

DOUGLAS SHIRE COUNCIL

# SPECIAL COUNCIL MEETING

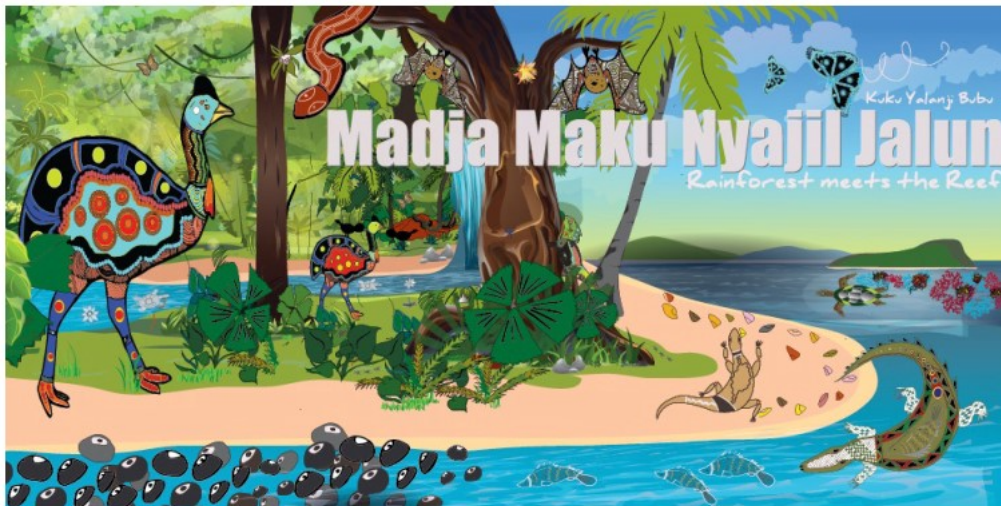
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## MINUTES

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Monday, 10 August 2020

ENSURING EXCELLENCE IN GOVERNANCE  
ACCOUNTABLE AND TRANSPARENT DECISION-MAKING  
ENGAGING, PLANNING, PARTNERING  
CELEBRATING OUR COMMUNITIES



Douglas Shire Council would like to show its appreciation by acknowledging local indigenous artists Lenice Schonenberger, Loretta Pierce (Lenoy) and Ronald Bamboo for providing the cover artwork entitled "**Daintree Ferry**"

**MINUTES OF THE SPECIAL COUNCIL MEETING OF THE DOUGLAS SHIRE COUNCIL  
HELD ON MONDAY, 10 AUGUST 2020 COMMENCING AT 10.00AM**

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Mayor Cr Kerr opened the meeting by giving Notice that, in accordance with Section 277e of the Local Government Regulation 2012, the Special Meeting of Council will be closed to the public because of health and safety reasons associated with the public health emergency involving COVID-19. This is a State requirement not a decision of Council due to the size of the Council Meeting room which safely allows to have less than 20 people at one time appropriately socially distanced. Between Councillors, required staff and the media that fills the limitations. We cannot be complacent about this virus. Whilst it may not be at the forefront and present with us today, there is nothing to say that it won't be here tomorrow, next week or next month. It is following procedures like this that will keep everybody safe in the future.

Mayor Cr Kerr advised that the Special Council Meeting can be viewed via live stream on Council's Website which will also be available to be watched at a later date; and that this Special Meeting is also being recorded and that the recordings will be posted onto Council's website along with the minutes.

ACKNOWLEDGEMENT OF COUNTRY

Cr Kerr acknowledged the Kuku Yalanji people who are the Traditional Custodians of the Land on which this meeting is being held and paid respect to their Elders past, present and emerging, and extended that respect to other Indigenous Australians who may be listening or watching this morning.

1. ATTENDANCE AND APOLOGIES

PRESENT

Cr Michael Kerr (Mayor), Cr Lisa Scomazzon (Deputy Mayor), Cr Peter McKeown, Cr Abigail Noli and Cr Roy Zammataro.

APOLOGIES

Nil

OFFICERS IN ATTENDANCE

Mark Stoermer (Chief Executive Officer), Terry Farrelly (Manager People and Community Services), Tara Killeen (Chief Financial Officer), Paul Hoyer (Manager Environment and Planning), Robert Donovan (Team Leader Property), Daniel Lamond (Planning Officer), Gaye Scott (Acting Senior Media and Communications Officer), Amy Mail (Tourism & Economic Development Officer), Nicole Barton (Mayor & Councillor Support Officer) and Brenda Jang (Executive Assistant).

