



*Minutes of the Ordinary Meeting of Council
26 September 2006
commencing at 10:34 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

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), P T Gleeson (Manager Planning), N Coss (Planning Officer) and M L Paterson (Corporate Support)

06/0926/01 **CONDOLENCES**

Cr Berwick referred to the recent deaths of Harry Norman Bowditch and Ross Baird. The Council stood and observed one minute's silence.

Moved Cr Berwick

Seconded Cr Egan

"That Council send letters of condolence to the next of kin."

Carried unanimously

06/0926/01A **PETITION TO MINIMISE CASSOWARY DEATH AND INJURY**

With the leave of the meeting the Mayor was permitted to present a petition handed to him by Ms Marion Freeman on behalf of the Douglas Shire Sustainability Group.

The Mayor advised that the petition containing 1,083 signatures requests that Douglas Shire Council, in conjunction with the Cassowary Advisory Group (CAG), Queensland Parks and Wildlife Services (QPWS), the Australian Rainforest Foundation (ARF) and Queensland Police Service (QPS), urgently review traffic management policies and procedures for the area north of the Daintree River to ensure they minimise the risk and incidence of cassowary death and injury.

Moved Cr Berwick Seconded Cr Egan

"That the petition be received and referred to staff for a report at the next meeting."

Carried unanimously

06/0926/02 MINUTES

Moved Cr Berwick Seconded Cr Bellero

"That the minutes of the Ordinary Council Meeting held on 5 September and the Special Meeting of Council held on 11 September 2006 be confirmed."

Carried unanimously

COMMUNITY & CORPORATE

**06/0926/03 REQUEST FOR FINANCIAL ASSISTANCE – DOUGLAS SHIRE
COMMUNITY SERVICES ASSOCIATION**

Moved Cr Berwick Seconded Cr Cox

"That the Council provide assistance of \$10,000 from its budgeted donations provision."

An amendment was moved:

Moved Cr Egan Seconded Cr Pitt

06/0926/03 *"That the Council provide assistance of \$10,000 as an additional budget provision."*

The amendment was put:

Carried unanimously

The amendment became the motion and was put:

Carried unanimously

06/0926/04 INDIVIDUALISED COUNCILLOR LETTERHEAD

Moved Cr Cox Seconded Cr Davis

06/0926/04(i) *"That the supplied individualised councillor letterhead be acknowledged and used by those councillors who choose to do so."*

For: Cr Cox, Davis, Berwick

Against: Cr Egan, Sciacca, Pitt, Bellero

Lost

Moved Cr Berwick Seconded Cr Egan
06/0926/04(ii) *"That staff develop a policy on the use of councillor letterhead and that councillors not use the letterhead in the interim."*
Carried unanimously

06/0926/05 **APPLICATION FOR CONVERSION OF SPECIAL LEASE**

Moved Cr Berwick Seconded Cr Sciacca
"That the Council offer no objection to the conversion of Special Lease 51919 to freehold."
Carried unanimously

06/0926/06 **DETAILS OF THE USE OF THE COUNCIL SEAL**

Moved Cr Sciacca Seconded Cr Egan
"That the Council receive the report providing details of the use of the council seal and endorse the actions of the Mayor and Chief Executive Officer in executing on its behalf, under seal, the documents detailed therein."
Carried unanimously

06/0926/07 **DECISIONS OF THE COUNCIL STATUS REPORT**

During discussion of the status report Cr Pitt made mention of requirements for councillors to advise the Chief Executive Officer immediately they become aware of changes in their personal interests so that the changes can be noted in the statement of interests held in the interest register. The Chief Executive Officer responded by advising of the provisions of the legislation in respect of councillors' personal declarations of interests under Section 247 of the Local Government Act.

MATERIAL PERSONAL INTEREST

Prior to discussion of an entry in the status report relating to Council-owned land at Craiglie the Chief Executive Officer declared a material personal interest, as he holds shares in a company with an interest in vacant light industry land in the same precinct, and withdrew from the meeting at 11:17 am.

ATTENDANCE/WITHDRAWAL

The Chief Executive Officer re-attended the meeting at 11:20 am.

Moved Cr Sciacca Seconded Cr Bellerio
"That the toilet block be completed."

The Chair declined to accept the motion and requested that Cr Sciacca give notice of his intention to move this motion according to the standard procedure governing councillor notices of motion.

Moved Cr Sciacca

Seconded Cr Davis

06/0926/07

"That the Council receive and note the Decisions of the Council Status Report."

Carried unanimously

DEVELOPMENT & ENVIRONMENT

06/0926/08 **TPC 1262 – LOT 1 ON SP 178691 – TEAMSTERS CLOSE, CRAIGLIE**

MATERIAL PERSONAL INTEREST

The Chief Executive Officer declared a material personal interest in this matter, as he holds shares in a company with an interest in vacant light industry land in the same precinct, and withdrew from the meeting at 11:52 am.

