

**MINUTES OF THE ORDINARY COUNCIL MEETING OF THE DOUGLAS SHIRE
COUNCIL HELD AT THE DOUGLAS SHIRE COUNCIL CHAMBERS, 64-66 FRONT
STREET, MOSSMAN ON TUESDAY, 7 JULY 2015, COMMENCING AT 10.00 AM**

1. PRESENT

Cr Julia Leu, Cr Abigail Noli (via teleconference), Cr David Carey, Cr Bruce Clarke, Cr Terry Melchert, Linda Cardew (Chief Executive Officer), Darryl Crees (General Manager Corporate Services), Paul Hoyer (General Manager Operations), Kerrie Hawkes (Executive Officer), Rebecca Assman (Manager Governance), Donna Graham (Manager Development and Environment), Michael Kriedemann (Manager Infrastructure), Jenny Elphinstone (Senior Planning Officer), Neil Beck (Planning Officer), Scott Hahne (NDRRA Project Engineer), Robert Donovan (Property Officer), Nicole Barton (Mayor & Councillor Support Officer) and Nevinia Davenport (Executive Assistant).

ACKNOWLEDGEMENT OF COUNTRY

Cr Leu acknowledged the Kuku Yalanji people who are the Traditional Custodians of the Land and paid respect to their Elders both past and present and extended that respect to other Indigenous Australians present.

APOLOGIES

Nil.

MINUTES SILENCE

A minute's silence was held in honour of local resident Holly Brown.

3. MAYORAL MINUTE

Moved: Cr Leu

That Council resolve to allow Cr Noli to attend the Council Meeting today via teleconference.

Carried unanimously.

2. CONFLICT OF INTEREST/MATERIAL PERSONAL INTEREST

Cr Melchert declared a perceived Conflict of Interest in Item 5.7 (as per Section 173 of the *Local Government Act 2009*) due to the fact that many of the property owners and residents in Miallo are well known to Cr Melchert. Cr Melchert advised that he had considered his position and was firmly of the opinion that he could participate in the debate and vote on this matter, in the public interest.

Cr Melchert declared a Conflict of Interest in Item 8.2 (as per Section 173 of the *Local Government Act 2009*) due to the fact that he has worked with the company Marano Enterprises Pty Ltd on projects either directly or indirectly related to these matters and advised that he would be excluding himself from the meeting whilst these matters are discussed and the vote is taken.

4. CONFIRMATION OF MINUTES OF COUNCIL MEETINGS

ORDINARY MEETING HELD ON 16 JUNE 2015

Moved Cr Carey

Seconded Cr Clarke

"That the Minutes of the Ordinary Meeting held on Tuesday 16 June 2015, be confirmed."

Carried unanimously.

SPECIAL BUDGET MEETING HELD ON 24 JUNE 2015

Moved Cr Clarke

Seconded Cr Carey

"That the Minutes of the Special Budget Meeting held on Wednesday 24 June 2015, be confirmed."

Carried unanimously.

SPECIAL (SECOND) MEETING HELD ON 24 JUNE 2015

Moved Cr Carey

Seconded Cr Clarke

"That the Minutes of the Special (second) Meeting held on Wednesday 24 June 2015, be confirmed."

Carried unanimously.

SPECIAL MEETING HELD ON 26 JUNE 2015

Moved Cr Clarke

Seconded Cr Carey

"That the Minutes of the Special Meeting held on Friday 26 June 2015, be confirmed."

Carried unanimously.

5. AGENDA ITEMS

**5.1 VARIATION OF A LIQUOR LICENCE FOR A LICENSED PREMISES –
SUBSIDIARY ON PREMISES (VESSEL) – MV GREEN ISLAND
EXPRESS, C/- QUICKSILVER CONNECTIONS LTD, REEF MARINA, 3
INLET STREET, PORT DOUGLAS**

Susanna Andrews, Technical Planning Officer: 457472

Moved Cr Carey

Seconded Cr Clarke

"That the applicant and the Office of Liquor & Gaming Regulation, Department of Justice & Attorney-General, be advised that Council does not object to the Application for a variation of liquor licence for a licensed premises for MV Green Island Express."

Carried unanimously.

