



***Minutes of the Adjourned Ordinary Meeting of Council
held in the Douglas Shire Hall, Mill Street, Mossman
20 December 2006 commencing at 9.04 am***

PRESENT

Councillors – M P Berwick (Mayor), D P Egan (Deputy Mayor), W J Bellerio, M Cox, R Davis, D G Pitt and J Sciacca (present at 9.13am).

Staff – T C Melchert (Chief Executive Officer), D G Carey (General Manager Community & Corporate), I B Barton (General Manager Finance & Administration), R J Baade (General Manager Engineering), P Trotman (General Manager Development & Environment), A M Rodgers (Manager Corporate Support), D L Street (Corporate Support).

INVITATION TO ATTEND COUNCIL MEETING

The Mayor indicated Mr Tony Walsh of Far North Investigations was in attendance at the request of Cr Sciacca. Mr Walsh would be invited to address Council later in the day during a closed session.

06/1219/08 DETAILS OF THE USE OF THE COUNCIL SEAL

Moved Cr Egan

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 Chief Executive Officer in executing on its behalf, under seal, the documents detailed therein.”

Carried unanimously

06/1219/09 DECISIONS OF COUNCIL STATUS REPORT

Moved Cr Berwick

Seconded Cr Cox

“That Council receives and notes the Decisions of Council Status Report.”

Electoral Reform 06/1107/27(i)

The Chief Executive Officer advised he has sought legal advice from Stephen Fynes-Clinton and it would be provided to Council once received.



Daintree River Toilet Block

The Chief Executive Officer advised the current instruction to commence construction has been conveyed to the Environmental Protection Agency. However no further work on the toilets would be undertaken prior to Christmas due to difficulties to obtain tradesmen. Work would recommence in early 2007.

The Chief Executive Officer read in full legal advice received from McCullough and Robertson Lawyers.

ATTENDANCE/WITHDRAWAL

Cr Sciacca attended the meeting at 9.13am.

ATTENDANCE/WITHDRAWAL

The Manager Planning Services, Paul Gleeson, attended the meeting at 9.16am.

Moved Cr Berwick

Seconded Cr Davis

"That the legal advice received from McCullough Robertson Lawyers be tabled."

For: Crs Berwick, Davis, Cox

Against: Crs Egan, Pitt, Sciacca, Bellerio

Lost

The original motion was put:

06/1219/09

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

Carried unanimously

DEVELOPMENT & ENVIRONMENT

06/1219/10 MCUI 006/06 – LOT 265 SILVER ASH ROAD, COW BAY

Moved Cr Cox

Seconded Cr Berwick

"That Council refuses the request to assess application MCUI 006/06 under the Douglas Shire Superseded Planning Scheme."

For: Crs Cox, Berwick, Pitt, Davis, Egan

Against: Crs Bellerio, Sciacca

Carried



06/1219/11 MCUI 007/06 – LOT 199 CEDAR ROAD, COW BAY

Moved Cr Berwick

Seconded Cr Cox

“That Council refuses the request to assess application MCUI 007/06 under the Douglas Shire Superseded Planning Scheme.”

For: Crs Cox, Berwick, Pitt, Davis, Egan

Against: Crs Bellerio, Sciacca

Carried**06/1219/12 MCUI 016/06 – LOT 353 HICKORY ROAD, COW BAY**

Moved Cr Berwick

Seconded Cr Egan

“That Council refuses the application by Chris Jukes for a dwelling house on land described as Lot 353 on RP739002, located at Lot 353 Hickory Road, Cow Bay on the grounds detailed in Attachment B.”

For: Crs Cox, Berwick, Pitt, Davis, Egan

Against: Crs Bellerio, Sciacca

Carried**06/1219/13 MCUI 017/06 – LOT 81 ROSEWOOD ROAD, COW BAY**

Moved Cr Egan

Seconded Cr Cox

“That Council refuses the application by Ross Sexton for a dwelling house on land described as Lot 81 on RP738146, located at Lot 81 Rosewood Road, Cow Bay on the grounds detailed in Attachment B.”

