AGENDA

General Committee Meeting

Monday, 16 September 2019

commencing at 10am

Council Chambers, 9 Pelican Street, Tewantin

Committee: **Crs Frank Wilkie (Chair), Jess Glasgow, Ingrid Jackson, Joe Jurisevic, Frank Pardon, Brian Stockwell, Tony Wellington**

"Noosa Shire – different by nature"

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REPORTS DIRECT TO GENERAL COMMITTEE

12 MCU16 0153 01 - MINOR CHANGE TO DEVELOPMENT APPROVAL FOR MATERIAL CHANGE OF USE OF PREMISES & REC16/0041 FOR RECONFIGURE OF A LOT AT 215 DAVID LOW WAY PEREGIAN BEACH

Author **Coordinator Planning, Patrick Murphy**
Environment and Sustainable Development Department

Index **ECM/ Application/MCU16/0153.01**

Attachments
1. **Current Staging Plan**
2. **Proposed Staging Plan**
3. **Written response from Co-Respondent**

APPLICATION DETAILS	
Applicant	Thomco No 2087 Pty Ltd
Proposal	Pre-request Response Notice - Change to Existing Approval
Properly Made Date	29 August 2019
Decision Due Date	26 September 2019
Number of Submissions	415 to original application
PROPERTY DETAILS	
Property Address	215 David Low Way Peregian Beach Qld 4573
RP Description	Lot 1 SP 286680
Land Area	2.312 hectares
Existing Use of Land	Supermarket/speciality shops and vacant land
STATUTORY DETAILS	
SEQRP Designation	Urban Footprint
Locality	Eastern Beaches
Zone	Open Space Recreation Zone Semi-Attached Housing
Overlays	Natural Hazards Overlay – Bushfire hazard Natural Hazards Overlay – High and Low Potential Acid Sulfate Soils
Assessment Type	Minor Change to Approval

RECOMMENDATION

That Council note the report by the Coordinator Planning to the General Committee Meeting dated 16 September 2019 regarding Application No. MCU16/0153.01 and REC16/0041 for a Pre-Request Response to Change Conditions of the Development Approval for 215 David Low Way, Peregian Beach and:

A. Advise the applicant that Council does not support the proposed changes to condition 2, 3, 6, 37 and 66 and the deletion of condition 17 as:

1. The proposed change does not constitute a minor change under the Planning Act 2016 as the changes would result in a substantially different development, as they would potentially:

   (i) change the ability of the proposed development to operate as intended; and

   (ii) remove (through its later and uncertain provision) a component that is integral to the operation and development of the site.

2. The proposal is not consistent with the Environmental Outcomes of the Noosa Plan as the changes do not provide certainty that a range of visitor accommodation types will be provided.

3. The proposal is not consistent with the Eastern Beaches Locality Code as it would create no certainty about the delivery of the motel and would not optimise the site's utilisation for short term visitor accommodation. There is relatively little commercial short term accommodation in Peregian Beach and the motel provides a reasonable alternative to the low cost accommodation intended for the site.

4. The proposal is not consistent with the draft Noosa Plan as the proposed staging does not provide certainty that a diversity of visitor accommodation types and affordability will be provided in Peregian Beach.

5. There are other opportunities to mitigate the potential construction impacts on the motel as opposed to delaying the development of the motel.

6. The funding requirements for the development are not a relevant consideration for planning matters and the proposed change to conditions.

B. Note the report is provided in accordance with Section 63(5) of the *Planning Act 2016*.

REPORT

1. PROPOSAL

The application seeks a 'pre-request response' from Council to change a development approval at 215 David Low Way Peregian Beach to allow the approved motel to be constructed last.

It is submitted by the applicant that….

> *The basis behind the change to the staging is a result of construction constraints around delivering the Motel building in Stage 1. Should the Motel be constructed within Stage 1 there will be considerable construction impacts associated with the construction of current Stage 2 in the furthest part of the site. This is due to access constraints and sequencing of site works, which will result in adverse impacts on the Motel. These construction impacts will negatively affect the operation and visitor attendance of the Motel and will undermine the viability of the project.*
>
> *Further to the construction impacts, the developments funding requirements dictate that the construction of the Accommodation Dwelling Units (19 x 3 + bedroom + 1 managers unit) must be done within Stage 1. The requirements for construction funding cannot be met if the Motel Building (10 x 2 bedroom + 22 x 1 bedroom) is constructed in Stage 1, as currently approved. It is noted that the applicant is committed to provide short term*

accommodation for the Peregian area as part of Stage 1, however without appropriate funding, construction cannot commence in any form.

In addition to the construction and funding constraints outlined above, both the Visitor Accommodation Type 4 Dwelling Units, as well as the Visitor Accommodation Type 4 Motel Building, deliver the same land use outcome, being 'Visitor Accommodation Type 4 Conventional', which is defined under the planning scheme as follows:

"Two or more dwelling units or accommodation units, for the purpose of providing short-term visitor accommodation. The use may include common recreation or dining facilities and includes an ancillary dwelling unit for onsite manager. The use includes a guesthouse, visitor hostel, motel, resort and serviced rooms, but does not include Visitor accommodation Type 1 Home hosted or Type 3 Rural as separately defined".

It is noted that the above definition does not provide a distinction between a 'Dwelling Unit' and 'Motel Building' and therefore both components of the development provide the same Short-term Visitor Accommodation in accordance with the definition. Due to the absence of distinction between a 'Dwelling Unit' and 'Motel Building', there is no impact to Council or the community in the delivery of the 'Dwelling Units' within Stage 1.

Further, consideration has also been given to the 'New Noosa Plan', with express purpose to identify any land use restrictions on the site that would require the delivery of 'Motel Style Accommodation'. Under the New Noosa Plan, the site is located within the Tourism Accommodation Zone. The purpose of the Tourism Accommodation Zone is to provide for Short-term Accommodation, as well as Community Uses and Small-Scale Facilities and Infrastructure to support Short-term Accommodation and Tourist Attractions.

In reviewing the Tourism Accommodation Zone Code as well as the Coastal Communities Local Plan Code, there are no requirements to deliver 'Motel Style Accommodation', with both the zone and local plan seeking the delivery of Short-term Accommodation (similar to that associated with the development). It is noted that under the definition of Short-term Accommodation (New Noosa Plan) there is no distinction between 'Dwelling Unit' style Accommodation and 'Motel Building' style accommodation.

In accordance with the above, the alteration of the developments staging to deliver the 19 Visitor Accommodation Type 4 Dwelling Units and Managers Unit within Stage 1, will ensure the viability and delivery of the development, whilst mitigating amenity and operational impacts that are present with the current development staging.

The applicant has identified that the proposed change will require amendments to conditions 2, 3, 6, 37, 66 and the deletion of Condition 17.

2. SITE DETAILS

2.1. Background

A report on this application for 26 dwelling units for permanent residency, 20 visitor dwelling units and 12 permanent/visitor dwelling units at 215 David Low Way, Peregian Beach was originally considered by Council at its Ordinary Meeting on 19 October 2017.

At the Ordinary Meeting Council resolved to refuse the application for the following reasons:

1. *The proposal development is in conflict with the tourism objectives of the planning scheme as set out in the:*
   - *(i) Desired Environmental Outcomes; and*
   - *(ii) Overall Outcomes for the Eastern Beaches Locality Code,*

     of the Noosa Plan.
2. *The proposed development is an inconsistent use in the Open Space Recreation Zone.*

3. *The proposed development is for a scale and form of buildings which is incompatible with the informal beachside character of the Eastern Beaches Locality and is contrary to the Overall Outcomes of the Eastern Beaches Locality Code. Furthermore, the proposal is for multiple housing, a form of development which under the Planning scheme is limited to Sunshine Beach.*
4. *The proposed development ignores the Council's long-held planning strategy whereby the site is to be retained for low-cost visitor accommodation.*
5. *The proposal presents an unacceptable development outcome with respect to adjoining properties in Rufous Street.*
6. *The development provides for an inadequate number of car parking spaces.*
7. *The application has not demonstrated sufficient planning or community need to justify setting aside the clear conflicts with the Noosa Plan.*
8. *The proposed works are contrary to the Natural Hazards Overlay Code as the risk from bushfire has not adequately been addressed and the layout may compromise the safety of people and property in the event of a bushfire.*
9. *The applicant has not sufficiently demonstrated that the development will not adversely impact upon the specialised habitat for threatened species through discharge of stormwater through the wetland areas of the National Park.*
10. *The application for the proposed works has not demonstrated compliance with State Planning Policy July 2017 Part E Biodiversity as impacts on matters of state significance have not been adequately addressed.*
11. *A number of properly made submissions have been received raising valid grounds of objection.*

The applicant subsequently appealed the decision stating that the application should be approved subject to reasonable and relevant conditions and that the respondent (Council) should pay their costs of the appeal. At the Planning and Environment Committee Meeting on 12 December 2017 it was resolved to defend the appeal.

