



GLADSTONE
REGIONAL COUNCIL

GENERAL MEETING MINUTES

**HELD AT THE COUNCIL CHAMBERS - CIVIC CENTRE
101 GOONDOON STREET, GLADSTONE**

On 2 October 2018

Commencing at 9.00am

**Leisa Dowling
ACTING CHIEF EXECUTIVE OFFICER**

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Elected Members

Councillor - Mayor M J Burnett
Councillor G G Churchill
Councillor K Goodluck
Councillor R A Hansen
Councillor P J Masters
Councillor D V O'Grady
Councillor P J Sobhanian
Councillor C A Trevor

Officers

Mrs L A Dowling (Acting Chief Executive Officer)
Ms L M Hendrick (Executive Assistant)

APOLOGIES

Nil

G/0.3.2. DISCLOSURE OF INTERESTS

MATERIAL PERSONAL INTERESTS

Pursuant to section 175(C) of the Local Government Act 2009, where a Councillor declares a Material Personal Interest in an agenda item, the Councillor must leave the room for the agenda item.

G/3.5.1 GLADSTONE REGION REGIONAL ARTS DEVELOPMENT FUND (RADF) SPECIAL ROUND JULY 2018 AND ANNUAL GENERAL MEETING

Cr O'Grady

Cr O'Grady declared a Material Personal Interest in Item G/3.5.1. as one of the applicants, Frances Schulze is her Aunty and may stand to gain or suffer loss from the funding. Cr O'Grady advised that she will leave the room during the consideration of Item G/3.6.2.

CONFLICTS OF INTEREST

Pursuant to section 175(E) of the Local Government Act 2009, where a Councillor declares a Conflict of Interest and elects to leave the room for an agenda item, a resolution of Council is not required.

G/6.1. NOTICE OF MOTION - FLUORIDE IN COUNCIL'S DRINKING WATER (AWOONGA DAM SCHEME)

Cr Sobhanian

Cr Sobhanian declared a perceived Conflict of Interest in Item G/6.1. as he advised he:

- (a) Is a dentist that practices locally;
- (b) Is a member of the Australian Prosthodontics Society
- (c) Is a member of the Australian Dental Association (ADA), and
- (d) Was previously a Committee Member of the ADA.

Cr Sobhanian has taken advice from the Office of the Integrity Commissioner (which has been shared in full with Councillors and the CEO) and in line with that advice and the public interest, Cr Sobhanian advised that he will remain in the room during the consideration of Item G/6.1

G/18 /3533 Council Resolution:

Moved Cr Trevor
Seconded Cr Goodluck

Council has determined that Cr Sobhanian has a perceived Conflict of Interest in Item G/6.1.

CARRIED

G/18 /3534 Council Resolution:

Moved Cr Goodluck
Seconded Cr Trevor

Cr Sobhanian can remain in the room and vote on Item G/6.1.

CARRIED

G/3.5.1 GLADSTONE REGION REGIONAL ARTS DEVELOPMENT FUND (RADF) SPECIAL ROUND JULY 2018 AND ANNUAL GENERAL MEETING

Cr Churchill

Cr Churchill declared a perceived Conflict of Interest in Item G/3.5.1. and advised his wife, Sue Churchill is a volunteer with Welcoming Intercultural Neighbours Inc. and his daughter-in-law, Lauren Churchill is a new member of the Regional Arts Development Fund Committee. Cr Churchill advised that he will remain in the room during the consideration of Item G/3.5.1

G/18 /3535 Council Resolution:

Moved Cr Trevor
Seconded Cr Masters

Council has determined that Cr Churchill has a perceived Conflict of Interest in Item G/3.5.1.

CARRIED

G/18 /3536 Council Resolution:

Moved Cr Trevor
Seconded Cr Masters

Cr Churchill can remain in the room and vote on Item G/3.5.1.

CARRIED

G/1. MAYORAL STATEMENT OF CURRENT ISSUES

Mayor's Statement on current issues and what a fortnight it has been. Firstly, starting with the 21 September and the Coal gasification project and the announcement of a \$1 Billion Energy and Ammonia Plant in Gladstone. It was very good to be on site with our member for Gladstone Glenn Butcher and Australian Future Energy CEO Kerry Parker. This project has now received major project status by the Coordinator General, that is a fantastic announcement for the Gladstone region. This is what happens when you promote your region as an energy hub nationally and internationally, investment follows.

On the 23 September, Liam Madsen set sail on the Young Endeavour and that was supported by our youth Council. Hats off to our youth Council for raising funds for Liam to participate in the Young Endeavour youth scheme. I will ask Councillor Glenn Churchill in Councillor reports to provide further information.

