



*Minutes of the Special Meeting of Council  
20 December 2007  
commencing at 3:14 pm*

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**PRESENT**

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

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

**APOLOGY**

An apology was received from Cr Davis for his inability to attend the meeting due to a leave of absence, however with the agreement of the meeting, Cr Davis was provided with a telephone link so that he could listen to the proceedings of the meeting only.

**BUSINESS**

Crs Egan, Pitt and Bellerio advised they had called the Special Meeting in accordance with Douglas Shire Council Local Law No 17 (Meetings), Section 7, Part 2a to:

1. Discuss and, if necessary, pass resolutions confirming Council's position on the State Government's proposal for the preparations of 'Icon Legislation' for the Douglas Shire, in accordance with Council's resolution passed at its Ordinary Meeting held on 18 September 2007 and advice provided to the Premier, Hon Anna Bligh MP, and the Minister for Infrastructure and Planning, Hon Paul Lucas MP; and
2. To discuss the report provided to Council at its last series of meetings held on 11 December 2007 by consultant, Mr Leigh Bernhardt and to pass resolutions relating to the report and its recommendations.

**07/1220/03**

**PROPOSED "ICON LEGISLATION"**

There were no decisions taken in relation to this matter as it was considered the matter had been adequately dealt with in related business arising from the special meeting of the Council of the same day which preceded this meeting.



**07/1220/04A**      **CLOSURE OF THE MEETING TO THE PUBLIC**

Moved Cr Berwick

Seconded Cr Egan

*"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 report provided to Council by consultant, Mr Leigh Bernhardt."* (3:15 pm)

**Carried** unanimously

**ATTENDANCE/WITHDRAWAL**

At the closure of the meeting to the public, all staff except the Acting Chief Executive Officer, Julia Leu, withdrew from the meeting. The telephone link with Cr. Davis was terminated.

**07/1220/04B**      **OPENING OF THE MEETING TO THE PUBLIC**

Moved Cr Berwick

Seconded Cr Cox

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

**Carried** unanimously

**07/1220/04B**      **CONSIDERATION OF REPORT OF CONSULTANT MR. LEIGH BERNHARDT**

Moved Cr Berwick

Seconded Cr Cox

1.      *"That Leigh Bernhardt's statement be released to the Cairns Post and the Port Douglas & Mossman Gazette.*
2.      *That there be no further comments to anyone*
3.      *A copy of the report be provided to Council's Insurers before any further material is provided to any party*
4.      *That the Insurers advice be sought on the release of any part of the document to affected parties*
5.      *That Council impress on the Insurers for prompt advice*
6.      *That Council staff be authorized to act immediately on the advice of Council's Insurers".*

For:              Crs Berwick, Cox

Against:        Crs Bellerio, Egan, Pitt and Sciacca

**Lost**



07/1220/04C

Moved Cr Bellerio

Seconded Cr Egan

1. *"That the Press Release prepared by Leigh Bernhardt be issued as a paid advertisement to the Cairns Post and the Port Douglas & Mossman Gazette.*
2. *That Mr Melchert be given the same privileges as staff and that he be issued with all information regarding investigations by Leigh Bernhardt involving Mr Melchert whether as a claimant and a respondent".*

During the course of discussions the following comments were made which it was agreed by the Chair would be recorded in the minutes:

Objection by Cr Berwick

"My only objection is that this is being done prior to the seeking advice from Council's Insurers"

Objection by Cr Cox

"My reason for not supporting the motion is that we have been given advice to get legal advice and I believe that advice be sought"

Objection by Cr Egan

"Cr Egan believes that we are all equal and that the way one should be treated the same as everyone else"

Objection by Cr Sciacca

"Mr Melchert has been part of the investigation and Leigh Bernhardt has spoken to Mr Melchert as part of the investigation"

Objection by Cr Pitt

"By Leigh Bernhardt's own admission that the affected staff were given a copy of the outcome of the investigation as it related to them individually and there is no certainty that a claim could be made in the future. Therefore that Terry Melchert should be given the information that relates to the outcomes of the investigation that pertains solely to him"

The motion was put:

For: Crs Egan, Bellerio, Pitt, Sciacca

Against: Crs Berwick, Cox

**Carried**



**07/1220/04D**

Moved Cr Egan

Seconded Cr Bellerio

*“Dependent on the required notice, that Mr Carey be terminated consistent with his employment contract.”*

For: Crs Egan, Bellerio, Pitt, Sciacca

Against: Crs Berwick, Cox

**Carried**

Cr Berwick requested the following to be recorded in the minutes of the meeting:

That he, in his capacity as Chair of the meeting, had formally requested advice from the supporters of the above resolution about the reasons and justifications for the motion, and that it be noted that no reasons had been provided.

**TERMINATION OF THE MEETING**

The meeting was closed at 5:50 pm

Presented to and confirmed by Council on the *twenty-second* day of *January* 2008.

**M P Berwick  
Chair**