2. CONFLICT OF INTEREST/MATERIAL PERSONAL INTEREST

Nil

3. AGENDA ITEMS

- 3.1. LOT 83 SR596 CAPE TRIBULATION ROAD SALE OF LAND  
Mark Stoermer, Chief Executive Officer

**Moved** Cr Kerr

**Seconded** Cr Scomazzon

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*That Council:*

1. *resolves to delegate its power pursuant to section 257 and 262 of the Local Government Act 2009 to the Chief Executive Officer to sell Lot 83 SR596, Cape Tribulation Road to Queensland Trust for Nature and Rainforest Rescue for the sale price of \$725,000 (Ex GST), the purchase price Council paid for the land in October 2019;*
2. *authorises the Chief Executive Officer to delegate the exercise of the powers contained in Attachment 2 – Instrument of Delegation - to Council's Legal Services to act on behalf of Council for all sale negotiations and enter into a Sale Contract on behalf of Council in regard to this sale; and*
3. *delegates authority under section 257 of the Local Government Act 2009 to the Chief Executive Officer to finalise any and all matters associated with this purchase.*

**For:** Cr Kerr, Cr Scmazzon and Cr McKeown

**Against:** Cr Noli Cr Zammataro

**Carried**

- 3.2. TRUSTEE LEASE TO PUBLIC SAFETY BUSINESS AGENCY ON BEHALF OF  
KIMBERLEY RURAL FIRE BRIGADE - LOT 85 SP 219631 FOREST CREEK  
ROAD  
Robert Donovan, Team Leader Property

**Moved** Cr Noli

**Seconded** Cr Scmazzon

*That Council:*

1. *offer a Trustee Lease to Public Safety Business Agency on behalf of Kimberley Rural Fire Service over part of Lot 85 SP219631 Forest Creek Road:*
  - i. *for a term of 10 years from date of execution;*
  - ii. *utilising the terms and conditions of the Standard Terms and conditions document registered under dealing number 717940164 and also the States mandatory Terms Document registered under number 711932933;*
  - iii. *lease payments to be \$150 per annum plus GST with annual CPI increases as per lease; and*
  - iv. *pay all reasonable costs associated with the lodgment of lease documents with the title's office; and*
2. *delegates authority under section 257 of the Local Government Act 2009 to the Chief Executive Officer to determine and finalise any matters associated with the execution of the Trustee Lease.*

**Carried** Unanimously

- 3.3. REQUEST FOR NEGOTIATED DECISION NOTICE FOR DAINTREE WATER  
BOTTLING FACILITY  
Daniel Lamond, Planning Officer

**Moved** Cr Noli

**Seconded** Cr Kerr

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*That Council issue a Negotiated Decision Notice for the material change of use development approval for medium impact industry (water bottling facility) over land described as LOT: 10 SP: 304851, subject to the following:*

**APPROVED DRAWING(S) AND / OR DOCUMENT(S)**  
*Approved Drawing(s) and/or Document(s)*

*The term 'approved drawing(s) and/or document(s) or other similar expressions means:*

<b>Drawing or Document</b>	<b>Reference</b>	<b>Date</b>
<i>Access Road and Building Pad concept Arrangement</i>	<i>Plan Prepared by Civil Walker Consulting Engineers, Drawing No. 106-002-C01</i>	<i>28 November 2019</i>
<i>Part Site Plan</i>	<i>Plan prepared by Greg Skyring Design and Drafting Pty Ltd, Plan No. 101-19</i>	<i>3 September 2019</i>
<i>Floor Plan</i>	<i>Plan prepared by Greg Skyring Design and Drafting Pty Ltd, Plan No. 101-19</i>	<i>3 September 2019</i>
<i>Elevations</i>	<i>Plan prepared by Greg Skyring Design and Drafting Pty Ltd, Plan No. 101-19</i>	<i>3 September 2019</i>
<i>FNQROC Regional Development Manual Standard Drawing/s for Vehicle Access</i>		
<i>Rural Allotment Access</i>	<i>Standard Drawing S1105 Issue E</i>	<i>26 November 2014</i>