Moved Cr Sciacca

Seconded Cr Cox

"That Council approve the application for a Material Change of Use Development Permit to permit the construction of a shop (retail trade counter) on land described as Lot 1 on SP 178691, Parish of Salisbury, and located at Teamsters Close, Craiglie, subject to the conditions recommended by the Assistant Planning Officer in her report. No signage for the proposed development is permitted to be internally lit."

Carried unanimously

06/0926/09 **TPC 1256 – LOT 38 ON RP 726589 – PECTEN AVENUE, PORT DOUGLAS**

Moved Cr Sciacca

Seconded Cr Pitt

"That Council approve the application for a Material Change of Use Development Permit to permit the development of two (2) three (3) bedroom multiple dwellings (residential) on land described as Lot 38 on RP 726589, Parish of Salisbury, and located at 30 Pecten Avenue, Port Douglas, subject to the conditions recommended by the Planning Officer in her report."

Carried unanimously

ATTENDANCE/WITHDRAWAL

The Chief Executive Officer re-attended the meeting at 11:57 am.

06/0926/10 **PDPV 036/06 – LOT 38 ON RP 726589 – PECTEN AVENUE, PORT DOUGLAS**

Moved Cr Sciacca

Seconded Cr Bellerio

"That Council approve the application for a Permit to Damage Protected Vegetation 036/06 on land described as Lot 38 on RP 726589, Parish of Salisbury, and located at 30 Pecten Avenue, Port Douglas, subject to the following conditions:

- 1. the trees to be removed and the subject of this approval are as identified on the plan attached to Application for Permit to Damage Protected Vegetation No. 036/06;*
- 2. no other trees are to be removed or damaged and the removal of the subject trees is to be undertaken in a manner that incurs no damage to nearby vegetation;*
- 3. trees that contain nesting native birds are not to be removed while the nests are in use as per the requirements of the Nature Conservation Regulation 1994;*
- 4. the trees to be removed are to be replaced with advanced specimens of suitable trees native to the Port Douglas environs. The replacement trees are to be incorporated into the landscape plan for the proposed development;*
- 5. this permit is not transferable to other areas; and*
- 6. this permit will remain valid for a period of twelve (12) months only."*

For: Cr Sciacca, Bellerio, Egan, Pitt

Against: Cr Berwick, Cox, Davis

Carried

ATTENDANCE/WITHDRAWAL

Planning Officer L Stayte attended the meeting at 12:20 pm. Planning Officer N Coss withdrew from the meeting at this time.

06/0926/11 TPC 1241 – LOT 1 ON RP 700333 AND LOTS 58 & 59 ON C 2252 – CAPTAIN COOK HIGHWAY, CRAIGLIE

Moved Cr Davis

Seconded Cr Berwick

"That Council approve the application for a Material Change of Use Development Permit to permit the development of a warehouse and service station on land described as Lot 1 on RP 700333 and Lots 58 and 59 on C 2252, Parish of Salisbury, and located at Captain Cook Highway, Craiglie, subject to the conditions recommended by the Planning Officer in her report, except that Condition 4 be amended to require a landscape plan to be approved by Council to indicate works consistent with that undertaken by Siteplan."

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

Against: Cr Berwick

Carried

SUSPENSION OF STANDING ORDERS

Moved Cr Egan

Seconded Cr Cox

06/0926/11A *"That Council suspend standing orders and deal with item 06/0926/16 now."*

Carried unanimously

06/0926/16 **MCU 3B 012/06 – LOT 7 ON C 2259 – DAVIDSON STREET, CRAIGLIE**

ATTENDANCE/WITHDRAWAL

The Mayor withdrew from the meeting at 12:46 pm and Cr Egan assumed the chair.

Moved Cr Egan

Seconded Cr Pitt

"That Council approve the application for a Material Change of Use Development Permit to permit the development of a showroom on land described as Lot 7 on C 2259, Parish of Salisbury, and located at Davidson Street, Craiglie, subject to the conditions recommended by the Planning Officer in her report, except with the deletion of the following conditions:

2a & 2b. Submission of a plan showing vehicle turnaround and parking

12b. Relocation of fencing

21. Car parking

25. Commercial access to upper showrooms

26. Showroom use

27. Car parking and vehicle access;

and that the removal of three melaleuca trees near the edge of the highway bitumen and south of the access not be required.

Further that the applicant be required to fill and pipe the open channel, providing landscaping and car parking at the front of the property, subject to the approval of the Department of Main Roads."

Moved Cr Davis

Seconded Cr Sciacca

06/0926/16(i) *"That the motion be put"*

For: Cr Davis, Sciacca, Bellero

Against: Cr Egan, Cox, Pitt

Lost on the casting vote of the Chair

Discussion of the substantive motion resumed.

An amendment was moved:

Moved Cr Bellero

“That Council express the view that it is supportive of the application and seek legal advice as to how it can approve the application in compliance with both legislative and planning scheme requirements.”

The amendment lapsed for want of a seconder.

