



*Minutes of the Adjourned Ordinary Meeting of Council  
22 February 2007  
commencing at 10:35 am*

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**PRESENT**

**Councillors** – M P Berwick (Mayor), D P Egan (Deputy Mayor), W J Bellerio, M J Cox, R Davis, D G Pitt and J Sciacca.

**Staff** – A M Rodgers (Manager Corporate Support).

**CLOSURE OF THE MEETING TO THE PUBLIC**

Moved Cr Berwick

Seconded Cr Egan

07/0220/01

*That pursuant to Section 463(1)(h) of the Local Government Act 1993, the meeting be closed to the general public to allow in confidence discussion of the Show Cause notice issued by the Minister with Mr Stuart Macnaughton of McCullough Robertson by teleconference call."*

**Carried** unanimously

**WITHDRAWAL**

The Manager Corporate Support withdrew from the Meeting at 10:36 am.

**RE-ATTENDANCE**

At the request of the Council the Manager Corporate Support re-attended the meeting at 1:10 pm.

**OPENING OF THE MEETING TO THE PUBLIC**

Moved Cr Berwick

Seconded Cr Egan

07/0220/37B

*"That the meeting be re-opened to the public."*

**Carried** unanimously

The following recommendations were forthcoming out of discussions held in closed session:

07/0220/37     REPORT FROM STUART MACNAUGHTON, SOLICITOR, MCCULLOUGH ROBERTSON LAWYERS

07/0220/38     SHOW CAUSE NOTICE ISSUED BY THE HON ANDREW FRASER MP, MINISTER FOR LOCAL GOVERNMENT, PLANNING AND SPORT

The above matters were dealt with concurrently and Mr Macnaughton's report had been provided verbally to Council during the closed sessions.

Moved Cr Berwick

Seconded Cr Egan

*"That Council hereby resolves as follows:*

- 1]     *That a panel ('the Performance Management Panel') be established comprising the following members:*
  - (i)     *Mr Noel Playford;*
  - (ii)    *Mr Colin McDowell;*
  - (iii)   *a person nominated by the Executive Director of the Local Government Association of Queensland ('LGAQ').*
  
- 2]     *That the functions of the Performance Management Panel are as follows:*
  - (i)     *to act as an independent panel reporting objectively to Council about the performance of the position of Chief Executive Officer;*
  - (ii)    *to set within 1 month from the date of this resolution, the Key Performance Indicators ('KPI's') for the position of Chief Executive Officer benchmarked in accordance with best practice for Queensland Local Government Chief Executive Officers including all the management attributes of Global Leadership Foundation and Himstedt. The KPI's shall be appropriately weighted to achieve Council's key areas for measuring the Chief Executive Officer's performance of Leadership, Staff Engagement, appropriate Delegation to General Managers and other staff, and Council's Shared Values set out on page 12 of Council's Corporate Plan 2005 – 2010.*
  - (iii)   *to monitor and review the performance of Council's current Chief Executive Officer against the established KPI's;*
  - (iv)    *to report and make recommendations to Council about the performance of Council's current Chief Executive Officer against the established KPI's within a period no later than 3 months from the date of this resolution and for every 3 months subsequent until otherwise determined by a resolution of Council;*