**ASSESSMENT MANAGER CONDITIONS & ADVICES**

1. *Carry out the approved development generally in accordance with the approved drawing(s) and/or document(s), and in accordance with:*
  - (a). *The specifications, facts and circumstances as set out in the application submitted to Council; and*
  - (b). *The following conditions of approval and the requirements of Council's Planning Scheme and the FNQROC Development Manual.*

*Except where modified by these conditions of approval*

**Timing of Effect**

2. *The conditions of the Development Permit must be effected prior to Commencement of Use, except where specified otherwise in these conditions of approval.*

**Building Colours**

3. *The exterior finishes and colours of the facility must be non-reflective and must blend with the natural colours of the surrounding environment. Colours must be endorsed by the Chief Executive Officer prior to the issue of a Development Permit for Building Work.*

**Landscaping Plan**

4. *The site must be landscaped in accordance with details included on a Landscaping Plan. The Landscaping Plan must detail the following:*
  - (a) *A ten (10) metre wide planting buffer separating the bottling facility and the common boundary to Lot 180 on C157273 having regard to Planning Scheme Policy SC6.7-Landscaping;*

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*(b) planting of setback areas immediately in front of the facility on the hillslope separating the facility and Upper Daintree Road;*

*(c) A species list detailing all proposed vegetation types to be used.*

*One A3 copy of the landscape plan must be endorsed by the Chief Executive Officer prior to the issue of a Development Permit for Building Work. Landscaped areas must be maintained at all times to the satisfaction of the Chief Executive Officer.*

*Acoustic Report / Attenuation Measures*

5. *The development application material advised that the proposed use can utilise acoustic, noise attenuated building design measures to mitigate noise produced by plant. A noise impact assessment report must be prepared to demonstrate the effect of reasonable and practicable measures proposed to be implemented to minimise the impact of noise on the existing acoustic environment of the surrounding dwelling houses. Provide a report prepared by a suitably qualified and experienced acoustic engineer which identifies measures to be built into the building to attenuate noise and identify other noise management initiatives specifically for the operation of the facility at the site. The acoustic report must;*

*(a). investigate potential noise impacts on sensitive land uses external to the site, namely the dwelling houses neighbouring the site;*

*(b). establish the noise profile of the locality;*

*(c). the generation of noise associated with all noise emitting plant to be used;*

*(d). detail proposed attenuation treatments to the building;*

*(e). any other matters considered relevant by the acoustic engineer to ensure the proposed development does not unduly impact on neighbouring or surrounding properties.*

*The acoustic report must be submitted and endorsed by the Chief Executive Officer prior to the issue of a Development Permit for Building Work.*

*Acoustic Report / Noise Emissions*

6. *Average maximum noise level (L<sub>max,T</sub>) of plant must not exceed at an affected building:*

- Day (7am to 6pm): Background noise level L<sub>90,T</sub> + 5 dBA (with the exemption of reverse signals from machinery and plant).*
- Night (6pm to 7am): No audible noise.*

*Attenuation Measures for Machinery and Service Truck*

7. *Machinery and trucks used at the facility which are required to be fitted with reversing signal equipment must be fitted with a directional broadband noise emitter or another non-auditory alarm signal rather than a tonal reversing beeper, to the satisfaction of the Chief Executive Officer.*

*Hours of Operation*

8. *Hours of operation are limited to between 7am and 6pm daily.*

*Rate of Production*

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9. ~~No more than 200 tonnes per annum of beverage can be produced at the facility.~~

*Vehicle Parking and Access*

10. A minimum of three (3) car parking spaces must be provided at the facility. The car parking layout must comply with the Australian Standard AS2890.1 2004 Parking Facilities – off-street car parking and Australian Standard AS2890.6. In addition, all parking and vehicular maneuvering areas must be imperviously sealed, drained and line marked. The parking area must be provided prior to the issue of a Certificate of Classification or commencement of use, whichever occurs first. The access driveway can be constructed with a finished treatment of gravel but must not cause a dust nuisance to surrounding properties.

*Erosion and Sediment Control*

11. All earthworks must be carried out in accordance with section CP1.13 and D5 of the FNQROC Development Manual and must comply with the following:
- (a). Measures nominated in the ESCP must be implemented prior to commencement of any earthworks.
  - (b). The ESC Plan must address the Institution of Engineers' Australia Guidelines for Soil Erosion and Sediment Control and the Environment Protection (Water) Policy and Clauses CP1.06, CP1.13 and D5.10 of Council's FNQROC Development Manual.

