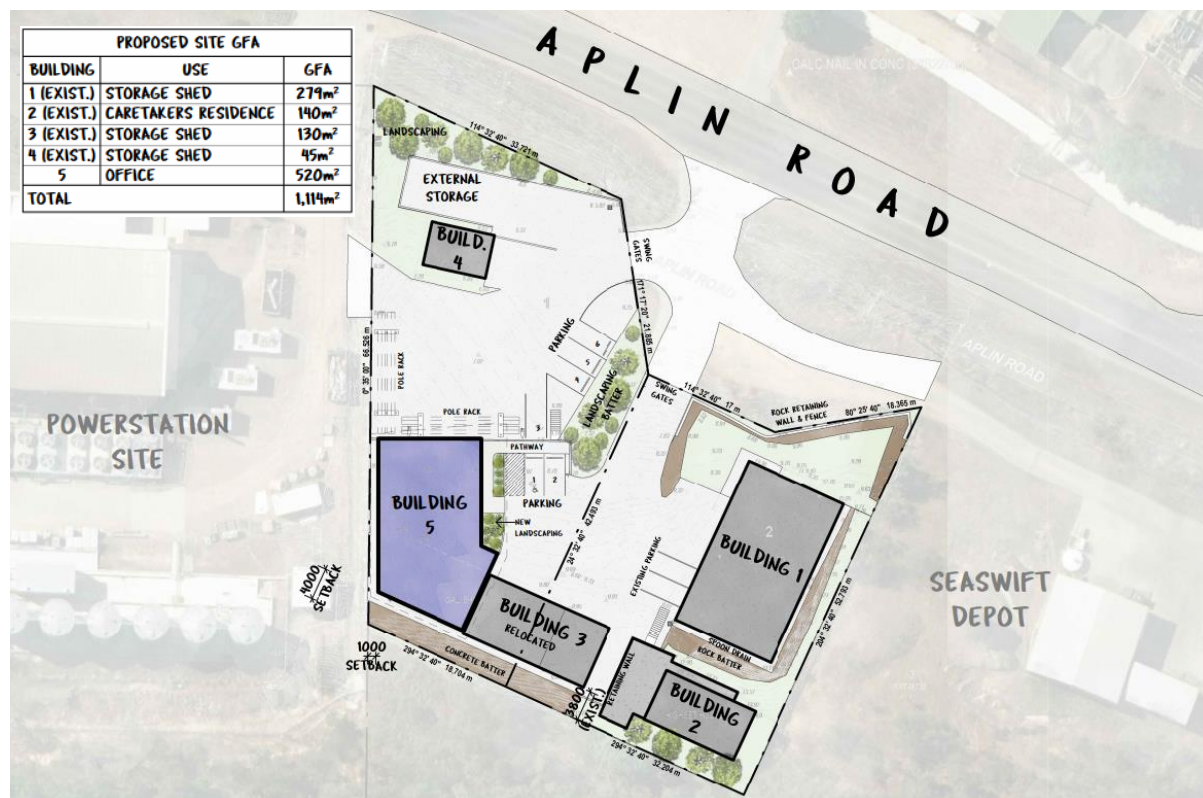


FIGURE 3: Proposed Site Plan

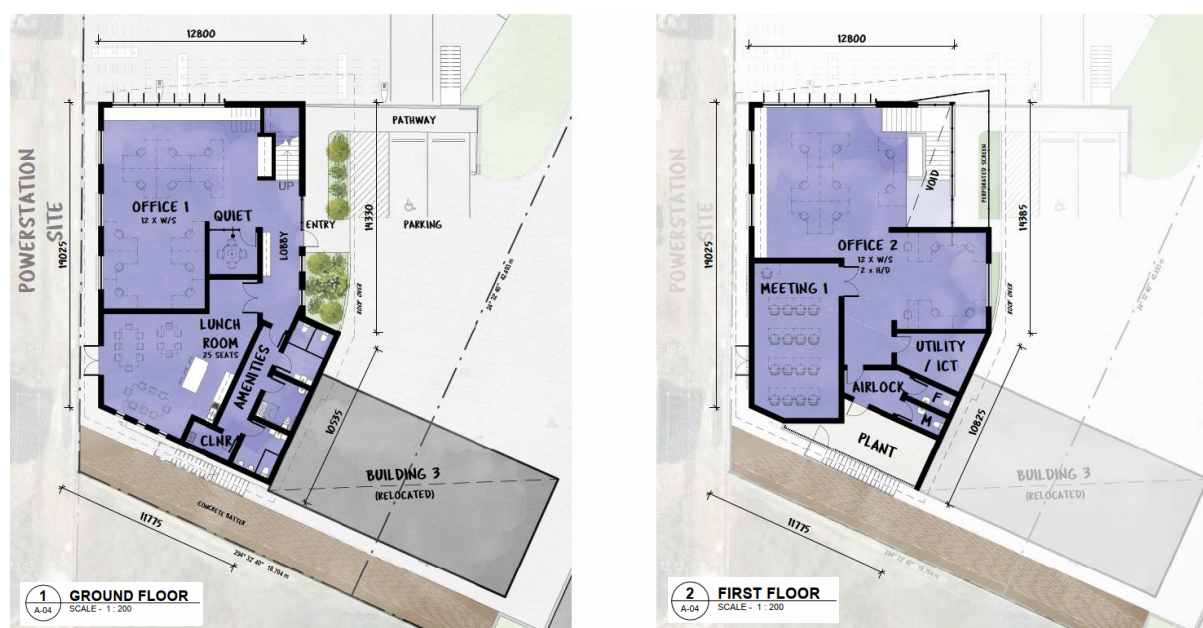


FIGURE 4: Office Floor Plans

4.0 PLANNING ASSESSMENT

In accordance with section 45 (3) of the *Planning Act 2016*, Code Assessment is an assessment that must be carried out –

- a) Against the assessment benchmarks in a categorising instrument for the development; and
- b) Having regard to any matters prescribed by regulation for this paragraph.

Pursuant to section 45 (3)(a) of the Act, the categorising instrument for the development is the *Torres Shire Council Planning Scheme 2022 (v1.0)*.

Sections 26 and 27 of the *Planning Regulation 2017* prescribe additional assessment benchmarks and matters that must be considered in deciding a Code Assessable development application.

TABLE 2 – ADDITIONAL ASSESSMENT BENCHMARKS

Assessment Benchmarks	Comment
Schedule 9	Schedule 9 is not applicable as the application is not for building work under the Building Act
Schedule 10	The application triggered a referral to SARA under Schedule 10, Part 9, Division 4, Subdivision 2, Table 4, Item 1 – for Material Change of Use on premises near a State transport corridor. The Referral Agency Response is addressed in a separate section of this report.
Regional Plan	Not applicable
State Planning Policy, part E	The current version of the SPP (July 2017) is reflected in the Planning Scheme. A review of the current version of the SPP (July 2017) and assessment benchmark mapping applicable to Part E has determined that the state interests are reflected in the Planning Scheme and no additional assessment provisions in the current SPP (Part E) or updated mapping are applicable requiring further assessment against the SPP.
Temporary State Planning Policy	There are no Temporary State Planning Policies.
Local Government Infrastructure Plan (LGIP)	This matter is addressed in a separate section of this report.
Any development approval for, and any lawful use of the premises, or adjacent premises	Based on the information available it is considered the existing development is lawful.
The common material	All the material received about the application has been assessed and has informed the recommendation of this report.

4.1 TORRES SHIRE PLANNING SCHEME 2022

4.1.1 Land Use Zone

The subject site is located within the Community Facilities Zone, Operational and Utility Services Precinct.

