



*Minutes of the Special Meeting of Council
5 September 2007
commencing at 1:01 pm*

PRESENT

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

Staff – J F Leu (Acting Chief Executive Officer), D G Carey (General Manager Community & Corporate), P J Trotman (General Manager Development & Environment), J R Allen (Strategic Planner), A M Rodgers (Manager Corporate Support) and S K Andrews (Corporate Support).

BUSINESS

Crs Bellerio, Sciacca and Pitt, advised they had called the Special Meeting in accordance with Douglas Shire Council Local Law No 17 (Meetings), Section 7, Part 2a to discuss and finalise by resolution the proposed 'Iconic Legislation' and the direction Council should be taking with it.

07/0905/01 'ICONIC LEGISLATION'

Moved Cr Bellerio

Seconded Cr Sciacca

"That Council rejects and distances itself from the so-called 'Iconic Legislation' and refuses to be a part of the process. That Council refrains and forbids all staff and consultants, or any law firm, from working under contract for the Council for the purpose of drafting of this legislation.

Furthermore, the Council instructs the Acting Chief Executive Officer to write to the Minister for Local Government, Planning and Sport, Hon Andrew Fraser MP, and the Premier of Queensland, Hon Peter Beattie MP, expressing these points.

That Council requests this letter be drafted, viewed by all Councillors and sent in haste.

That Council wants an inquiry into what monies (on staff time and consultants [legal costs]) have been spent without the resolution of Council on this so-called 'Iconic Legislation'."

TABLING OF DOCUMENTS RELATING TO ITEM 07/0905/01 – ‘ICONIC LEGISLATION’

The Mayor, Cr Berwick, tabled and read from the following documents relating to item 07/0905/01 – ‘Iconic Legislation’:

1. Legislation for Iconic Areas within Queensland – Discussion Paper – August 2007 (Attachment One [1]); and
2. Report to Councillors on ‘Iconic Legislation’ (Attachment Two [2]).

An amendment to the motion was moved:

Moved Cr Davis

“That Council:

- 1. resolves that the main purpose of the ‘Iconic Legislation’ is to give residents of Douglas an enshrined right of say on important changes to the Douglas Shire’s character;*
- 2. resolves that the ‘Iconic Legislation’ obliges Cairns Regional Council to undertake community consultation to defined standards, where the results of the consultation have the power of veto on the proposed changes;*
- 3. resolves to include a list of issues in the ‘Iconic Legislation’ that includes all issues requiring consultations at law now, plus key policies and issues that are at the essence of the Shire’s character, such as Carnivale, Mossman Show and the levy to support the Port Douglas and Daintree Tourism Association; and*
- 4. resolves to delegate the roles of resourcing the workup of the ‘Iconic Legislation’ to the Acting Chief Executive Officer, and that a community consultation commence collecting our community’s individual views.”*

The Chair determined that the amendment was contrary to the intent of the original motion and ruled it out of order. Debate on the original motion continued.

ATTENDANCE/WITHDRAWAL

The Manager Corporate Support, Ann-Marie Rodgers, withdrew from the meeting at 2:00 pm.

Voting on the original motion then took place:

For: Cr Bellerio, Sciacca, Egan, Pitt
Against: Cr Berwick, Davis, Cox
Carried



ATTENDANCE/WITHDRAWAL

The Manager Corporate Support, Ann-Marie Rodgers, re-attended the meeting at 2:33 pm.

TERMINATION OF THE MEETING

The meeting was closed at 2:34 pm.

Presented to and confirmed by Council on the *eighteenth* day of *September* 2007.

M P Berwick
Chair

Confirmed



Attachment One (1)

LEGISLATION FOR ICONIC AREAS WITHIN QUEENSLAND

DISCUSSION PAPER

AUGUST 2007

FOR PUBLIC COMMENT

Responses are invited by 4.00pm Wednesday, 5 September, 2007 (given the Government's tight deadline). All comments should be sent to:

ceo@dsc.qld.gov.au

OR

Mayor's Office
Douglas Shire Council
PO Box 357
Mossman QLD 4873

Hand delivered submissions will be accepted at Douglas Shire Council's Administration, 64-66 Front Street, Mossman.