On 25 September I was fortunate to be in Rockhampton at the University of Queensland for the Australia-Singapore Military Training Initiative announcement of the Managing Contractor for the Shoalwater Bay Training Area Works by Assistant Minister for Defence, Senator Hon David Fawcett. The project is a \$700M Australian - Singapore Military Training Initiative, congratulations managing contractor Laing O'Rourke. And the \$130M for the Shoalwater Bay Remediation project which goes to FKG Downer.

Now the good news about this for Gladstone, is that Gladstone businesses are included as part of the local procurement policy for these projects. I encourage any local businesses thinking of applying for contracts to attend the local Gladstone Engineering Alliance conference on the 11 October where members from Defence will be able to provide further information. I'd like to thank the member for Capricornia Michelle Landry and the Senator for inviting me to that very important announcement.

On the 26 September we had a small function in the Chambers welcoming Alwyn Doolan, who is walking from Bamaga (Tip of QLD) to Canberra Act, Parliament House. This is a Message Stick Walk to inspire the younger generations of raising awareness of reconciliation. Congratulations to Alwyn on his walk, much similar to a walk my Deputy did not too many years ago.

It was fantastic to be at the Gladstone Fire Station on the 28 September for the appliance handover of \$1.18M for Rescue Appliances for Gladstone Fire & Emergency Services. Thank you to Glenn Butcher and the Queensland Government for the funding for the Gladstone Fire Service. I note that we have an honourable member of the fire service in our gallery today. I would also like to acknowledge the 15 years' service to Lance Costa and retiring Fire Fighters Wayne Larcon 45years and Donald Baldwin 51 years of service, hats off to those gentlemen for the work they have done for our community. I think you will find that Wayne and Donald have now both joined the Rural Fire Fighters which is great news for the Gladstone region.

On the same day we met with the proponents of the Asia Pacific Agri-corp project, the project in the Gladstone State Development Area (GSDA). Asia Pacific Agri-corp has received approval to build a \$3.80M high tech Beef processing facility, located near the old Euroa homestead. It is fantastic to see the project progressing and well done to Dan Daly and Leo Neil-Ballentine the proponents, many years of hard work in the background to make this happen and secure their investment and ensure that the project moves forward.

Create, innovate and diversity is the theme of our new Corporate Plan and it's projects like these three I have just spoken about that in the last couple of weeks are helping diversify our economy.

Calliope Rodeo was on the weekend, congratulations to Will Wilson, Desley O'Grady and to all those involved in this successful event, I know that Councillor Masters was on the gate thank you Councillor. I hear there was even a wedding proposal on the night, congratulations to them.

Coming up in the next couple of weeks we have the Baffle Creek Family Fishing Festival and I hope some Councillors get down there and catch themselves some fish and also of course we have the Under the Trees Music and Arts festival at Boyne Island, and as I said earlier a major industry conference for GEA which is certainly worth attending if you are in that line of business.

The Mayor included an extract from Cr Churchill's verbal report as follows:

At a tribute at the candlelight vigil for the National Police Remembrance Day, Cr Masters joined me (Cr Churchill) in lighting the candle and laying flowers at the unveiling of the Owen Timothy Harms memorial plaque. I was touched that his wife Lyn was able to attend the tribute with Deputy Inspector Darren Somerville, as this would have not been easy for her. The plaque appropriately sits outside the entry to the Gladstone Police Station. The unveiling is about the memories and paying tribute to all those who paid the ultimate sacrifice.

G/2. CONFIRMATION OF MINUTES

G/2.1. CONFIRMATION OF GENERAL MEETING MINUTES FOR 18 SEPTEMBER 2018

File Ref: CM7.2

Purpose:

Confirmation of the minutes of the General Meeting held on 18 September 2018.

Officer's Recommendation:

That the minutes of the General Meeting of Council held on 18 September 2018 be confirmed.

G/18 /3437 Council Resolution:

Moved Cr Masters
Seconded Cr Hansen

That the Officer's Recommendation be adopted.

CARRIED

G/3. OFFICERS' REPORTS

G/3.1. OFFICE OF THE CEO

Nil.

G/3.2. STRATEGY AND TRANSFORMATION

Nil.

G/3.3. STRATEGIC ASSET PERFORMANCE

G/3.3.1. TONDOON BOTANIC GARDENS WATER SUPPLY

File Ref: PR4.1

Purpose:

The purpose of this report is to update Councillors of the water supply issues at Tondoan Botanic Gardens and seek approval to reallocate budget to undertake urgent water main works to ensure the gardens can be irrigated to sustain the plants in the living collections.