**MINUTES OF THE ORDINARY COUNCIL MEETING
HELD ON TUESDAY, 7 JULY 2015, COMMENCING AT 10.00 AM**

5.2 DRAFT PLANNING AND DEVELOPMENT BILL 2015

Jenny Elphinstone: Senior Planning Officer (D#458027)

Moved Cr Carey

Seconded Cr Clarke

- "A. That Council makes a submission to the Infrastructure, Planning and Natural Resources Parliamentary Committee regarding the Planning and Development (Planning for Prosperity) Bill 2015 raising the issues as outlined in the Council's previous submission on the Planning and Development Bill 2014 dated 14 January 2015.
- B. That a copy of Council's submission on the Planning and Development (Planning for Prosperity) Bill 2015 to the Parliamentary Submission be forwarded to the Local Government Association of Queensland (LGAQ) for inclusion in a joint Council submission to be prepared by the LGAQ."

Carried unanimously.

5.3 REQUEST FOR PERMISSIBLE CHANGE TO DEVELOPMENT APPROVAL (MULTIPLE DWELLINGS) – 19-37 ST CRISPINS AVENUE, PORT DOUGLAS

Jenny Elphinstone: Senior Planning Officer MCUI 901/2015 (DSC TPC1137): (458212)

Moved Cr Clarke

Seconded Cr Carey

"That Council approves the request for a Permissible Change to a Development Approval for the Negotiated Decision Notice for a Material Change of Use for 72 Multiple Dwelling Units consisting of 66 one (1) bedroom and 8 two (2) bedroom units for a variation of roof design and landscaping of the Multiple Dwelling Units over land described as Lots 0, 1-10 on SP174881 and Lot 0, 11-27 on SP204456, located at 19-37 St Crispins Avenue, Port Douglas, where by:

1. Condition 4.1 is amended as follows:

Plan of Development

4.1 The approved development and the carrying out of any works on the premises associated with the development must be in accordance with Plan of Development No's. A-TP-04 Rev 04, A-TP-05 Rev 04 and A-TP-06 Rev 03 and as varied by the use of a roof design for units 1-10 on SP 174881 and Lot 11-27 on SP204456 on which there is no landscaping developed and in accordance with the Landscape Plan Drawing LP 01 Issue D dated 29 May 2015 prepared by Hortulus Landscape Design and Management, 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.

2. Condition 4.8 is amended as follows:

Landscaping

4.8 The landscape concept plan has been approved in principle subject to more

**MINUTES OF THE ORDINARY COUNCIL MEETING
HELD ON TUESDAY, 7 JULY 2015, COMMENCING AT 10.00 AM**

detailed landscape plans being submitted at Operational Work stage indicating:

- (a) proposed numbers of each species;*
- (b) composition of each species on the layout;*
- (c) concept drawings of the view from the street level showing screening effect 0, 2 and 5 years from completion;*
- (d) details on planting bed size, preparation and related hardscape etc.;*
- (e) details of depth and size of planting beds for those landscaped areas in the pool and courtyard areas which will be located above the underground carpark.;*
- (f) Additional screen planting provided between the pool areas and the adjacent side boundaries; and*
- (g) as amended by the redesign of units 1 to 27:*

 - (i) with no roof top landscaping to these units;*
 - (ii) the inclusion of landscaping as described on the Landscape Plan Drawing LP_01 Issue D dated 29 May 2015 prepared by Hortulus Landscape Design and Management; and*
 - (iii) the external painting of the western face of the swimming pools accompanying these units a darker colour; and*
 - (iv) the external painting of these units in a colour scheme that compliments the landscaping and reduces the visual impact of these units when viewed from outside the site to the satisfaction of the Chief Executive Officer.*

3. Condition 4.9 is amended as follows

4.9 *Landscaping shown on the approved plan shall be completed before the development is occupied and maintained thereafter. except for those works identified under condition 4.8(g) above. All works identified in Condition 4.8 (g) above must be completed prior to 7 July 2020.*

4. *That all other conditions of the Negotiated Decision Notice dated 5 November 2007 (D#375820) remain unchanged."*

Carried unanimously.

**MINUTES OF THE ORDINARY COUNCIL MEETING
HELD ON TUESDAY, 7 JULY 2015, COMMENCING AT 10.00 AM**

**5.4 RESCHEDULE COUNCIL MEETING TUESDAY 28 JULY 2015 TO
FRIDAY 31 JULY 2015**

Darryl Crees: General Manager Corporate Services #458623

Moved Cr Carey

Seconded Cr Clarke

"That Council resolves to:

- *reschedule the Ordinary Meeting of Tuesday 28 July 2015 to Friday 31 July 2015;
and*
- *delegate authority under the Local Government Act 2009 to the Chief Executive
Officer to finalise all matters associated with this change of meeting date."*

Carried unanimously.

