



GLADSTONE
REGIONAL COUNCIL

**GENERAL MEETING NOTICE
AND AGENDA**

**TO BE HELD AT THE COUNCIL CHAMBERS – CIVIC CENTRE
101 GOONDOON STREET, GLADSTONE**

On Tuesday 5 December 2023

Commencing at 9.00am

**Leisa Dowling
CHIEF EXECUTIVE OFFICER**

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G/1. MAYORAL STATEMENT OF CURRENT ISSUES

G/2. CONFIRMATION OF MINUTES

G/2.1. CONFIRMATION OF GENERAL MEETING MINUTES FOR 21 NOVEMBER 2023

Responsible Officer: Chief Executive Officer

Prepared By: Executive Secretary

Council Meeting Date: 5 December 2023

File Ref: CM7.2

Purpose:

Confirmation of the minutes of the General Meeting held on 21 November 2023.

Officer's Recommendation:

That the minutes of the General Meeting of Council held on 21 November 2023 be confirmed.

Attachments:

1. Minutes of the General Meeting of Council held on 21 November 2023.

G/3. DEPUTATIONS

G/3.1. CENTRAL QUEENSLAND UNIVERSITY

Responsible Officer: Chief Executive Officer

Prepared By: Executive Secretary

Council Meeting Date: 5 December 2023

File Ref: CM7.6

Purpose:

To provide information regarding Central Queensland (CQ) University's project 'STEM in the Park'.

Officer's Recommendation:

That the deputation from Central Queensland University be received.

Background:

Deputation details are as follows:

Time of Presentation	9:10am
Duration of Presentation plus question time	15 mins
Speakers to present	Associate Professor Linda Pfeiffer Mrs Lyn Hughes Associate Professor Gillian Busch

Attachments:

1. Central Queensland University 'STEM in the Park' Presentation

G/4. OFFICERS' REPORTS

G/4.1. BOYNE TANNUM AQUATIC RECREATION CENTRE (BTARC) INVESTMENT DECISION - AUSTRALIAN GOVERNMENT FUNDING

Responsible Officer: General Manager People and Strategy

Prepared By: Strategic Project Specialist

Council Meeting Date: 5 December 2023

File Ref: PRJ 279, ED6.1

Purpose:

To seek Council's consideration to enter into a funding agreement for the 2022 election campaign commitment of \$15 million for the construction of the Boyne Tannum Aquatic and Recreation Centre (BTARC).

Officer's Recommendation:

That Council enter a funding agreement with the Department of Infrastructure, Transport, Regional Development, Communication and the Arts for the Australian Government's 2022 election campaign commitment of \$15 million for the construction of the Boyne Tannum Aquatic and Recreation Centre (BTARC).

Summary:

The Australian Government has granted funding approval of \$15M to Council for the development of the Boyne Tannum Aquatic and Recreation Centre (BTARC). The strategic matters outlined in this report are provided to inform an understanding of the conditions associated with funding and the impacts of entering into the funding agreement.

Link to Corporate Plan:

- Connecting Communities - We work with you and for you, supporting the success of our communities.
- Resilient Economy - We play our part in supporting the success of our region.

Background:

In January 2022, the Australian Labor Government pledged an election campaign commitment of \$15M towards the development of an aquatic centre for Boyne Island and Tannum Sands.

Approval of funding was received on 20 October 2023 and negotiations on the funding agreement (the agreement) commenced shortly thereafter with the Department of Infrastructure, Transport, Regional Development, Communication and the Arts (the Department).

Terms of the agreement have been summarised and attached for reference. Council is required to conclude negotiations and submit the agreement for Department approval. Once approved, Council has four (4) weeks to execute the agreement.

Options and Opportunity Analysis:

Stage/Desclope the Project

Council has retained the option to stage or desclope the BTARC project should construction estimates be deemed above investment appetite. This is no longer seen as a viable option for the following reasons:

- The Department has requested confirmation that Council will proceed according to the original PCIP application or submit a formal request to stage or desclope the project.
- Funding agreement negotiations cannot proceed without this confirmation.
- If an alternative (staged or descloped) option is provided it will require reconsideration by the Department with a revised recommendation to the Minister, and pending final decision, negotiations on the agreement could then resume.

Secure Additional External Funding

Having secured Australian Government funding, Council is considered ineligible to seek further investment through other federal government programs. Efforts to secure additional funding have focused on Queensland Government opportunities. The 2024-27 Works for Queensland (W4Q) program is a potential option for Council.

The Queensland Government has announced an increase in funding for this program and Council is eligible to receive a funding boost (amount yet to be advised) to its allocation additional to the \$7M already forecast.

Pending the release of program guideline requirements, Council may be eligible to apply to have all or part of the 2024-27 W4Q funding directed towards a project already receiving Australian Government funding. The 2024-27 project delivery period is well aligned with that set by the Australian Government for its election commitment funding.

Opportunities to secure additional external funding are continually being explored. If the option to stage or desclope the project is considered unfeasible and a shortfall remains in the external funding needed for project construction, Council, through its regular budgetary procedures, can choose to:

- Cover the remaining amount using existing cash reserves
- Secure funding through a loan (borrowing), or
- Address the shortfall through general rates over the 10 year term of Council's Long-Term Financial Forecast.

Financial Impact Modelling

Long Term Financial Forecast (LTFF) modelling undertaken to evaluate options to fund the BTARC project also considered the impact on the community through general rates. The table below simplifies the options considered. The detailed financial modelling summary and modelling assumptions are attached for reference.

	Option 1	Option 2	Option 3	Option 4
BTARC Development	<i>Balance funded through cash reserve</i>	<i>Balance funded through QTC loan</i>	<i>Balance through rates generated over 10-yr period of the LTFF</i>	<i>\$3M W4Q funding Balance through rates generated over 10-yr period of the LTFF</i>
Annual Operating	\$0.72M	\$0.72M	\$0.72M	\$0.72M
Construction	\$27.94M	\$27.94M	\$27.94M	\$27.94M
Capital Renewal	\$0.30M	\$0.30M	\$0.30M	\$0.30M
External Funding	\$15M	\$15M	\$15M	\$18M
Loan Amount	-	\$12.94M	-	-

Results of the modelling are summarised in the table below.