Officer's Recommendation:

That Council approve the reallocation of funds to the value of \$213,000 from Capital Budget PKC0180, Tondoan Botanic Gardens Demonstration Gardens (\$250,000.00 allocated) to Tondoan Botanic Gardens Water Supply project.

G/18 /3538 Council Resolution:

Moved Cr Masters
Seconded Cr Hansen

That Council hold over the matter to a future meeting for further information to be obtained.

CARRIED

G/3.4. OPERATIONS

Nil.

G/3.5. COMMUNITY DEVELOPMENT AND EVENTS

Cr O'Grady (declared Material Personal Interest)
left the room during the consideration and voting of Item G/3.5.1
 (refer G/0.3.2 Disclosure of Interest section of the minutes – page 4)

Cr Churchill (declared perceived Conflict of Interest)
remained in the room during the consideration and voting of Item G/3.5.1
 (refer G/0.3.2 Disclosure of Interest section of the minutes - page 5)

G/3.5.1. GLADSTONE REGION RADF (REGIONAL ARTS DEVELOPMENT FUND) SPECIAL ROUND JULY 2018 AND AGM

File Ref: CC7.16

Purpose:

Regional Arts Development Fund (RADF) Committee reporting on recommendations following assessment of Special Round July 2018 and Annual General Meeting (AGM). As per the RADF Agreement with Arts Queensland, there is provision for a Special Round in cases where quality applications are received and there are surplus funds within the financial year.

Officer's Recommendation:

That:

1. Council accept the recommendations of its Regional Arts Development Fund (RADF) Committee and approve funding for the following applications for the Special Round July 2018:

<i>Applicant</i>	<i>Project Title</i>	<i>Project description</i>	<i>Category</i>	<i>Artform</i>	<i>Total project cost</i>	<i>RADF investment recommended (committee meeting held 6pm 5/9/2018)</i>
AWSUM Inc.	<i>AWSUM UKE JAM 2018</i>	Host three-day music event attracting ukulele groups and players, including performances and workshops	Cultural Tourism	Music	\$11,400.00	\$7,400.00
Baffle Art Group	<i>Life Drawing Workshop</i>	Host introduction to life drawing workshop, led by local artist Jenny Fournier	Building Community Cultural Capacity	Visual Arts	\$2,316.50	\$1,340.00
Frances Schulze	<i>National Basketry Gathering 2019</i>	Travel and attend April 2019 National Basketry Gathering, in Aldinga, SA	Developing Regional Skills	Craft	\$1,835.00	\$1,165.00
Gladstone Arts Council Inc.	<i>GAC Celebrates 50 Years – a history</i>	Research and write the 50-year history	Contemp. Collections / Stories	Writing	\$12,000.00	\$8,000.00

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Jack Viljoen	<i>Music video, three songs</i>	Local film crew on location in the Gladstone Region to film three music videos, featuring local artists and stories	Cultural Tourism	New Media	\$22,300.00	\$10,600.00
Jennifer Ryan	<i>My RhuPus Life, from orange socks to orange trees</i>	Solo exhibition at the Gladstone Inclusion Centre, with multi-modal art tools to tell personal health story	Contemp. Collections / Stories	Visual Arts	\$5,308.00	\$2,205.00
Luke Graham	<i>Sharko</i>	Project and teaser development for feature length documentary based on local rugby league immortal Mark Graham	Regional Partnerships	New Media	\$34,000.00	\$10,000.00
SES	Gladstone SES History	Artwork layout for history book of the SES in Gladstone	Contemp. Collections / Stories	Design	\$19,380.00	\$4,620.00
WIN Inc	Gladstone Inclusion Centre Art Direction	Engage local artist to develop an Art Direction plan document for the newly established Centre.	<i>Concept Development</i>	Visual Arts	\$14,800.00	\$7,000.00
TOTAL					\$123,339.50	\$52,330.00

2. Council note the acceptance of Outcome Reports for the following RADF projects:
 - a. Gladstone Festival and Events – *Recycled Instruments*
 - b. Jan Ross-Manley – *Reef: Art/Wonder/Science*

3. Council note the acceptance of ten (10) nominations. Nine (9) were received during the Annual General Meeting and a further one (1) nomination following consultation.
 - a. Tina Skyring-Quirk
 - b. Adrienne Ward
 - c. Jennie Ryan
 - d. Michael Lunan
 - e. Wesley Walker
 - f. Belynda (Bindi) Waugh
 - g. Hannah Rodda
 - h. Lorna McGrath
 - i. Michael Connolly
 - j. Chantelle Johnson

G/18 /3539 Council Resolution:

Moved Cr Sobhanian
 Seconded Cr Hansen

That the Officer's Recommendation be adopted.