ADJOURNMENT

At 1:18 pm the meeting stood adjourned for lunch.

RESUMPTION

The meeting resumed at 2:00 pm without the attendance of the Mayor, Crs Sciacca or Bellerio or the Chief Executive Officer.

ATTENDANCE/WITHDRAWAL

The Mayor re-attended the meeting at 2:09 pm. Cr Egan continued in the chair.

Crs Sciacca and Bellerio re-attended at 2:10 pm. The Chief Executive Officer re-attended at 2:13 pm.

An amendment was moved:

Moved Cr Egan

Seconded Cr Pitt

06/0926/16(ii)

“That Council approve the application for a Material Change of Use Development Permit to permit the development of a showroom on land described as Lot 7 on C 2259, Parish of Salisbury, and located at Davidson Street, Craiglie, subject to the conditions recommended by the Planning Officer in her report, except with the following amendments to conditions:

Condition 2(a) - concerned with on site vehicle turn round

To provide that deliveries conveyed by trucks of more than 8 metres in length be received only outside trading hours.

Condition 2(c) – concerned with fencing

This condition is deleted.

Condition 12(b) – concerned with relocation of the fence

This condition is deleted.

Car Parking Condition 21 – concerned with providing on site car parking

To provide that a car parking area shall be constructed, sealed, drained and line marked for a minimum of thirteen (13) spaces for the use of two (2) storeys only as showroom in accordance with the approved plan of development and maintained thereafter, with additional spaces to be negotiated should third storey approval be forthcoming .

Condition 25 – concerned with access to upper story

This condition is deleted.

Condition 29 – concerned with required bond

This condition is deleted.

Department of Main Roads requirement (page 181) 2.(i) second dot point

To provide that the removal of the three melaleuca trees near the edge of the highway bitumen and south of the access is not required.

Additional condition – *concerned with drainage channel*

To provide that, subject to the approval of the Department of Main Roads, the applicant be required within twelve months to fill and pipe the open channel, and provide landscaping and car parking, at the front of the property."

For: Cr Egan, Pitt, Bellerio, Davis, Sciacca

Against: Cr Berwick, Cox

Carried

Cr Berwick resumed the chair.

RESUMPTION OF STANDING ORDERS

Moved Cr Egan

Seconded Cr Berwick

06/0926/11B

"That standing orders be resumed."

Carried unanimously

06/0926/12

SUB 016/06 – LOT 185 ON SR 49 AND LOT 187 ON SP 140636 – WHYANBEEEL ROAD, WHYANBEEEL

Moved Cr Egan

Seconded Cr Berwick

"That Council approve the application for a Reconfiguring a Lot Development Permit to create two (2) allotments from the existing two (2) allotments described as Lot 185 on SR 47 and Lot 187 on SP 140636, Parish of Whyanbeel, and located at Whyanbeel Road, Whyanbeel, subject to the conditions recommended by the Assistant Planning Officer in her report."

Carried unanimously

06/0926/13

MCU 3B 016/06 – LOT 193 ON RP 747071 – CAPTAIN COOK HIGHWAY AND PORT DOUGLAS ROAD, PORT DOUGLAS

MATERIAL PERSONAL INTEREST

The Chief Executive Officer declared a material personal interest in this matter, as he holds shares in a rival supermarket, and withdrew from the meeting at 2:49 pm.

Moved Cr Davis

Seconded Cr Pitt

“That Council approve the application for a Material Change of Use Development Permit to permit the development of shops and offices on land described as Lot 193 on RP 747071, Parish of Salisbury, and located at the corner of the Captain Cook Highway and Port Douglas Road, Port Douglas, subject to the conditions recommended by the Manager Planning in his report.”

An amendment was moved:

Moved Cr Berwick

Seconded Cr Davis

06/0926/13

“That Council approve the application for a Material Change of Use Development Permit to permit the development of shops and offices on land described as Lot 193 on RP 747071, Parish of Salisbury, and located at the corner of the Captain Cook Highway and Port Douglas Road, Port Douglas, subject to the conditions recommended by the Manager Planning in his report, with the addition of the following further conditions:

- *The existing sign on the corner of the Captain Cook Highway and Port Douglas Road is to be removed. Alternative signage may be permitted within the access easement subject to separate operational works approval.*
- *The applicant is to install external landscaping works within the Captain Cook Highway and Port Douglas Road road reserves adjacent to the site in accordance with Council’s approved Port Douglas Entry Landscaping Plan prepared by Hortulus and Siteplan, including irrigation.”*

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

Against: Cr Bellerio

Carried

06/0926/14

CA 58 – REQUEST FOR A NEGOTIATED DECISION NOTICE – LOTS 1, 2 & 6 ON C 2253 – MITRE STREET, PORT DOUGLAS

[Cr Davis assumed that Belle Property Mango House Pty Ltd is no longer involved in Mango House. \(Ordinary Council Meeting 17 October 2006\)](#)

Moved Cr Egan

Seconded Cr Sciacca

“That Council approve the request in respect of CA 58 for a Negotiated Decision Notice to amend Conditions 1, 2, 10 and 39 as follows.