*Emissions*

12. Dust emissions or other air pollutants, including odours, must not extend beyond the boundary of the site and cause a nuisance to surrounding properties.

*Refuse Storage*

13. Refuse storage is required to service the site in accordance with Council requirements.

*Operational Works*

14. The construction of the facility triggers the requirement for a Development Permit for Operational Works given the earthwork required to establish a pad for the facility. Obtain a development permit for Operational Works for earthworks prior to the issue of a Development Permit for Building Work.

*Raw Water Purchase Agreement*

15. Enter into a commercial agreement with Council for the purchase of up to 10,000 litres per day of raw water from the Daintree water intake. The agreement must bind the applicant to pay a rate for raw water to be used as part of the operation of the water bottling facility and must allow the Chief Executive Officer the discretion to ultimately regulate the applicant's access to the raw water main during times of water restriction.

*Access Crossover*

16. Provide an access crossover in accordance with standard drawing S1105D from the FNQROC Development Manual.

*Heavy Vehicle Movements*



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17. *No more than ~~one~~ ten (10) body truck or heavy vehicle movements to and from the facility is permitted per ~~day~~ week.*

*Changes to conditions are to be renumbered accordingly.*

*Reasons for Decision*

*The reasons for this decision are:*

1. *Sections 60, 62 and 63 of the Planning Act 2016:*
  - a) *to ensure the development satisfies the benchmarks of the 2018 Douglas Shire Planning Scheme Version 1.0; and*
  - b) *to ensure compliance with the Planning Act 2016.*
2. *Findings on material questions of fact:*
  - a) *the development application was properly lodged to the Douglas Shire Council 30 September 2019 under section 51 of the Planning Act 2016 and Part 1 of the Development Assessment Rules;*
  - b) *the development application contained information from the applicant which Council reviewed together with Council's own assessment against the 2017 State Planning Policy and the 2018 Douglas Shire Planning Scheme Version 1.0 in making its assessment manager decision.*
3. *Evidence or other material on which findings were based:*
  - a) *the development triggered assessable development under the Assessment Table associated with the Rural zone;*
  - b) *Council undertook an assessment in accordance with the provisions of sections 60, 62 and 63 of the Planning Act 2016; and*
  - c) *the applicant's reasons have been considered and the following findings are made:*
    - i) *Subject to conditions, the development satisfactorily meets the Planning Scheme benchmarks.*

**For:** Cr Kerr, Cr Scomazzon, Cr McKeown and Cr Noli

**Against:** Cr Zammataro

**Carried**

**4. CLOSED SESSION**

**Moved** Cr Scomazzon

**Seconded** Cr Zammataro

*"That Council resolves to move into Closed Session to discuss the following matter:*

*4.1 Prejudicial Matter S275 1 D Local Government Regulations 2012 – **Rates Concession***

**Carried** Unanimously

(Meeting moved into Closed Session at 10.33am)



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**OUT OF CLOSED SESSION**

Moved Cr Zammataro

Seconded Cr Noli

*"That Council resolves to move out of Closed Session."*

Carried Unanimously

(Meeting moved out of Closed Session at 10.42am)

**4.1. PREJUDICIAL MATTER S275 1 D LOCAL GOVERNMENT REGULATIONS  
2012 - RATES CONCESSION**

Mark Stoermer, Chief Executive Officer

Moved Cr Scomazzon

Seconded Cr Kerr

*That Council resolves to:*

- 1. waive the development application fee for the Crystalbrook Marina plan if submitted to Council by 30 June 2021 subject to conditions referenced in this report;*
- 2. provide a rebate on the Crystalbrook Marina general rates to offset the cost of the continued operation of the Slipway, not to exceed twenty per cent of the total general rates payable by Crystalbrook Superyacht Marina Pty Ltd, subject to conditions referenced in this report; and*
- 3. delegate authority under section 257 of the Local Government Act 2009 to the Chief Executive Officer to negotiate and finalise all matters, associated with the conditions and settlement of the rebate amount within the parameters set above.*

For: Cr Kerr

Against: Cr Scomazzon, Cr Mckeown Cr Noli and Cr Zammataro

Not Carried

**CLOSURE OF MEETING**

The meeting closed at 10.44am.

**CONFIRMED THIS 25TH DAY OF AUGUST 2020**

  
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MAYOR/CHAIR