5.5 ADDENDUM TO FEES AND CHARGES SCHEDULE 2015 - 2016

Darryl Crees – General Manager Corporate Services #458767

Moved Cr Carey

Seconded Cr Clarke

*"That Council adopts the fees and charges contained in the addendum to this report and the
Fees and Charges Schedule 2015 – 2016 be updated accordingly."*

For: Cr Leu, Cr Noli, Cr Carey, Cr Clarke

Against: Cr Melchert

Carried

5.6 ORGANISATIONAL STRUCTURE

Darryl Crees: General Manager Corporate Services #457700

Moved Cr Carey

Seconded Cr Clarke

"That Council adopts the revised Organisational Structure."

For: Cr Leu, Cr Carey, Cr Clarke, Cr Noli

Against: Cr Melchert

Carried

**MINUTES OF THE ORDINARY COUNCIL MEETING
HELD ON TUESDAY, 7 JULY 2015, COMMENCING AT 10.00 AM**

WITHDRAWAL – CR MELCHERT

Prior to consideration of Item 5.7 Cr Melchert informed Council, in words to the effect that due to some information now received, in relation to another Councillor, not himself, there may be a perceived Conflict of Interest. Cr Melchert then left the room at 10.36am without providing his reasons and did not return until Council concluded its consideration of this matter.

5.7 HOMELESS ANIMAL SOCIETY AND BOARDING KENNELS INC (PAWS AND CLAWS) - PROPOSAL FOR USE OF TRUSTEE LAND

Linda Cardew: Chief Executive Officer #459000

Moved Cr Carey

Seconded Cr Leu

“That Council resolve:

- 1. to facilitate the use of Lot 250 Crown Plan SR564 County of SOLANDER Parish of WHYANBEEL by the Homeless Animal Society and Boarding Kennels Inc (Paws and Claws) for the purpose of a homeless animal shelter and associated facilities;*
- 2. to consult the local community on the above proposal;*
- 3. that the potential lease or sale of the site to Paws and Claws for the above purpose is dependent upon Development Consent being obtained to the satisfaction of Paws and Claws and Council;*
- 4. to commission the preparation of the required environmental assessments (Suitability Statement) and Land Management Plan at Council's cost, and that consideration be given to recovering the cost of these studies from Paws and Claws following issue of the Development Consent;*
- 5. that in due course a further report be brought back to Council detailing land tenure options for the site, and the associated costs; and*
- 6. to delegate authority to the Mayor and Chief Executive Officer in accordance with the Local Government Act 2009 to negotiate all matters relating to this recommendation, prior to submission of a further report on land tenure options to Council.”*

Carried unanimously.

RE-ATTENDANCE – CR MELCHERT

Cr Melchert re-attended the meeting at 10.58am.

**MINUTES OF THE ORDINARY COUNCIL MEETING
HELD ON TUESDAY, 7 JULY 2015, COMMENCING AT 10.00 AM**

**5.8 NATURAL DISASTER RELIEF AND RECOVERY ARRANGEMENTS
(2014) PROGRESS REPORT #5 – MAY 2015**

Scott Hahne: NDRRA Project Engineer #458451
Paul Hoyer: General Manager Operations

Moved Cr Carey

Seconded Cr Clarke

"That Council notes the results achieved to date and the future projections contained in the 2014 NDRRA PCG Monthly Report 5 – May 2015."

Carried unanimously.

5.9 PROPOSED RELOCATION OF DIXIES SHED

Paul Hoyer: General Manager Operations

Moved Cr Clarke

Seconded Cr Carey

"That Council resolve to:

- 1. Relocate Dixie's Shed from its current site to the rear of Lot 3/PTD20936;*
- 2. Undertake to remove the Dixie's Shed in one piece if possible;*
- 3. Allocate an amount of \$4000.00 to cover costs associated with the relocation;*
- 4. Require the Douglas Shire Historical Society Inc. to enter into a Trustee Lease with Council with an agreed annual rate for future use of Dixie's shed;*
- 5. To delegate authority to the Mayor and the Chief Executive Officer in accordance with section 257 of the Local Government Act 2009 to negotiate, determine or resolve any and all matters associated with the relocation of Dixie's shed."*

Carried unanimously.