CARRIED

G/3.6. CUSTOMER EXPERIENCE

Nil.

G/3.7. PEOPLE CULTURE AND SAFETY

Nil.

G/3.8. FINANCE GOVERNANCE AND RISK

G/3.8.1. DELEGATIONS - COUNCIL TO THE CEO - EXERCISE OF STATUTORY POWERS - SIX MONTHLY UPDATE AUGUST 2018

File Ref: CM9.2

Purpose:

This report recommends changes and inclusions to Council's Register of Exercise of Statutory Powers – Council to Chief Executive Officer to reflect legislative changes as updated by the Local Government Association of Queensland for the six-month period ending 8 August 2018.

Officer's Recommendation:

That in accordance with Section 257 of the *Local Government Act 2009*, Council:

1. Repeal part of Resolution G/18/3457, be repealing existing delegations to the Chief Executive Officer under the Heavy Vehicle National Law (Qld);
2. Delegate the exercise of powers contained in Attachment 1 of the officer's report to the Chief Executive Officer for the following legislation:
 - (a) Heavy Vehicle National Law (Qld);
 - (b) *Industrial Relations Act 2016*;
 - (c) *Industrial Relations Regulation 2018*;
 - (d) *Labour Hire Licensing Act 2017*;
 - (e) *Land Title Act 1994*;
 - (f) *Strong and Sustainable Resource Communities Act 2017*;
3. Adopt the new additional delegations to the Chief Executive Officer for the following legislation as contained in Attachment 1 of the officer's report:
 - (a) *Waste Reduction and Recycling Act 2011* (acknowledging that these provisions will not commence until the 1 November 2018);
 - (b) *Work Health and Safety Act 2011*.
4. Amend the existing delegations to the Chief Executive Officer under Sections 218 and 281(3) of the *Water Act 2000* to reflect the amended scope of power under the respective delegations as contained in Attachment 1 of the officer's report.

G/18 /3540 Council Resolution:

Moved Cr Churchill
Seconded Cr O'Grady

That the Officer's Recommendation be adopted.

CARRIED

G/3.8.2. REVIEW OF COMMERCIAL ACTIVITIES ON COUNCIL LAND POLICY

File Ref: CM28.2

Purpose:

To adopt changes to the Commercial Activities on Council Land Policy and Corporate Standard.

Crs Hansen, O'Grady and Sobhanian raised that they may have a Material Personal Interest during the discussion of this item.

Cr Hansen declared a Material Personal Interest as he is a business owner in the Gladstone Region and may stand to gain or suffer loss from the Policy decision made and left the room during part of the consideration and voting of Item G/3.8.2

Cr O'Grady declared a Material Personal Interest as a family member is a business owner in the Gladstone Region and may stand to gain or suffer loss from the Policy decision made and left the room during part of the consideration and voting of Item G/3.8.2

Cr Sobhanian declared a Material Personal Interest as he is an owner of a dental practice in the Gladstone Region and may stand to gain or suffer loss from the Policy decision made and left the room during part of the consideration and voting of Item G/3.8.2

Officer's Recommendation:

That Council:

1. Repeal P-2017/01 - Commercial Activities on Council Land Policy;
2. Repeal CS-01-2017 - Commercial Activities on Council Land Corporate Standard;
3. Adopt P-2018-11 - Commercial Activities on Council Land Policy attached as **Addendum 1**; and
4. Endorse the Chief Executive Officer to progress adoption of proposed changes to CS-04-2018 - Commercial Activities on Council Land Corporate Standard.

G/18 /3541 Council Resolution:

Moved Cr Masters
Seconded Cr Goodluck

That the Officer's Recommendation be adopted.

CARRIED

G/4. COUNCILLORS REPORT

Nil.

G/5. URGENT BUSINESS

Nil.

G/6. NOTICE OF MOTION

**Cr Sobhanian (perceived Conflict of Interest)
remained in the room during the consideration and voting of Item G/6.1
(refer G/0.3.2 Disclosure of Interest section of the minutes – page 4)**

File Ref: CM7.2

Purpose:

On 20 September 2018 Cr Trevor gave a notice of intention to propose a motion at Council's General Meeting on 2 October 2018 on the matter of fluoride in Council's drinking water (Awoonga Dam Scheme) as detailed in the Notice of Motion report.

The meeting had a considerable discussion on fluoride in the water supply (Awoonga Dam Scheme) in which Cr Trevor tabled documents as detailed below.