Please direct all enquiries to the Mayor's office on telephone (07) 4099 9402.

Introduction

In August 2007, the Queensland Government introduced legislation to bring about forced amalgamations of many local governments in Queensland. This action followed the findings of the Queensland Local Government Reform Commission, which recommended wholesale changes to local government boundaries.

There has been extensive argument about the merits of such 'reform' including whether its comprehensive nature overlooked the distinctiveness of certain smaller communities in regional areas.

In response, the Premier proposed the introduction of 'iconic legislation' to afford protection to the particular characteristics of distinctive places such as Noosa and Douglas Shires.

Premier's Media Release – 3 August 07

The State Government will introduce new laws to give even greater protection to the state's internationally-recognised natural icons located in areas of new regional councils.

Premier Peter Beattie said the Iconic Queensland Strategy would give the force of state law to already existing planning schemes in such environmentally significant and important areas as Noosa, Port Douglas, the Whitsunday region and the Fraser Coast area.

"The current planning schemes in areas like Port Douglas and Noosa work well and have been administered by councils which largely stick rigidly to the plans," Mr Beattie said.

"What the government will do is legislate to ensure those planning schemes now have more grunt and the clout to ensure icons like the Daintree and the Great Sandy Straits and the Great Barrier Reef and the environmentally sensitive areas of the Sunshine Coast are given even more protection.

"Councils come and go but by doing this, the government gives legislative protection to safeguard our icons for future generations.

"Of course, appropriate development will continue but with the new laws, planning schemes in these areas become more powerful than ever.

"Since we announced the reforms to local government, we've heard the message and people are worried that the planning schemes of areas like Noosa and Port Douglas will be a thing of the past.

"I can assure them today that this will not be the case - we understand that these are international icons and we are just as determined as residents to ensure they remain that way."

Local Government and Planning Minister Andrew Fraser said the government would nominate the key regions of Noosa and Port Douglas but other councils were also encouraged to nominate for iconic status.

He said the government would then determine if iconic status was warranted.

Mr Fraser said iconic status could include:

- *Areas of state or national significance*

- *Areas of historical significance*
- *Areas of unique natural environment*
- *World Heritage areas like the Reef, Daintree & Sandy Straits*

"Internationally, Queensland is environmentally unique and there are very few other places who could match our areas of iconic importance," Mr Fraser said.

"Councils with areas of iconic significance like Douglas and Noosa have strong planning schemes in place and with the new laws they become stronger under the new regional councils for these areas."

This Discussion Paper describes a number of approaches towards the intent, scope, implementation and future decision-making processes for this legislation. It also asks a series of **questions**. Your answers to these questions will be helpful to developing the best model for this legislation to be presented to the government for the formal drafting process. The questions are posed throughout and contact details on where to send your answers are at the end of this document. **You must act fast** as there is not much time to consider and respond. The timeline is exceedingly short for something as important as this to communities.

1. HOW TO DETERMINE THE BEST LEGISLATION?

There are several options for the stages to develop key elements of legislation that might deliver the protections sought:

- Discussion paper
- Brainstorming
- Workshop
- Review of existing legislation elsewhere
- Draft outline
- Consultation and extensive review

The Noosa News of 17 August 2007 quotes the Premier as saying the Deputy Premier Anna Bligh, Local Government Minister Andrew Fraser and their staff would be drafting the legislation. However the community has been offered **one month** from mid August 2007 to suggest the form and intent of the legislation prior to the government commencing to draft the legislation.

Question 1: What other approaches can be used to develop a suitable model for this legislation, given the one month deadline to mid September 07?

2. INTENT OF THE LEGISLATION

At this preliminary stage, official sources for determining the intent of the legislation are limited to the media release by the Premier of 3 August 2007 re-printed above, media reports about comments made by the Premier and the Mayors of Douglas and Noosa Shires, and a short list of "givens" provided by the Department of Local Government, Planning, Sport and Recreation as a starting point. Overall a range of comments from government and community sources has been made about what might or should be the intent of the legislation.