1. *The approved development and the carrying out of any works on the premises associated with the development must generally be in accordance with Plans of Development numbers A-TP-02 to A-TP-10 attached to this approval, subject to:*
 - (i) *modifications required by any condition of this approval and any minor alterations found necessary by Council at the time of examination of engineering plans;*

- (ii) *the proposed building, car parking and driveway design and layout is to be amended to preserve the following significant trees on site as depicted on Plan VP-01 Revision A, prepared by Siteplan:*
- 115, 116, 117, 392-395, 399, 400 and 617,
683 is to be relocated on site;*
- (iii) *the applicant is to provide a minimum of 133 car spaces/parks on site. Alternatively, the applicant may provide less car parking spaces with the shortfall to be provided in the form of a monetary contribution equivalent to \$3,575 per space in accordance with Planning Scheme Policy No. 2 or by way of providing any shortfall in car parking spaces on-site within on-street works adjacent to the site. Any monetary contribution associated with this condition is to be paid prior to the granting of a building approval and any on-street works associated with this condition are to be completed prior to the commencement of the use;*
- (iv) *the proposed development and any associated works, contributions and lodgement of security being undertaken/made in stages to be determined at the Operational Works stage.*
2. *The following external works will be required to connect the proposed development to the existing water supply network.*
- (i) *Extend the existing 150 mm diameter water main located at the eastern end of Sagiba Avenue along the length of Sagiba Avenue to connect with the existing 150 mm main in Mitre Street.*
10. *The landscape concept plans numbered LPP 1.00, LPP 2.00, LPP 3.00 and LPP 4.00 dated October 2005 prepared by Siteplan are approved in general subject to the following amendments.*
- (a) *The following trees, as depicted on Plan VP01 Revision A, prepared by Siteplan are to be retained or relocated on site:*
- 115, 116, 117, 392-395, 399, 400 and 617,
683 is to be relocated on site.*
- Full set of landscape plans, in accordance with Council Planning Policy No. 4, is to be submitted to Council for approval prior to the commencement of any landscaping works. These plans should include details of the proposed irrigation system, hard landscaping, et cetera.*
39. *The approved reconfiguration and the carrying out of any works on the premises associated with the reconfiguration must be in accordance with Plan of Reconfiguration 8243-2 attached to this approval, subject to:*

- (i) *modifications required by any condition of this approval and any minor alterations found necessary by Council at the time of examination of engineering plans.*

The lots to have a minimum level within the building footprints to be determined at the Operational Works stage as described in Council's development manual.

All other conditions remain unchanged."

Carried unanimously

06/0926/15 CA 62 – REQUEST FOR A NEGOTIATED DECISION NOTICE – LOTS 49 & 51 ON SP 161464 AND LOTS 41 & 42 ON RP747344 – ESCAPE STREET, PORT DOUGLAS

CONFLICT OF INTEREST

Cr Davis declared there may be a perceived conflict of interest due to his involvement in the Queensland Sustainable Boat Project. Cr Davis stated that no conflict of interest exists and chose to remain in the meeting, participate in the discussion and vote on the matter.

ATTENDANCE/WITHDRAWAL

The Chief Executive Officer re-attended the meeting at 3:09 pm.

Moved Cr Sciacca

Seconded Cr Bellerio

"That Council approve the request in respect of CA 62 for a Negotiated Decision Notice to amend Conditions 1, 2 and 42 as follows.

1. *The approved development and the conduct of the approved use, the carrying out of any works on the premises and the construction of any buildings on the premises associated with the development must generally be in accordance with:*
 - (a) *the approved plans of development numbers AR02 Rev A, AR03 Rev A, AR04 Rev A, AR00 Rev C and AR01 Rev G prepared by Anna Vaughn Architects, dated September 2005 and attached to this approval. It is acknowledged that the proposed reconfiguration layout may be amended to accommodate the requirements of condition 2(a) and that the proposed development may be undertaken in stages to be determined at the Operational Works stage;*
 - (b) *the plans and specifications submitted with the application to Council attached to this approval;*

except where such plans and/or specifications are modified by the terms of this approval.

2. The Plan of Development must be amended as follows.
 - (a) The minimum setbacks to boundaries as described under the Douglas Shire Planning Scheme shall apply, in particular no buildings will be permitted within the following setbacks:
 - (i) Escape Street – 4.0 metres, except that Villas 15, 28 and 29 may have a building setback of 3.0 metres from Escape Street subject to the provision of dense tropical landscaping between Villas 15, 28 and 29 and the Escape Street frontage subject to a plan to be submitted at Operational Works stage for Council approval. Any densely planted landscape areas adjacent to Villas 15, 28 and 29 will need to be included in the common property for the development to ensure that the vegetation is retained;
 - (ii) St Crispins Avenue – 6.0 metres;
 - (iii) side boundaries – half the height of the building element.