At the Ordinary Meeting on 18 October 2018, Council considered a Mayoral Minute regarding a planning appeal in respect of a mixed use residential development at 215 David Low Way, Peregian Beach. The Mayoral Minute advised of the trial proceedings and the applicant's proposed settlement offer to the submitter and Council principally agreeing to change the development to 32 motel units and 20 visitor units consistent with the Noosa Plan's strategic intent for the site to support the tourism industry and provide for a range of visitor accommodation choices in Noosa.

The settlement removed the previously proposed accommodation for permanent residents from the site with amended plans effecting a redesign, reducing the overall number of units on site and the development footprint to better fit with the low density character of Peregian Beach and improve landscaping opportunities, setbacks and the development's interface with surrounding properties. Through the appeal, amended bushfire management, stormwater management and acoustic measures were also addressed.

On the basis of these changes Council resolved to settle the appeal with a further report to be presented to a future Council meeting for Council's consideration, detailing a full set of conditions for the proposed development and seeking Council's agreement to finalise the appeal.

A set of conditions were provided to the appellant for their review and the appellant provided a revised set of plans to meet the settlement agreement conditions. The conditions were drafted to generally reflect and support the agreed development and ensure it would be undertaken in a manner that would address the issues raised during the appeal and achieve an outcome for the site consistent with the Noosa Plan requirements.

At the Special Meeting on 5 June 2019 it was resolved to finalise the settlement of the appeal generally in accordance with the conditions recommended. Condition 6 of the approval states:

> 6. *The approved units must be used for short term visitors only. The approved units must not be occupied by persons for continuous occupation in excess of 90 days for each calendar year. A register of occupation must be kept by the body corporate and made available to Council upon request. The requirements of this condition must be included in the Community Management Statement for any body corporate for the subject site.* ***If the development is to be staged the motel must be built in the first stage.*** (bold added).

The agreed conditions specifically included the requirement that if the development were to be staged that the motel building must be constructed in Stage 1. This ensured that the motel accommodation would be realised and was reflective of the staging proposed by the applicant at the time. It is important to note that the applicant may construct both the dwelling units and the motel building concurrently.

2.2. Site Description

The site is situated on the western side of David Low Way and the current title on which the development is proposed is approximately 2.312 hectares in area.

A commercial development is sited within the south-eastern corner of the site which currently accommodates an IGA supermarket and a number of smaller retail outlets.

2.3. Surrounding Land Uses

North	Peregian Beach Hotel, Rufous Street kindergarten, Rufous Street and reserve
South	Noosa National Park and Sandpiper Court
East	Peregian Beach Hotel, IGA (within same allotment) and David Low Way
West	Noosa National Park

3. STAUTORY PROCESS

The applicant has requested a pre-request response to make a minor change to a development approval under s78 of the Planning Act 2016. As the original approval was issued by the Planning and Environment Court and properly made submissions were received, the court is the assessment manager for subsequent ‘minor change’ applications. Council is an ‘affected entity’ and the court is required to seek comment from Council when considering a minor change application. However, an applicant may seek a pre-request from an affected entity prior to lodging the minor change application with the court.

Part of the criteria to determine whether an application is a minor change is to determine whether the change would result in a substantially different development.

A change may be considered to result in a substantially different development if the proposed change:

- (a) involves a new use; or
- (b) results in the application applying to a new parcel of land; or
- (c) dramatically changes the built form in terms of scale, bulk and appearance; or
- (d) changes the ability of the proposed development to operate as intended; or
- (e) removes a component that is integral to the operation of the development; or
- (f) significantly impacts on traffic flow and the transport network, such as increasing traffic to the site; or
- (g) introduces new impacts or increase the severity of known impacts; or
- (h) removes an incentive or offset component that would have balanced a negative impact of the development; or
- (i) impacts on infrastructure provisions.

The proposed change has been reviewed by the consulting planning expert who Council engaged for the appeal. The planning expert provided the following comments:

The proposed change to the staging would result in the removal of the motel building from Stage 1. Deferring the motel (visitor accommodation) to a later stage does not create certainty about the timing of its delivery following Stage 1 and may affect the ability of the proposed development to operate as intended. It is noted that in the Economic Need Joint Expert Report (JER) Justin Ganly stated that the "proposed motel which will have a particular focus on its conferencing facilities to help assist with viability" (p30). The Economic Need JER also noted:

- *there is relatively little commercial accommodation provided within Peregian Beach (paragraph 112);*
- *It is evident that the seven properties – which would generally be regarded as small resorts or motels – are generally dated and small (paragraph 115); and*
- *there is some need for motel-style accommodation and related conference facilities, particularly given the site owner's expertise with similar facilities elsewhere on the Sunshine Coast (paragraph 177).*

Deferring the motel to a later stage with no certainty about the timing of its delivery following Stage 1, may result in the removal of the component of the development which is integral to the operation of the development.

... On the basis of the above assessment, it is considered that the proposal to change the condition to delete the requirement that the motel building be constructed in the first stage has the potential to at least arguably result in 'substantially different' development, as it would:

- *potentially change the ability of the proposed development to operate as intended; and potentially remove (through its later and uncertain provision) a component that is integral to the operation of the development.*

Accordingly, it is considered that the proposed change may not be a minor change but rather represent an "other change" under the Planning Act 2016.

The comments of the planning expert are supported and it is considered that the application as proposed results in a substantially different development and therefore does not constitute a minor change. The proposed changes would therefore require a new application to be lodged with Council and be publically notified for comment from the community.

4. ASSESSMENT

It is the applicant's position that dwelling units and motel building provide the same land use outcome as the planning scheme definition of "Visitor Accommodation Type 4 Conventional" as the definition does not differentiate between the two accommodation types. Whilst this is correct the following provisions within the planning scheme are also relevant to the assessment of this application.

<u>Desired Environmental Outcomes</u>

k) TOURISM

A tourism industry is developed and sustained by—

iv. offering visitors a range of experiences and accommodation types;

xi. retaining a range of visitor accommodation choices including camping grounds, caravan parks, backpacker hostels, hotels, motels, resorts, B&Bs, guesthouses and serviced apartments;

<u>Overall Outcomes of Eastern Beaches Locality Code</u>

i. Emphasis is placed on the protection and retention of low cost accommodation consistent with maintaining a diversity of accommodation types for visitors to the locality;

<u>Specific Outcomes and Probable Solutions of the Open Space Recreation Zone</u>

O75 The caravan park at Peregian Beach is protected and retained to provide for low cost Visitor accommodation needs; AND

O76 Visitor accommodation Type 4 is provided only where it is integrated as part of the existing caravan park use.

The locality code places emphasis on the protection and retention of low cost visitor accommodation and also provides a specific density for the purpose of a visitor hostel for the subject site.

The proposed change to the staging of the development conflicts with the above outcomes as it does not ensure the motel will ever proceed, being the lower cost of the proposed visitor accommodation. There is also a demonstrated need for the motel accommodation, but no significant need for additional holiday homes with a number of houses in Peregian Beach let for short term accommodation.

Council's consulting planning expert advises:

> *Deferring the motel to a later stage would create no certainty about the timing of its delivery following Stage 1 and would not optimise the site's utilisation for visitor accommodation. This is not considered desirable as it would potentially affect the ability of the proposed development to operate as intended. As noted in the Economic Need JER there is relatively little commercial accommodation provided in the Peregian Beach area (paragraph 112) and that of the properties located in this area, the small resorts or motels are generally dated and small (paragraph 115).*

The application also identifies that the change to the staging is required due to construction impacts and funding requirements. Funding requirements is not a valid planning ground to justify variation of the original approval with the Planning Act specifically stating for impact assessable applications the assessment must be carried out against the planning scheme, matters prescribed by regulation and *"may be carried out against any other relevant matter, other than a person's personal circumstances, financial or otherwise".* With regards to the construction impacts it is noted that if the dwelling units and motel building were constructed concurrently the construction impacts identified by the applicant would be mitigated. The potential construction impacts on the motel may also be mitigated by amending the layout of the development.

It is noted that the applicant recently agreed to the proposed conditions and that the Court Order was issued on 21 June 2019, approximately 2 months prior to this application being lodged. It is also relevant to note that the applicant proposed this current staging.

5. DRAFT PLANNING SCHEME

The Draft Noosa Plan which was released for public notification earlier this year includes the site in the Coastal Communities Locality, with the site being zoned Tourist Accommodation and Local Centre Zone. The approved development is located within the Tourist Accommodation Zone.

The Purpose and Overall Outcomes and Performance Outcomes of the Coastal Communities Local Plan Code (7.2.6.2 and 7.2.6.3) includes:

(m) ***Sites identified for tourist accommodation are retained and developed for that use to maintain a diversity and choice of housing and visitor accommodation and affordability in the local plan area.*** *Development for visitor accommodation may also locate in residential zones around Sunshine Beach shops and generally east of David Low Way where identified on the Short Stay Area Map (included in Schedule 2).*

Visitor Facilities

> *P014 Development provides a diversity of types and styles of visitor accommodation to cater for a range of visitor experiences in close proximity to key tourist areas.*

The proposed change to the staging of the development is inconsistent with the Purpose and Overall Outcomes and Performance Outcomes of the Coastal Communities Local Plan Code as the proposed staging does not provide certainty that a diversity of visitor accommodation type and affordability in the local plan area will be achieved.