G/18 /3542 Council Resolution:

Moved Cr Trevor
Seconded Cr Sobhanian

That Council actively seek the feedback of the community in respect to the removal of fluoride from water sources at Awoonga Dam and Yarwun Treatment Plants, through a survey of targeted communities impacted by the decision.

MOTION LOST

G/18 /3543 Council Resolution:

Moved Cr Trevor
Seconded Cr Sobhanian

That Council:

1. Advise the Gladstone Area Water Board that it supports the evidence of the National Health and Medical Research Council and supports the reintroduction of fluoride into Council's water sources at Awoonga Dam and Yarwun Treatment Plants; and
2. Council endorse the initial allocation of \$150,000 for the reinstatement of fluoride dosing infrastructure at Awoonga Dam and Yarwun Treatment Plants; noting an allocation of \$30,000 per annum in operational costs thereafter.

MOTION LOST

Cr Trevor tabled the following documents:-

1. Email from Dr Hitesh Rathi, Principal Dentist, Central Queensland Hospital and Health Service (CQHHS) Oral Heal Service dated 2 October 2018 and enclosures:-

- a) November 2004 Queensland Household Survey Summary Report Prepared for Department of Health, Queensland Government.
- b) Osteosarcoma and Fluoride Information Bulletin, Queensland Government
- c) Research Article - Community Effectiveness of Public Water Fluoridation in Reducing Children's Dental Disease - Jason Mathew Armfield, PHD - Public Health Reports / September-October 2010 / Volume 125
- d) Queensland Government Department of Health Fact Sheets - Water Fluoridation; Frequently Asked Questions; Common Fluoride Myths
- e) Australian Dental Association Policy Statement 2.2.1 - Community Oral Health Promotion: Fluoride Use (Including ADA Guidelines for the Use of Fluoride)
- f) Australian National Health and Medical Research Council. Canberra: Australian Government; 2007 - Summary Review / Caries - A systematic review of the efficacy and safety of Fluoridation
- g) J.V. Kumar - Bureau of Dental Health, New York State Department of Health -Is Water Fluoridation Still Necessary?

**The meeting adjourned for morning tea at 11.08am
and reconvened at 11.26 am.**

G/7. CONFIDENTIAL ITEMS

G/18 /3544 Procedural Motion:

Moved by Cr Hansen
Seconded Cr Masters

That in accordance with Section 275 (1) of the Local Government Regulation 2012,
the meeting be closed to the public to discuss business relating to the following: -

- e) contracts proposed to be made by it.

CARRIED

G/18 /3545 Procedural Motion:

Moved by Cr Goodluck
Seconded Cr Sobhanian

That Council re-open the meeting to the public.

CARRIED

G/7.1. PSA 14-19 PLUMBING SERVICES

File Ref: PE8.2

G/18 /3546 Council Resolution:

Moved Cr Goodluck
Seconded Cr Churchill

That Council enter into Preferred Supplier Arrangements with:

1. Aestec Pty Ltd, NTS Group Pty Ltd, Scae Pty Ltd T/A SE Plumbing and Xport Plumbing Pty Ltd for the provision of Plumbing Services in accordance with the tender specifications and their respective submissions for an initial period of twelve (12) months; and
2. Authorise the Chief Executive Officer (or delegate) to exercise the option of extending the contracts for a further period of twelve (12) months subject to continued need and satisfactory performance.

CARRIED

G/7.2. PSA 16-19 METAL FABRICATION SERVICES

File Ref: PE8.2

G/18 /3547 Council Resolution:

Moved Cr Hansen
Seconded Cr O'Grady

That Council enter into a Preferred Supplier Arrangement with:

1. Wynweld Pty Ltd, Butler Fabrication, D & S Supplies and Programmed Industrial Maintenance, for the provision of Metal Fabrication Services in accordance with the tender specifications and their respective submissions for an initial period of twelve (12) months; and
2. Authorise the Chief Executive Officer (or delegate) to exercise the option of extending the contracts for a further period of twelve (12) months subject to continued need and satisfactory performance.

CARRIED

G/7.3. PSA 175-18 HYDRO EXCAVATION SERVICES

File Ref: PE8.2

G/18 /3548 Council Resolution:

Moved Cr O'Grady
Seconded Cr Trevor

That Council:

1. Enter into two (2) Preferred Supplier Arrangements with Toxfree Australia Pty Ltd and Power Pumping Pty Ltd for the provision of Hydro-excavation Services for various Council activities, in accordance with the tender specifications and their submission for an initial period of twelve (12) months, and
2. Authorise the Chief Executive Officer (or delegate) to exercise the option of extending the contract for a further period of twelve (12) months subject to continued need and satisfactory performance.
- 3.