5.10 FIVE YEAR PEDESTRIAN AND CYCLEWAY PROGRAM

M Kriedemann: Manager Infrastructure #458295
P Hoyer: General Manager Operations

Moved Cr Carey

Seconded Cr Leu

"That Council resolve to:

- 1. Endorse the draft five (5) year Pedestrian and Cycleway Program; and*
- 2. Undertake community consultation on the Pedestrian and Cycleway Program; and*
- 3. Request the Manager infrastructure prepare a report summarising the community consultation and a final five (5) year Pedestrian and Cycleway Program for future presentation to Council for adoption."*

Carried unanimously.

**MINUTES OF THE ORDINARY COUNCIL MEETING
HELD ON TUESDAY, 7 JULY 2015, COMMENCING AT 10.00 AM**

6. NOTICES OF MOTION

Nil.

7. URGENT BUSINESS

Nil.

PETITION

Cr Melchert handed a petition to Cr Clarke asking him to present a petition to Council.

WITHDRAWAL – CR MELCHERT

Cr Melchert withdrew from the meeting at 11.10am.

Cr Clarke declined to present the petition to Council, saying he wished to read it first before handing it to the Chief Executive Officer for presentation at a later meeting.

RE-ATTENDANCE – CR MELCHERT

Cr Melchert re-attended the meeting at 11.12am.

8. CLOSED SESSION

Moved Cr Carey

Seconded Cr Clarke

“That Council resolves to move into Closed Session to discuss the following matters:

- *8.1 - Contractual Matter S275 (1) (E) Local Government Regulation 2012 – Contract for the Banabilla Road Causeway Upgrade Project at Woobadda Creek Crossing, Degarra; and*
- *8.2 - Prejudicial Matter S275 (1) (H) Local Government Regulation 2012 - Port Douglas Waterfront Leases - Request By Department Of Natural Resources And Mines For Council Comment.”*

WITHDRAWAL – CR MELCHERT

Cr Melchert declared a Conflict of Interest in the Closed Session Item 8.2 and withdrew at 11.15am.

RE-ATTENDANCE – CR MELCHERT

Cr Melchert re-attended the meeting at 11.19am.

OUT OF CLOSED SESSION

Moved Cr Carey

Seconded Cr Clarke

“That Council resolves to move out of Closed Session.”

Carried unanimously.

**8.1 CONTRACTUAL MATTER S275 (1) (E) LOCAL GOVERNMENT
REGULATION 2012 – CONTRACT FOR THE BANABILLA ROAD
CAUSEWAY UPGRADE PROJECT AT WOOBADDA CREEK CROSSING,
DEGARRA**

Michael Kriedemann: Manager Infrastructure #458348
Paul Hoye: General Manager Operations

Moved Cr Carey

Seconded Cr Clarke

“That Council resolve to:

- 1. Enter into contract DSC26-14/15 Banabilla Road Causeway Upgrade at Woobadda Creek with Kenmac Constructions Pty Ltd;*
- 2. Enter into the contract DSC26-14/15 Banabilla Road Causeway Upgrade at Woobadda Creek subject to successful extension of time request through 2014/15 Natural Disaster Resilience Program and successful funding approval through the Roads to Recovery Program; and*
- 3. Delegate authority to the Mayor and Chief Executive Officer in accordance with the Local Government Act 2009 to negotiate, finalise and execute any and all matters associated with the contract.”*

Carried unanimously

WITHDRAWAL – CR MELCHERT

Cr Melchert declared a Conflict of Interest in the following matter and withdrew at 11.25am and did not return.

**8.2 PREJUDICIAL MATTER S275 (1) (H) LOCAL GOVERNMENT
REGULATION 2012 - PORT DOUGLAS WATERFRONT LEASES -
REQUEST BY DEPARTMENT OF NATURAL RESOURCES AND MINES
FOR COUNCIL COMMENT**

Darryl Crees – General Manager Corporate Services: #457757
Paul Hoye – General Manager Operations

Moved Cr Leu

Seconded Cr Carey

“That Council advises the Minister and the Department of Natural Resources and Mines that in response to the correspondence received 15 June 2015 and as a consequence of further information resulting from discussions between key stakeholders regarding the Port Douglas Waterfront, Council provides the following revised position on the entire matter:

- 1. Council acknowledges that there is a need for the redevelopment of the Port Douglas Waterfront for the benefit of all parties including the Port Douglas Commercial Fishermen’s Association, the Port Douglas Waterfront Association, the Reef Marina and the communities of the Shire.*
- 2. Subject to paragraph 2(b), Council reiterates its position (as stated in its resolution of 21 October 2014) that Council*