The purpose of the Tourist accommodation zone is to provide for short-term accommodation and community uses, and small-scale services, facilities and infrastructure, to support short-term accommodation and tourist attractions (s 6.3.4.2). Specific to the subject site Performance Outcome PO8 seeks:

> *Lot 77 SP231615, 215 David Low Way, Peregian Beach provides for a diversity of short-term accommodation types, including low-cost visitor accommodation, to cater for a range of visitor accommodation experiences.*

The proposed change to the staging of the development is not consistent with this Performance Outcome as it removes the low-cost visitor accommodation component from the first stage of the development and fails to provide certainty that this accommodation type will be developed.

6. NOTIFICATION

It is acknowledged that there is no requirement under the Planning Act 2016 for a Co-Respondent to be notified of a proposed minor change to a court issued development approval. However, in this instance the Co-Respondent was advised of the proposed change for courtesy reasons given their significant involvement in the appeal.

The Co-Respondent has provided a written response which does not support the proposed change on a number of grounds including:

- It is not a minor change;
- The construction issues were not raised in the court appeal; and
- The proposed staging of the development does not provide certainty that the motel units will be constructed and that the applicant may seek to change the development approval to remove the motel component.

A copy of the Co-Respondents written response is included as **Attachment 1.**

7. CONSULTATION

7.1. Referral Agencies

The application was not required to be referred to any Referral Agencies:

7.2. Other Referrals

The application was forwarded to the following internal Council specialists:

- Environment Officer - Ecology
- Development Engineer

8. CONCLUSION & REASONS FOR DECISION

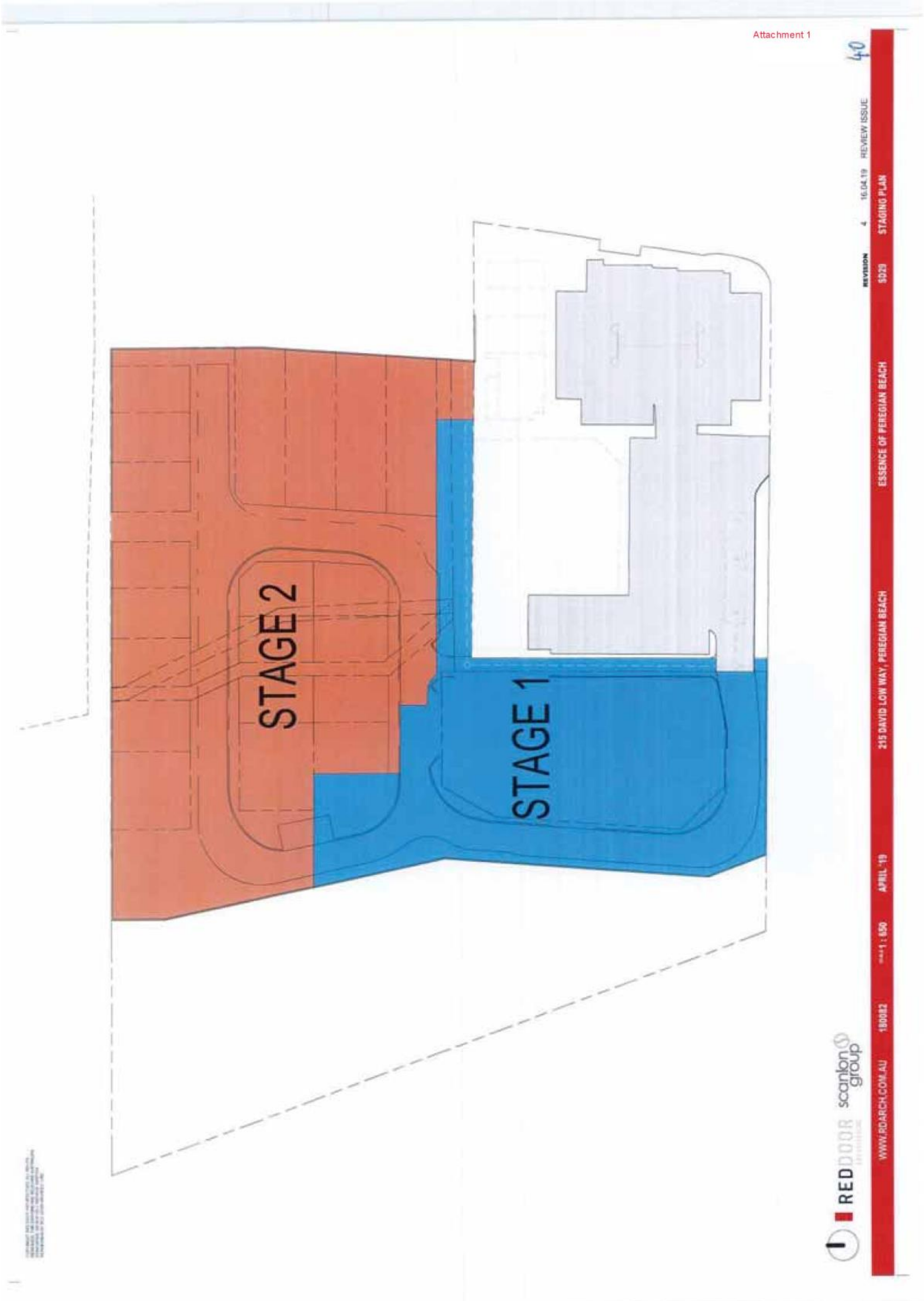
The application seeks a pre-request response to a proposed change to an existing Development Approval.

The proposed changes are considered to result in a ‘substantially different development’ and therefore are not a minor change. Accordingly, a new application should be lodged with Council and will require public notification. Furthermore the proposed changes are not consistent with the Desired Environmental Outcomes and Overall Outcomes of Eastern Beaches Locality Code as they fail to provide certainty as to the delivery of a range of visitor accommodation choices including low cost visitor accommodation. The proposed change is similarly inconsistent with the draft scheme. It is therefore recommended that the pre-request response not be supported.

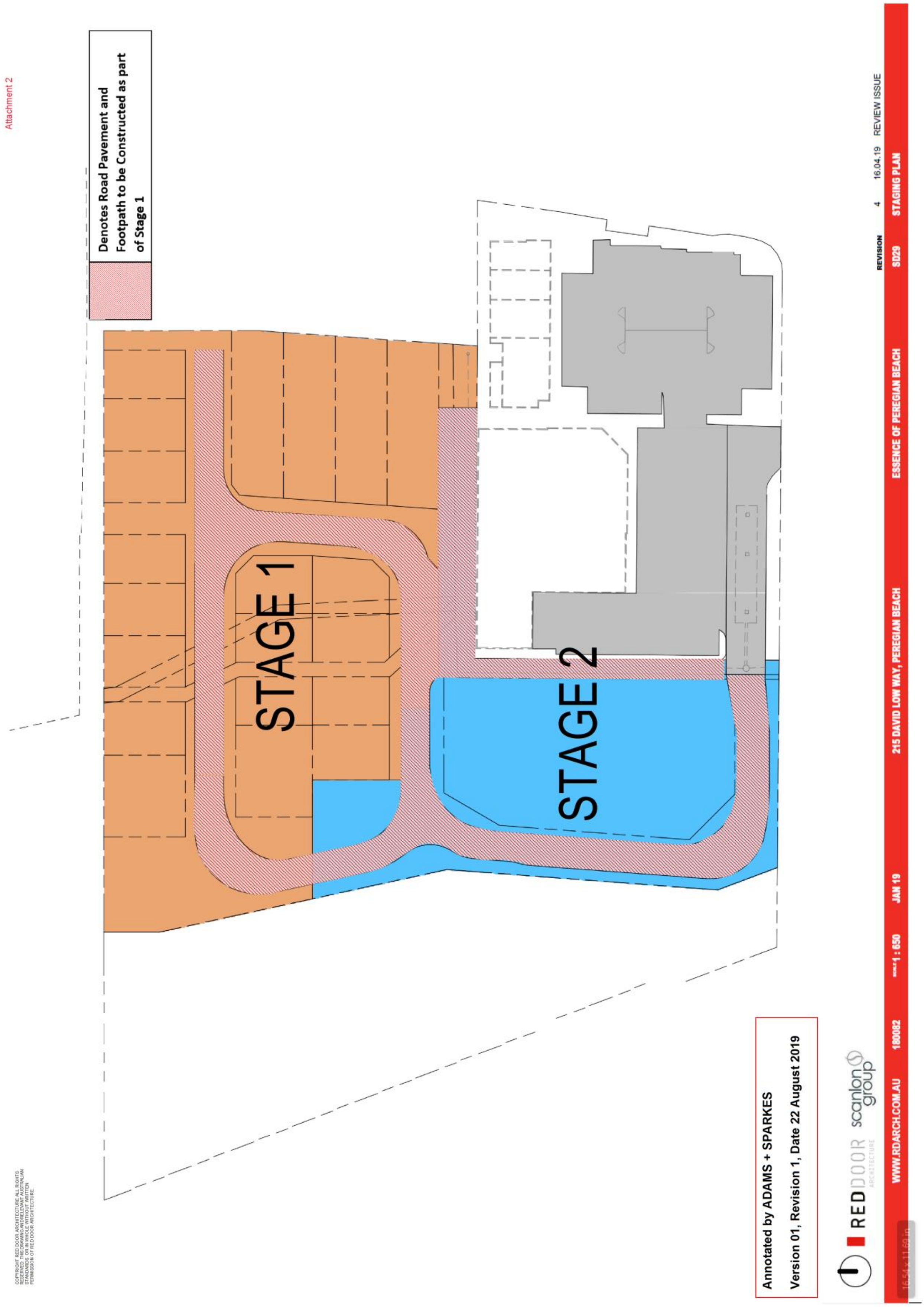
Departments/Sections Consulted:

	Chief Executive Officer		**Community Services**		**Corporate Services**
	Executive Officer		Community Development		Financial Services
	Executive Support		Community Facilities		ICT
			Libraries & Galleries		Procurement & Fleet
			Local Laws		Property
			Waste & Environmental Health		Revenue Services
	Executive Services	x	**Environment & Sustainable Development**		**Infrastructure Services**
	Community Engagement		Building & Plumbing Services		Asset Management
	Customer Service	x	Development Assessment		Buildings and Facilities
	Governance		Economic Development		Civil Operations
	People and Culture	x	Environmental Services		Disaster Management
			Strategic Land Use Planning		Infrastructure Planning, Design and Delivery

Attachment 1



Attachment 2



Attachment 3

Peregian Beach Community Association Inc.
peregiancommunity@gmail.com - PBCAI.org - P.O.Box 312, Peregian Beach Qld. 4573

9 September 2019

The CEO,
Noosa Shire Council,
PO Box 141 Tewantin Qld 4565
ATT: Ms Kerri Coyle
kerri.coyle@noosa.qld.gov.au

Dear Ms Coyle,

Thomco (No 2087) Pty Ltd v Noosa Shire Council and PBCAI
P & E Appeal No 4066 of 2017
Pre-Request Response

This letter relates to a request by Thomco to vary an Order by the Planning and Environment Court made by Consent as recently as 21 June 2019.

BACKGROUND:

The Thomco proposal for the site, now approved, obviously is guided by the aim of maximising the rate of return and not by resident/visitor amenity. The amenity would have been improved by fewer dwellings and a smaller Motel, as suggested by Council and PBCAI, but resisted by Thomco.

Thomco's priority has always been to build the dwellings for sale, preferably as permanent accommodation, and the change to visitor accommodation was simply a means to that end.

The fact that the dwellings are for short-term visitor accommodation is not being clearly advertised, which may mislead purchasers seeking permanent accommodation; and the dwelling density and high prices may also be deterring persons who are contemplating residing here from purchasing.

COMPLIANCE WITH THE NOOSA PLAN:

As you are aware, the Noosa Plan required this land to remain for visitor accommodation after the closure of the caravan park. The December 2016 application, which resulted in this appeal, was predominantly for permanent accommodation in both the dwellings and the Motel. The land was also required to provide low cost accommodation, but that was lost during the DA process.

The December 2016 application was for a Motel consisting of partly permanent and partly visitor accommodation, which was to be built as Stage 2. The majority of the land was proposed to be used for 26 dwellings for permanent accommodation.

At the first mediation, which occurred in early 2017, PBCAI suggested that the Motel should be built with priority and Thomco agreed for it to be built as Stage 1. Subsequently, during the preparation of the evidence for the hearing of this matter, Thomco agreed that all of the Motel would be for visitor accommodation which removed another reason for the rejection of Thomco's development application.

Thomco then used the fact that all of the Motel units were available for visitor accommodation to submit that the dwellings, now reduced to 20, should be approved for permanent accommodation.

Thomco only agreed on day 8 of the hearing to abandon its application for permanent accommodation in the dwellings, which resulted in this matter settling. Even after that settlement, Thomco again changed it plans before the settlement was made an Order by the Court on 21 June 2019.

Thomco ever since the first application involving this land in 2007 has had a history of constantly changing its plans, even after mediated agreements have been made as Orders of the Court and of not complying with those agreements or Orders.

You will be aware that the dedication of the western portion of this land for environmental purposes, agreed to in 2010 and made an Order of the Court and subsequently a condition of the IGA approval, was not implemented by Thomco until 2018, and only after Council intervened.

THE STAGING ISSUE:

The Motel for short-term visitor accommodation was not opposed by PBCAI. The Council, PBCAI and the community wants to ensure that the Motel is actually built, despite its architectural and other limitations.

The Court Order made by Consent, requires the Motel to be built as Stage 1 to be given priority, but the Order would allow the Motel and the dwellings to be built simultaneously. There is no requirement in the Order or the Conditions that the development has to be staged. That is a matter for Thomco. The requirement that the Motel is to be built as Stage 1 only arises if Thomco chooses to stage the development.

It is stated in the documents submitted by Thomco to support its pre-request response that it considers there to be no difference between short-term visitor accommodation provided in the Motel building and that provided in the Visitor Accommodation Type 4 Dwellings. This is reinforced by the reference to the Tourism Accommodation Zone Code in the new Noosa Plan and the statement that "there are no requirements to deliver "Motel Style Accommodation"..."

PBCAI does not agree and is concerned, based on this statement, that Thomco is wanting to resile from the June 2019 approval it obtained for this development which requires it to build a Motel for short-term visitor accommodation. This statement would suggest a possible future application, based on there being "no requirements to deliver "Motel Style Accommodation" seeking to build more dwellings on the Motel site.

PBCAI submits that there is a considerable difference between the short-term visitor accommodation provided in a Motel and that provided by the dwellings which have been approved for this development.

Firstly, the Motel units are one and two bedroom units. The dwellings are 3 and 4 bedroom dwellings and some are even being advertised as 5 bedroom dwellings.

Secondly, the price for a Motel unit would vary considerably from that for one of these 3, 4 and 5 bedroom dwellings. The dwellings are advertised for sale from $750,000 to $1,025,000. (Kamala from $750,000, Marram from $750,000, Wallum from $915,000, Lily from $925,000 and Saltbush from $1,025,000) which would suggest investors may require a rate of return much higher than a Motel unit price.

Thirdly, Motel units are available by the night whereas 3, 4 and 5 bedroom dwellings usually have a minimum number of nights, frequently exceeding 7. They frequently require payment in advance and also payment of a security deposit.

THE CONSTRUCTION IMPACTS

The so called “Construction Impacts” of the dwellings on the operation of the Motel, if completed in Stage 1, have not changed since Thomco agreed to the Motel being given priority in mid 2017. Giving the Motel priority removed one reason for the rejection of Thomco’s development application, as it gave certainty to the provision of short-term visitor accommodation.

Thomco obviously did not want to raise any significance of the construction impacts while it sought to have the rejection of its development application overturned by the appeal.

Thomco was prepared to settle the appeal as recently as 21 June 2019 without any reference to these newly raised “Construction Impacts”.

NOT A MINOR CHANGE UNDER SECTION 78

PBCAI submits that this approval requires Thomco to build the Motel with priority (Stage 1) because of Council’s and the community’s need for the short-term visitor accommodation provided by a Motel.

For Thomco to propose to vary this recent approval to firstly build the 20 by 3, 4 and 5 bedroom dwellings is a considerable change, not a “minor change”, from what was approved.

PBCAI submits that the proposal to build the 20 by 3, 4 and 5 bedroom dwellings first, without any guarantee that the short-term visitor accommodation provided by the Motel will be built requires public notification. Without the Motel, and the short-term visitor accommodation this is a substantially different development. It is almost the small lot housing development Thomco initially sought.

For Thomco to propose to build the 20 by 3, 4 and 5 bedroom dwellings first, without providing any guarantee that it intends to build the Motel is disingenuous when it is intimating in this request that there is no requirement for it to deliver "Motel Style Accommodation".

PBCAI submits that if Council proposes to support this request, it, at very least, should require Thomco to lodge a $1,000,000 Security Bond as an irrevocable guarantee that the Motel will be commenced by 1 September 2020 and completed by 1 September 2021. If Thomco is not prepared to provide this Security Bond it will provide evidence that, once again, Thomco has no intention of complying with a Court Consent Order.

PBCAI requests that Council advise Thomco that it will not support this pre-request response for the above reasons.