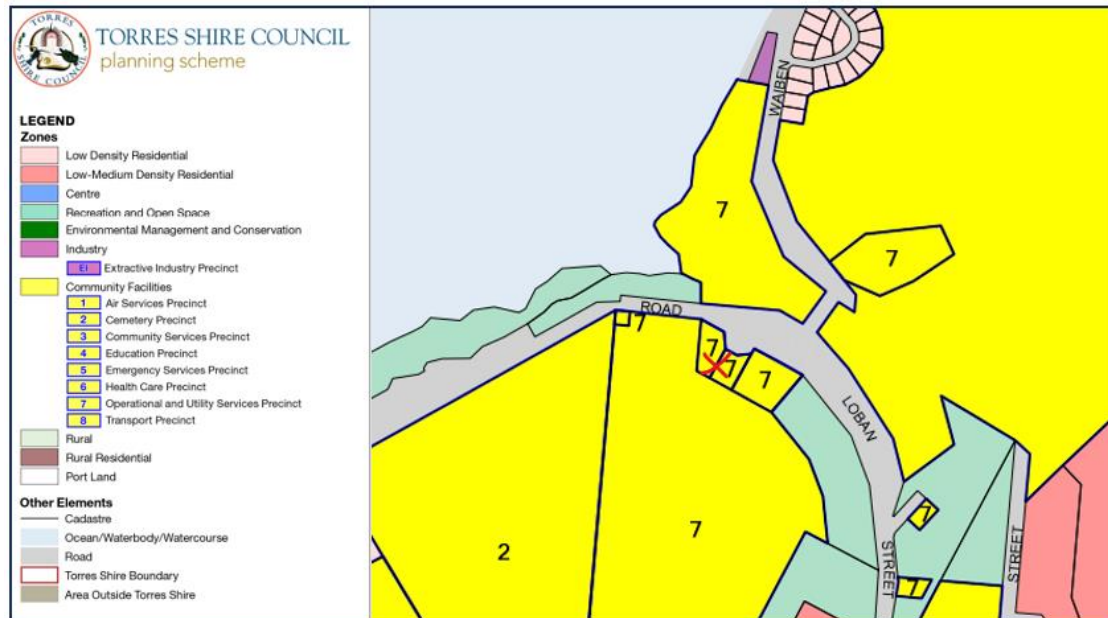


FIGURE 5: Extract of zoning map (Torres Shire Planning Scheme 2022)

4.1.2 Land Use Definition

The proposed development is defined under the Torres Shire Council Planning Scheme 2022 as:

Office—

(a) means the use of premises for—

- (i) providing an administrative, financial, management or secretarial service or function; or
- (ii) the practice of a profession; or
- (iii) providing business or professional advice or services; but

(b) does not include the use of premises for making, selling, or hiring goods.

The land use definition is consistent with the land use definitions in Schedule 24 of the *Planning Regulation 2017*.

4.1.3 Category of Development and Assessment

In accordance with the relevant tables, the category of development and assessment and applicable assessment benchmarks are identified in the table below.

TABLE 3 – PLANNING SCHEME PROVISIONS

Zone or Overlay	Category of Development & Assessment	Applicable Assessment Benchmarks (Standard Outcomes)
Community Facilities Zone	Code Assessable	6.1.2 – Community Facilities Zone 6.3.1 - Landscaping 6.3.2 - Parking, Access, and Transport 6.3.5 - Works, Services, and Infrastructure
Airport Environs Overlay - Building Restricted Area (Zone A/B and Area of Interest) - Wildlife Hazard Buffer Zone (8 km)	No change	6.4.2 - Airport Environs Overlay
Bushfire Hazard Overlay - Potential Impact Buffer	Code Assessable	6.4.3 – Bushfire Hazard Overlay
Environmental Significance Overlay - Regulated Vegetation – Essential Habitat	Code Assessable	6.4.5 – Environmental Significance Overlay
Flood Hazard Overlay - Flood Hazard Area Buffer	Code Assessable	6.4.6 – Flood Hazard Overlay
Heritage - Indigenous Heritage High Risk Area	No Change	6.4.7 – Heritage Overlay
Potential and Actual Acid Sulfate Soils - Land above 5 metres AHD and below 20 meters AHD	No change	6.4.8 - Potential and Actual Acid Sulfate Soils Overlay
Slope Stability - - Moderate Risk Area	No change	* Not identified as an assessment benchmark for assessment of MCU. The building construction requirements will be assessed by the private building certifier as part of the assessment of the building application. For completeness the applicant submitted a geotechnical report determining the making recommendations concluding the level of risk is low and recommendations to manage risk.