	Option 1	Option 2	Option 3	Option 4
	<i>Balance funded through cash reserve</i>	<i>Balance funded through QTC loan</i>	<i>Balance through rates generated over 10-yr period of the LTFF</i>	<i>\$3M W4Q funding Balance through rates generated over 10-yr period of the LTFF</i>
Avg. General Rates % Increase	-	-	0.37%	0.30%
General rates increase per assessment	-	\$51.98	\$64.08	\$53.10
Avg Increase to annual loan repayments (principal + Interest) over 10-yr period of LTFF		\$0.60M		
10 Year LTFF-Net decrease in cash and cash equivalent from FY-23	-\$19.26M	-\$15.39M	-	-

Council will have the opportunity to formalise a preference for funding the delivery phase of the BTARC project during the usual budget process when establishing the 2024/25 budget and Capital Works Program.

Investment Opportunity

Should Council decide to enter into the funding agreement, it will signify an investment decision to proceed to the Execute phase of the Investment Decision Framework and tender the BTARC project for construction. A subsequent investment decision will be required to award the tender in accordance with the Procurement Policy P-2021-01 and will serve as Council's final investment decision.

Alternative Consideration

Council may wish to consider not entering into the funding agreement. Consideration could be given to the following:

That Council decline to enter into the funding agreement with the Department of Infrastructure, Transport, Regional Development, Communication and the Arts for the Australian Government's 2022 election campaign commitment of \$15 million towards the construction of the Boyne Tannum Aquatic and Recreation Centre (BTARC).

This option carries both financial and reputational risks for Council that are likely to result in negative community sentiment and the possible withdrawal of significant external funding unlikely to be secured through other investment sources. Choosing this alternative would deviate from the strategic priority emphasis placed on the BTARC project.

Financial and Resource Implications:

Should Council resolve to enter into the funding agreement, the Australian Government funding will be recognised as revenue towards project construction.

Project Cost Estimates

An updated Life of Project (LoP) budget estimate of 30.06M is inclusive of construction cost estimates and is included in the forecast of the adopted 2023-24 LTFF. A final review of the LoP budget will be undertaken prior to awarding the tender for construction.

Operating Model and Budget

The operating model assumed for the BTARC facility is the current external management model. An estimated budget of \$720,000 is required in 2025-2026 to operate this new aquatic recreation service. The estimated operating budget may change once the outcome and recommendations of a review into Council's operating model for aquatic recreation services are known.

Risk Management Summary:

A thorough assessment of the financial and reputational risks associated with the funding agreement has been undertaken, taking into consideration potential strains on cash reserves, increased operating costs, and limited external funding opportunities.

Risks associated with declining the Australian Government funding could result in project delays, community dissatisfaction, and strained political relationships. To address these concerns, the business has implemented controls such as financial modelling, project management governance, stakeholder engagement, and adherence to investment decision-making policies, to reduce the residual risks to within Council's risk tolerance.

Project risks associated with the BTARC development are managed in accordance with Council's Risk Management Policy P-2020-13 and Risk Management Corporate Standard. A Risk Management Plan has been in place throughout project development and actively monitored to ensure controls are appropriate and regularly reviewed. This will continue throughout the Execute phase of the project.

Stakeholder Engagement:

Throughout project development, stakeholder engagement has been maintained in accordance with Council's Community Engagement Policy P-2019-06 and Corporate Standard.

A Communications Action Plan to assist the project's Execute phase has been developed. The BTARC Conversations page has been set up as the main platform for the community to get project-related information. This will continue throughout the Execute phase in addition to project updates shared on Council's social media platforms and directly with project stakeholders. Officers will work with the Department to ensure there is an aligned approach to media following Council's resolution.

Legal and Regulatory Implications:

The Chief Executive Officer (CEO) has sufficient delegation of powers to execute the funding agreement. The decision to engage in the funding agreement is brought to Council to maintain transparency with the terms and additional contribution required by Council to deliver a new community asset.

Anticipated Resolution Completion Date:

June 2024.

Attachments:

1. Terms of Funding Summary – Australian Government PCIP
2. Detailed Financial Modelling Summary
3. Financial Modelling Assumptions
4. BTARC Artist Renders

G/4.2. SAIKI SISTER CITY COMMITTEE 2024

Responsible Officer: General Manager Community and Lifestyle

Prepared By: Community Development Officer

Council Meeting Date: 5 December 2023

File Ref: CR2.14

Purpose:

This report recommends appointments to the Gladstone Saiki Sister City Advisory Committee for 2024 and presents the annual President's Report for 2023.

Officer's Recommendation:

That Council:

1. Appoint the following Saiki Sister City Advisory Committee Members for the 2024 calendar year with appointments expiring on the 31 December 2024:
 - Wendy Marsh (President)
 - Carolina Bocos
 - Ayako Carrick
 - Robina Cupitt
 - Beverly Fellows
 - Jaclyn Iwasaka
 - Howard Marsh
 - Peter Masters
 - Maureen Mason
 - Chris Moore
 - Yukiko Moore
 - Peter O'Dwyer
 - Mayumi Rey du Boissieu
 - Gay SIRRIS
 - Cameron Walker
 - Aaron Yea
2. Receive the 2023 Saiki Sister City Advisory Committee President's Report.

Summary:

The Gladstone Region Sister City Advisory Committee provides a forum for cultural, economic and educational interchange between the Gladstone Region and Saiki City. It encourages friendship, cooperation, understanding, goodwill and harmony. Each calendar year, expressions of interest are open to the community for membership and appointments are decided by Council.

Link to Corporate Plan:

Connecting Communities - We work with you and for you, supporting the success of our communities.

Background:

A Declaration of Friendship between Gladstone and Saiki City in Japan was first signed on 4 September 1996. The Gladstone Saiki Sister City Advisory Committee was reconstituted on 16 July 1997 operating under a Committee Constitution. On 20 August 2019, Council reaffirmed the appointment of the Gladstone Saiki Sister City Advisory Committee as an advisory committee to Council constituted under Section 264 of the Local Government Regulation 2012 and adopted a Terms of Reference.

