



*Minutes of the Ordinary Meeting of Council  
18 September 2007  
commencing at 11:07 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** – J F Leu (Acting Chief Executive Officer), D G Carey (General Manager Community & Corporate), P J Trotman (General Manager Development & Environment), P J Cymbala (Acting General Manager Engineering), L Stayte (Acting Manager Planning), D V Crees (Manager Rates & Finance Support), J R Allen (Strategic Planner), A M Rodgers (Manager Corporate Support) and S K Andrews (Corporate Support).

**Visitor** – Tamas Maffey-Stumpe, work experience student, Mossman State High School.

**07/0918/34A    SUSPENSION OF STANDING ORDERS**

Moved Cr Berwick

Seconded Cr Cox

*“That standing orders be suspended to allow Council to consider all matters relating to item 07/0918/34 – Notice to Repeal a Motion from the Special Meeting of Council on 5 September 2007.”    (11:11 am)*

For:            Cr Berwick, Cox, Sciacca, Pitt, Davis

Against:      Cr Egan, Bellerio

**Carried**

**BRIEFING SESSION – ‘ICONIC LEGISLATION’**

The Mayor, Cr Berwick, presented a briefing on the proposed ‘Iconic Legislation’ to the Council. Upon conclusion of the presentation, item 07/0918/34 – Notice to Repeal a Motion from the Special Meeting of Council on 5 September 2007, was discussed.

**07/0918/34 NOTICE TO REPEAL A MOTION FROM THE SPECIAL MEETING OF COUNCIL ON 5 SEPTEMBER 2007**

Moved Cr Davis

Seconded Cr Berwick

*“That Council repeals the following motion from its Special Meeting of Council on 5 September 2007:*

*‘07/0905/01 “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’.”*

With the agreement of the mover and the seconder the motion was amended as follows:

1. *“That Council repeals the following motion from its Special Meeting of Council on 5 September 2007:*

*‘07/0905/01 “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’.’*

2. *That Council tables the letter (Attachment One [1]) presented to the meeting by Cr Pitt and instructs the Acting Chief Executive Officer to forward the letter as tabled to the Premier of Queensland, Hon Anna Bligh MP, and the Minister for Infrastructure and Planning, Hon Paul Lucas MP."*

For: Cr Davis, Berwick, Egan, Pitt, Sciacca, Cox

Against: Cr Bellerio

**Carried**

The Mayor wished it be recorded that he voted in the affirmative for the motion because he thought it was the best way forward and not because he necessarily agreed with Cr Pitt's letter.

#### ADJOURNMENT OF THE MEETING

The meeting was adjourned at 12:40 pm.

#### RESUMPTION OF THE MEETING

The meeting resumed at 2:57 pm. Cr Egan was not in attendance at the resumption.

07/0918/25

#### CONDOLENCES

Cr Berwick referred to the recent deaths of Pollyanna McLean, George Little and Thomas Stack. The Council stood and observed one minute's silence.

Moved Cr Berwick

Seconded Cr Cox

*"That Council sends letters of condolence to the next of kin."*

**Carried** unanimously

07/0918/26

#### DECLARATIONS OF INTEREST

There were no declarations of interest presented to the meeting.

07/0918/27      MINUTES

07/0918/28      MINUTES

Items 07/0918/27 and 07/0918/28 were dealt with concurrently and determined by the resolution below:

Moved Cr Berwick

Seconded Cr Davis

*“That the minutes of the Ordinary Council Meeting held on 27 August 2007 and Special Council Meeting held on 5 September 2007 be confirmed subject to an amendment being made to item 07/0827/21 – Condolences, that the seconder of the motion, Cr Egan, be recorded.”*

**Carried** unanimously

## REPORTS

07/0918/29      22-POINT PLAN – PROGRESS REPORT TO MINISTER FOR MAIN ROADS AND LOCAL GOVERNMENT

Moved Cr Berwick

Seconded Cr Cox

*“That the Progress Report in respect of the 22-Point Plan attached to the officer’s report be adopted by the Council and forwarded to the Hon Warren Pitt MP, Minister for Main Roads and Local Government.”*

For:            Cr Berwick, Cox, Bellerio, Pitt, Sciacca

Against:      Cr Davis

**Carried**

07/0918/30      REVIEW OF 2007/08 OPERATIONAL PLAN

Moved Cr Berwick

Seconded Cr Davis

07/0918/30      *“That those items highlighted in red font in the 2007/08 Operational Plan attached to the officer’s report are deleted from the plan, those changes highlighted in blue font be added to the Plan (including in the executive summary) and the resultant works and services constitute the revised 2007/08 Operational Plan; but that item 63 – Prepare a carbon neutral/energy independence strategy for the Shire, be retained.”*

**The motion was withdrawn**

Moved Cr Sciacca

Seconded Cr Pitt

07/0918/30(i)

*“That those items highlighted in red font in the 2007/08 Operational Plan attached to the officer’s report are deleted from the plan, those changes highlighted in blue font be added to the Plan (including in the executive summary) and the resultant works and services constitute the revised 2007/08 Operational Plan.”*