4.1.4 Assessment Benchmarks – Standard Outcomes

A summary of compliance with the applicable standard outcomes of the relevant assessment benchmarks area identified in the table below.

TABLE 4 – STANDARD OUTCOMES

Community Facilities Zone (6.1.2)	Compliance ✓ / ✗ / NA	Standard Outcome Compliance Assessment
SO1, SO2 Building Height and Site Cover	✓	The office building is 2 storeys (less than 8.5m in height), with the development not exceeding a site cover of 80%.
SO3 Front Boundary Setback	✓	The proposed office is to be located to the rear of the site achieving compliance with the minimum 5 m front boundary setback.
SO4 Side and Rear Boundary Setback	✗	The proposed office achieves a setback of 4 m from the rear boundary and 1 m from the western side boundary. The proposed does not achieve compliance with the required minimum 5 metre setback. Assessment required against Built Form and Development Design Merit Outcomes (refer Table 5).
SO5 - SO6 Built Environment	✓	The proposed building is appropriate designed.
SO7 Land Use – Food & Drink	n/a	Application is not for a food or drink outlet.
SO8 Land Use - Office	✓	The proposed office will form part of the existing Ergon Energy Depot on Thursday Island.
SO9 Amenity and Privacy	n/a	The subject site does adjoin residential zoned lots.
SO10 Landscaping	✓	Additional landscaped areas are proposed in conjunction with the new office building and changes to the internal carparking and access driveways. Taking into consideration the land use the proposed landscaped areas are considered appropriate and sufficient.
SO11 Land Constraints	✓	The subject site is not a former mining activity area.

Landscaping (6.3.1)	Compliance ✓ / ✗ / NA	Standard Outcome Compliance Assessment
SO1, SO2 and SO4 Landscaping	Can Comply	Taking into consideration the land use the proposed landscaped areas are considered appropriate and sufficient. A condition of approval will require appropriate landscaping.
SO 3 Fencing	n/a	Screen fencing is not required.

Parking, Access, and Transport (6.3.2)	Compliance ✓ / ✗ / NA	Standard Outcome Compliance Assessment
SO1 -SO4 Number of Parking Spaces	✓	In accordance with Table 6.3.2b, the prescribed carparking rate for an Office is one (1) space per 100m ² . The office with a GFA of 520m ² requires an additional 6 spaces (rounded up from 5.2 spaces). Designated visitor spaces are not required. The proposed development provides an additional six (6) car parking spaces, including one (1) PWD space. The existing two (2) parking spaces will be retained, resulting in a total of eight (8) carparking spaces.
SO2 Carparking Design	Can Comply	A condition of approval will require car parking spaces and associated manoeuvring areas are designed in accordance with the relevant requirements of AS/NZS2890 – Parking Facilities.
SO5, SO6, SO8, SO12, SO17 & SO18 Vehicle Access	✓	The existing access driveway will be utilised. The application triggered referral to SARA for access from the State controlled road. No changes are proposed to the existing access. .
SO7 End of trip facilities	Can comply	Standard condition will be included requiring end of trip facilities.
SO9 Pedestrian Access	✗	A separate pedestrian access is not provided to the site. Does not comply. Assessment required against Parking, Access, and Transport Merit Outcomes (refer Table 5).
SO10 Service Vehicles	✓	There is adequate area on site to enable trucks to manoeuvre onsite.
SO11 Traffic Impact Assessment Report	✗	Does not comply. Assessment required against Parking, Access, and Transport Merit Outcomes (refer Table 5). The additional traffic generated by the development can be accommodated within the surrounding road network.
SO13, SO14, SO15 & SO20 Location of Carparking Bays	✓	The proposed development includes designated parking spaces appropriately located in close proximity to the office building. No new parking or manoeuvring areas are proposed within 1m of the front boundary.
SO16	n/a	Screen fencing is not required.
SO19 Landscaping	✓	The development proposed additional landscaped areas adjoining the carparking spaces.