42. The applicant is to provide public pedestrian access to the St Crispins rail/tram station from Escape Street within an easement for the purposes of public access. The minimum width of the easement is to be 2.0 metres.

Additionally, that the applicant be required to tidy up and maintain the site to an acceptable standard."

Carried unanimously

06/0926/16 MCU 3B 012/06 – LOT 7 ON C 2259 – DAVIDSON STREET, CRAIGLIE

This item was dealt with earlier in the meeting, following item 06/0926/11.

06/0926/17 FUNDING OPTION FOR THE MOSSMAN SWIMMING POOL AMENITIES FOR THE DISABLED

Moved Cr Cox

Seconded Cr Berwick

"That Council reallocate an amount of \$14,000 from the GIS investigations task budget provision to the disabled amenities project at the Mossman Bicentennial Swimming Pool, in order to fulfil the co-contribution requirement and ensure access to the \$12,000 Queensland government contribution."

Carried unanimously

ENGINEERING**06/0926/18 ROAD NAMING DEGARRA**

Moved Cr Sciacca

Seconded Cr Berwick

" That Council approve the name Idriess Close for the unnamed road off Banabilla Road, Degarra."

Carried unanimously

FINANCE & ADMINISTRATION

Nil reports

NOTICES OF MOTION**OFFICER COMMENT PROVIDED****06/0926/19 RD2306M – ART FUNDING**

Moved: Cr Davis

Seconded: Cr Sciacca

"That Douglas Shire Council provide \$25,000 in art and cultural funding, under Douglas Shire Council terms, for Carnivale related activities, from funding sources within Division 2 budgets."

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

06/0926/19 *"That the staff and Division 2 councillors come back to Council next meeting with options for allocating an additional \$25,000 to art and cultural activities through the RADF program."*

Carried unanimously

06/0926/20 RD2506M – LOCAL TO LOCAL CAR SALES

Moved: Cr Davis

Seconded: Cr Sciacca

"That staff investigate and report on options to afford local to local car sales without kerbside chaos."

For: Crs Davis, Sciacca,

Against: Crs Bellerio Egan, Berwick, Pitt, Cox

Lost

ATTENDANCE/WITHDRAWAL

The Mayor withdrew from the meeting at 3:40 pm and Cr Egan assumed the chair.

The Mayor re-attended at 3:41 pm and resumed the chair.

06/0926/21 RD2606M – PUBLIC TRANSPORT IN THE DOUGLAS SHIRE

Moved: Cr Davis

Seconded: Cr Pitt

06/0926/21 *"That Douglas Shire Council take an active role in developing affordable public transport in our shire."*

An amendment was moved:

Moved: Cr Cox

"That Douglas Shire councillors take an active role in developing affordable public transport in our shire."

The amendment lapsed for want of a seconder.

The original motion was put:

For: Cr Davis, Pitt, Berwick, Cox

Against: Cr Egan, Bellerio, Sciacca

Carried

06/0926/22 RD2706M – CARBON CREDITS FOR AIR TRAVEL

Moved: Cr Davis

Seconded: Cr Berwick

"That the Cities for Climate Protection project advise Council on the type of carbon credits that could be bought to offset all Douglas Shire Council air travel and the cost of these credits."

Carried unanimously

06/0926/23 RD2806M – A PREFERENTIAL MAYORAL ELECTION

Moved: Cr Davis

Seconded: Cr Cox

06/0926/23(i) *"That Council be provided with advice on alternate systems of voting."*

Moved: Cr Berwick

Seconded: Cr Egan

06/0926/23(ii) *"That the motion be put."*

Carried unanimously

The motion was put:

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

Against: Cr Egan

Carried

06/0926/23A EXTENSION OF MEETING

Moved: Cr Cox

Seconded: Cr Berwick

"That the meeting be extended by one half hour."

Carried unanimously

ATTENDANCE/WITHDRAWAL

The Chief Executive Officer withdrew from the meeting at 4:04 pm.

06/0926/24 RD2906M – SELL THE ARTS SCHOOL BLOCK

Moved: Cr Davis

Seconded: Cr Cox

"That Douglas Shire Council engage the state to jointly sell the vacant Macrossan Street School of Arts block (recognising that Douglas Shire Council may only be entitled to half the sale proceeds) towards its use in building a Port Douglas arts and cultural centre near the Mowbray Street community hall."

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

06/0926/24

"That in the next operational and corporate plan Douglas Shire Council give consideration to engaging the state to jointly sell the vacant Macrossan Street School of Arts block (recognising that Douglas Shire Council may only be entitled to half the sale proceeds) towards its use in building a Port Douglas arts and cultural centre near the Mowbray Street community hall."

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

Against: Cr Egan

Carried

06/0926/25 RD3006M – ENERGY INDEPENDENCE GOAL

Moved: Cr Davis

Seconded: Cr Cox

"That the sustainability officer, once recruited, brief the Council on how the shire might work towards achieving complete energy independence by 2020. This briefing to be completed by the end of the financial year and be fed into consideration of the Rural Land Use Review terms of reference."

