

**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 OCTOBER 2014 COMMENCING AT 10.00 AM**

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**PRESENT**

Cr Julia Leu, Cr Abigail Noli, 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), Donna Graham (Manager Development and Environment), Rebecca Assman (Manager Governance), Jenny Elphinstone (Senior Planning Officer), Greg McLean (Communication/Events Officer), Nicole Barton (Mayor & Councillor Support Officer), and Sandra Johnston (Minutes Officer)

**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**

There were no apologies.

**CONFLICT OF INTEREST/MATERIAL PERSONAL INTEREST**

Cr Melchert declared a Material Personal Interest (as per Section 173 of the *Local Government Act 2009*) in Closed Session Item 8.2 Prejudicial Matter Port Douglas Waterfront due to his association with Marano Enterprises Pty Ltd, MFS Bale Resorts, and other lessees in the Marina area.

**MAYORAL MINUTES**

Nil.

**CONFIRMATION OF MINUTES OF COUNCIL MEETINGS**

**ORDINARY MEETING HELD ON 16 SEPTEMBER 2014**

**Moved** Cr Carey

**Seconded** Cr Melchert

*"That the Minutes of the Ordinary Meeting held on Tuesday, 16 September 2014 be confirmed."*

**Carried**

**SPECIAL MEETINGS HELD ON 26 SEPTEMBER 2014**

**Special Meeting Commencing at 1.00 p.m.**

**Moved** Cr Noli

**Seconded** Cr Carey

*"That the Minutes of the first Special Meeting held on Friday, 26 September 2014 and commencing at 1.00pm be confirmed."*

**Carried** unanimously

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**Special Meeting Commencing at 1.25 p.m.**

**Moved** Cr Noli

**Seconded** Cr Melchert

*"That the Minutes of the second Special Meeting held on Friday, 26 September 2014 and commencing at 1.25pm be confirmed."*

**Carried** unanimously

**5.1 DOUGLAS CHAMBER OF COMMERCE, CARNIVALE - RESOURCE AND PERFORMANCE AGREEMENT**

Kerrie Hawkes: Executive Officer #428309

Linda Cardew: Chief Executive Officer

**Moved** Cr Carey

**Seconded** Cr Clarke

*"That Council resolves to:*

1. *support the Douglas Chamber of Commerce for the delivery of Carnivale with funding of \$50,000 (ex GST) and \$15,000 'in-kind' support for a period of three (3) years on terms set out in the Resource and Performance Agreement 1 October 2014 to 30 September 2017; and*
2. *delegate authority to the Mayor and Chief Executive Officer in accordance with the Local Government Act 2009 to finalise any minor amendments and execute the Resource and Performance Agreement."*

**Carried** unanimously

**5.2 CHRISTMAS CLOSE-DOWN PERIOD 2014**

Rebecca Assman: Manager Governance #429673

Darryl Crees: General Manager Corporate Services

**Moved** Cr Noli

**Seconded** Cr Melchert

*"That Council resolves to have its Christmas Close-Down Period from 25 December 2014 through to Sunday 4 January 2015."*

**Carried** unanimously

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**5.3 PRESCRIBED TIDAL WORKS - BANK RESTORATION (ROCK STABILISATION & REVEGETATION) DAINTREE RIVER AT MCDOWALL LANE - CAPE TRIBULATION ROAD LOWER DAINTREE**

Jenny Elphinstone: 8/36/81: D#429700

**Moved** Cr Melchert

**Seconded** Cr Carey

*"That Council approves the development application for Bank Restoration (Rock Stabilisation & Revegetation) at Daintree River at McDowall Lane, being adjacent to 37 McDowall Lane, Lower Daintree (adjacent to Lot 4 on RP888615), subject to the following:*