Works, Services, and Infrastructure (6.3.5)	Compliance ✓ / ✗ / NA	Standard Outcome Compliance Assessment
SO1, SO2 Water & Sewerage	✓	Subject site is currently serviced by Council's reticulated water and sewerage infrastructure
SO3- SO5, SO13 Stormwater	Can comply	A Stormwater management plan was submitted with the application. Existing stormwater is directed to an existing stormwater outlet along

		<p>the Aplin Road frontage. The existing impervious will remain unchanged.</p> <p>A condition of approval with require the development to achieve stormwater discharge to the lawful point being Aplin Road.</p>
SO6-SO7 Electricity and Telecommunications	✓	Subject site currently serviced by connections to electricity and telecommunication services.
SO8 Damage to infrastructure	Can comply	Standard condition requiring no damage to existing infrastructure.
SO9-SO10 Lighting	Can comply	Standard conditions regarding lighting compliance and screening of mechanical services.
SO11-12 Public assets	n/a	
SO14 – SO15 Access	n/a	The existing access driveway will be utilised. The application triggered referral to SARA for access from the State controlled road. No changes are proposed to the existing access.
SO16, SO17 Reconfiguring a Lot and signage	n/a	
SO18 Refuse	Can comply	Standard condition regarding refuse storage areas.
SO19 & SO20 EMR & Soils	✓	The subject site is not listed on the Environmental Management or Contaminated Land Register. The proposed office is located on an existing sealed area and does not involve extensive excavation likely to disturb acid sulphate soils
SO21 & SO22 Erosion Control	Can comply	Standard condition regarding erosion and sediment control.

Airport Environs Overlay (6.4.2)	Compliance ✓ / ✗ / NA	Standard Outcome Compliance Assessment
SO1-SO6 Light Restriction	n/a	The subject site is not located within an identified light restriction zone or lighting area buffer.
SO7-SO9 Building Restriction	✓	Complies with permitted maximum height limit.
SO10-SO12 Wildlife Hazard	✓	The proposed development does not involve a land use that attracts wildlife.

Bushfire Hazard Overlay (6.4.3)	Compliance ✓ / ✗ / NA	Standard Outcome Compliance Assessment
SO1, SO3, SO18, SO19 Material Change of Use	✗	The entire subject site is mapped as being within the Potential Impact Buffer. Assessment required against Merit Outcomes MO1.1, MO1.2, MO13.1 – MO13.8 is required (refer Table 5).
SO2 – SO8 & SO12 Reconfiguring a Lot	n/a	The proposal is for a MCU (Office) and no new lots are proposed.
SO9 – SO11 New Roads	n/a	No new roads are proposed.
SO14 Hazardous Materials	✓	The proposal is for a new office building and will not include the storage of hazardous materials.
SO15 & SO16 Land Use	n/a	The proposal use is not a hard to evacuate use or vital community infrastructure.
SO17 Water Supply	✓	The subject site is connected to reticulated water.
SO20 & SO21 Signage	Can comply	A condition of approval will require the erection of signage in the carpark and at the entrance to the office building stating that the building is located within an identified bushfire hazard area.