Yours Sincerely,

Barry Cotterell,
President, PBCAI

13 FINANCIAL PERFORMANCE REPORT - AUGUST 2019

Author Manager Financial Services, Trent Grauf
Corporate Services Department

Index ECM/ Subject/ 22.09 – Monthly Financial Performance Report

Attachments
1. Statement of Income and Expenditure (Profit & Loss and Capital)
2. Statement of Financial Position
3. Statement of Cash Flows

EXECUTIVE SUMMARY

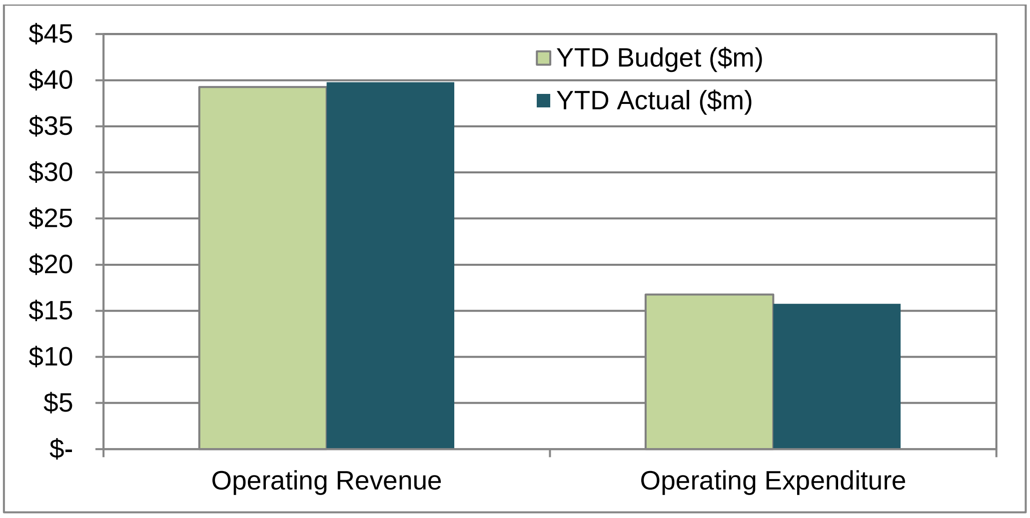
Performance against current budget for the month of August 2019 aligns with YTD budget at this early stage of the financial year. The current budget now includes the recent budget review 1 adjustments for operational and capital items.

YTD Financial Performance Summary					
	Budget $m	Actual $m	Variance $m	Variance %	Status
Operating Revenue	$39.2	$39.8	$0.5	1.3%	On Track
Operating Expense	$16.7	$15.7	$1.0	6.0%	On Track
Operating Position	$22.5	$24.0	$1.5	6.7%	
Capital Revenue	$1.2	$1.2	$0.0	0.5%	On Track
Capital Expenditure*	$2.6	$1.7	$0.9	34.6%	Below Budget

* Reflects constructed assets and intangibles only (excludes contributed)

Financial statements including Statement of Income & Expenditure, Statement of Financial Position (balance sheet), and Statement of Cash Flows are included as attachments for information for Council.

Figure 1: Actual Performance Compared to Budget



Performance against key measures of financial sustainability have been calculated for the month of August 2019. These indicators, as supported by various industry bodies including QTC and QAO, enable users of financial data to assess a council's success in managing its budget, cash and debt as well as effective asset management. The table below contains a snapshot of key measures, with full detail included in the report.

YTD Measures of Financial Sustainability				
	Target	**Current Budget**	**Actual YTD**	
Operating Surplus Ratio	***0-10%***	0.0%	60.3%	**On Track**
Net Financial Liabilities Ratio	***<60%***	-7.0%	-41.1%	**Above Target**
Cash Cover Ratio	***3 months***	5.5 months	11.6 months	**Above Target**
Asset Sustainability Ratio	***> 90%***	*129%*	8%	**On Track**

RECOMMENDATION

That Council note the report by the Manager Financial Services to the General Committee Meeting dated 16 September 2019 outlining August 2019 year to date financial performance against budget, including changes to the financial performance report with the inclusion of key financial sustainability indicators.

REPORT

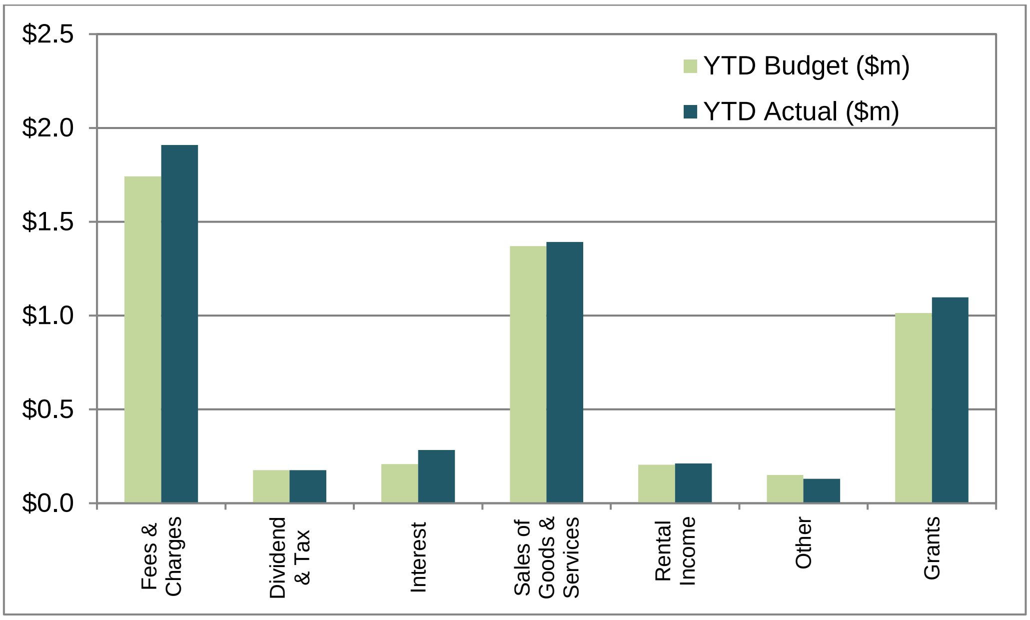
Operating Revenue (YTD Benchmark 16.7%)

Council has received 40% ($39.8 million) of its operating revenue budget ($99.9 million). Commentary on each revenue category is provided below.

Category	Summary	Comments
Rates and Levies	$34.6 million (50%) of the annual budget of $68.7 million has been earned	• Waste utility charges $124k above YTD budget (51% or $6.5 million of $12.7 million budget earned)
Fees and Charges	$1.9 million (29%) of the $6.7 million annual budget has been earned	• Local laws fees $63k above YTD budget (46% or $646k of $1.4 million budget earned) • Plumbing application fees $51k above YTD budget (28% or $274k of $971k budget earned) • Community land use permits $30k above YTD budget (26% or $108k of $410k budget earned) • Development related fees $21k above YTD budget (18% or $286k of $1.6 million budget earned)
Sale of Goods and Services	$1.4 million (14%) of the $10.1 million budget has been received	• Holiday park revenue $19k above YTD budget (14% or $441k of $3.1 million budget earned)
Interest Received	$284k (7%) of the $4.0 million annual budget has been earned	• Interest on overdue rates and charges $33k above YTD budget (18% or $73k of $400k budget earned) • Investment revenue $43k above YTD budget (6% or $211k of $1.0 million budget earned) • Recent downward movements in interest rates will likely impact on Council's interest revenue on cash invested, and will need to be monitored

Category	Summary	Comments
Unitywater Dividend and Tax	On track	Nil
Other Revenue	$78k (9%) of the $880k budget has been earned	• Water Bottle filling station contribution from MOU with Unitywater $11k (not budgeted) • Civil operations internal recoveries for plant hire $195k (no budget) – offset by internal charges
Operating Grants, Subsidies	$1.1 million (21%) of the $5.1 million budget has been received	• Reduction in annual grant funding for Noosa Community Support ($400k) will be offset by reduction in operating costs – to be addressed at budget review 2 (BR2). • 50% or $1.1 million of the financial assistance grant was again prepaid in June 2019 and may impact on Council's 2019/20 final operating position if the prepayment approach is discontinued by the Australian government. • All other operating grants are in line with budget expectations at this stage.

Figure 2: Operating Revenue Position by Type (Excluding Rates)



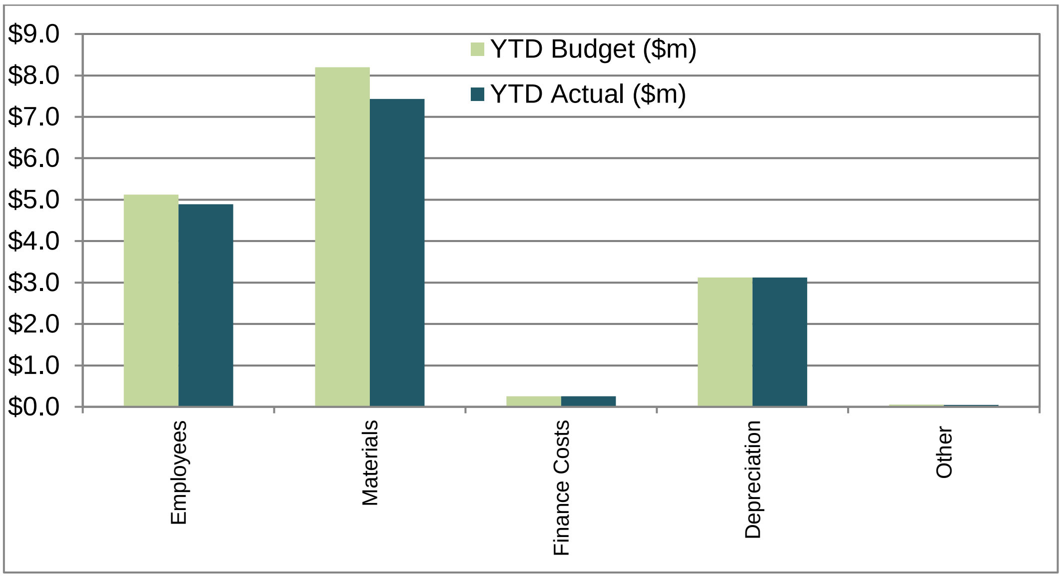
Operating Expenditure (YTD Benchmark 16.7%)

Actual operating expenditure is currently 16% ($15.7 million) of full year budget ($99.8 million). Detailed commentary for each expenditure category is provided below.