**APPROVED DRAWING(S) AND / OR DOCUMENT(S)**

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

<i>Drawing or Document</i>	<i>Reference</i>	<i>Date</i>
<i>Crosssection and Design Detail</i>	<i>Cairns Regional Council, Restoration of Flood Damage Around Existing Rock Protection – McDowall Lane, Drawing 1</i>	<i>July 2009</i>
<i>Layout</i>	<i>Cairns Regional Council, Restoration of Flood Damage Around Existing Rock Protection – McDowall Lane, Drawing 2</i>	<i>July 2009</i>
<i>Technical Specifications for Earthworks and Rock Protection</i>	<i>Cairns Regional Council, Daintree River at McDowall Lane</i>	<i>20 September 2009</i>
<i>Environmental Management Plan (EMP) for Construction</i>	<i>Cairns regional Council</i>	<i>26 October 2009</i>

**ASSESSMENT MANAGER CONDITIONS**

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.*

**Operational Works**

3. *An Operational Works Approval is required for undertaking of the nominated works. Such works must be completed to the satisfaction of the Chief Executive Officer.*

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*Construction of the Works*

4. *The Applicants / owners must:*
  - a. *Ensure that construction of the works is carried out only by means of suitable plant and equipment and that measures are taken to limit turbidity in tidal waters as a result of the construction; and*
  - b. *Ensure that disturbance to the bed and banks of the waterway is kept to a minimum; and*
  - c. *Take all appropriate measures to minimise pollution of tidal waters as a result of silt runoff and discharge of other contaminants such as fuel, oil and hydraulic fluid to the waterway during construction of the works; and*
  - d. *Ensure any acid sulphate soils are managed so that contaminants are not directly or indirectly released as a result of the construction activity to any waters or the bed and banks of any waters.*

*Damage to Council Infrastructure*

5. *In the event that any part of Council's existing road infrastructure is damaged as a result of construction activities occurring on the site, including but not limited to; mobilisation of heavy construction equipment, stripping and grubbing, the Applicant/owner must notify Douglas Shire Council immediately of the affected infrastructure and have it repaired or replaced at the developer's/owners/builders cost, prior to the Commencement of Use.*

*Debris*

6. *The Applicant/owner must remove any material deposited outside of the alignment of the works shown on the approved plans, or any debris that falls or is deposited on tidal lands or into tidal waters during construction of the works.*

*Existing Vegetation*

7. *Existing vegetation on the subject land must be retained in all areas except those affected by construction. The boundary of the construction envelope for each working site must be clearly delineated with marker pegs or flagging tape and surveyed by an appropriately qualified environmental professional to determine the presence of any species protected under the Nature Conservation Act 1992 and the Environment Protection & Biodiversity Conservation Act 1999 prior to any removal of vegetation.*

*Vegetation to be retained is to be identified and adequately fenced off for protection purposes prior to construction work commencing on the site.*

*Any further clearing requires an Operational Works Approval. All trees to be retained are to be protected in accordance with the Australian Standard Protection of trees on development sites AS4970-2009. Any pruning of trees adjacent to the development footprint is to be in accordance with the Australian Standard Pruning of amenity trees AS4373-2007.*

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*Wildlife Habitat*

8. *Prior to removal of any tree, an inspection must be carried out for any signs of protected wildlife including nests and animal habitat. Should any recent wildlife activity be identified, removal of the tree must not occur until the animal has vacated the area of immediate danger. If the animal does not move from the area of danger, the Queensland Parks and Wildlife Services must be contacted for advice. Important habitat trees should be retained wherever possible.*

*Notification*

9. *Council's Development and Environment Branch must be notified two (2) business days prior to the proposed date of commencement of any approved vegetation clearing.*

*Sediment and Erosion Control*

10. *Soil and water management measures must be installed / implemented prior to discharge of water from the site, such that no external stormwater flow from the site adversely affects surrounding or downstream properties (in accordance with the requirements of the Environmental Protection Act 1994, and the FNQROC Development Manual).*

*Stockpiling and Transportation of Fill Material*

11. *Soil used for filling or spoil from the excavation is not to be stockpiled in locations that can be viewed from adjoining premises or a road frontage for any longer than one (1) month from the commencement of works.*