For: Crs Cox, Berwick, Pitt, Davis, Egan

Against: Crs Bellerio, Sciacca

Carried**06/1219/14 MCU3B 012/06 – LOT 7 DAVIDSON STREET, CRAIGLIE**

Moved Cr Sciacca

Seconded Cr Pitt

“That Council resolves to delete conditions 4.8, 4.12, 4.23 and 4.24 of the Decision Notice for Development Approval MCU 3B 012/06 and issue a Negotiated Decision Notice pursuant to section 3.5.17 of the Integrated Planning Act 1997.”

Carried unanimously



06/1219/15 MCU3B 040/02 – LOT 2 BUCHANAN CREEK ROAD, COW BAY

Moved Cr Pitt

Seconded Cr Sciacca

“That Council approves the request to extend the currency period for approved development MCU 3B 040/02 for a Dwelling House and two B&B cabins located at Lot 2 on RP744533 Buchanan Creek Road, Cow Bay for a further 2 years.”

Carried unanimously

06/1219/16 MCU3B 046/01 – LOT 143 CARBEEN ROAD, DIWAN

Moved Cr Sciacca

Seconded Cr Bellerio

“That Council approves the request for a minor amendment to an existing Planning Approval (MCU 3B 046/01) enclosing the ground floor in order to create three (3) bedrooms, and construction of a patio and carport on land described as Lot 143 Carbeen Road, Diwan, subject to an amendment of Condition 1 to acknowledge the amended Plans of Development. “

Carried unanimously

06/1219/17 TPC 1162 – LOTS 2 AND 31 KINGSTON ROAD, WHYANBEE

Moved Cr Egan

Seconded Cr Pitt

A. *“That Council refuses the application for a Material Change of Use Development Permit for a caretaker’s residence on land described as Lot 2 on RP743942 and Lot 31 on NR222, located at Kingston Road, Whyanbeel, on the following grounds:*

1. *The applicant has provided no information or plans that address compliance with the relevant provisions of the Transitional Planning Scheme. Therefore Council as Assessment Manager cannot assess compliance with the Planning Scheme requirements.”*

B. *“That Council approves the application for a Material Change of Use Development Permit to conduct farm attraction, educational establishment, outdoor recreation and outdoor entertainment activities on land described as Lot 2 on RP743942 and Lot 31 on NR222, located at Kingston Road, Whyanbeel, subject to the conditions as recommended by the Planning Officer.”*



POINT OF ORDER

During the questioning of the Manager Planning by Cr Davis on this matter Cr Bellerio moved the following point of order.

Moved Cr Bellerio

Seconded Cr Pitt

"That Cr Davis was trying to instruct an officer and not ask a question."

The Mayor determined not to uphold the Point of Order motion.

Debate on the matter continued.

The motion for 06/1219/17 was then put –

For: Crs Egan, Pitt, Cox, Bellerio, Sciacca

Against: Crs Berwick, Davis

Carried

06/1219/18 TPC 1241 – LOTS 58, 59 AND 1 CAPTAIN COOK HIGHWAY, CRAIGLIE

Moved Cr Cox

Seconded Cr Sciacca

"That Council resolves to amend Condition 28 to read as follows:

- the warehouse is to be set back no less than 1 metre from the side boundary and 1.4 metres from the existing sewer main. Any structures that are to be located within the zone of influence (within 2.5 metres) of the existing sewer main must be designed with appropriately pierced footings;*

and issue a Negotiated Decision Notice pursuant to section 3.5.17 of the Integrated Planning Act 1997."

Carried unanimously

06/1219/19 TPC 1258 – LOT 1 MACROSSAN STREET, PORT DOUGLAS

Moved Cr Egan

Seconded Cr Cox

"That Council resolves to make no changes to Condition four (4) and amend Condition six (6) of the Decision Notice for TPC 1258 and issue a Negotiated Decision Notice pursuant to Section 3.5.17 of the Integrated Planning Act 1997."

Carried unanimously

**06/1219/20 TPC 1275 – LOT 32 THOMAS STREET, MOSSMAN**

Moved Cr Egan

Seconded Cr Pitt

“That Council approves the application for a Material Change of Use from Special Industry to uses consistent with the Residential A zoning for part of Lot 32 on SP176441 more particularly approved Lot 2 on Thomas Street, Mossman, subject to conditions.”