Under the Terms of Reference, membership of the Committee is reviewed annually with appointments made for the upcoming calendar year. Council received seventeen nominations for the 2024 committee, including twelve return members and five new applications, one of whom the Community Development Officer has been unable to contact. In 2022 the Terms of Reference were amended to allow for an increase in the number of ordinary members, now stating 'a minimum of 4 members.' This change allowed consideration of all applicants for appointment to the 2024 committee. All return members have proven invaluable to the committee, with a diverse set of skills and demonstrated commitment to upholding the values of the sister city relationship. New applicants were interviewed by a panel of two Council Officers from the Community Partnerships Team. Each person interviewed would be an asset to the committee and would bring a unique set of skills and experiences, including being of Japanese heritage, having a strong interest in Japanese history, connections with Gladstone's multicultural community, connections with industry and business networks, and bringing further youth perspective to the committee.

The Terms of Reference for the Committee require that the President provide an annual report to Council to brief members of the activities of the Committee for the past year and to outline the Committee's activities, achievements, notable challenges, foreseeable opportunities, and any proposed plans for the coming or future years. The 2023 President's Report is Attachment 1 of this report for Council's Information. Officers have extracted the following notable highlights from the report:

- The Saiki Sister City Advisory Committee is an active committee that continues to grow in numbers, facilitating significant achievements.
- There is renewed optimism that school exchanges will occur in the foreseeable future following positive communication and enthusiasm between the schools
- During the year, a member of the committee privately visited Saiki and was warmly welcomed, making several contacts
- Committee members are investigating the possibility of online gaming competitions, sporting and cultural exchanges, and another member is actively seeking a formal relationship between her school and a school in Saiki
- A special thank you to staff and volunteers at the Gladstone Regional Art Gallery and Museum who have planned and organised many of the events that have caught the imagination of residents in the Gladstone Region including the Saiki Children's Art Competition, the Children's Day Activities, the Celebrate Australia Primary Schools Art Competition, and the InterCity Images Photographic Exhibition
- The staff at Tondoon Botanic gardens have sensitively appraised and planned many projects to promote awareness of the friendship between the sister cities, including wooden carvings, signage, native fish and plants, a tipping water feature and basin, and bonsai exhibitions.
- Throughout the year, committee members attended events that inform the public and facilitate understanding between the Gladstone Region and Saiki, including Annual Book exchange at the Mayor's Youth Breakfast and interactions with the public at Flourish and the PopCon events. Packages of materials, including lesson plans, have been distributed to local schools to commemorate the signing of the Declaration of Friendship and the installation of the Shorebirds

Artwork. The Gladstone Regional Council Brand and Communications Team is in the process of redesigning and updating the Sister City website.

- The committee has continued traditions and sought out new ways of communicating with the local community and our friends in Japan, enabling possibilities of self-growth and community development through our Sister City Friendship.

Risk Management Summary:

Council has a low appetite for Reputational risk, and a moderate appetite for Regulatory and Legal risk. The committee consists of long-term members who uphold the values of the sister city relationship, understand the committee governance, and will pass their skills and knowledge along to the new members.

Options and Opportunity Analysis:

Option 1 – Adopt the Recommendation

The opportunities associated with this option are that Council can facilitate the growth of the Committee through appointing all sixteen nominations for the 2024 Gladstone Saiki Sister City Committee. This will benefit further development of the relationship and share the workload across more Committee Members. It also builds the capacity of the Committee, expanding connections and drawing in new and varied skill sets that will broaden the perspective and experience of the Committee. The only potential risk in increasing membership is that it will require 50% plus one of the members to be present for a quorum at meetings.

Option 2 – Retain current committee without appointing new applications

Officers can see no tangible opportunities in this option. The risk of this option is disincentivising community members from volunteering with the Committee by excluding them from ordinary membership. The Saiki Sister City Committee Members have expressed their excitement in a growing committee and welcome the opportunities and ideas each person will bring to the committee and the future of the Sister City relationship.

Stakeholder Engagement:

Expressions of interest for committee membership for 2024 were sought in several ways including social media, Gladstone Regional Council website, local school newsletters, email distribution through local networks and community groups, and flyer distribution through committee members.

After consultation with the Community Partnerships Team, it was evident that from the applications received, the committee would have a strong skill set and all applicants were suitable. As advised in 2022 by Council's Governance Advisor, an interview process is unnecessary for return members who have already demonstrated their commitment, some for over 25 years. The four new applicants were interviewed by a panel of two Council Officers, and it was determined that each applicant would be an asset to the committee. At the Annual General Meeting on the 16 November 2023, the committee have nominated and recommended the appointment of Wendy Marsh as President in 2024.

Legal and Regulatory Implications:

On 20 August 2019, Council reaffirmed the appointment of the Gladstone Saiki Sister City Advisory Committee as an advisory committee to Council constituted under Section 264 of the Local Government Regulation 2012 and adopted a Terms of Reference.

Financial and Resource Implications:

In 2023/24 Council has allocated a budget of \$10,000 for Sister Cities activities and will retain control of finances, accounting, and administration of these funds. The Committee may recommend through delegated Officers how these funds will be apportioned to the Committee's annual program of activities.

Anticipated Resolution Completion Date:

5 December 2023

Attachments:

1. 2023 Saiki Sister City Advisory Committee President's Annual Report

G/4.3. GATES AND GRIDS SUBORDINATE LOCAL LAW

Responsible Officer: General Manager Finance Governance and Risk

Prepared By: Governance Business Partner

Council Meeting Date: 5 December 2023

File Ref: LE3.1, LE2.26

Purpose:

This report recommends the adoption of a new Subordinate Local Law to regulate gates and grids on public roads and associated amendments to Council's Local Government Controlled Areas, Facilities and Roads Subordinate Local Law to include the installation of gates and grids as a prescribed activity.