CARRIED

There being no further business the Mayor formally closed the meeting.

THE MEETING CLOSED AT 11.52 am

CERTIFICATION

I hereby confirm that I have read the minutes
and they are a true and correct record of the
proceedings of the meeting.

I certify that these 33 pages
form the official copy of Gladstone Regional Council
General Meeting Minutes of the 2 October 2018.

.....
Mayor Matt Burnett

...../...../.....
Date

ATTACHMENTS

ADDENDUM 1



Gladstone Regional Council

Council Policy

Title	COMMERCIAL ACTIVITIES ON COUNCIL LAND
Policy Number	P-2018/11
Business Unit/s	CUSTOMER EXPERIENCE
Date of Adoption	
Resolution Number	
Review Date	
Date Repealed	

1.0 PURPOSE:

The purpose of this policy is to outline the framework and principles for making decisions about the allocation and use of community land for commercial activities when considering granting an approval under *Local Law no. 1 (Administration) 2011* for the prescribed activity of "Commercial Use of Local Government Controlled Areas and Roads".

2.0 SCOPE:

The policy applies to commercial activity on all Local Government Controlled Areas and Roads¹ in the Council area. In general, this includes all land under the control or management of Council such as offices, depots, facilities, parks, reserves, roads and road reserves, footpaths, bathing reserves and foreshores. Council retain the control and management of the land (owned and as Trustees) when subleasing areas or roads to a third party.

This policy does not override other policies and processes but only applies to the extent to which they are not in conflict with other policies or processes. To be clear, this policy does not apply to temporary entertainment events and any activity associated with the event.

The policy does not apply to:

- personal training sessions where five individuals or less are participating;
- activities of minimal use that occur ancillary to a permanent facility;
- commercial activities on National Parks, land and waterways that are controlled directly by the State, including schools, private land and any other land and waterways that Council does not control unless the State Government has specifically granted such control over those areas to Council²;
- activities associated with private functions e.g. photographers, party goods hire etc.;
- commercial activities where the activity operates in conjunction with the lessee and is only operating during the time the land is used for its primary purpose.

¹ Refer to *Local Law No. 1 (Administration) 2011* for full definition of "local government controlled area" and "road".

² The State may, for example, grant control to Council over part of State Government controlled road reserves.

3.0 RELATED LEGISLATION:

- *Land Act 1994*
- *Local Government Act 2009*
- *Local Law No. 1 (Administration) 2011*
- *Subordinate Local Law No. 1.2 (Commercial Use of Local Government Controlled Areas and Roads) 2011*
- *Environmental Protection Act 1994*
- *Transport Operations (Road Use Management) Act 1995*
- *Planning Act 2016*
- *Safety in Recreational Water Activities Act 2011*
- *Work Health and Safety Act 2011*
- *Coastal Protection and Management Act 1995*

4.0 RELATED DOCUMENTS:

- Commercial Activities on Council Land Corporate Standard (CS-04-2018)
- Application Form - Commercial Activities - Fitness, Beach, Other (AF - COA01)
- Application Form - Commercial Activities - Stationery or Mobile Vending (AF - COA09)

5.0 DEFINITIONS:

To assist in interpretation of this policy the following definitions apply:

- **"Commercial"** means soliciting or carrying on the supply of goods or services (including food or drink) for profit
- **"Community land"** means public open space (including waterways) that has been set aside for the community either by the State, where Council is trustee, or by Council, in the case of freehold and leasehold land, for which Council has the responsibility to manage.
- **"Community use"** means the use of community land for artistic, social, recreational or cultural activities that do not incorporate commercial activities.
- **"Minimal Use"** means activities that have minimal or limited interference or disruption with the pedestrian or vehicle operation of a road and/or road corridor.
- **"Mobile roadside vending"** means an operator soliciting or carrying on the supply of goods or services (including food or drink) for profit in circumstances where-
a) the operator travels from place to place: and
b) the operator supplies the food or services to a customer in response to the customer waiving down the operator
- **"Operation of temporary entertainment event"** means the opening to the public, or the preparation for opening to the public, of an entertainment event and for which the opening to the public does not constitute development under the Planning Act.
- **"Primary purpose"** means the purpose for which the land was set aside for the community. Examples of primary purpose include sport and recreation, environmental purposes, beach protection and coastal management.