Carried unanimously**06/1219/21 SUB 006/06 – LOT 18 GRAYS CREEK TERRANCE, MOWBRAY**

Moved Cr Sciacca

Seconded Cr Cox

“That Council approves the application for a Reconfiguration of a Lot Development Permit, subject to conditions.”

Carried unanimously**06/1219/22 CA 64 – LOT 25 SAVANNAH CLOSE, PORT DOUGLAS**

Moved Cr Egan

Seconded Cr Berwick

“That Council approves the application for a Development Permit for Material Change of Use to permit the development of two (2), two bedroom units as integrated housing on land situated at 14 Savannah Close, Port Douglas and described as Lot 25 on RP729078, subject to conditions.”

Carried unanimously**06/1219/23 REQUEST TO AMEND CONDITIONS – LOT 40 REEF STREET, PORT DOUGLAS**

Moved Cr Egan

Seconded Cr Sciacca

“That Council amends condition A of the Preliminary Approval as follows:

- the decks may be roofed, however, no walls and/or panelling exceeding a height of 2 metres above the natural ground level is permitted.”*

Carried unanimously



06/1219/24 **REQUEST TO CHANGE AN EXISTING CONDITION – LOT 109 PORT DOUGLAS ROAD, PORT DOUGLAS**

The Manager Planning Services advised that the applicant had requested the application be withdrawn from the agenda.

06/1219/25 **DELEGATONS UNDER ENVIRONMENTAL PROTECTION (WATER) POLICY**

Moved Cr Berwick

Seconded Cr Pitt

1. *“That for the term of the Memorandum of Understanding (MoU), which expires on 31st December, 2007, the Douglas Shire Council subdelegate the powers delegated to it under the Environmental Protection Act 1994 as provided in the attached Instrument of Delegation to Jeff Evans, Colin Slade, Paul Bates, Michael Jorgensen, Paul Hoye, Enzo Picerni, Grant Philp, Kelly Morris, Robert D’Addona, Robert Jago, Natalie Coss, Louise Stayte, Paul Gleeson and Brenda Ford; and*
2. *The abovementioned officers be appointed as authorised officers under the Environmental Protection Act 1994, subject to the limitations provided by the Instrument of Delegation and be responsible for the areas as outlined below for the purposes of carrying out investigations and enforcement under the Environment Protection (Water) Policy 1997:-*
 - *Building work*
Building Services staff – Jeff Evans, Colin Slade, Paul Bates, Michael Jorgensen
 - *Clearing, driveways, development sites*
Environmental Officers – Robert Jago,
Planning Officers - Paul Gleeson, Louise Stayte, Natalie Coss
Development and Construction Engineer – Brenda Ford
 - *Environmentally Relevant Activities, Incidents involving Dickson Inlet, general complains relating to domestic discharges, other commercial discharges.*
Environmental Health staff – Paul Hoye, Enzo Picerni, Grant Philp, Robert D’Addona, Kelly Morris.”

For: Crs Berwick, Pitt, Egan, Cox, Sciacca

Against: Cr Davis, Bellero

Carried



ATTENDANCE

The Environmental Officers, Bob Jago and Greg Keith, attended the meeting at 11.15am.

06/1219/26 GREEN GLOBE 21

Moved Cr Berwick

Seconded Cr Cox

"That Council resolves to discontinue Douglas Shire Council involvement in the Green Globe 21 program and to endorse our involvement in ecoBiz instead."

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

Against: Cr Bellerio,

Carried

06/1219/27 DOUGLAS SHIRE COUNCIL DEVELOPING SUSTAINABLE COMMUNITIES AWARDS

Moved Cr Cox

Seconded Cr Berwick

"That Council agrees to the Douglas Shire Council Developing Sustainable Communities Awards ceremony in July 2007."