Queensland Premier

- The force of state law to already existing planning schemes in environmentally significant and important areas
- Ensure those planning schemes now have more grunt and the clout to ensure icons.... are even more protected
- Appropriate development will continue but with the new laws, planning schemes in these areas become more powerful than ever
- At the end, the only security that Noosa will have in the long term and Port Douglas in the long term is State Government planning, because councils will come and go
- Looking at the definition of iconic
- Iconic status could include:
 - o Areas of state or national significance
 - o Areas of historical significance
 - o Areas of unique natural environment
 - o World Heritage areas like the Reef, Daintree & Sandy Straits

Mayors of Douglas and Noosa

- How does the community stay involved in debating local policy changes?
- How does a place keep its tourism point of difference and lifestyle?
- How to describe an iconic community?
- How to protect local policies on signage, landscaping, local transport, etc.?
- How strong is the tourism element in the legislation?
- Call in powers for developments approved outside the planning schemes
- Strengthening landscaping and signage policies and the like so they can't be changed without proper community consultation
- Benchmarking mechanism that things can be judged against so the original vision is not eroded

- Needs a balance between state legislation and local ownership
- State should fix urban boundaries, height limits, densities
- Council policies on signage, architecture style, development density, building height restrictions and sustainable building codes to be considered for inclusion
- Local community needs embedded, structured engagement for ongoing input into planning
- This should be seen as a form of participative democracy
- Fix urban footprint as per current planning scheme
- Fix height and density limits as per Planning Scheme
- Set in place long term planning and funding strategy for Daintree Coast
- Secure ferry i.e. no bridge
- Reintroduce tourism levy for ongoing land purchase and infrastructure maintenance
- Establish model for participatory democracy by retaining strategic planning and community engagement capacity

Department of Local Government, Planning, Sport and Recreation

- To be “stand-alone” legislation
- Iconic threshold for inclusion in the legislation needs to be high – maybe linked to national/international recognition of local government values
- To at least include Noosa and Douglas Shires – may include other local governments if local governments agree e.g. Cooloola and Whitsunday Shires
- Do not want to freeze current planning schemes in time – too inflexible/inappropriate and shuts local community out of process
- May need flexibility to use regulations/schedules in support of legislation to achieve more flexible/practical outcomes
- Also need to focus on what really are the iconic values of the areas – impractical to recognise every feature of the local government area
- Legislation to be in effect by 15 March 2008 prior to new Councils coming into effect – earlier advice required for transitional committees
- Aim to introduce legislation into parliament in late October/early November 2007.

Other community comments

- Communities change, and growth pressures never go away, so legislation that simply fixes all planning to a never changing 2007 view won't stand the test of time. What will stand is continued local empowerment to shape a community's destiny

3. SCOPE OF THE LEGISLATION

There has been a clear intent expressed by government that the legislation will apply to existing planning schemes. The laws are anticipated to cover their content, the amendment process and decision making. However how far might the scope of the legislation extend?

Suggestions include-

- Definition of iconic – natural values plus various social, cultural (including indigenous) and economic values held by the community. Is this a heritage type of issue? The sustainability of communities is relevant.
- Does the iconic area cover the existing local government boundaries or is it defined in some other way?
- Role of the community – extent of consultation before decisions are made about development or policy changes
- Role of the future Council in respecting the iconic values
- Role of the State Government in overseeing the decisions of the future council affecting the iconic area
- Relevance and the nature of tourism to the area
- Acknowledgement of nationally and internationally recognised characteristics – natural, built (style or heritage) and social (existing strong community governance models)
- Particular Council policies and local laws other than the planning scheme

Question 4: What should the scope of the legislation cover?



4. ACTIONS OPEN TO CURRENT COUNCILS BEFORE AMALGAMATION

The new legislation may not be in place until around the end of 2007. 15 March 2008 is the next critical date when the council elections are to be held. So what can existing councils do to support the introduction of protection offered by the legislation before the next elections?

The development of the legislation will give some guidance to the principles upon which it will be based. Affected councils may need to urgently commence to document their values in need of protection and the means to provide that protection at the earliest date. Are there provisions in the planning scheme that need to be identified for special measures?

Question 5: What should existing Councils be doing ahead of the legislation?