Environmental Significance Overlay (6.4.5)	Compliance ✓ / ✗ / NA	Standard Outcome Compliance Assessment
SO1 – SO3 Vegetation Clearing	✓	Although the subject site is mapped as containing Regulated Vegetation (Essential Habitat), it has historically been cleared for the depot. No vegetation clearing required as part of the development.
SO4 Protected Area (Estates)	n/a	The subject site is not located in the Protected Area (Estates)
SO5 & SO6 Wetlands & Watercourses	n/a	The subject site is not located near a wetland or watercourse.
SO7 New Road	n/a	The proposed development is for an office and does not include the construction of a new road.
SO8 Declared Fish Habitat	n/a	The subject site is not located on land identified as Declared Fish Habitat.
SO9 – SO15 Turtle Nesting Areas	n/a	The subject site is not located in proximity to Turtle Nesting Areas.

Flood Hazard Overlay (6.4.6)	Compliance ✓ / ✗ / NA	Standard Outcome Compliance Assessment
SO1, SO4 & SO7 – SO10 Flood Hazard Area	✓	A small portion of the front of the site is mapped within the Flood Hazard area. The proposed office building is not located within the Flood Hazard area or Flood Hazard Area Buffer. A flood hazard management plan is not required.
SO2 Lots	n/a	No new lots are proposed.
SO3 New Roads	n/a	No new roads are proposed.
SO5 Hazardous Materials	✓	The proposal is for a new office building and will not include the manufacturing or storage of hazardous materials.
SO6 Vital Community Infrastructure	n/a	The proposal is for a new office building which is not considered to be vital community infrastructure.
SO11 Streamline 5m Buffer	n/a	The subject site is not located within a Streamline 5m Buffer.

Heritage Overlay (6.4.7)	Compliance ✓ / ✗ / NA	Standard Outcome Compliance Assessment
SO1 State Heritage	n/a	The subject site does not include or adjoin a State Heritage Place.
SO2 & SO3 Indigenous & Non-Indigenous Heritage	n/a	The subject site is not identified as a Local Indigenous Heritage Place or a Local Non-Indigenous Heritage Place.
SO4 – SO8 Indigenous & Non-Indigenous Heritage High Risk Area	Can comply	The subject site is identified as Indigenous Heritage High Risk Area. The applicant has submitted a Cultural Heritage Desktop Assessment concluding the site is heavily disturbed and risk of harming cultural heritage is low. Standard duty of care obligations applies.

Potential and Actual Acid Sulfate Soils Overlay (6.4.8)	Compliance ✓ / ✗ / NA	Standard Outcome Compliance Assessment
SO1 Management Plan	n/a	The proposed office is located on an existing sealed area and does not involve extensive excavation likely to disturb acid sulphate soils.

4.1.5 Assessment Benchmarks – Merit Outcomes

In accordance with section 3.1(11) of the Planning Scheme non-compliance with a standard outcome requires an assessment against the applicable Merit Outcomes as summarised in the table below.

TABLE 5 – MERIT OUTCOMES

General (1)	Compliance ✓ / ✗ / NA	Merit Outcome Compliance Assessment
MO1.1 and MO1.2	✓	Overall, no concerns are raised with the proposed development. It is considered the office is an appropriate use in conjunction with the Ergon Energy Depot.
Built Form and Development Design (5)	Compliance ✓ / ✗ / NA	Merit Outcome Compliance Assessment
MO5.1 & MO5.2 Design and Setback	✓	The reduced rear boundary setback of 4m and the side boundary setback of 1m do not comply with the minimum 5m setback. Taking into consideration the adjoining Ergon Power station and undeveloped bushland to the rear no concerns are raised to the siting of the office.
MO5.3-MP5.7	✓	The proposed development is considered to achieve a built form and layout that is in line with the character of the locality, including compliant height, site cover and overall scale of development on site
Parking, Access, and Transport (14)	Compliance ✓ / ✗ / NA	Merit Outcome Compliance Assessment
MO14.1 – MO14.2	✓	Taking into consideration the land use and limited pedestrian access requirements, the proposed shared access driveway is considered sufficient. A separate pedestrian access path is not warranted.
MO14.6	✓	The additional traffic generated by the development can be accommodated within the surrounding road network. A traffic impact assessment is not required.
Natural Hazards including Climate Change (13)	Compliance ✓ / ✗ / NA	Merit Outcome Compliance Assessment
MO13.1	✓	The entire subject site is mapped as being within the Potential Impact Buffer. Taking into consideration the existing development on the site and connection to Council's reticulated water network it is considered the bushfire risk can be appropriately managed.