Officer's Recommendation:

That Council:

1. To make *Local Government Controlled Areas, Facilities and Roads (Amendment) Subordinate Local Law (No. 1) 2023* as advertised;
2. To make *Subordinate Local Law No. 1.16 (Gates and Grids) 2023* as advertised, but amended as follows:
 - a. schedule 1, section 6(2)(d)(x)—
omit;
 - b. schedule 1, section 6(2)(d)(xi), (xii) and (xiii)—
renumber as section 6(2)(d)(x), (xi) and (xii);
 - c. schedule 1, section 6(2)(h) and (i)—
omit, insert—
 - '(h) require the approval holder to undertake an annual compliance inspection of the gate or the grid, or the gate and the grid, to ensure that the gate or the grid, or the gate and the grid, complies with the requirements specified in the conditions of the approval;
and
 - (i) Require the approval holder to, if requested by the local government in writing, and so as to ensure that the gate or the gate, or the gate and the grid, complies with the requirements specified in the conditions of the approval—
 - (i) undertake other safety and compliance inspections of the gate or the grid, or the gate and the grid; and
 - (ii) submit to the local government, within a time frame prescribed by the local government—
 - (A) a report about each safety and compliance inspection; and
 - (B) supporting photographs; and
 - (C) if requested by the local government, documentary evidence that public liability insurance, as specified by the local government in the approval, has

been taken out and maintained by the approval holder; and'

d. schedule 1, section 6(3)(b)(xi)—
omit;

e. schedule 1, section 6(3)(b)(xii) and (xiii)—
renumber as section 6(3)(b)(xi) and (xii);

f. schedule 1, section 6(3)(f) and (g)—
omit, insert—

'(f) require the approval holder to undertake an annual compliance inspection of the gate or the grid, or the gate and the grid, to ensure that the gate or the grid, or the gate and the grid, complies with the conditions of the approval; and

(g) require the approval holder to, if requested by the local government in writing, and so as to ensure that the gate or the grid, or the gate and the grid, complies with the requirements specified in the conditions of the approval—

(i) undertake other safety and compliance inspections of the gate or the grid, or the gate and the grid; and

(ii) submit to the local government, within a time frame prescribed by the local government—

(A) a report about each safety and compliance inspection; and

(B) supporting photographs; and

(C) if requested by the local government, documentary evidence that public liability insurance, as specified by the local government in the approval, has been taken out and maintained by the approval holder; and

(D) a site specific report about the structural integrity of the gate or the grid, or the gate and the grid, and RPEQ certification for the gate or the grid, or the gate and the grid; and';

g. schedule 1, section 7(1)(b)—
omit, insert—

'(b) must be fixed, having regard to the likely useful life of the gate or the grid, or the gate and the grid, identified in the approval.';

h. schedule 1, section 8(1)(b)—
omit, insert—

'(b) must be fixed, having regard to the likely useful life of the gate or the grid, or the gate and the grid, identified in the approval.'.

3. Adopt, pursuant to section 32 of the *Local Government Act 2009*, in the form attached to this report to Council, a consolidated version of *Subordinate Local Law No. 4 (Local Government Controlled Areas, Facilities and Roads) 2011*.

4. Subject to Council adopting *Subordinate Local Law No. 1.16 (Gates and Grids) 2023*, Council either:
a) Set an application fee of \$75 (or other amount nominated by Council) for a Gate or Grid application under the transitional provisions of *Subordinate Local Law No. 1.16 (Gates and Grids) 2023* to apply for the 2023/24 financial year; **OR**

- b) Not impose a fee or charge for a Gate or Grid application under the transitional provisions of *Subordinate Local Law No. 1.16 (Gates and Grids) 2023* for the 2023/24 financial year.

Summary:

Adopting a Gates and Grids Subordinate Local Law will provide the opportunity for landholders wanting to retain responsibility for their gates and grids in Council's maintained public road network to obtain an approval to do so subject to the conditions and requirements contained in the subordinate local law.

Link to Corporate Plan:

Connecting Communities - We work with you and for you, supporting the success of our communities.
Delivering Value - We work efficiently to deliver value for your rates.

Background:

In May 2023 in response to public concerns, Council adopted a revised Policy position on Gates and Grids which offered a 'softer' approach to the implementation of its 2020 policy position of Council being responsible for all Gates and Grids. The 2023 revised policy position allows landholders wishing to maintain responsibility for their gates and grids in public maintained roads to do so via an approval under a Gates and Grids Subordinate Local Law. Once a gate or grid with an approval is replaced to the relevant Council standard at the end of its useful life, it is then automatically transferred to Council which achieves the original 2020 policy position. Given that gates and grids can have a useful life of up to 50 years, a full transfer of all gates and grids in the region to Council will not be achieved in the short term.

Council at its General Meeting on the 5 September 2023 proposed to make a new Gates and Grids Subordinate Local Law [*Subordinate Local Law No. 1.16 (Gates and Grids) 2023*] and associated minor amendments to include installing a gate or grid on a maintained public road as a prescribed activity [*Local Government Controlled Areas, Facilities and Roads (Amendment) Subordinate Local Law (No. 1) 2023*]. The public were invited to make submissions on the proposed subordinate local law closing 31 October 2023. The results of public consultation are summarised in the stakeholder engagement section of this report.

Based on the submissions received, Officers are recommending three changes to the proposed *Subordinate Local Law No. 1.16 (Gates and Grids) 2023* as detailed below:

1. That permits be granted for the life of the structure (Schedule 1, Sections 7 & 8) rather than being renewed every year.
2. Remove the approval holder responsibilities associated with maintaining 5 metres of the formed road approaches to the gate or grid and remove the requirement for vegetation and debris removal within a 25 metre area of the road reserve around the gate of grid. The reason for this change being to minimise in part, the risks associated with approval holders working on Council roads - ie. remove from Schedule 1, Section 6 (2)(d)(x) and (2)(i) and Section 6 (3)(b)(xi) and (3)(g) as per below:
 - *'maintain the road, for a distance of 5m on each side of the gate or the grid, or the gate and the grid, as the case may be, in good and sufficient repair —*
 - a. *so that vehicular and pedestrian traffic is not impeded or obstructed; and*
 - b. *to prevent or minimise the risk of personal injury or damage to property; and*
 - *require the approval holder to ensure that the gate or the grid, or the gate and the grid, and the area of road reserve for a distance of 25m either side of the gate or the grid, or the gate and the grid, is kept free of pest plants, debris and extraneous items, for example, a fallen tree limb or a tyre; and'*

3. Subject to the removal of the requirement for annual renewal of approvals, amend Schedule 1, Section 6 (2)(h) and (3)(f) to maintain the obligation of an annual inspection, but the provision of more information be on an 'as required by Council' basis.