- (v) to report and make recommendations to Council about the Council's performance management system and review processes and their implementation;
  - (vi) to be an external referee for (and have oversight responsibility for the consistent application of) Council's Equal Employment and Opportunity Policy; and
  - (vii) to report about contact with any Councillor individually, and to not take instructions from any Councillor individually, and only take instructions from Council as a whole.
- 3] That the performance of Council's current Chief Executive Officer will be reviewed against the established KPI's, and Council resolves to terminate the current Chief Executive Officer in the event the Performance Management Panel does not recommend to Council his continued employment. Council also resolves that this resolution cannot be rescinded nor amended by subsequent resolution, except where that further resolution is unanimously supported (i.e. by every Councillor, not just those that might be present at a particular meeting).
- 4] That a committee of the Mayor and Deputy Mayor and Cr Bellerio acting jointly be delegated with the power to conclude all administrative arrangements, not covered by this resolution in paragraphs 1 and 2 above, associated with the establishment of the Performance Management Panel including payment of the panel members and including the appointment by them of a resource in the form of a project officer to assist in the performance of its functions to a maximum value of \$50,000. The Committee shall report back to the Council at the completion of the arrangements.
- 5] That Council provides all necessary assistance the members of the Performance Management Panel may require in order to carry out their functions, and a Council Officer be appointed as the Council officer to maintain administrative contact with the Performance Management Panel.
- 6] That, in accordance with section 486 (3) of the Local Government Act 1993, Council resolves that it is satisfied that the services to be supplied by the Performance Management Panel (including its administrative support) are of such a specialised and confidential nature that it would be impractical or disadvantageous for Council to invite tenders or quotations.

- 7] That Council receives and accepts the outcome of the Shire-wide survey about the abolition of divisions in its local government area and resolves that it respects the wishes of the respondents to that survey.

That Council arranges to forward a copy of the results of the Shire-wide survey about the abolition of divisions in its local government area to the Minister for Local Government, Planning, Sport and Recreation for his consideration as a reviewable local government matter under the Local Government Act 1993 for the next elections in Douglas Shire.

- 8] That, in accordance with section 452(a) of the Local Government Act 1993, Council appoints the following standing committees of the whole of Council with the chairpersons for those respective standing committees be on the basis of rotating chairs on a three month cycle, the initial chairpersons being nominated below:

<i>Name of Standing Committee</i>	<i>Chairpersons for Standing Committee</i>
<i>Finance &amp; Administration</i>	<i>Cr Davis</i>
<i>Corporate &amp; Community</i>	<i>Cr Egan</i>
<i>Development &amp; Environment</i>	<i>Cr Cox</i>
<i>Engineering</i>	<i>Cr Bellerio</i>

- 9] That Council's General Managers will report about Council business to their respective Standing Committees.
- 10] That Council's Standing Committees will report and make recommendations via resolution to Council.
- 11] That Council develop a policy and procedure for its Standing Committees to report and make recommendations using an exception reporting process, and through the effective implementation of current and appropriate Delegations, and that McCullough Robertson be engaged to assist in the formulation and adoption of such policy and procedures.
- 12] That, in accordance with section 486 (1) (a) of the Local Government Act 1993, Council resolves that it is satisfied that the services to be supplied by McCullough Robertson under resolution 11 are only able to be supplied by them, given their involvement in the Show Cause Response process, so as to render it unreasonable to require Council to invite tenders or quotations, and given their being on Council's Legal Panel.

- 13] *That expressions of interest be called from members of Council's Legal Panel to undertake a review of Council's current system of delegations and prepare sample delegation resolutions, instruments of sub-delegation from Council's Chief Executive Officer and instruments of appointment of authorised persons (or similar term) in respect of Council's current local laws (including subordinate local laws) and the following key local government Acts (including subordinate legislation):*
- (i) Local Government Act 1993;*
  - (ii) Integrated Planning Act 1997;*
  - (iii) Environmental Protection Act 1994;*
  - (iv) Building Act 1975;*
  - (v) Water Act 2000;*
  - (vi) Food Act 2006;*
  - (vii) Public Health Act 2005;*
  - (viii) Public Health (Infection Control for Personal Appearance Services) Act 2003;*
  - (ix) Health Act 1937;*
  - (x) Plumbing and Drainage Act 2002;*
  - (xi) Dangerous Goods Safety Management Act 2001;*
  - (xii) Land Protection (Pest and Stock Route Management) Act 2002; and*
  - (xiii) Residential Services (Accreditation) Act 2002.*
- 14] *That expressions of interest be called for the development and delivery of an education and training session to all Councillors and senior executive staff about the orderly conduct of Council meetings and Committee meetings as provided for in the Local Government Act 1993, Local Law No. 17 (Meetings) and Local Law Policy No. 17 (Meetings), and Council's Code of Conduct. The firm appointed to undertake the review must also be instructed to make recommendations for improved procedures arising from the review.*
- 15] *That expressions of interest be called from the members of Council's Legal Panel to undertake a review of Council's Code of Conduct, Local Law No. 17 (Meetings) and Local Law Policy No. 17 (Meetings) with a Council Officer, to co-ordinate the process.*