- "**Secondary use**" means the use of community land that does not align with the land's primary purpose, or is commercial in nature.
- "**Stationary Roadside Vending**" means an operator soliciting or carrying on the supply of goods or services (including food or drink) for profit in circumstances where-
 - a) the operator carries on the activity from -
 - i) a specified place; or
 - ii) a number of specified places; but
 - b) the activity is not footpath dining.
- "**Like for Like**" means an operator soliciting or carrying on the supply of goods and services that are similar in nature to where other approved fixed and mobile operators exist within the below proximity of the proposed location:

Suburb	Proximity
Agnes Water/1770	1km
Baffle Creek	1km
Boyne Island/Wurdong Heights	1km
Boyne Valley	1km
Calliope	1km
Clinton/Byellee/Callemondah	1km
Gladstone City	500m
Kin Kora	500m
Kirkwood	500m
Lowmead	1km
Miriam Vale	1km
New Auckland	500m
Rosedale	1km
South Gladstone	500m
South Trees/Glen Eden	1km
Sun Valley	500m
Tannum Sands/Benaraby	1km
Turkey Beach	1km
West Gladstone	500m
Not Specified	1km

6.0 POLICY STATEMENT:

Council acknowledges the primary purpose of local government-controlled areas and roads is for community use. Council is committed to ensuring that land set aside for the community is preserved for such community use in accordance with its obligations under the *Land Act 1994*, the *Local Government Act 2009* and relevant Local Laws. The preservation of community land for its primary purpose is paramount; however, it is recognised that in some circumstances, a secondary use for commercial purposes may enhance the use of the community land and provide a benefit to the community.

Applicants must address the guiding principles; any additional principles specific for the type of commercial use proposed and be able meet the requirements of the approval as issued.

6.1 GUIDING PRINCIPLES

The following principles apply to all commercial use on community land and will be considered when assessing any applications for such use.

6.1.1. Community Use Takes Precedence

The primary purpose of the land is for community use and as such, any conflict with the below uses or users of the land must be resolved for approval to be given:

- Informal social gatherings and celebrations
- Formal events and celebrations
- Quiet reflection
- Passive recreational activities
- Residents and tourists
- Community groups
- Amenity of the local area

6.1.2. Alignment with Council's Vision

Proposals for the commercial use of community land must align with Council's vision and strategic direction as articulated in Council's Corporate Plan.

6.1.3. Community Benefit

Commercial use of community land must provide benefits to the community, and may include commercial activities that:

- promote the primary purpose of the land; or
- support or service the needs of the users of that land, where they are unable to be serviced from adjoining private land; or
- contributes to the Gladstone region's tourism; or
- will not diminish the purpose of the land or level of service provided, i.e. will not have an unreasonable adverse effect on free and equitable access to the land or its use; or
- cannot operate anywhere other than the community land, such as aquatic activities.

6.1.4. Limited Impact

Commercial use of community land must not unduly impact on the primary users of the community land, local businesses, the environment or Council assets and maintenance programs. To assess the potential impact on the community land, the following will be considered:

- noise and other pollution,
- visual impacts,
- flora and fauna,
- access,
- vehicle parking,
- safety,
- increased use and degradation of the space,
- operational maintenance activity times and durations,
- the local community's desire and tolerance for the proposed activity,
- the local area's population and growth,
- existing businesses and 'like for like' menu items, and
- the ability for the location to support various types of activities.

6.1.5. Compliance with other agencies' requirements

Depending on the location, some applications may also specify special requirements such as the following:

- accreditation with Surfing Australia and/or Academy of Surfing Instructors
- satisfactory land management plans, and
- approval of other authorising agencies such as the Department of Environment and Heritage Protection, Department of Natural Resources and Mines and the Department of Transport and Main Roads.

6.1.6. Annual Approvals - No Exclusive Use or Ongoing Rights

Council has a preference for diversity and competition amongst approval-holders, and the potential for market dominance will be taken into account when awarding approvals.

Applicants should be aware that approvals do not grant exclusive use to the land and do not confer ongoing occupation rights. Approvals are transferrable however transfer must be approved by Council and will only be valid for the remainder of the existing approval period. Further, an approval may be revoked without compensation in specified circumstances such as unsatisfactory safety standards or lack of compliance with approval conditions.

6.2 TYPES OF COMMERCIAL USE

Council receives a variety of proposals for commercial activities on community land and are generally categorised as below. If an application is made outside of the below types of commercial use, it will be assessed based on the guiding principles above and relevant legislation.