4.2 Relevant Matters

There are no other relevant matters to take into consideration.

5.0 REFERRALS

5.1 State Assessment Referral Agency

The application triggered a referral under the *Planning Regulation 2017* as the site adjoins a State-Transport Corridor. The State Assessment Referral Agency (SARA) Decision Notice dated

13 December 2023 (Attachment B) approved the development subject to the condition the access is in accordance with the proposed plan.

6.0 SUBMISSIONS

The proposed development application was subject to code assessment and was not subject to public notification.

7.0 CORPORATE PLAN

Our Community:

1.1. Our Region (LEAD)

- Council is a partner in the determination of significant regional issues.

Our Future:

4.3. Our Asset Management (PROVIDE)

- A safe and responsive community.

8.0 INFRASTRUCTURE CHARGES

The subject site is included with the designated Priority Infrastructure Area (PIA). In accordance with the *Torres Shire Council Charges Resolution (No.1) 2022* the Infrastructure Charge for the proposed development is calculated to be **\$65,348.40**. Refer Attachment C for calculations.

9.0 CONCLUSION

The proposed development is considered appropriate for the subject site and this report recommends approval subject to conditions.

The following reasons for the decisions are to be included in the Notice of Decision required under section 63(5) of the *Planning Act 2016*.

- (a) The proposal is compliant with the assessment benchmarks and consistent with the Torres Shire Council Planning Scheme 2022.
- (b) The proposed development for a Material Change of Use (Office) is an appropriate use to be located in the Community Facilities (Operational and Utility Services Precinct) zone and will support the continued operation of the Ergon Energy depot.
- (c) The proposed development is unlikely to have an adverse impact on the amenity of the surrounding area.

12.6 Caretaker period for local government elections

File Number BSC/Governance/ Reporting/ Executive Services Report/ 2024
Author:
Authoriser: Dalassa Yorkston, Chief Executive Officer
Attachments:

SUMMARY

Caretaker period for local government elections

Legislation places limits during the caretaker period before quadrennial local government elections on publishing election material and making major policy decisions. This ensures that there are no significant policy decisions made near the end of a council term that bind future elected councils.

Local government reforms in 2019 have also introduced new limitations to improve accountability and ensure that council resources are not used (or perceived to be used) to promote current councillors standing for re-election.

BACKGROUND

Timing

The caretaker period starts on the day when the Electoral Commission of Queensland publishes the public notice about holding the election. The ECQ will also advise when the election has ended for each local government.

Caretaker periods do not apply to by-elections.

Election material

During the caretaker period, a local government or controlled entity must not publish or distribute election material. Election material is anything that could influence an elector about their vote or affect the election result. For example, fact sheets or newsletters that raise the profile of a councillor are prohibited during the caretaker period.

Major policy decisions

During the caretaker period, councillors are prohibited from making decisions:

- about the appointment, remuneration or termination of a chief executive officer
- to enter into a contract greater than \$200,000 or 1% (whichever is greater) of the local government's net rate and utility charges (as stated in the local government's audited financial statements included in the local government's most recently adopted annual report)

- significant procurement activities, such as establishing preferred supplier arrangements, or establishing exceptions to obtaining quotes or tenders when entering into a contract
- to make, amend or repeal local laws
- to make, amend or repeal a local planning instrument under the Planning Act 2016 (i.e. a planning scheme, a temporary local planning instrument or a planning scheme policy).