For: Cr Sciacca, Cox, Pitt, Bellerio

Against: Cr Davis, Berwick

**Carried**

The following item was inadvertently dealt with out of turn:

07/0918/32

**DETAILS OF THE USE OF THE COUNCIL SEAL**

Moved Cr Berwick

Seconded Cr Cox

*“That Council receives the report providing details of the use of the council seal and endorses the actions of the Mayor and Acting Chief Executive Officer in executing on its behalf, under seal, the documents detailed therein.”*

**Carried** unanimously

07/0918/31

**CONDUCT OF PLEBISCITE – DOUGLAS SHIRE COUNCIL**

Moved Cr Cox

Seconded Cr Pitt

*“That Council advises the Local Government Association of Queensland (LGAQ) as follows and provides a copy of the minute of the Ordinary Meeting of the Council, 18 September 2007, to the Association without delay:*

1. *As a consequence of the Local Government Reform Implementation Act 2007, Douglas Shire Council will be amalgamated with Cairns City Council following the conclusion of the 15 March 2008 local government elections.*
2. *Whilst Douglas Shire Council would like to conduct a poll on the important public question of whether it should be amalgamated with Cairns City Council, it acknowledges that it is currently prevented from doing so by the inclusion of section 159ZY into the Local Government Act 1993.*
3. *However, Council notes and welcomes the intervention of the federal government in relation to this important issue by way of:*
  - a. *offering to fund the cost of the Australian Electoral Commission (AEC) conducting plebiscites; and*
  - b. *amending the Commonwealth Electoral Act 1918 to facilitate same.*

4. Douglas Shire Council accordingly appoints the LGAQ as its agent for all purposes relating to arranging a plebiscite, to be conducted by the AEC under the Commonwealth Electoral Act 1918, on the important public question of whether the electors of Douglas Shire Council support the amalgamation of Douglas Shire Council with other Council areas, on the following terms and conditions: -
- a. The question to be put to the electors of Douglas Shire Council is: -  
“Do you support the Queensland Government’s decision to amalgamate your Council with other Council areas?”
  - b. If an elector approves of the question, the elector may—
    - place a tick in the space provided opposite the word ‘YES’ in the space provided on the ballot paper; or
    - write the word ‘YES’ in the square opposite the word ‘YES’ on the ballot paper; or
    - otherwise mark the ballot paper in a way that clearly and unambiguously indicates the elector approves of the question.
  - c. If an elector does not approve of the question, the elector may—
    - place a tick in the space provided opposite the word ‘NO’ in the space provided on the ballot paper; or
    - write the word ‘NO’ in the square opposite the word ‘NO’ on the ballot paper; or
    - otherwise mark the ballot paper in a way that clearly and unambiguously indicates the elector does not approve of the question.
  - d. The plebiscite is to be conducted by the AEC generally in accordance with the AEC’s minimum standards, namely:
    - Electors will be informed of the event concerned.
    - Each elector will have one vote.
    - Electors will be provided with a reasonable opportunity to vote.
    - The ballot will be secret.
    - There will be provision for the appointment of scrutineers.
    - The (electors) roll will be available to scrutineers.
    - The ballot material will be retained by the AEC until the close of the period of challenge.
    - The plebiscite will not be partially conducted.



e. *The rules of the plebiscite are to incorporate the AEC's minimum standards mentioned above and are to be as otherwise finally agreed between the AEC and LGAQ, generally in accordance with the following framework:*

- *The plebiscite is to be conducted by full postal ballot.*
- *The initiating step for the plebiscite will be the AEC giving public notice (in the Courier Mail and, possibly, in a newspaper circulating in Council's immediate locality) of its intention to close the electors roll (for the purposes of conducting the plebiscite).*
- *Approximately six (6) days later, the AEC will give public notice (in the Courier Mail and, possibly, in a newspaper circulating in Council's immediate locality) of the nature of the plebiscite.*
- *Approximately four (4) days later the roll will be closed.*
- *Over the next seven (7) to ten (10) days thereafter, the roll will be compiled and all material relative to the conducting of a full postal ballot will be prepared.*
- *Immediately thereafter, a mail out of the full postal ballot will occur, with the electors being required to complete and return the relevant postal ballot material not sooner than ten (10) working days after the date of the mail-out.*
- *Counting of the ballots will commence as soon as practically possible after the closing date for the ballot with daily progressive tallies to be provided by the AEC to the LGAQ, Council and any scrutineers.*
- *Counting of the ballots is to be finalised on the day that is ten (10) days after the closing date of the ballot, with the final results of the count to be provided to the LGAQ, Council and any scrutineers.*

5. *Douglas Shire Council records by this resolution its total commitment to the conduct of the plebiscite and to ensure the plebiscite is completed without delay, delegates to the Mayor the power to accept and adopt on Council's behalf, the rules of the plebiscite as finally agreed between the LGAQ and the AEC."*

For: Cr Cox, Pitt, Berwick, Bellerio, Sciacca

Against: Cr Davis

**Carried**

**07/0918/32      DETAILS OF THE USE OF THE COUNCIL SEAL**

This item was dealt with before item 07/0918/31 – Conduct of Plebiscite – Douglas Shire Council.