The benefits of making these amendments are as follows:

- It minimises the administrative resources associated with the approval renewal process, whilst still requiring approval holders to be responsible for conducting an annual inspection to ensure that they continue to comply with approval requirements.
- Council will be inspecting all structures in the road (including gates and grids) as part of its Road Inspection Program therefore, Council has a mechanism for monitoring approvals and the condition/safety of the structures should approval holders fail to do so.
- The change proposed in 3 above allows Council to require approval holders to conduct additional inspections and submit more information for assessment by Council. For example: if a Council road inspection identifies potential issues with the structure, Council can require the approval holder to do further investigative inspections and provide Council with relevant information.
- Removing approval holder responsibilities associated with the road connecting to the structures and the reserve in the immediate vicinity (ie. pothole repairs on approaches, pest control, debris removal, etc) will in part, reduce the risks associated with landholders conducting work on and around the road. It should be noted that some grid approaches are bitumen sealed which landholders will not have the materials to repair. The approval holders' responsibilities for work in the road reserve will be limited to the structures themselves, the accompanying gate & side-track, signage and vegetation visibility clearing associated with the structures.
- The changes align with some of the public submissions received from affected persons.

Permit Application Fees:

If the amendments are accepted, Council would be unable to impose an annual approval renewal fee, but can continue to set a fee for new applications, including new applications associated with replacement of a gate or grid at the end of its useful life.

For landholders that elect to obtain an approval should Council proceed with making the Gates and Grids Subordinate Local Law, Council will also need to consider if it wishes to impose an initial approval application fee and if so, the value of the fee. Alternatively, Council could elect to not impose a fee for the initial approval issued under the transitional provisions.

The transitional provisions propose to accept gates and grids in their current state via the completion of a Transitional Provisions Application Form (as tabled at the 5 September 2023 General Meeting). Therefore, there will be no requirement for assessment of grid construction or site inspections. Resources will, however, be required in generating and issuing the initial approvals and updating Council records accordingly.

Council already has an application fee set for new Gate and Grid applications which is \$243 levied on a cost recovery basis (Section 97(2)(a) LGA2009). If Council proposes a transitional provisions application fee, it is suggested that it be set at approximately one third of the fee for new applications (\$75 GST inclusive) given the reduced level of assessment required.

Risk Management Summary:

Council has a minimal risk appetite for Health and Safety Risks. The adoption of a subordinate local law on gates and grids will assist in achieving this risk appetite as the management of risk associated with gates and grids is clearly assigned and being actively managed by either Council or those landholders that seek to retain responsibility for their gate and grid.

Options and Opportunity Analysis:

There are four options for Council to consider:

1. Adopt the Officer's Recommendation;
2. Adopt the Gates and Grids Subordinate Local Law as advertised without change;
3. Adopt the Gates and Grids Subordinate Local Law with changes other than, or in addition to, the Officer's Recommendation; and
4. Not proceed with the making of a Gates and Grids Subordinate Local Law and associated amendments to Council's Local Government Controlled Areas, Facilities and Roads Subordinate Local Law.

Option 1: Officer Recommendation

This option provides the opportunity for Council to achieve the requirements of its new 2023 Gates and Grids Policy. It facilitates the option for landholders to retain responsibility for their gates and grids in maintained public roads until such time as they are at the end of their useful life. Once replaced by the landholder at the required standard, they will then be transferred to Council for ongoing management. The benefits of the changes proposed as a result of public consultation are as listed in the background section of this report.

Option 2: Adopt the Gates and Grids Subordinate Local Law as advertised without changes

This option has the same opportunities as Option 1 but allows Council to adopt the Gates and Grids Subordinate Local Law in its original form as advertised for public consultation without change. The resolution to give this option effect would be:

That Council:

1. *To make Local Government Controlled Areas, Facilities and Roads (Amendment) Subordinate Local Law (No. 1) 2023 as advertised;*
2. *To make Subordinate Local Law No. 1.16 (Gates and Grids) 2023 as advertised;*
3. *To adopt, pursuant to section 32 of the Local Government Act 2009, in the form attached to this report to Council, a consolidated version of Subordinate Local Law No. 4 (Local Government Controlled Areas, Facilities and Roads) 2011.*
4. *Subject to Council adopting Subordinate Local Law No. 1.16 (Gates and Grids) 2023, Council either:*
 - a) Set an application fee of \$75 (or other amount nominated by Council) for a Gate or Grid application under the transitional provisions of Subordinate Local Law No. 1.16 (Gates and Grids) 2023 to apply for the 2023/24 financial year; **OR***
 - b) Not impose a fee or charge for a Gate or Grid application under the transitional provisions of Subordinate Local Law No. 1.16 (Gates and Grids) 2023 for the 2023/24 financial year.'*

Option 3: Adopt the Gates and Grids Subordinate Local Law with changes other than, or in addition to, the Officer's Recommendation

This option has the same opportunities as Option 1 but allows Council to consider if the Officer recommendations as a result of public consultation should be accepted and/or if additional changes are required. The resolution to give this option effect would be:

That Council:

1. To make *Local Government Controlled Areas, Facilities and Roads (Amendment) Subordinate Local Law (No. 1) 2023* as advertised;
2. To make *Subordinate Local Law No. 1.16 (Gates and Grids) 2023* as advertised, but amended as follows:
 - a) *insert amendments*
 - b) *insert amendments*
 - c) *insert amendments; and*
3. To adopt, pursuant to section 32 of the *Local Government Act 2009*, in the form attached to this report to Council, a consolidated version of *Subordinate Local Law No. 4 (Local Government Controlled Areas, Facilities and Roads) 2011*.
4. Subject to Council adopting *Subordinate Local Law No. 1.16 (Gates and Grids) 2023*, Council either:
 - a) Set an application fee of \$75 (or other amount nominated by Council) for a Gate or Grid application under the transitional provisions of *Subordinate Local Law No. 1.16 (Gates and Grids) 2023* to apply for the 2023/24 financial year; **OR**
 - b) Not impose a fee or charge for a Gate or Grid application under the transitional provisions of *Subordinate Local Law No. 1.16 (Gates and Grids) 2023* for the 2023/24 financial year.'

Option 4: Not proceed with the making of a Gates and Grids Subordinate Local Law and associated amending subordinate local law

This option would not achieve the requirements of Council's 2023 Gates and Grids Policy. Therefore, if Council does not proceed with the adoption of a Gates and Grids Subordinate Local Law it may need to reconsider its 2023 policy position. Given that Council cannot make policy decisions in the caretaker period prior to the 2024 local government elections, it would be unlikely that Council could practically achieve a policy change prior to the commencement of the caretaker period. Therefore, any dealings associated with gates and grids would need to be held in abeyance pending the outcome of the 2024 local government elections. The resolution to give this option effect would be:

That Council:

1. *Not to proceed with the making of Local Government Controlled Areas, Facilities and Roads (Amendment) Subordinate Local Law (No. 1) 2023;*
2. *Not to proceed with the making of Subordinate Local Law No. 1.16 (Gates and Grids) 2023.'*

Stakeholder Engagement:

The proposed Gates and Grids Subordinate Local Law was advertised for public submissions for a 37-day period commencing 25 September 2023 concluding on the 31 October 2023. Members of the public were invited to make written submissions and to participate in a Gates and Grids survey.