Carried unanimously

06/1219/28 DOUGLAS SHIRE WATER QUALITY IMPROVEMENT PLAN

Moved Cr Cox

Seconded Cr Berwick

"That Council:

- 1. endorses the draft Douglas Shire Water Quality Improvement Plan as the final stage for accreditation by the Australian Government, subject to agreeing implementation arrangements with FNQ-NRM;*
- 2. officers to negotiate a draft Memorandum of Understanding with FNQ-NRM, on implementation arrangements, for subsequent endorsement by the Chief Executive Officer, as per the key points stated at attachment four(4) to this report."*

Carried unanimously



06/1219/29 RATES INCENTIVES FOR CONSERVATION

Moved Cr Cox

Seconded Cr Davis

'That Council adopts Option one, which is a Rates Incentive Program that would undertake the following;

- All rates that have been deferred between 2003 and 2007 totalling about \$33 900 be paid out in full from the budget allocation of \$40 000 for the financial year 2006/07.*
- Those properties that have been assessed under the policy then receive the relevant rate rebate for the property (on average 60%) for the financial year 2007/08 and onwards until the policy is terminated by Council.*
- Those properties that have been receiving rate deferral but do not have Nature Refuge Agreement on them be contacted to ascertain their willingness to enter into a Voluntary Conservation Agreement with Douglas Shire Council as a Statutory Covenant under the Land Title Act. If they are unwilling to enter into such an agreement then Council has the option of accepting that the rates are deferred from 2003 – 2007 but then charging rates again for the financial year 2007/08 and onwards. If the landholder agrees then the rates are assessed under the policy from 2007/08 onwards.*
- Those properties that have Nature Refuges Agreements that are perpetual covenants but have not had rates deferred are to be assessed as being eligible for a rate rebate for the financial year 2007/08 according to the policy and to receive a rate incentive from that date onwards. No legal or surveying cost is concurred to the Council in this instance.*
- Those properties who are noted on the Rates Incentive Program file but who do not have a covenant in place and have not had rates deferred are to be contacted as soon as possible to ascertain whether the landholder is still interested in the Rates Incentive Program and whether or not the landholder would be interested in entering into a covenant with the Council. These properties are then assessed for a rate rebate in the financial year 2007/08.*
- Council to commit a proportion of the budget income (recommend between 0.25% - 0.5%) each year to go towards delivering rates incentives in the Shire. If there is excess available budget then an Expression of Interest is advertised to attract other eligible landholders to the program.*
- Council revise the policy for assessing properties under the Rates Incentives Program."*

Carried unanimously

**06/1219/30 BLUE HOLE MANAGEMENT**

Moved Cr Egan

Seconded Cr Pitt

"That Council requests James Cook University to provide a copy of the draft plan for review by the end of February 2007 and that it address the issues raised in this report, within the fee amounts already specified."

Carried unanimously**WITHDRAWAL**

The Environmental Officer, Greg Keith, withdrew from the meeting at 11.40am.

ENGINEERING**06/1219/31 "CANE AT COOYA" SUBDIVISION STREET NAMES**

Moved Cr Sciacca

Seconded Cr Pitt

"That Council approves the street names for the subdivision 'Cane' at Cooya Beach as submitted by the developer as follows:

Left hand side:

1. Annie Rose Drive
2. Rose Close
3. Ramsay Close (corrected to local spelling from suggested Ramsey)
4. Jones Close

Right hand side:

1. William Buchanan Drive
2. Rutherford Close
3. Buchanan Close
4. Rex Close
5. Barnard Close
6. Parker Close

With the approval of the mover and seconder it was agreed to leave the matter on the table. The developer to be requested to look at alternative names, which include indigenous names along with other names not previously used for streets and locations in the Shire.

Moved Cr Egan

Seconded Cr Bellerio

06/1219/31

"That the letter received in relation to street names be tabled for circulation to Councillors."

Carried unanimously

**06/1219/32 NAMING OF A ROAD OFF FOREST CREEK ROAD**

Moved Cr Berwick

Seconded Cr Sciacca

*"That Council approves the name 'Old Forest Creek Road'.***Carried** unanimously**FINANCE & ADMINISTRATION****06/1219/33 PORT DOUGLAS DAINTREE TOURISM LTD**

Moved Cr Berwick

Seconded Cr Cox

"That Council approves additional funds of \$82,371."