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

Against: Cr Bellerio

Carried

06/0926/26 RD3106M – SIGNAGE MESS IN PORT DOUGLAS

Moved: Cr Davis

Seconded: Cr Cox

"That, upon appointment of the compliance officer, a priority program of actions be identified and brought to Council for endorsement, as required under the operational plan for the 2006/07 financial year."

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

Against: Cr Bellerio

Carried**06/0926/27 GP0506M – UNSEALED ROAD IN SHANNONVALE**

Moved: Cr Egan

Seconded: Cr Cox

"That the speed limit is reduced to 40 kilometres per hour and a "Dust Hazard" sign be installed."

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

Against: Cr Bellerio

Carried**OFFICER COMMENT PENDING****06/0926/28 GP0406M – SHARE OF GST FROM THE STATE**

Moved: Cr Pitt

Seconded: Cr Egan

"That Council make a submission to the North Queensland Local Government Association, Queensland Local Government Association and Australian Local Government Association recommending they make representation on behalf of local government that a direct share of GST income be distributed directly to local government."

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

Against: Cr Berwick

Carried**ATTENDANCE/WITHDRAWAL**

The Chief Executive Officer re-attended the meeting at 4:14 pm.

REPORTS – CHIEF EXECUTIVE OFFICER

06/0926/29 SIZE, SHAPE AND SUSTAINABILITY

Moved Cr Berwick

Seconded Cr Egan

"That Council join with Wujal Wujal Council and Cook Shire Council in engaging Brisbane City Enterprises Pty Ltd to carry out the initial review phase under the 'Size, Shape and Sustainability' review framework at an estimated cost of \$56,903. Funding for the project to be sought from the Department of Local Government in the sum of \$56,903 and the councils to bear ancillary costs for specialist requirements estimated at a maximum of \$20,000 in total."

Carried unanimously

06/0926/30 REGIONAL RENEWABLE ENERGY PROJECT

Moved Cr Egan

Seconded Cr Berwick

"That, subject to legal advice, Council enter into a Deed of Mutual Termination with the Commonwealth of Australia to finalise the project."

Carried unanimously

REPORTS – PROJECT MANAGER

06/0926/31 CONFIDENTIAL REPORT – DAINTREE FERRY HIRE AGREEMENT

MATERIAL PERSONAL INTEREST

The General Manager Engineering declared a material personal interest in this matter, as he is related to the contractor, and withdrew from the meeting at 4:16 pm.

ATTENDANCE/WITHDRAWAL

The Manager Planning withdrew from the meeting at 4:17 pm.

This item was interrupted by an emergent issue. Discussion of this item resumed after item 06/0926/30B.

SUSPENSION OF STANDING ORDERS

During the morning's briefing session, prior to the commencement of the Ordinary Meeting of Council, the General Manager Development & Environment presented a briefing to Council in relation to the public information program on the new planning scheme. The program was endorsed by Council at the meeting of 15 August 2006 and is required to include a registered letter to

all landowners north of the Daintree River who are directly and materially affected by the new scheme.

The briefing was accompanied by a briefing note with a draft of the proposed letter attached.

Moved Cr Pitt

Seconded Cr Bellerio

06/0926/30A

"That standing orders be suspended to allow Cr Pitt to table a document presented to councillors during the morning's briefing session."

Carried unanimously

06/0926/30B

INTRODUCTION OF NEW PLANNING SCHEME – NOTIFICATION TO AFFECTED LANDOWNERS NORTH OF THE DAINTREE RIVER

Moved Cr Pitt

Seconded Cr Bellerio

"That the briefing note and attached draft of the proposed letter presented to councillors as Item 1 during the morning's briefing session be tabled."

Carried unanimously

The briefing note and draft of the proposed letter were tabled (Attachment 1).

RESUMPTION OF STANDING ORDERS

Moved Cr Berwick

Seconded Cr Egan

06/0926/30C

"That standing orders be resumed."

Carried unanimously

ATTENDANCE/WITHDRAWAL

The Project Manager, J R Neely, attended the meeting at 4:18 pm.

06/0926/31

CONFIDENTIAL REPORT – DAINTREE FERRY HIRE AGREEMENT

Moved Cr Berwick

Seconded Cr Cox

06/0926/31

"That:

- (i) Council request the contractor to have its new ferry completed and in the Daintree River by 8 October 2006;
- (ii) if the contractor complies with (i) above, Council agree to extend the current hire agreement to 21 October 2006 under the same terms and conditions and give the public two (2) weeks notice of the ferry change over date of 22 October 2006;

- (iii) *the contractor be advised that, if it does not meet the requirements of (i) above, Council will not grant any further extension of the current hire agreement but would consider entering into a new hire agreement under more onerous terms and conditions; and*
- (iv) *furthermore, if the contractor does not comply with (i) above the Chief Executive Officer be granted delegated authority to enter into a new hire agreement with the contractor, if required, in accordance with (iii) above.*

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

Against: Cr Bellerio

Carried

CLOSURE OF THE MEETING TO THE PUBLIC

Moved: Cr Davis

Seconded: Cr Pitt

06/0926/31A

"That, at the request of the Chief Executive Officer and pursuant to Section 463(1)(e) of the Local Government Act 1993, the meeting be closed to the general public to allow in confidence discussion of an emergent issue being a contractual matter in respect of the Daintree ferry."