Council received 10 written submissions and 17 responses to the online survey. The written submissions, survey results and a summary of matters raised is attached to this report.

Legal and Regulatory Implications:

The following legislation and policy govern the Subordinate Local Law adoption and amendment process:

1. *Local Government Act 2009* (chapter 3, division 2);
2. *Local Government Regulation 2012* (chapter 3, part 1); and
3. P-2018-10 Local Law-Making Process Policy.

Decisions relating to making or amending Local Laws and Subordinate Local Laws cannot be made during caretaker period which will commence early 2024.

Human Rights Act 2019

In the context of the decision of Council to resolve to actually make proposed subordinate local laws, that is, *Local Government Controlled Areas, Facilities and Roads (Amendment) Subordinate Local Law (No. 1) 2023* and *Subordinate Local Law No. 1.16 (Gates and Grids) 2023*, the relevant human rights which may be impacted are as follows:

- freedom of movement;
- property rights;
- fair hearing.

Under the HRA, section 58, it is unlawful for Council:

- to make a decision in a way that is not compatible with human rights; or
- in making a decision, to fail to give proper consideration to a human right relevant to the decision.

Given that the human rights identified above may, potentially, be limited, Council is obliged to make a determination about whether each limit on a person's human rights, and its impact on the person, is reasonable and demonstrably justifiable.

Having assessed the potential limitations to human rights, it was resolved that the limits are reasonable and justifiable for the following reasons:

1. the public is not prevented from using roads for their gazetted purpose.
2. the landholders that supply the gate and grid on a public road have had the opportunity to retain responsibility for the structures subject to conditions to mitigate any potential:
 - harm to human health or safety, including the safety of vehicular or pedestrian traffic;
 - property damage or loss of amenity;
 - nuisance;
 - unreasonable obstruction of vehicular or pedestrian traffic;
 - unreasonable prejudice to the proper maintenance of a road;
 - environmental harm;
 - environmental nuisance;
 - adversely affect the amenity of the area.
3. Individuals have had the opportunity to input into Council's decision-making process through public consultation.

Financial and Resource Implications:

External legal costs have been incurred in drafting the subordinate local law and associated amending subordinate local law which have been budgeted for in the 2023/24 financial year. Should Council elect to proceed with making the subordinate local law and amending subordinate local law (Options 1 or 2) internal resources will be required to implement the approval system for those landholders wanting to retain responsibility for their gates and grids on maintained public roads.

Anticipated Resolution Completion Date:

The Subordinate Local Law and Amending Subordinate Local Law commence when published in the Queensland Government Gazette unless Council nominates a later commencement date. It is anticipated that an advert can be placed in the Government Gazette prior to 31 December 2023.

Attachments:

1. Proposed Subordinate Local Law No. 1.16 (Gates and Grids) 2023 with Recommended Amendments
2. Proposed Subordinate Local Law No. 1.16 (Gates and Grids) 2023 as Advertised
3. Local Government Controlled Areas, Facilities and Roads (Amendment) Subordinate Local Law (No.1) 2023
4. Consolidated Subordinate Local Law No. 4 (Local Government Controlled Areas, Facilities and Roads) 2011
5. Summary of Public Submissions and Survey Results
6. Written Public Submissions
7. 2023 Gates and Grids Survey Results

G/4.4. REVISED BUILDING OVER OR NEAR COUNCIL INFRASTRUCTURE POLICY

Responsible Officer: General Manager Finance Governance and Risk

Prepared By: Governance Business Partner

Council Meeting Date: 5 December 2023

File Ref: CM28.2

Purpose:

This report presents a revised Building over or near Council Infrastructure Policy.

Officer's Recommendation:

That Council:

1. Repeal existing P-2015/36 Building over or adjacent to Council Infrastructure Policy; and
2. Adopt a revised P-2023-11 Building over or near Council Infrastructure Policy (provided as Attachment 1).

Summary:

The existing Building over or adjacent to Council Infrastructure Policy has been comprehensively reviewed and a revised policy developed for Council's consideration which provides guidance on how building over or near Council infrastructure will be assessed.

Link to Corporate Plan:

Connecting Communities - We work with you and for you, supporting the success of our communities.
Delivering Value - We work efficiently to deliver value for your rates.

Background:

The Queensland Development Code (QDC) MP1.4 'Building over or near relevant Infrastructure' has been in place since December 2013 with some amendments made on the 13 November 2014. A copy is attached for Council's information. Its purpose is to protect public infrastructure from the impacts of building proposed over or in close proximity to public infrastructure. Under Section 14 of the *Building Act 1975*, building work must comply with the performance requirements set out in the code.

To aid building proponents to comply with the performance criteria, the Code provides 'Acceptable Solutions' that achieve the performance criteria for Class 1 and 10 structures. Where a building proponent is unable to achieve an 'Acceptable Solution', they can propose an 'Alternative Solution' which they consider meets the performance criteria of the Code. These 'Alternative Solutions' are assessed by Council on a case-by-case basis as a 'Concurrence Agency' for privately certified building applications or as the 'Assessment Manager' for building applications where Council is the building certifier.

The purpose of Council having a policy on the application of QDC MP1.4 is to provide additional guidance to building proponents on the application of the Code in the Gladstone Region as set out in the policy purpose. One of the key functions of the policy is to provide an opportunity for building proponents to assess what additional information and requirements are likely to be required for 'Alternative Solutions' so

that building proponents can make informed decisions about the location and scope of proposed building work before they commit resources to a proposal that may not be approved.