For: Crs Berwick, Egan, Pitt, Cox, Davis

Against: Crs Sciacca, Bellerio

Carried**NOTICES OF MOTION****OFFICER COMMENT PROVIDED****06/1219/34 RD4706M – GET THE STINGER NET IN THE WATER**

Moved Cr Davis

Seconded Cr Cox

*"The Council resolves to make every effort to keep the stinger net in the water in reasonable conditions."***Carried** unanimously**06/1219/35 GP0806M – DOUGLAS SHIRE KUBIRRI VISITOR INFORMATION CENTRE**

Moved Cr Pitt

"That Council revisits their discussion on funding the \$10,000 requested in the next budget review for the above."

The motion was withdrawn as Port Douglas Daintree Tourism Ltd indicated it would be providing financial support for this initiative. (Amended Ordinary Meeting 30 January 2007)



06/1219/36 RD4806M – WATERFRONT CLARITY

Moved Cr Davis

Seconded Cr Cox

“That Council resolves to invite Jason O’Brien and the Coordinator General’s Office to our first meeting of January to restore progress on the waterfront re-development.”

Carried unanimously

06/1219/37 RD4906M – EMERGENCY EVACUATION

Moved Cr Davis

Seconded Cr Egan

“That Council receives a full update of the new emergency action and evacuation plans in their January meeting.”

Carried unanimously

06/1219/38 RD5106 – WEEDS CHEMICALS SIDE EFFECT UPDATE AND BEST PRACTICE

Moved Cr Davis

Seconded Cr Egan

“That Council arranges a 2007 briefing session to update the latest information to staff and councillors on chemical residue issues in our weed and drain maintenance to ensure the health and wellbeing of our community and its environment.”

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

Against: Cr Bellerio

Carried

REPORTS – COUNCILLORS

06/1219/39 IMPLEMENTATION OF THE KELLAR REPORT

This item was dealt with after item 06/1219/41 on 19 December 2006

REPORTS – CHIEF EXECUTIVE OFFICER

06/1219/40 REVIEW OF DOUGLAS SHIRE COUNCIL BY MR DAVID SPEARRITT

This item was dealt with after item 06/1219/41 on 19 December 2006.



06/1219/41 JOB SPECIFICATIONS AND PERFORMANCE MANAGEMENT SYSTEM – POSITION OF CHIEF EXECUTIVE OFFICER

This item was dealt with after item 06/1219/41 on 19 December 2006.

CLOSURE OF THE MEETING TO THE PUBLIC

Moved Cr Egan

Seconded Cr Pitt

06/1219/42A *“That Mr Tony Walsh of Far North Investigations be allowed to remain in the closed meeting.”*

Carried unanimously

Moved Cr Berwick

Seconded Cr Cox

06/1219/42B *“That pursuant to Section 463(1)(h) of the Local Government Act 1993, the meeting be closed to the general public to allow discussion on a number of issues.”*

Carried unanimously

RE-OPENING OF THE MEETING TO THE PUBLIC

With the agreement of the meeting the meeting was re-opened to the general public.

The following recommendations were forthcoming from the meeting of the committee of the whole Council and were moved and seconded as indicated.

06/1219/42 2007 AUSTRALIA DAY AWARDS AND CEREMONY

Moved Cr Berwick

Seconded Cr Cox

“That Council -

- *accepts the nominees selected by councillors in closed meeting from each category to receive Australia Day awards and also accepts the recommendation in Option 2 in relation to the Junior Cultural Award.*
- *hosts a community barbeque in conjunction with the 2007 Australia Day Awards and Citizenship Ceremony at the Port Douglas Community Hall.*



- *suspend the conduct of Australia Day Awards next year, due to the continued poor community response, and councillors to assess community feedback as a result.*

Carried unanimously

06/1219/43 DELEGATION OF AUTHORITY COMPENSATION CLAIMS UNDER THE INTEGRATED PLANNING ACT 1997

Moved Cr Berwick

Seconded Cr Egan

"That Council delegates to the Chief Executive Officer the ability to decide a claim for compensation in accordance with section 5.4.7 of the Integrated Planning Act 1997, where the amount of the claim is consistent with the equivalent compensation offer previously approved by Council on refusal of the relevant application for Material Change of Use."