**MINUTES OF THE ORDINARY COUNCIL MEETING
HELD ON TUESDAY, 7 JULY 2015, COMMENCING AT 10.00 AM**

- a) *Not to object to the applications/proposal to convert part of Special Lease 50240 over Lot 146 on SR861 to freehold and part to a term lease subject to:*
- i. *the purchaser of the freehold being the lessee of the current term lease;*
 - ii. *the purpose of the term lease remains coastal-dependent development (e.g. port or marina);*
 - iii. *public access to the foreshore is maintained.*
- (b) *The conversion of part of Special Lease 50240 over Lot 146 on SR861 to freehold and the grant of a new term lease below HWM are not to occur until after the new Planning Scheme for the Douglas Shire comes into effect.*
3. *Council continues to object to the conversion to freehold and term lease below HWM of Lot 103 on SR500 and the priority purchase and conversion to freehold and the granting of a new term lease below HWM of Lease J over Lot 126 on SR868 as Council considers that such conversion is not in the best interests of the Port Douglas marine and fishing industries and Douglas Shire community as a whole.*
4. *Council does not object to the conversion to freehold and the granting of a new term lease below HWM of Leases D and E over Lot 126 on SR868, the surrender of a portion of the area included in SL50240 (as shown on 'Concept Plan' Drawing No 1401) and the closure and sale of Inlet Street as contemplated by the letter dated 25 August 2014 from DNRM to Council on the following conditions:*
- a. *the viability and integrity of the commercial fishing fleet at Port Douglas is maintained through the provision of adequate and accessible facilities, ensuring that there is no reduction in scale and amenity following the freeholding of the land held under any of the leases;*
 - b. *the purchaser of the freehold and lessee under the new term leases below HWM being the lessee of the current term lease;*
 - c. *the conversion and purchase being subject to the purchaser submitting a Development Application over all land (that being, Leases D, E and J over Lot 126 on SR868, Lot 103 on SR500 (duck pond), Lot 146 on SR861 and the road of Inlet Street). For clarity, the development application is to be for the whole of the waterfront area and not a piecemeal application;*
 - d. *the Development Application referred to in the preceding paragraph 4c is to include provision for:-*
 - (i) *facilities to accommodate and service the commercial fishing fleet (currently approximately 17 vessels) in the area currently included in Lot 103 on SR500 and Lease J over Lot 126 on SR868; and*
 - (ii) *an illuminated constructed 24/7 pedestrian access of at least 4m in width, located as close as practicable to the waterfront and providing pedestrian connectivity through whole of the development land.*

**MINUTES OF THE ORDINARY COUNCIL MEETING
HELD ON TUESDAY, 7 JULY 2015, COMMENCING AT 10.00 AM**

- e. *the purchaser gaining a Development Approval for a Material Change of Use to the satisfaction of both Council and the purchaser;*
 - f. *that (except for the matters referred to in paragraph 2), the conversion of any of the lease areas to freehold, the issue of new term leases below HWM and the closure and sale of Inlet Street, do not occur until all of the following are satisfied:-*
 - (i) *the new Planning Scheme for the Douglas Shire comes into effect;*
 - (ii) *the facilities to accommodate and service the commercial fishing fleet are constructed and operational;*
 - (iii) *the pedestrian access is constructed and accessible to the public unless the conditions of the Development Approval provide otherwise; and*
 - (iv) *the purchaser has provided evidence to Council and DNRM that arrangements have been entered into by the purchaser with the operators comprising the commercial fishing fleet for tenure necessary to ensure that the object in paragraph 4a above is met.*
 - g. *for clarity until the conditions of paragraph 4f are met the road known as Inlet Street should remain open as a public road, furthermore once the conditions in the Development Application are satisfied, the new owner will take ownership of the low lift pump station, water and wastewater infrastructure that is situated along the full length of Inlet Street. Additionally the new owner will be required to register an easement along Inlet Street to prevent any further development over the existing infrastructure;*
 - h. *should the applications for conversion of Lot 103 on SR500 and Lease J over Lot 126 on SR 868 be determined to be approved then such approval should also be subject to conditions 4a – 4f above.*
5. *That this resolution supersedes all previous advice on this matter;*
6. *That Council delegates authority to the Mayor and Chief Executive Officer in accordance with section 257 of the Local Government Act 2009 to negotiate, determine or approve any and all matters relating to the implementation of this resolution.”*

Carried unanimously.

CLOSURE OF MEETING

The meeting closed at 11.27am.

CONFIRMED THIS 31st DAY OF JULY 2015


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MAYOR/CHAIR