A number of issues have been raised with Council's existing policy which have been addressed in the revised policy, namely:

1. The existing policy reproduces much of what is in QDC MP1.4 which can create conflicts should the Code change over time. Therefore, the QDC has been referenced and the reproduced content removed from the policy along with other content taken from building codes, legislation or local laws.
2. Easements: Officers have consulted with a number of the larger Councils in relation to conditioning easements as part of an approval. The feedback received is that most of these service providers do not impose a condition that requires an easement as they consider that the *Water Supply (Safety and Reliability) Act 2008* provides sufficient legislative power for Council to access its infrastructure on private property for the purposes of operating, repairing, maintaining and replacing the infrastructure and the acceptable solutions/performance criteria in QDC protect the required space around the infrastructure to practically perform works.
3. Indemnities: Any policy that seeks to remove or restrict a State Government legislative provision would be considered invalid and the legislative provision would prevail. The indemnity agreements required under the existing policy seeks to limit the compensation provisions available under Section 39 of the *Water Supply (Safety and Reliability) Act 2008* and therefore may be considered invalid regardless of whether the agreement was a condition of a building approval. Therefore, the requirement for indemnity agreements has been removed from the revised policy.

If the revised Policy is adopted by Council, Officers propose to support the new policy, with a factsheet and other supporting information. The factsheet is currently being developed and will be finalised once Council has resolved its policy position. A tracked changes version of the Policy has not been provided as the Policy has been completely rewritten.

Risk Management Summary:

Council takes a balanced approach to risk with a moderate risk appetite for regulatory and legal consequences. Options 1 and 2 below align with Council's risk appetite, whilst option 3 would expose Council to a higher level of risk than options 1 and 2. Option 3 would also not align with Council's customer service approach of community education.

The impacts of historical building development located over or near Council infrastructure is likely to become more problematic as Council's underground infrastructure ages. This risk has been identified in Council's Risk Register (item 496) and it is being managed as issues arise and as Council plans for the replacement of infrastructure at the end of its useful life.

Options and Opportunity Analysis:

Option 1 – Adopt the Officer Recommendation

The opportunities associated with this option are that the revised policy will continue to align with related legislated documents as the content of those documents has been referenced, rather than reproduced in the policy. The existing policy provisions that do not align with legislative principles have also been removed reducing the risks and potential costs of legal challenge of building decisions/conditions. The policy also ensures that building proponents are made aware of the additional costs and requirements of Alternative Solutions prior to committing to a building proposal. The policy will also provide beneficial guidance to both our external customers and our Teams to ensure that we are getting consistent and reasonable decision making.

Option 2 – Adopt the Officer Recommendation with amendments to proposed Policy

The opportunities associated with this option are similar to option 1 but allows Council to make changes where deemed appropriate. The resolution to give this option effect would be:

“That Council:

- 1. Repeal existing P-2015/36 Building over or adjacent to Council Infrastructure Policy; and*
- 2. Adopt a revised P-2023-11 Building over or near Council Infrastructure Policy tabled as Attachment 1 to this report, subject to the following amendments:*
 - a. Insert amendment*
 - b. Insert amendment*
 - c. Insert amendment.”*

Option 3 – Repeal the Existing Policy without replacement

Removing and not replacing a policy would reduce the ongoing administrative costs associated with regular review. However, it has the potential to create reputational risks for Council associated with potential refusal of Alternative Solutions and/or the imposition of additional costs for CCTV investigations and RPEQ certifications that proponents are not aware of prior to committing to a building project. It may also result in Council taking compliance action where it is found that structures do not meet the criteria for exemption as a light-weight structure (Attachment 1 to the revised policy).

Stakeholder Engagement:

Development of the revised policy position has involved extensive internal consultation with all Teams involved in administering development applications and those involved in maintaining the relevant impacted infrastructure. Council’s Governance Team also contacted a number of other similar and larger Councils to assess how other local governments are managing the impacts of building works on Council infrastructure. The revised policy has not been the subject of stakeholder or community consultation.

Legal and Regulatory Implications:

Under the *Building Act 1975*, building proponents must comply with the requirements of the Queensland Development Code MP1.4 when proposing to build over or near relevant infrastructure.

Financial and Resource Implications:

There will be internal resources required if the new policy position is adopted to review and update associated administrative procedures and to complete the development of supporting public facing information and factsheets.

Anticipated Resolution Completion Date:

31 December 2023

Attachments:

1. Proposed P-2023-11 Building over or near Council Infrastructure Policy
2. Existing P-2015/36 Building over or adjacent to Council Infrastructure Policy
3. Queensland Development Code MP1.4 Building over or near relevant Infrastructure.

G/4.5. SALE OF LAND 2023/24

Responsible Officer: General Manager Finance Governance and Risk

Prepared By: Manager Revenue Services

Council Meeting Date: 5 December 2023

File Ref: RV7.1

Purpose:

The purpose of this report is to seek Council approval to take action on the 36 identified properties that have outstanding rates and recovery action is available under the Local Government Regulation 2012.

Officer's Recommendation:

That Council, pursuant to section 140(2) of *Local Government Regulation 2012*, resolve to sell the 36 properties listed in Attachment 1 to the officer's report, for overdue rates and charges.

Summary:

That Council, pursuant to section 140(2) of *Local Government Regulation 2012*, resolve to sell the 36 properties listed in Attachment 1, for overdue rates and charges

Link to Corporate Plan:

Delivering Value - We work efficiently to deliver value for your rates.

Background:

Attachment 1 provides a list of properties with outstanding rates which have now exceeded the three-year period, and the one-year period for vacant or commercial properties as of 20 November 2023. As per the attached table, this is a loss in revenue to Council amounting to \$584,135.54.

Section 140(2) of the *Local Government Regulation 2012* enables Council to resolve to sell land for recovery of overdue rates or charges where rates or charges have been overdue in excess of three years, or where default judgment has been obtained for vacant or commercial properties.

Once notice of its intention to sell land has been issued, if payment is not made within three months, Council may, within 6 months of giving notice of intention to sell, start the procedures for selling the land by auction under section 142.

An Auction must be held within 35 days of issuing an Auction Notice. The reserve price will be set in accordance with section 143. If the reserve is not reached, either by auction or subsequent negotiation, Council may decide to continue to offer sale under section 144 but the selling procedure must end within 12 months of giving the notice of intention to sell.

Interest will continue to accrue until the outstanding balances are paid in full. Section 141 requires that overdue rates and charges must be paid in full for sale procedures to be stopped.

It is possible that Queensland Land Tax owed to the Office of State Revenue will apply to several of the listed properties. Specific information regarding Land Tax is obtained closer to the auction date if applicable.