Carried unanimously

06/1219/44 MCUI 016/06 – COMPENSATION REPORT

Moved Cr Egan

Seconded Cr Berwick

"That Council:

- 1. makes an offer of compensation to the Applicant in accordance with the MoU between Douglas Shire Council and the Environmental Protection Agency.*
- 2. advises the Environmental Protection Agency to remit appropriate compensation to the applicant.*
- 3. updates Council's Conservation Precinct Register to record that the landowner's development status is changed to "compensated".*
- 4. reinstates rates for 2007/08.*

For: Crs Egan, Berwick, Cox, Davis

Against: Crs Pitt, Bellerio, Sciacca

Carried



06/1219/42 MCUI 017/06 COMPENSATION REPORT

Moved Cr Cox

Seconded Cr Berwick

"That, as discussed in committee,

- 1. Council makes an offer of compensation to the Applicant in accordance with the MoU between Douglas Shire Council and the Environmental Protection Agency.*
- 2. Council advises the Environmental Protection Agency to remit appropriate compensation to the Applicant.*
- 3. Council's Conservation Precinct Register be updated to record that the landowner's development status is changed to "compensated".*
- 4. That rates be reinstated for 2007/08."*

For: Crs Egan, Berwick, Cox, Davis

Against: Crs Pitt, Bellerio, Sciacca

Carried

06/1219/46 WONGA BEACH CARAVAN PARK

Moved Cr Egan

Seconded Cr Pitt

"That, as discussed in committee, Council -

- 1. undertakes a survey of the Caravan Park and esplanade.*
- 2. applies to the Minister for the Department of Natural Resources and Water to have the boundaries of the Camping & Recreation Reserve and Esplanade changed under section 31 (2) (a) of the Land Act 1994 to reflect the factual position of the Caravan Park.*
- 3. seeks legal opinion on the possible requirement of an ERA 15 based on known historical use of the park and the information and calculations provided by Council's Plumbing Inspector.*
- 4. immediately limits the number of sites within the park to 34, which is equivalent to 20EP x 2.5 systems. This reduced number of sites to remain in force until the question of an ERA 15 is resolved with the Environmental Protection Agency (EPA).*
- 5. reconsiders the future of the park once the possible requirement for an ERA 15 is finalised with EPA.*



6. *reconsiders the future of the park if the application for a change of boundaries proves unsuccessful.*
7. *EPA is advised of all of the above recommendations."*

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

CLOSURE OF THE MEETING TO THE PUBLIC

Moved Cr Berwick

Seconded Cr Cox

06/1219/47A

"That pursuant to Section 463(1)(a) of the Local Government Act 1993, the meeting be closed to the general public to allow discussion on a number of staff matters."

Carried unanimously

WITHDRAWAL

The Manager Planning, Environmental Officer, Manager Corporate Support and the Corporate Support Officer withdrew from the meeting at 12.35pm.

RE-OPENING OF THE MEETING TO THE PUBLIC

With the agreement of the meeting the meeting be re-opened to the general public.

The following recommendations were forthcoming from the meeting of the committee of the whole Council and were moved and seconded as indicated.

06/1219/47

REMUNERATION OF TENURE GENERAL MANAGER'S POSITION OF FINANCE AND ADMINISTRATION AND ENGINEERING

Moved Cr Egan

Seconded Cr Pitt

"That, as discussed in committee, the position of General Manager Finance & Administration be reviewed to the extent approved by councillors and the current officer be provided the opportunity for further training in accounting and



administrative procedures according to a professional development program to be included in the individual's work plan. "

Carried unanimously

06/1219/48 **RD5206M – THE CEO MUST GO**

The motion was withdrawn.

TERMINATION

The meeting was closed at 2pm.

Presented to and confirmed by Council on the *thirtieth* day of *January* 2007.

M P Berwick
Chair