*Transportation of fill or spoil to and from the site must not occur within:*

- a. *peak traffic times;*
  - b. *before 7:00 am or after 6:00 pm Monday to Friday;*
  - c. *before 7:00 am or after 1:00 pm Saturdays; or*
  - d. *on Sundays or Public Holidays.*
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.*

*Storage of Machinery and Plant*

13. *The storage of any machinery, material and vehicles must not cause a nuisance to surrounding properties, to the satisfaction of the Chief Executive Officer.*

**CONCURRENCE AGENCY CONDITIONS & REQUIREMENTS**

<b>Concurrency Agency</b>	<b>Concurrency Agency Reference</b>	<b>Date</b>	<b>Council Electronic Reference</b>
Department of State Development, Infrastructure and Planning	SDA-1213-006732	22 September 2014	D#429756

*Refer to Appendix 2: Concurrence Agency Requirements. (Please note that these conditions / requirements may be superseded by subsequent negotiations with the relevant referral agencies).*

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**ADVICE**

1. *This approval, granted under the provisions of the Sustainable Planning Act 2009, shall lapse four (4) years from the day the approval takes effect in accordance with the provisions of sections 339 and 341 of the Sustainable Planning Act 2009.*
2. *All building site managers must take all action necessary to ensure building materials and / or machinery on construction sites are secured immediately following the first cyclone watch and that relevant emergency telephone contacts are provided to Council officers, prior to commencement of works.*
3. *This approval does not negate the requirement for compliance with all other relevant Local Laws and other statutory requirements.*
4. *For information relating to the Sustainable Planning Act 2009 log on to [www.dsdjp.qld.gov.au](http://www.dsdjp.qld.gov.au). To access the FNQROC Development Manual, Local Laws and other applicable Policies log on to [www.douglas.qld.gov.au](http://www.douglas.qld.gov.au).*

*Advice Statement for Commonwealth Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act)*

*You are advised that the EPBC Act applies to action that has, will have, or is likely to have, a significant impact on matters of national environmental significance.*

*Further information on the EPBC Act can be obtained from the Department of Sustainability, Environment, Water, Population and Communities' website [www.environment.gov.au/epbc](http://www.environment.gov.au/epbc) EPBC Act Policy Statement 1.1 Significant Impact Guidelines Matters of National Environmental Significance (Oct 2009)."*

**Carried** unanimously

**5.4 GREAT BARRIER REEF 2050 LONG-TERM SUSTAINABILITY PLAN**

J Elphinstone - Senior Planning Officer D#429486

**Moved** Cr Leu

**Seconded** Cr Melchert

*"That this decision be deferred and a report be prepared for further discussion at a Special Meeting to be held on Tuesday, 21 October 2014."*

**Carried** unanimously

**5.5 APPLICATION FOR ROAD CLOSURE, MOSSMAN GORGE ROAD, MOSSMAN GORGE, ADJACENT TO LOT 152 ON SR832, MOSSMAN GORGE RESERVE**

Donna Graham - Manager Development and Environment #429898

**Moved** Cr Carey

**Seconded** Cr Clarke

A. *That Council advises the Department of Natural Resources and Mines that it objects to the application for road closure of that part of Mossman Gorge Road shown as stations 147-148-149-150-147 and 8A-151-160-8A on Draft Plan 267816, (adjacent to 1505 (R81 Solander) described as Lot 152 Crown Plan SR832) on the following grounds:*

- (i) *The area the subject of the application is required for road purposes. Mossman Gorge Road is the sole access for pedestrian and vehicular traffic to Mossman Gorge. Mossman Gorge is a key tourist destination for the Douglas Shire receiving over 300,000 visitors annually. The road closure proposal would reduce the width of the road reserve by approximately 75% (from approx. 40m to approx. 10m) in the affected areas which would severely adversely impact on Council's ability to manage its road.*
- (ii) *The trunk water intake main servicing the Douglas Shire is located within or immediately adjacent to the area of the proposed road closure. The road closure proposal presents unacceptable risks to the security of Council's critical trunk infrastructure assets and would fetter Council's ability to access and maintain these assets. Any interference to this main could compromise the entire reticulated water supply for the Shire.*
- (iii) *The findings of a recent Coronial investigation into a drowning at Mossman Gorge included a recommendation that the safety of the Mossman Gorge Road be investigated. The proposed road closure may adversely impact on the ability of Council and other stakeholders to undertake that investigation and action any findings.*