Risk Management Summary:

Council has a moderate appetite for financial risk and a minor appetite for reputational risk and this needs to be considered when taking the sale of land action.

The true utility of sale of land action lies in its unique and powerful ability to focus the minds of owners (as well as mortgagees) on the implications of non-payment of rates, or alternatively, on the implications of not abiding by the terms of a payment arrangement which Council has granted in good faith.

Currently, 36 Properties are identified in Attachment 1 as being eligible for sale of land action. This year's number of properties decreased by 5 properties in comparison to 2022/23 financial year. The properties are a mixture of land use types, including residential and vacant land. Only 7 properties identified in Attachment 1 are not encumbered by registered mortgages.

The utility of sale of land action to Council does not lie in the actual sale of properties. Historically, only a very small percentage of properties on the sale listed are sold;

2021/22 - 5 properties out of the original 71 were taken for sale on auction.

2022/23 - 1 property out of the original 42 was taken for sale on auction.

Council currently have 2 eligible properties excluded from the sale of land process due to the following;

- One property is on a payment plan under financial hardship.
- One property was not included due to ongoing legal action. *(If legal action is unsuccessful in securing payment, the properties will be included in the next sale of land action).*

Options and Opportunity Analysis:

Sale of land action is an effective means of encouraging ratepayers to comply with their legislative responsibilities, as indeed most ratepayers already do, in order to ensure that a fair and equitable financial contribution to the Gladstone Region is made by all.

Option 1 (Officer's recommendation):

That Council, pursuant to section 140(2) of *Local Government Regulation 2012*, resolve to sell the 36 properties listed in Attachment 1, for overdue rates and charges.

Option 2

That Council resolve not to proceed with selling the 36 properties listed in Attachment 1 for overdue rates and charges.

Stakeholder Engagement:

Internal stakeholders were engaged in preparing the report. Further engagement will be required in outworking the resolution.

Legal and Regulatory Implications:

Chapter 4 Part 12 of the *Local Government Regulation 2012* deals with the collection of overdue rates and charges by court proceedings and the sale of land.

Council may sell land for overdue rates and charges where the rates and charges remain unpaid for a period of more than three years for residential properties and one year for commercial properties and vacant land Council has obtained Court Judgment.

Financial and Resource Implications:

Rates and charges arrears are due and payable to Council. Failure to collect these amounts will result in a reduction of funds available to be expended for the benefit of the Gladstone Region by Council in accordance with its adopted budget.

All costs associated with the debt recovery process for the listed properties are recoverable either from the sale of land or can be added as a charge against the land.

Anticipated Resolution Completion Date:

It is anticipated that sale of land proceedings with respect to this resolution will be completed by 30 June 2024.

Attachments:

1. Sale Of Land List of Properties 20.11.2023

G/4.6. EOI 101-24 REPURPOSING OF VARIOUS WASTE STREAMS

Responsible Officer: General Manager Finance Governance and Risk

Prepared By: Manager Contracts and Procurement (Acting)

Council Meeting Date: 5 December 2023

File Ref: FM21.1

Purpose:

This report seeks resolution from Council to proceed to make use of the provisions in s228(3) of the *Local Government Regulation 2012* that allows for the invitation of expressions of interest before considering whether to invite written tenders. This resolution is sought in relation to the repurposing of various waste streams held by Council.

Officer's Recommendation:

That in accordance with Section 228(3) of the Local Government Regulation 2012, Council seek expressions of interest for the collection, processing and disposal of various waste streams throughout the Gladstone Region.

Summary:

There is an increasing need for Council to ensure that it is optimising its waste diversion strategies from landfill and to this end it is timely to investigate what providers maybe available in the ever changing waste market to continue to increase the diversion of waste from landfill to minimise both the environment and financial risks associated with the operations of our various transfer stations and regional landfill.

Given the variability of the offerings likely to be received from the market, an expression of interest is best utilised to understand market interest and the options available to Council, without commitment, before progressing to formal written tender.

Link to Corporate Plan:

Delivering Value - We work efficiently to deliver value for your rates.

Background:

Council is required sometimes to engage Contractors to collect, dispose or process and dispose of various types of waste collected at waste facilities throughout the Gladstone Region. Council wishes to seek market options for collections of the following waste types and services:

- Timber (processed timber chip and unprocessed),
- Hard Plastics,
- Fire Extinguishers,
- Processed green waste (Mulch),
- Solar Panels,
- Batteries (non-automotive),
- InertMix/Bitumen,
- Tyres
- Butane Gas Bottles/Containers,
- Air Conditioners, Degassing services (Fridges, air conditioners, gas bottles)

- Concrete
- Or other identified waste streams

Risk Management Summary:

Council has a moderate appetite to financial risk and a minimal appetite to environmental exposures, this proposal is seeking to minimise waste to landfill and put in place optimal arrangements that allow for the bundling of recyclable wastes in the most cost effective manner.

Options and Opportunity Analysis:

An Expression of Interest (EOI) is intended to seek information from businesses that are capable of removing and repurposing waste material at selected locations throughout the region

- An EOI will provide the following benefits:
- Opportunity to capture the entire market;
- View a wide range of businesses;
- Allow opportunity for businesses to present solutions relevant to our regions needs and GRC desired outcomes; and
- The process will allow GRC to refine our preferred solution in a collaborative nature with proponents.

Stakeholder Engagement:

Manager of Waste Program Delivery has made the request to investigate the opportunities in the market for the repurposing of Waste Material collected within the region.

Legal and Regulatory Implications:

Section 228(3) of the Local Government Regulation 2012 states that the local government may invite expressions of interest only if it:

- a) decides, by resolution, that it would be in the public interest to invite expressions of interest before inviting written tenders; and
 - b) records its reasons for making the resolution in the minutes of the meeting at which the resolution was made.
- c) Additionally, Section 228(6) states that if the local government invites expressions of interest, the local government may:
- d) prepare a short list from the persons who respond to the invitation for expressions of interest; and
 - e) invite written tenders from those persons.

Financial and Resource Implications:

There will be no cost incurred by Council for conducting the EOI, except for resource time in the preparation, management, evaluation, and closure of the EOI.

Anticipated Resolution Completion Date:

March 2024

Attachments:

Nil

G/5. COUNCILLORS REPORT

G/6. URGENT BUSINESS

G/7. NOTICE OF MOTION

G/8. CONFIDENTIAL ITEMS