**07/0918/33      DECISIONS OF COUNCIL STATUS REPORT**

Moved Cr Berwick

Seconded Cr Cox

*"That Council receives and notes the Decisions of Council Status Report."*

**ATTENDANCE/WITHDRAWAL**

Cr Pitt withdrew from the meeting at 3:29 pm.

**Carried unanimously**

**NOTICES OF MOTION**

**OFFICER COMMENT PROVIDED**

**07/0918/34      NOTICE TO REPEAL A MOTION FROM THE SPECIAL MEETING OF COUNCIL ON 5 SEPTEMBER 2007**

This item was considered after item 07/0918/34A – Suspension of Standing Orders, at the beginning of the meeting.

**ATTENDANCE/WITHDRAWAL**

Cr Pitt re-attended the meeting at 3:30 pm.

**07/0918/35      RD5107M – 'ICONIC LEGISLATION'**

*"That Council does not want to deny the people of Douglas Shire a say on any 'Iconic Legislation', and regardless whether the community is for or against the legislation, it will actively seek out the views and actively engage the community on their views about the 'Iconic Legislation', whether drafted in Douglas or Noosa Shire."*

**The motion was withdrawn**



07/0918/35(i) *“That Council supports community consultation that provides views both for and against the ‘Iconic Legislation’, authorising staff to create option papers, and councillors to add arguments that are published both for and against the options presented.”*

**The motion was withdrawn**

07/0918/35(ii) *“That Council agrees any ‘Iconic Legislation’ should emphasise and strengthen the community’s right of say over changes to any laws or policies currently requiring community consultation as it is.”*

**The motion was withdrawn**

Moved Cr Davis

07/0918/35(iii) *“That Council writes to the Hon Anna Bligh MP, Premier of Queensland, demanding that union input to the Interim Transition Committee requires unionists not living or working full-time in the Douglas Shire to be disqualified from having the final vote on matters related to the wellbeing of Douglas Shire Council employees.”*

**Lapsed** for want of a seconder

07/0918/36     **MC1807M – DOUGLAS SHIRE COUNCIL PROXY FOR LOCAL TRANSITION COMMITTEE**

Moved Cr Cox

Seconded Cr Davis

*“That Council appoints Cr George Pitt as the Douglas Shire Council proxy on the Local Transition Committee in the absence of Crs Berwick or Cox.”*

**Carried** unanimously

07/0918/37     **JS0807M – ANNUAL MEETING – COOK, WUJAL WUJAL AND DOUGLAS SHIRE COUNCILS**

Moved Cr Sciacca

Seconded Cr Cox

*“That Council initiates discussions for the annual meeting between Cook, Wujal Wujal and Douglas Shire Councils, with Douglas Shire hosting the visit. Further, that Council include all joint initiatives shared by these three councils as agenda items, eg waste transfer station, as these will be affected by the Cairns City Council/Douglas Shire Council merger.”*

**Carried** unanimously



## **REPORTS – ACTING CHIEF EXECUTIVE OFFICER**

There were no reports presented to the meeting.

### **TERMINATION OF THE MEETING**

The meeting was closed at 3:34 pm.

Presented to and confirmed by Council on the *ninth* day of *October* 2007.

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

Confirmed

## **Attachment One (1)**

Re: Proposed Iconic Legislation

Council considered how it might be involved in the drafting of this legislation at a special meeting held on 5<sup>th</sup> September 2007.

Council understands that the intention of the iconic legislation is to enshrine in legislation initiatives which will allow both the biophysical and built environments in areas of high environmental and historical significance to be protected, and for development to occur in a sustainable way.

As you would be aware the current Douglas Shire Local Government area is comprised of some 2447 square kilometres of land and 5550 square kilometres of sea.

A very large percentage of these areas are already protected by State and Commonwealth Legislation including National Parks, World Heritage, State Marine Park and Great Barrier Reef Marine Park Legislation.

The areas are further protected by Council's Town Planning Scheme which has recently removed all development rights on a large number of allotments in the Daintree Lowlands north of the Daintree River, and provides for a built environment which protects community amenity and requires sustainable and balanced development.

Council's planning initiatives have included a limit on building height and population density, and the special consideration for areas of historical significance such as the Port Douglas Harbour.

Against this backdrop Council has formed the view that it has already expended significant financial and human resources in pursuing the goals established by the proposed "iconic" legislation, and it is now a matter for the State, if it still considers the legislation should cover the Douglas Shire area, to fully fund and drive the process.

Council is also concerned given the strict legislative and planning controls which already affect all areas of the Shire that the "iconic" legislation, if it proceeds to cover the Shire, should be drafted so as to not further fetter or restrict the opportunity for future generations to allow sustainable development to the extent that it might be considered by future Local and State Government representation.



We trust the State will fully fund and manage the process in terms of the above, and the development of the legislation will be carried in a transparent and unbiased way with full and proper community consultation.

Council thanks you in contemplation of your consideration of the matters we have raised.

Yours sincerely

Julia Leu  
Acting Chief Executive Officer