B. *That Council delegates authority to the Mayor and Chief Executive Officer in accordance with Section 257 of the Local Government Act 2009 to determine and finalise any and all matters associated with the application."*

**Carried** unanimously

**5.6 REPORT FROM THE CHIEF EXECUTIVE OFFICER**

Linda Cardew – Chief Executive Officer #430059

**Moved** Cr Noli

**Seconded** Cr Clarke

*That Council receives and notes the report.*

**Carried** unanimously

## **5.7 DAINTREE RIVER FERRY – DOUGLAS CARD**

Darryl Crees: General Manager Corporate Services #430041

**Moved** Cr Carey

**Seconded** Cr Melchert

"That Council resolves to:

- *continue the economic incentive previously described as the "Smart Card" under the banner of the "Douglas Card";*
- *continue this incentive to occur on an annual basis for the period 1 November to the end of February;*
- *extend the eligibility criteria to the following councils:*
  - *Mareeba Shire Council*
  - *Tablelands Regional Council*
  - *Cairns Regional Council*
  - *Cassowary Coast Regional Council*
  - *Cook Shire Council*
- *issue the card free of charge with the use of the card restricted to the ferry fare categories of Motor Car & Utility (which may include a trailer), Pedestrians & Bicycles and Motor Bikes.*
- *delegate authority under section 257 of the Local Government Act 2009 to the Chief Executive Officer to finalise any and all operational requirements to progress this matter."*

**Carried** unanimously

## **5.8 PROPOSED SHED – PORT DOUGLAS SPORTS COMPLEX – PORT DOUGLAS FOOTBALL CLUB INC**

Rebecca Assman - Manager Governance: #429788

Darryl Crees - General Manager Corporate Services

**Moved** Cr Melchert

**Seconded** Cr Clarke

"That Council resolves to:

1. *give preliminary approval of the application to erect a shed to the rear of the Port Douglas Sports Complex, Wharf Street, Port Douglas, generally in accordance with Hunt Design drawing submitted 26 September 2014 and NQ Sheds and Patios Pty Ltd elevations dated 3 February 2014 excluding the verandah roof subject to the following conditions:*
  - *All development, building and plumbing approvals are required prior to the commencement of works;*
  - *Council is to be advised in writing prior to commencement of works;*



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- *A safety barrier/fencing is to be erected around the area prior to commencement and for the duration of the works;*
  - *All works are confined to the area shown generally on Hunt Design drawing submitted to Council on 26 September 2014;*
  - *All works are to be completed in a good and workmanlike manner by qualified tradespeople;*
  - *The area is to be left in a clean and tidy condition once the works are completed;*
  - *Council is not responsible for the cost of the works, maintenance, compensation to the Club or any successor, or to repair or restore the works;*
  - *The following documents must be submitted to Council before commencing to use the shed otherwise this preliminary approval lapses and use of the shed will revert to Council:*
    - a. *Final inspection certificate;*
    - b. *Certificate of classification as a class 10 building;*
    - c. *Certificate(s) of insurance for:*
      - i. *Building;*
      - ii. *Public liability for \$20,000,000.00;*

*and will nominate Douglas Shire Council and the State of Queensland as co-insurer parties as the trustee and owner of Lot 99 on SP150469;*
  - *The Club is to make application to Council for appropriate tenure, the application to be held in abeyance pending the preparation of a Land Management Plan for Reserve for Recreation Purposes R. 1256 Lot 99 SP150469.*
2. *delegates authority to the Mayor and Chief Executive Officer in accordance with section 257 of the Local Government Act 2009 to negotiate, determine or resolve any and all matters for the proposed shed including form, appearance and location of the works."*

**Carried** unanimously

**6. NOTICES OF MOTION**

Nil.