A prohibited policy decision made during a caretaker period will be invalid, unless the Minister's approval has been given prior to making the decision (see below). A person who suffers loss or damage because of the invalidity of a major policy decision during the caretaker period has a right to be compensated by the local government for the loss or damage.

Planning instruments and approvals

During the caretaker period, councils cannot make, amend or repeal local planning instruments.

Councils cannot approve development variation requests or change variation approvals that involve:

- varying the category of development or category of assessment of consequential development
- varying the assessment benchmarks or criteria for accepted development that would apply to consequential development
- facilitating development that would result in a greater demand on infrastructure than the demand anticipated in the council's infrastructure plan.

The amended Development Application Rules, summary of changes and accompanying guidance material are now available on the Department of State Development, Infrastructure, Local Government and Planning website at [Planning \(statedevelopment.qld.gov.au\)](https://planning.statedevelopment.qld.gov.au)

Ministerial approval for decisions in exceptional circumstances

Local governments should prepare for the caretaker period by planning to make major policy decisions before or after the election period. However, unforeseeable events can result in a local government having to make major policy decisions during the caretaker period. In exceptional circumstances local governments can apply to the Minister for approval if:

- the need for the decision was unforeseeable
- the decision is essential to the functioning of the local government
- the decision cannot wait until the end of the caretaker period
- the decision is in the public interest.

The Minister will decide on a case-by-case basis whether the decision meets the exceptional circumstances requirement of the Local Government Act 2009 or the City of Brisbane Act 2010. To enable this to happen, all applications should be addressed to the Regional Director (Northern Region) or Regional Director (Southern Region) of the Department of State Development, Infrastructure, Local Government and Planning. Each application should include:

- details of the proposed major policy decision
- an explanation of why the decision was unforeseeable
- an explanation of why the decision cannot wait until the end of the caretaker period
- an explanation of how the decision is in the public interest

Discretionary funds

During the period starting on 1 January 2024 and ending at the conclusion of the local government quadrennial election, councillors must not allocate money from a councillor discretionary fund to a community organisation for a community purpose, or for another community purpose. Councillors, can, however, allocate their discretionary funds for capital works of the local government that are for a community purpose in the period starting on 1 January 2024 to the conclusion of the 2024 election. Discretionary funds that were allocated before 1 January 2024 in accordance with legislative requirements may be distributed during the caretaker period.

Leave for candidates and councillors

Local government employees may take paid leave (e.g. accrued annual leave) or unpaid leave for up to eight weeks to contest a local government election. There is no legal requirement under the Local Government Electoral Act 2011 for either local government employees or elected councillors to take leave during the caretaker period. However, individual councils may have election period policies covering election leave.

More information

Caretaker provisions are outlined in Chapter 3, Part 5 of both the *Local Government Act 2009* and the *City of Brisbane Act 2010*. For more information about the caretaker period Council may contact the regional office of the Department of State Development, Infrastructure, Local Government and Planning.

LINK TO CORPORATE PLAN

Our Business

3.3 Our Governance (LEAD)

Council maintain effective governance processes

- Maintain best practice financial and risk management practices
- Maintain policies, procedures, frameworks and registers
 - Maintain and meet audit requirements.

CONSULTATION

Elected Members and Executive Management Team

LEGAL IMPLICATIONS

Nil

POLICY IMPLICATIONS

Nil

FINANCIAL AND RESOURCE IMPLICATIONS (BUDGETARY)

Nil

RECOMMENDATION

That Council notes the Report.

LATE REPORT

13.1 Australia Day Awards 2024

CONFIDENTIAL REPORTS**14.1 In Committee – Finance Report**

This matter is considered to be confidential under s.254J(3)(c) of the *Local Government Regulations 2012*, and the Council is satisfied that the discussion of this matter is in relation to the local government's budget.