Category	Summary	Comments
Employee Costs	$5.1 million (14%) of the annual budget of $33.9 million has been expended	• Under expenditure for permanent staff salaries and wages ($581k) partially offset by additional spend on casual staff and external labour hire ($176k) • Staff training $3k below YTD budget (1% or $6k of $337k budget expended), with a further $3k committed for future spend

Category	Summary	Comments
Materials and Services	$7.4 million (16%) of the $45.5 million annual budget has been expended.	• Community Development $251k below YTD budget (36% or $359k of $1.0 million budget spent) – timing of approved grants payments • Parks & Gardens operations and maintenance programs $83k below YTD budget (11% or $462k of $4.3 million budget spent) • Waste Management contract costs for landfill and waste collection $62k below YTD budget (15% or $1.3 million of $8.4 million budget spent • Fleet fuel and maintenance costs $67k below YTD budget (16% or $258k of $1.6 million budget spent) • Cooroy Butter Factory $59k below YTD budget (3% or $5k of $148k budget spent) – timing of operating contribution • Noosa Community Support $49k below YTD budget (19% or $116k of $354k budget spent) – savings reflective of reduced grant revenue • Development assessment legal appeals costs $84k above YTD budget (25% or $259k of $1.1 million budget spent)
Finance Costs	On track	Nil
Depreciation	On track	Nil
Other Expenses	On track	Nil

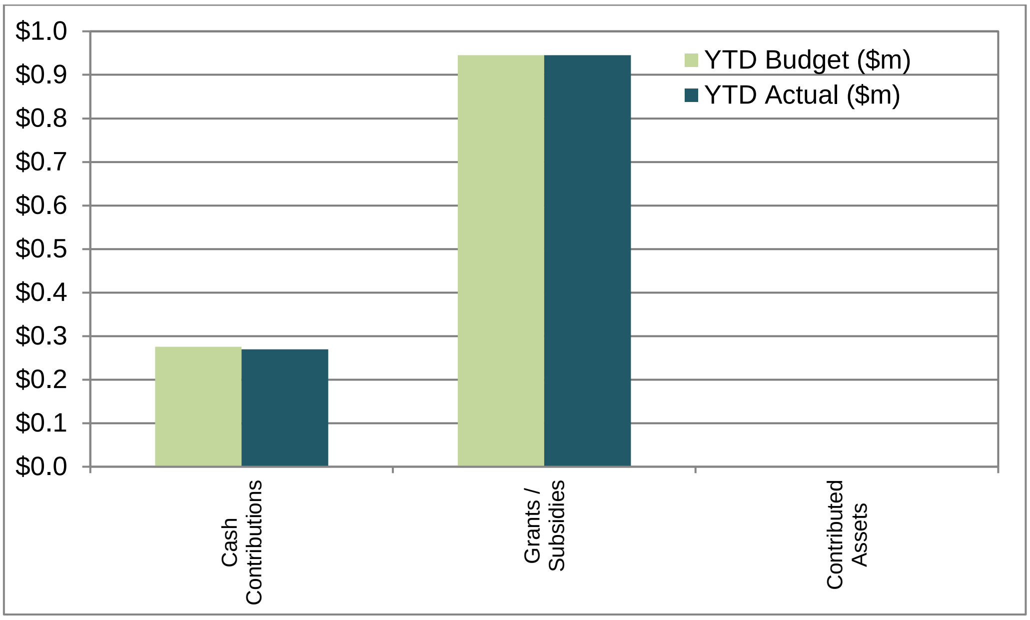
Figure 3: Operating Expenditure Position by Type



Capital Revenue

YTD capital revenue of $1.2 million received comprises cash contributions from developers ($270k) and capital grants ($945k). Note that the timing of capital grant receipts are generally dependent on the timing of grant conditions and also capital delivery performance, and that the timing of the receipt of developer contributions (both cash and contributed) is unpredictable.

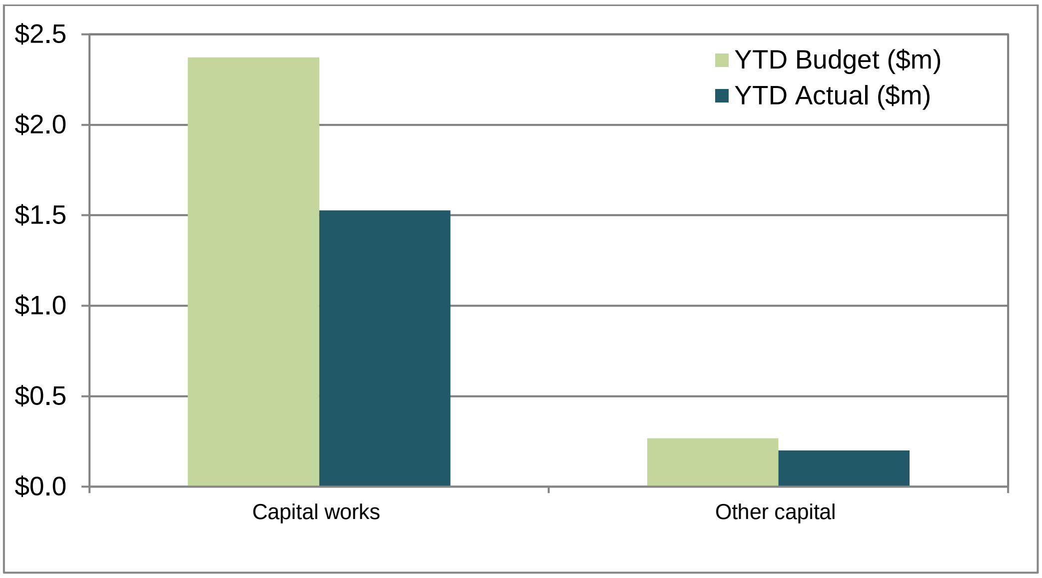
Figure 4: Capital Revenue by Type



Capital Program

Actual capital expenditure (excluding commitments) is $1.7 million (YTD budget $2.6 million). The budget includes budget review 1 carryovers from 2018/19; which was adopted by Council in August. Detailed discussion of progress in the delivery of the capital works program is provided through a separate report by the Asset Planning Manager.

Figure 5: Capital Program Delivery Performance

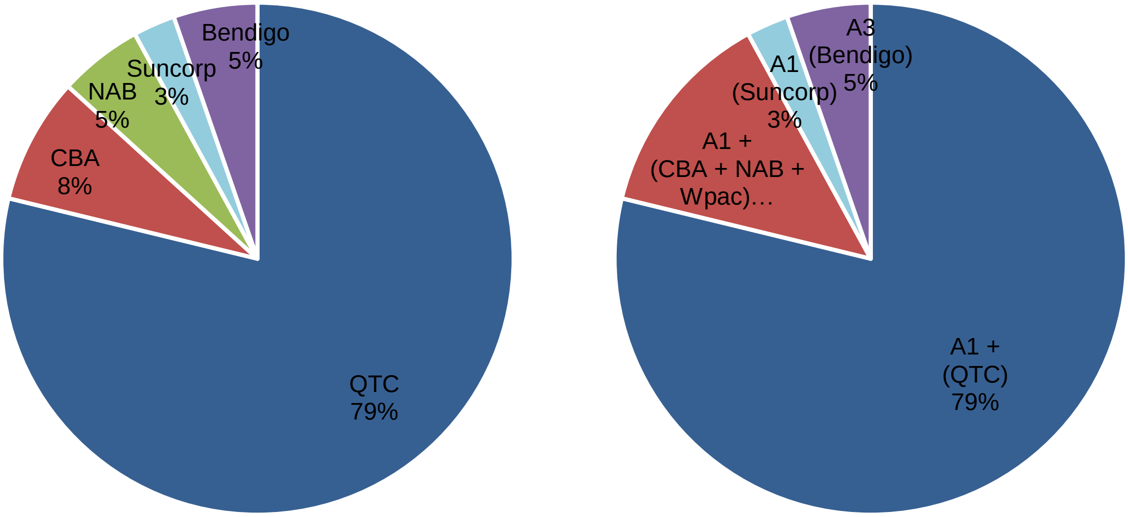


Cash Management and Investment Performance

Total cash on hand at the end of August was $75 million following receipt of rates funds following the discount period close. Included in this balance are funds held in trust and for restricted purposes (e.g. unexpended levy and grant funds), the prepaid financial assistance grant and unspent monies committed for funding capital projects which are underway and will continue in the 2019/20 financial year.