**7. URGENT BUSINESS**

Nil.

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**8. CLOSED SESSION**

**Moved** Cr Noli

**Seconded** Cr Carey

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

- *Prejudicial Matter S275 (1) (H) Local Government Regulation 2012 - Minutes of Audit Committee Meeting held on 19 September 2014;*
- *Prejudicial Matter Port Douglas Waterfront;*
- *Natural Disaster Relief & Recovery Arrangements – Provision of Engineering Services for 2014 Restoration Works."*

**Carried** unanimously

**WITHDRAWAL – CR MELCHERT**

Cr Melchert declared a Material Personal Interest in Item 8.2 and withdrew from the meeting at 10.38 a.m.

**RE-ATTENDANCE – CR MELCHERT**

Cr Melchert re-attended the meeting at 10.56 a.m.

**OUT OF CLOSED SESSION**

**Moved** Cr Clarke

**Seconded** Cr Carey

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

**Carried** unanimously

**WITHDRAWAL – CR MELCHERT**

Cr Melchert declared a Material Personal Interest in Item 8.2 and withdrew from the meeting at 10.58 a.m.

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**8.2 PREJUDICIAL MATTER - PORT DOUGLAS WATERFRONT**

Robyn Spiller - Project Officer #429793:

Rebecca Assman - Manager Governance

Darryl Crees - General Manager Corporate Services

**Moved** Cr Carey

**Seconded** Cr Clarke

*"That Council resolves to:*

1. *apply to the Department of Natural Resources and Mines (DNRM) for an extension of time to 1 December 2014 to respond to the proposal in the DNRM letter of 25 August 2014;*
2. *note that no community consultation on the loss of public waterfront access as a consequence of the proposals in the DNRM's letter of 25/8/14 has been undertaken;*
3. *delegate power to the **Mayor and Chief Executive Officer** under section 257 of the Local Government Act 2009, to:*
  - *prepare a statement of reasons, if required by DNRM, for the extension of time; and*
  - *procure the services of appropriately qualified experts to update any existing reports about economic; local non-indigenous cultural heritage values; spatial and land use planning information, if required;*
4. *require a further report to Council advising of DNRM's response and action required;*
5. ***advise the Member for Cook, David Kempton MP, of Council's decision and reasons for the decision and expressing Council's concern about the speed with which this is progressing and the absence of community consultation.***

**Carried** unanimously

**RE-ATTENDANCE – CR MELCHERT**

Cr Melchert re-attended the meeting at 11.00 a.m.

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**8.1 PREJUDICIAL MATTER S275 (1) (H) LOCAL GOVERNMENT  
REGULATION 2012 - AUDIT COMMITTEE MEETING MINUTES -  
19 SEPTEMBER 2014**

Rebecca Assman: Manager Governance #429834

Darryl Crees: General Manager Corporate Services

**Moved** Cr Noli

**Seconded** Cr Carey

*"That Council accepts the Minutes from the Audit Committee Meeting held on 19 September 2014."*

**For:** Crs Leu, Noli, Clarke and Carey

**Against:** Cr Melchert

**Carried**

**8.3 CONTRACTUAL MATTER S275 (1) (E) LOCAL GOVERNMENT  
REGULATION 2012 - NATURAL DISASTER RELIEF AND RECOVERY  
ARRANGEMENTS - PROVISION OF ENGINEERING SERVICES FOR 2014  
RESTORATION WORKS (DSCNDRRA002)**

Paul Hoye - General Manager Operations #430158

**Moved** Cr Noli

**Seconded** Cr Clarke

*"That Council:-*

- 1. resolves to enter into contract DSCNDRRA002 with GHD Pty Ltd for the provision of engineering consultancy services associated with the Natural Disaster Relief and Recovery Arrangements 2014 Funded Restoration Works; and*
- 2. delegates 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

**CLOSURE OF MEETING**

The meeting closed at 11.04 a.m.

**CONFIRMED THIS 4<sup>TH</sup> DAY OF NOVEMBER 2014**

  
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**MAYOR/CHAIR**