Carried unanimously

RE-OPENING OF THE MEETING TO THE PUBLIC

Moved: Cr Egan

Seconded: Cr Cox

06/0926/31B

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

Carried unanimously

The following recommendation was forthcoming from discussions held while the meeting was closed to the general public:

Moved: Cr Egan

Seconded: Cr Sciacca

06/0926/31C

"That the Chief Executive Officer be authorised to negotiate a requirement for a ten car ferry to be on standby as per the Council's understandings of the contractor's tender undertakings."

Carried unanimously

TERMINATION

The meeting was closed at 4:46 pm.

Presented to and confirmed by Council on the *seventeenth* day of October 2006.

M P Berwick
Chair

ATTACHMENT 1**BRIEFING NOTE**

Item No: 01

Subject: INTRODUCTION OF NEW PLANNING SCHEME – NOTIFICATION OF AFFECTED LANDOWNERS NORTH OF THE DAINTREE RIVER

Author: GAYE SCOTT, 20/20 GROUP
GENERAL MANAGER, DEVELOPMENT AND ENVIRONMENT

BACKGROUND

At its 15 August meeting Council unanimously carried the following motion in relation to introduction of the new Planning Scheme: *“That Council adopt the public information program proposed by The 20/20 Group in its presentation to Council on 15 August 2006.”* That program included a specific recommendation that all impacted landowners north of the river receive a registered letter from Council, on the basis that they are directly and materially affected. Although not recorded in the Minutes, the Council did ask that the draft letter be brought back for Council consideration. As requested this item brings the draft letter to the Council for comment. The letter, once signed off by Council, is to be sent to 172 landowners.

An additional 24 properties (over and above the 172) impacted by the Planning Scheme are owned by conservation agencies:

- ⇒ 1 - Australian Bush Heritage Fund
- ⇒ 18 - Australian Rainforest Foundation
- ⇒ 5 - Daintree Rainforest Foundation Limited

The State Government’s offer to buyback land, or compensate landowners is not available to these agencies. Consequently, these they will not receive a copy of the (draft) letter.

ISSUES

A further nine properties (over and above the 172), according to Council records, have unapproved structures on the property. The draft letter is not suitable for these nine properties, as the letter needs to include what action, if any, Council will take regarding their unapproved structure. Consideration also needs to be given to whether the buyback option is conditional on the structure being removed or if deciding to sell, whether the market value is adjusted to recover the cost of removal of illegal structures. At least two of the properties are occupied; one is rented out and owners live in the other. A further letter is being drafted for these nine properties and will be brought to Council for review at the next meeting.

CONCLUSION

That the draft letter be -

- checked by Council’s solicitors;
- confirmed by the State government; and
- then be sent to owners of vacant land as per Council’s instructions.

In addition the need to amend or extend the existing Memorandum of Understanding between the Council and State is being investigated, with particular regard to compensation.

ATTACHMENTS

Draft letter to affected landowners north of the Daintree River

Attachment –
Draft letter to affected landowners north of the Daintree River

Date

Ratepayer

Address

Dear <ratepayer>

RE: <lot description>

Douglas Shire Council on 21 August 2006, resolved to adopt a new Planning Scheme, which came into effect on 4 September 2006. It replaces the Shire's 1996 Planning Scheme and the Temporary Local Planning Instrument (TLPI) - the latter which effectively placed a moratorium on any further development on 450 properties north of the Daintree River.

Under the Planning Scheme¹, the Shire is divided into six Localities, and your property is in the **Settlement Areas North of the Daintree River Locality**. There are three areas within this Locality:

- 1- Forest Creek / Cape Kimberly
- 2- Degarra / Bloomfield
- 3- Daintree Lowlands

Your property is located in the **Daintree Lowlands**, where there are four distinct Precincts:

- 1- Rainforest Residential
- 2- Rainforest Commercial/Community
- 3- Rainforest Tourism
- 4- Rainforest Conservation

Your property, is located within the **Rainforest Conservation Precinct** where no further development is allowed under the Planning Scheme.

Under Queensland law, specifically under the *Integrated Planning Act*², (IPA) when the value of an interest in land is reduced because of the introduction of a new planning scheme, there is provision for landowners to apply for compensation by lodging a development application under the old planning scheme (superseded planning scheme). Because of the changes to the Planning Scheme

¹ You may view the full copy of the Planning Scheme online at www.dsc.qld.gov.au

² See section 5.4.2 of the Act

affecting your property, you have the option to lodge a development application under the superseded planning scheme. There is a **20 August 2008** deadline for receipt of your development application at Council.