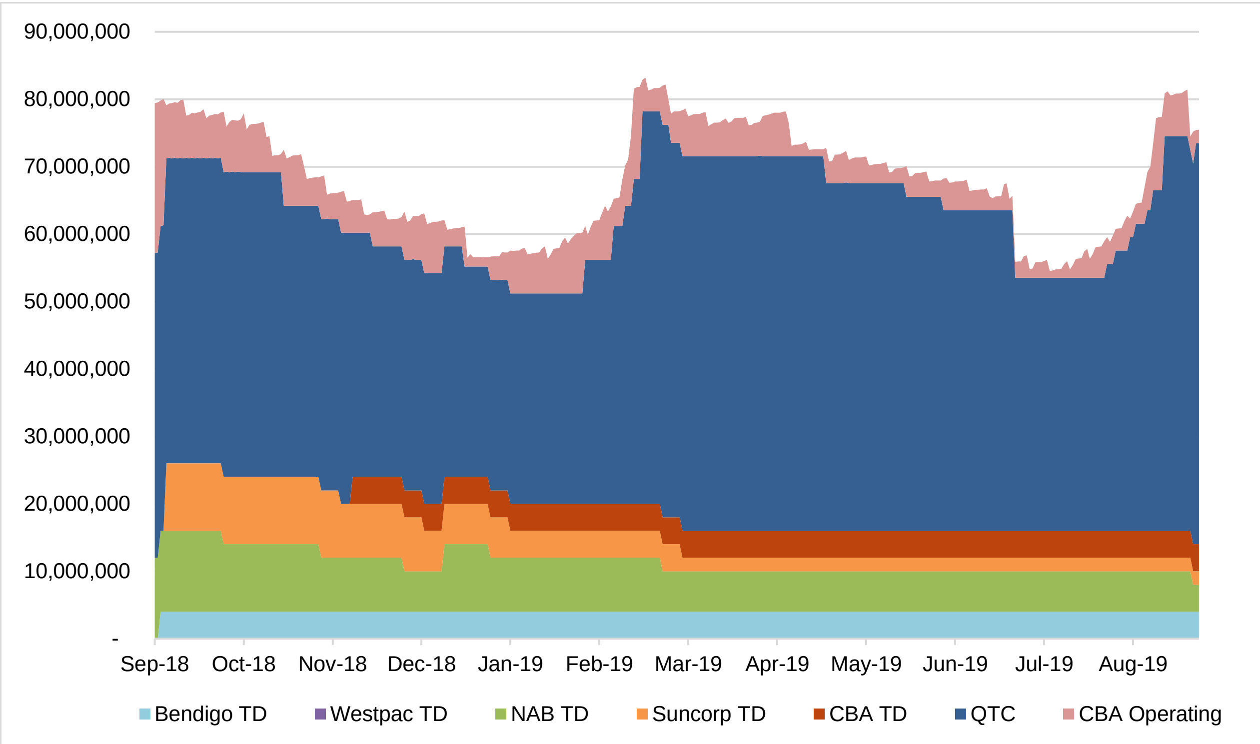
The following pie charts present the mix of cash held at August 2019 by agency (graph on the left) and by credit risk rating (graph on the right). All funds have been invested in accordance with the Investment Policy and in consideration of the principles of ethical investment, preservation of capital, return on investment and counterparty thresholds

Figure 6: Closing Cash Held by Agency and Credit Rating



The following chart monitors the year-to-date trend on total cash and the agencies invested. During August, total cash increased due to the payment of July rates and levies. To ensure optimal return in line with Council's Investment of Surplus Funds Policy, $22 million was reinvested with QTC.

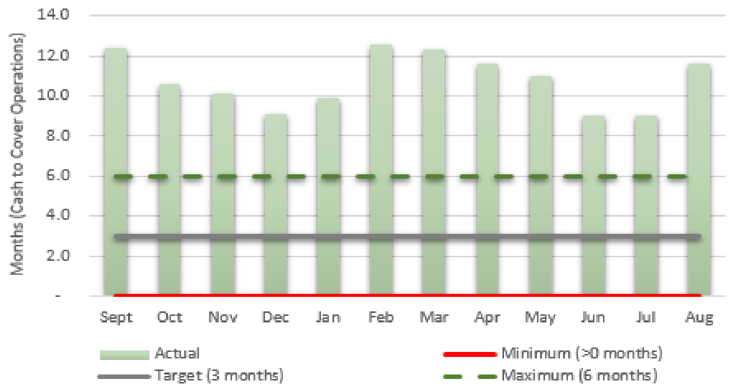
Figure 7: 12 Month Trend of Cash Invested by Agency

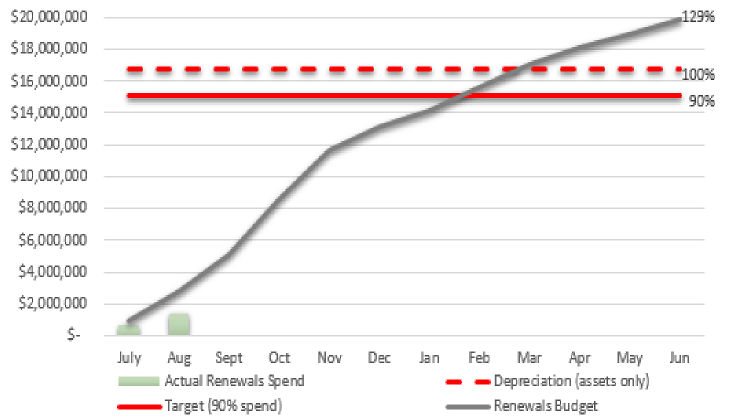


Measures of Financial Sustainability

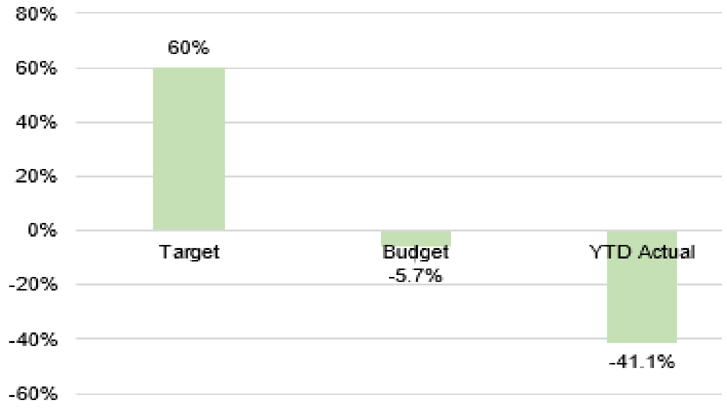
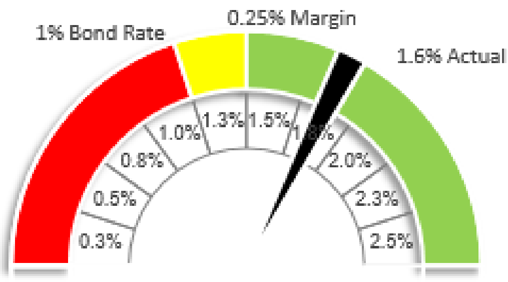
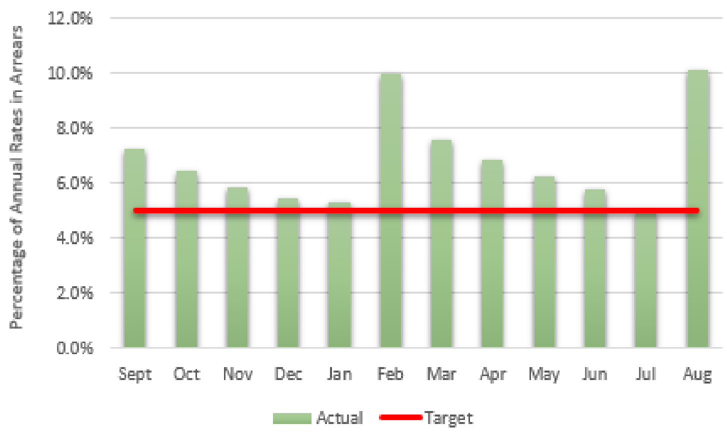
The following table incorporates a set of financial sustainability indicators to further assist in managing Council financial performance. There are no current emerging risks regarding performance noting the financial year has only just commenced.