- 16] That within three (3) months from the date of this resolution, Council provides a written report coordinated by a Council Officer, to the Minister for Local Government, Planning, Sport and Recreation and the Queensland Ombudsman dealing specifically with how it is implementing its Code of Conduct (including the review referred to in paragraph 15) with further quarterly reports to be provided to those persons until the next quadrennial election in March 2008.
- 17] That Council develops a policy (**'Ethics Policy'**) to:
- (a) outline the processes for Councillors' dealings with each other and external to Council;
  - (b) to vet all public and written communication of Councillors and Chief Executive Officer of a political or sensitive nature (for a minimum 3 month period) passing in and out of Council, that is referred to it by any person;
  - (c) allow for anonymous referral;
  - (d) address the issue of alleged improper Councillor behaviour through inappropriate written and spoken communications of a political or sensitive nature; and
  - (e) define the roles and responsibilities of a Council Ethics Officer and the roles and responsibilities of that role in deciding complaints and issues arising under Council's Code of Conduct and the Local Government Act 1993, and integrating these processes.
- 18] That the firm appointed to undertake the review under resolution 15 to review the Code of Conduct also be engaged to perform the task of formulating the Ethics Policy, and that they report back to Council with a draft and recommendations about the establishment and resourcing of an Ethics Committee within 1 month of the date of this resolution.
- 19] That Council develops a policy (**'Communications & Media Policy'**) to:
- i streamline the process for Council dealings with the media;
  - ii define the roles and responsibilities of a Council Communications Officer and the manner of liaison with the media;
  - iii improve media response times;
  - iv integrate with Council's Code of Conduct and the Local Government Act 1993.

- 20] *That expressions of interest be called for the appointment of a new senior executive position called Communications Officer (including media) so as to provide a more central line of communication between Council its clients and the media and to assist in the development and implementation of the Communication and Media Policy in conjunction with a Council Officer.*
- 21] *That Council instruct McCullough Robertson to include in the Show Cause Response to the Minister's letter received on 7 February 2007 ('Show Cause Response') an alternative that if the Minister is not satisfied with the Show Cause Response, an election be called for each of the Councillors' positions.*
- 22] *That Council adopt the above resolutions and instruct McCullough Robertson that they form the basis of action for incorporation into the Show Cause Response.*

**Carried** unanimously

#### ADJOURNMENT

At 1:20 pm the meeting stood adjourned until 4:00 pm on 22 February 2007.

#### RESUMPTION

The Meeting resumed in Chambers at 4:05 pm.

Present on resumption were Crs Berwick, Cox, Egan, Davis, Pitt and Sciacca.

#### TELECONFERENCE CALL – STUART MACNAUGHTON

The Council held a short discussion by telephone with Mr Macnaughton in relation to his preparation of the submission responding to the Minister's Show Cause.

There were no recommendations were forthcoming out of these discussions.

#### ATTENDANCE

The Manager Corporate Support re-attended the Meeting at 4:10 pm.

ADDRESS TO STAFF

Council requested meetings be arranged for the Council to address all staff at the earliest possible time which could be organised with the approval of the Chief Executive Officer and the General Managers.

TERMINATION

The Meeting terminated at 4:15 pm.

Presented to and confirmed by Council on the *thirteenth* day of *March* 2007.

**M P Berwick**  
**Chair**

Confirmed