If the Council decides to assess your development application under the new planning scheme, instead of the superseded planning scheme, and refuses your development application, you may apply for compensation within 6 months of receiving the Council's decision. Alternatively you may wish to sell your property to the State government and can do so under their *Daintree Buyback* program.

Enclosed are details on both the compensation process and the *Daintree Buyback* process. It is important information that Council encourages you to read carefully. In addition, if you have any queries, require further clarification, or simply wish to discuss your options, you are encouraged to contact Gaye Scott on (07) 4040 6565 or email gaye.scott@the2020group.com.au

Yours faithfully

T Melchert
Chief Executive Officer
Douglas Shire Council

Compensation

It is not compulsory to sell your land. You have the option to retain ownership, with the knowledge that under the newly adopted planning scheme it cannot be developed in any way and that any planning application, whether lodged under the superseded planning scheme or the new planning scheme, submitted to Council may be recommended for refusal. Upon refusal of a development application under the superseded planning scheme you become entitled to compensation because of the lost development rights. Council has no ability to simply pay compensation; it is up to the landowner to commence the process as outlined below.

Under IPA, the trigger for compensation requires the landowner to lodge a development application and to formally request that the application be considered under the superseded planning scheme. Apart from the normal application forms³, this application must include *Attachment 1 to Form 1 Development Application*. Council will then decide whether to assess your development application under the superseded planning scheme or the new planning scheme and advise you in an acknowledgement notice.

If Council decides to refuse the development application you then have six (6) months within which to lodge a claim for compensation with the Council. Council will then make an offer to you, which you may accept in whole, accept in part or reject⁴. Council must advise you within seventy (70) business days of their offer. If you reject the offer, or accept it in part, resolution of the matter then proceeds to the Planning & Environment Court. A standard formula is used by the Court to determine the level of compensation awarded: it is the market value of the land before the new planning scheme (subject to any possible constraints or benefits of the land and other considerations)⁵, less the market value of the land under the new scheme.

The State government, and Council, recognizes that the above process can take time and are currently exploring an alternative method for the payment of compensation, which would involve an application directly to the State government. This may involve a written request from landowners, eliminating the need to prepare and lodge a superseded planning scheme development application, wait for a Council decision regarding the development application, apply for compensation and wait for a Council decision on compensation, and then lodge an appeal with the Court. The State government will use the same formula as applied by the Court to determine the level of compensation. The market value both prior to the commencement of the new planning scheme, and its value today, will be determined by a licensed valuer, at no cost to you. At the time of writing it is not certain that this method is possible: if you are interested in this approach you are strongly advised to contact Gaye Scott (address below) to obtain further information. You are also reminded of the deadline for receipt of applications as set out in the covering letter.

³ All forms are available from the State government's website: www.ipa.qld.gov: click on Development Assessment on the top bar and select the IDAS application forms sub-heading.

⁴ For example: your claim may be for \$100 and the Council offer \$40: you can either reject the offer or accept the \$40 in part payment as an advance, and then appeal to the Court for the difference between your claim and the Council's offer. You should be aware that the costs of you and Council in any Appeal about compensation could be an issue depending on how the matter is run.

⁵ Section 5.4.9 of the IPA sets out these constraints

Refund of Rates Paid: It is important to note that whilst Council has waived rates on impacted properties since the TLPI was introduced, once compensation is paid, land owners will be liable to pay rates for as long as they own the property – as will subsequent owners if the land is on-sold. The level of rates payable will remain the same as that applicable to vacant land throughout the Shire.

If you wish to retain your land, and register for compensation, you may do so either by writing to:

Douglas Shire Council
PO Box 357
MOSSMAN QLD 4873

or by telephoning Gaye Scott on (07) 4040 6565.

Daintree Buyback

Under the *Daintree Buyback* arrangements you deal solely with the State government. The State government has committed funds to purchase Daintree properties impacted by the Douglas Shire's September 2006 planning scheme. The purchase price is the market value as determined by a licensed valuer: for the purposes of the valuation, it is assumed the property can be developed, to reflect the value of the land prior to the introduction of the Temporary Local Planning Instrument (TLPI). The market valuation is undertaken at no cost to you. The Contracts of Sale and other legal documents are prepared by the State government and there are no real estate agent fees. As such, the market value as determined by the valuer is the actual sale price.

Most of the land purchased is earmarked for inclusion in the Daintree National Park. The few lots not included in the National Park will have a covenant put over the land, preventing any development in the future.

Refund of Rates Paid: Since the TLPI has been in place since 4 June 2004, Council has waived rates. If you have paid rates for the 2004/05 year or the 2005/06 year, and you proceed with the sale, any rates paid for these two years will be fully refunded by Council.

You can register an expression of interest to sell and request a market value either by writing to:

Douglas Shire Council
PO Box 357
MOSSMAN QLD 4873

or by telephoning Gaye Scott on (07) 4040 6565.