Question 6: What types of planning scheme provisions need to be identified and declared under the iconic legislation?

5. IMPLEMENTING LEGISLATION BY THE NEW COUNCIL

After March 2008, a new Council will be making decisions about the particular areas affected by the iconic legislation. The Council body will govern areas in addition to the iconic location. This will mean the process for undertaking decisions that invoke the iconic legislation will be different to the Council's normal procedures.

There will need to be particular processes that the legislation might require of Councils to ensure the decisions made for the iconic area are appropriate as measured by the resident community.

Type of Issue called up by Legislation

The new Council will need to have procedures in place to administer the iconic legislation. The particular issues and applications covered by the legislation need to be identified.

The legislation could apply to –

- Policy decisions
- Certain development applications.

Policy may include planning schemes, local laws, associated policies, economic strategies, sustainability measures, etc as the legislation dictates.

Community Referral Process

Certain decisions may require wider referral than normal applications. It is unlikely the government will wish to routinely participate in the process. In that case any extra input to decisions could come from the particular community, thereby offering an opportunity for community governance above just consultation under IDAS.

However if the government does not participate and the community is offered a role, then a structure needs to be developed to accommodate and acknowledge this role.

Attachment Two (2)

Report to Councillors on Icon Legislation 230708

As you know the Premier announced his government's intention to enact icon legislation to limit the fallout re Noosa and Douglas amalgamation.

When Bob and I spoke to the Premier, Anna Bligh and Andrew Fraser he made it clear that while his government was committed to it, he wasn't clear on how to go about it and invited Bob Abbot and I to assist, giving us a month to come up with some ideas or a framework. We warned the Premier this was no substitute for amalgamation and that it was a complex task that would take time. There was the option of refusing to co-operate but we were of the opinion firstly the legislation could be a good thing if properly designed but potentially a mess if not done well. Secondly it is quite clear Beattie will do it with or without us. The danger is we get a planning set in concrete from Brisbane and the public are cut out of participation in its formation and subsequent amendments

While the invite was to us personally I took the liberty of asking for support from our planning department because Paul Trotman is very knowledgeable in these matters and Bob Abbot has done the same. Neither Bob nor I are professional planners and would to be capable of doing this ourselves. As well I believe public engagement over this issue is fundamental and I can't do that on my own.

Yesterday as I was in Brisbane anyway we had our first meeting with Bob and I and the two council planners (Paul T by phone). We came to the conclusion that:

- Doing this in the short time frame set by the premier is likely to lead to flawed legislation
- This is more about giving the community power over its own future than it is about setting anything in concrete. This could be done by setting up a form of "participatory democracy" that on the one hand allows the community to drive changes to the planning scheme and policy and on the other prevents the new council changing things defined as "iconic" without the support of the community. This means being able to reliably "measure" community views on key issues. There is plenty of research and examples on this world wide.
- It would be a lot better if Douglas and Noosa were left out of the amalgamation at least until this legislation is properly thought through and reviewed
- It is not just about planning matters – things like our tourism levy, carnivals, the ferry all contribute to making this shire what it is. Noosa is much more advanced than us in its public engagement having set up a number of community "Boards" in tourism, economic development, environment, culture etc which are funded by Council and may not be by the new council
- It may involve either separate legislation or amendments to existing legislation. Separate legislation is preferred by the Premier and Co but that is likely to require amendments to other legislation anyway

Stuart McNaughton has been jointly engaged by both Councils to co-ordinate this process and Noosa is prepared to pay the bulk of it if amounts to a significant cost. I asked the



department if it would pay – Colin Cassidy (chief planner in DLGP) said they probably would but I suggest it is better if the two councils fully control the process

On a related matter I have suggested to Julia we sell \$5 or \$10 million worth of land and set up a community trust fund (maintaining the capital and using the interest) for our community groups so they have a better capacity to properly engage with future councils. Julia thinks the idea has merit and said she will get advice on it. When that advice comes in I'll do up a motion

On another related matter the commonwealth announcement of \$1.5 billion community infrastructure money for councils was the initial concept of the Sea Change Task Force and the members are all feeling chuffed. More details are coming out next week