6.2.1 Commercial Beach Activities

The primary purpose of the commercial use is for activities located on a beach reserve, foreshore or boat ramp/jetty that can only occur within the coastal area (i.e. surf schools). The activity on Agnes Water Main Beach will be limited to 3 Surf Schools due to ensuring safety of users and to ensure the use of the land is maintained. Other beach areas will be assessed on a merit basis. Applicants are required to address the guiding principles, possess the required level of public liability insurance for the duration of their activities, and provide proof of accreditation with approved bodies annually and upon application. In addition, applicants must address the below criteria to the satisfaction of Council:

- a) how the activity contributes to providing local employment;
- b) whether the goods or items are supplied by local suppliers;
- c) whether the goods or services proposed are needed to meet public demand.

6.2.2 Commercial Fitness Activities

The primary purpose of the commercial use is for fitness activities located in parks, reserves or beaches that involve health and well-being (i.e. personal fitness training, yoga classes). Applicants are required to address the guiding principles and possess the required level of public liability insurance for the duration of their activities.

6.2.3 Commercial Entertainment Activities

The primary purpose of the commercial use is for activities involving a form of entertainment (i.e. laser skirmish, paint ball). Applicants are required to address the guiding principles and possess the required level of public liability insurance for the duration of their activities.

6.2.4 Mobile and Stationary Vending

The primary purpose of the commercial use is for undertaking mobile or stationary vending from a stall, mobile van, trailer or the like. The activity may or may not be applicable to road reserves. Applicants are required to address the guiding principles and possess the required level of public liability insurance for the duration of their activities.

In addition, applicants must address the below criteria to the satisfaction of Council:

- d) whether the activity competes with fixed premises and offers 'like for like' menu items;
- e) how the activity contributes to providing local employment;
- f) whether the goods or items are supplied by local suppliers;
- g) whether the goods or services proposed are needed to meet public demand.

Applicants must apply to Council for a permit to operate on land that is subleased, if they are operating

Applications for Stationary Roadside Vending on State Controlled land are exempt from Councils approval process as the applicant will be required to gain approval from Queensland Department Transport and Main Roads. Applicants can request Council to provide a letter of support or objection for submission with their application to Department Transport and Main Roads.

6.3 MINIMUM STANDARDS FOR SPECIFIED ACTIVITIES

Schedule 1 of *Subordinate Local Law No. 1.2 (Commercial Use of Local Government Controlled Areas and Roads) 2011* outlines minimum standards for the below activities:

- Footpath dining
- Goods for sale on footpath
- Busking

If a commercial operator complies with the minimum standards for the above activities, there is no requirement to gain a separate approval from Council prior to operating the activity. However, if an operator cannot meet the minimum standards, an application in accordance with the guiding principles will need to be made and approved prior to operation.

6.4 COMMERCIAL ACTIVITIES OCCURRING AS PART OF A TEMPORARY ENTERTAINMENT EVENT

Temporary entertainment events require approval from Council where operated on a Council controlled area or road. Where such approval has been granted, separate commercial activity approvals for each individual stall holder are not required.

6.5 APPLICATION PROCESS

Applications for new commercial activities can be made at any time and must be made on the current approved application form. Any applications submitted with required information missing will be requested to provide further information before proceeding.

When assessing and determining a decision on an application, Council will consider (as a minimum) the following:

- a) if the proposed activity aligns with the Guiding Principles outlined in this policy;
- b) if the proposed activity aligns with additional specific principles outlined in this policy for the type of commercial activity proposed;
- c) if the application complies with the requirements of *Subordinate Local Law No. 1.2 (Commercial Use of Local Government Controlled Areas and Roads) 2011*;

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- d) If there are any existing business in a set proximity, based on population density;
- e) If the products are complementary or 'like for like' to any existing operators in the set proximity; and
- f) whether all fees and required documents have been submitted.

Application and annual fees are determined by resolution of Council prior to commencing annual renewal processes (end April).

All applications for new or renewal of approvals will receive a decision in writing with the reasons for the decision clearly articulated. Any approved decisions will incorporate a set of minimum standards or conditions for operating on Council Land that must be complied with.

7.0 ATTACHMENTS:

Nil

8.0 REVIEW MECHANISM:

This policy will be reviewed when any of the following occur:

1. The related legislation or governing documents are amended or replaced; or
2. Other circumstances as determined by resolution of Council or the CEO; or
3. Three years from date of adoption.

TABLE OF AMENDMENTS			
Document History	Date	Council Resolution No.	Notes (including the prior Policy No, precise of change/s, etc)
Originally Adopted	4 September, 2012	G/12/1214	Originally Policy No. P-5.0.01
Amendment 1	18 November, 2014	G/14/2237	
Amendment 2	7 February 2017	G/17/2976	Previous Policy No. P-2017/01
Amendment 3			

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LEISA DOWLING
ACTING CHIEF EXECUTIVE OFFICER