<table>
<tr><th>Category</th><th>Comments</th></tr>
<tr><td>Operating Surplus Ratio
</td><td>

Intent: Identifies the extent to which revenues cover operational expenses, to ensure community equity is not degraded
Target: 0 – 10%
Result: 60.3%
Comment: The high ratio reflects the levying of rates in July and gradual degrade as expenditure occurs during August to December 2019
</td></tr>
<tr><td>Cash Expense Cover
</td><td>

Intent: Indicates how long council can continue paying its day-to-day expenses from cash at bank without needing additional cash flows
Target: > 3 months
Result: 11.6 months
Comment: Council is at the top of the cash cycle following rates and levies payments received in August, and is forecast to remain well above target for the financial year whilst remaining financially flexible to accommodate unforeseen events
</td></tr>
<tr><td>Asset Sustainability Ratio
</td><td>

Intent: Measures the extent to which assets are being replaced as their condition degrades to ensure service potential is maintained
Target: 90% of depreciation budget spent on renewals annually
Result: Slightly under budget
Comment: The capital program has only just commenced. It is expected that the ratio will progressively increase each month as expenditure on renewals occurs.
</td></tr>
</table>

Category	Comments
Net Financial Liabilities Ratio 	• **Intent**: Outlines the level that net Council debt can be serviced by operating revenues. A ratio below zero implies that liabilities are less than cash (and other current assets) and there is adequate borrowing capacity available if needed. • **Target**: less than 60% • **Result**: - 41.1% YTD • **Comment**: Council has low debt levels and strong cash holdings. The cash received from July rates issue also inflates the YTD actual outcome
Investment Return 	• **Intent**: Ensure appropriate return on investment yield for cash at bank. • **Target**: 0.25% above current Bloomberg commonwealth 10 year bond rate yield (August = 1.0%) • **Result**: 1.6% • **Comment**: Regardless of the steady decline in long term bond rates (due to international market factors), Council's investment return still remains above target
Rates in Arrears 	• **Intent**: Ensuring that the amount of unpaid rates remains sustainable and does not negatively impact cash flows • **Target**: 5% industry benchmark • **Result**: 10.1% • **Comment**: At the first high point in the cycle following issue of the July rates, and will stabilise from September to December as arrears are collected.

Previous Council Consideration

Nil.

Finance

As above.

Risks & Opportunities

Council's risk register includes a number of risks that could impact on ongoing financial sustainability. Effective budget management and reporting is an important risk mitigation tool.

Consultation

External Consultation - Community & Stakeholder

Nil.

Internal Consultation

All areas of Council are consulted as part of the regular monitoring of budget performance.

Departments/Sections Consulted:

X	**Chief Executive Officer**	X	**Community Services**	X	**Corporate Services**
	Executive Officer		Director	X	Director
	Executive Support		Community Development	X	Financial Services
			Community Facilities		ICT
			Libraries & Galleries		Procurement & Fleet
			Local Laws		Property
			Waste & Environmental Health		Revenue Services
X	**Executive Services**	X	**Environment & Sustainable Development**	X	**Infrastructure Services**
	Director		Director		Director
	Community Engagement		Building & Plumbing Services		Asset Management
	Customer Service		Development Assessment		Buildings and Facilities
	Governance		Economic Development		Civil Operations
	People and Culture		Environmental Services		Disaster Management
			Strategic Land Use Planning		Infrastructure Planning, Design and Delivery

Attachment 1

Noosa Council

Statement of Income and Expenditure

For the Year Ended 30 June 2020
As at 31 August 2019

	Current Budget 2020 ($'000)	Current Budget YTD ($'000)	Actual YTD ($'000)	Variance YTD ($'000)	Annual Budget %
Profit and Loss Statement					
Revenue					
Recurrent Revenue					
Rates, levies and charges	68,702	34,381	34,563	181	50%
Fees and charges	6,652	1,741	1,909	167	29%
Dividend income	1,600	-	-	-	0%
Interest received	4,010	208	284	75	7%
Tax equivalents	1,450	177	177	-	12%
Sale of Goods and major services	10,127	1,371	1,393	22	14%
Sale of contract and recoverable works	23	-	0	0	1%
Rental & lease income	1,296	205	212	7	16%
Other income	880	150	130	(21)	15%
Grants, subsidies, contributions and donations	5,130	1,013	1,098	85	21%
	99,869	**39,247**	**39,764**	**517**	**40%**
Expenses					
Recurrent Expenses					
Employee benefits	33,867	5,120	4,893	(227)	14%
Materials and services	45,544	8,201	7,435	(765)	16%
Finance costs	1,528	255	257	3	17%
Depreciation and amortisation	18,713	3,119	3,119	-	17%
Other expenses	188	54	45	(9)	24%
	99,841	**16,748**	**15,749**	**(999)**	**16%**
Operating Result	**29**	**22,499**	**24,015**	**1,516**	
Summary of Capital Revenue and Expenditure					
Capital Revenue					
Capital contributions and donations	4,134	273	270	(3)	7%
Capital grants and subsidies	5,954	945	945	-	16%
Other capital revenue	-	-	-	-	0%
Total Capital Revenue	**10,088**	**1,218**	**1,215**	**(3)**	
Capital Expenditure					
Contributed assets	2,000	-	-	-	0%
Constructed assets	30,880	2,641	1,727	(914)	6%
Other capital expenses	-	-	6	6	0%
Total Capital Expenditure	**32,880**	**2,641**	**1,733**	**(908)**	

Attachment 2

Noosa Council

Statement of Financial Position

For the Year Ended 30 June 2020
As at 31 August 2019

	Current Budget 2020 ($'000)	Actual YTD 2020 ($'000)	Actual Full Year 2019 ($'000)
Current Assets			
Cash and cash equivalents	38,144	75,549	55,981
Trade and other receivables	9,174	11,794	6,565
Inventories	330	196	219
Other current assets	501	4,312	4,887
	48,148	91,851	67,651
Non Current Assets held for sale	-	-	-
Total Current Assets	**48,148**	**91,851**	**67,651**
Non Current Assets			
Trade and other receivables	49,218	49,718	49,218
Other non current Assets	-	-	-
Investments	78,377	60,978	60,978
Investment property	4,167	3,300	4,167
Property, plant and equipment	923,966	884,435	876,478
Intangible assets	7,581	5,987	5,923
Total Non Current Assets	**1,063,309**	**1,004,418**	**996,764**
Total Assets	**1,111,457**	**1,096,268**	**1,064,414**
Current Liabilities			
Trade and other payables	4,964	11,125	8,125
Borrowings	2,508	3,337	632
Provisions	4,061	2,973	4,831
Other	675	2,825	2,581
Total Current Liabilities	**12,209**	**20,260**	**16,169**
Non Current Liabilities			
Trade and other payables	-	-	-
Borrowings	18,108	19,051	23,600
Provisions	10,929	11,523	11,486
Total Non Current Liabilities	**29,036**	**30,574**	**35,086**
Total Liabilities	**41,245**	**50,834**	**51,255**
Net Community Assets	**1,070,212**	**1,045,435**	**1,013,160**
Community Equity			
Asset Revaluation Surplus	75,746	50,809	41,740
Retained Surplus / (Defeciency)	-	-	-
Shire Capital	994,466	969,402	956,885
Current Year Net Earnings	-	25,224	14,535
Total Community Equity	**1,070,212**	**1,045,435**	**1,013,160**

Attachment 3

Noosa Council

Statement of Cash Flows

For the Year Ended 30 June 2020
As at 31 August 2019

	Current Budget 2020 ($'000)	Actual YTD 2020 ($'000)	Actual Full Year 2019 ($'000)
Cash flows from operating activities			
Cash Flows from Operating Activities			
Receipts from Customers	84,812	37,093	88,381
Payments to Suppliers and Employees	(78,407)	(16,724)	(73,702)
	6,405	20,369	14,679
Receipts:			
Investment and Interest Revenue Received	4,010	284	4,892
Rental Income	1,292	212	1,252
Non Capital Grants and Contributions	5,113	1,098	5,447
Income Tax Equivalent Received	1,200	177	1,450
Income from Equity Investments	1,850	-	1,600
Payments:			
Borrowing Costs	-	-	-
Interest Expense	(1,194)	(32)	(1,763)
Net Cash Inflow/(Outflow) from Operating Activities	**18,676**	**22,107**	**27,557**
Cash Flows from Investing Activities			
Receipts:			
Proceeds of Sale of Property, Plant and Equipment	10	-	375
Grants, Subsidies, Contributions and Donations	6,712	1,215	8,696
Payments:			
Payments of Property, Plant and Equipment	(26,999)	(1,507)	(28,359)
Payments for Intangible Assets	(1,400)	(177)	(1,191)
Net Cash Inflow/(Outflow) from Investing Activities	**(21,677)**	**(469)**	**(20,480)**
Cash Flows from Financing Activities			
Receipts:			
Proceeds from Borrowings	-	-	-
Payments:			
Repayment of Borrowings	(2,352)	(2,069)	(15,289)
Net Cash Inflow/(Outflow) from Financing Activities	**(2,352)**	**(2,069)**	**(15,289)**
Net Increase/(Decrease) in Cash and Cash Equivalents held	**(5,352)**	**19,569**	**(8,212)**
Cash and Cash Equivalents at the beginning of the reporting period	43,496	55,981	64,193
Cash and Cash Equivalents at the end of the reporting period	**38,144**	**75,549**	**55,981**