

**CONFIDENTIALITY OF THIS ITEM WAS REMOVED -
1/11/2017**

**CONFIDENTIAL: NOT FOR PUBLIC RELEASE – HINTERLAND ENVIRONMENTAL
CONSERVATION PROJECT - FURTHER REPORT**

Author Chief Executive Officer, Brett de Chastel
CEO's Office

Index ECM/ Subject/ Environment Levy

Attachments 1. Updated Memorandum of Understanding

REASON FOR CONFIDENTIALITY

*This report is **CONFIDENTIAL** in accordance with Section 275 (1) of the Local Government Regulation 2012, which permits the meeting to be closed to the public for business relating to the following:*

- (e) contracts proposed to be made by it; and*
 - (h) other business for which a public discussion would be likely to prejudice the interests of the local government or someone else, or enable a person to gain a financial advantage*
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EXECUTIVE SUMMARY

Not applicable.

RECOMMENDATION

That Council note the report by the Chief Executive Officer to the Special Meeting dated 13 October 2017 and the further report by the Chief Executive Officer to the Special Meeting dated 13 October 2017 containing updated information regarding a proposed hinterland environmental conservation project and:

- A. Note the proposed environmental benefits, risks and costs associated with the proposed project; and
 - B. Approve the project “in principle” and authorise the Chief Executive Officer to proceed with the Approved Actions as set out in the further report.
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REPORT**1. Purpose**

Further to the report provided to Council as part of the agenda for the Special Meeting on 13 October 2017, this report provides Council with additional and updated information.

2. Parliament House meetings - 10 October 2017

On 10 October 2017, the Mayor, CEO and President of the Noosa Parks Association attended Parliament House to undertake a series of meetings facilitated by our local member, Glen Elmes MP.

2.1. Minister for Environment and Heritage Protection

A meeting was held with the Hon Dr Steven Miles MP, Minister for Environment and Heritage Protection to update the Minister on progress with this project. Key outcomes from that meeting are as follows:

- Minister Miles remains committed to this project and appreciated the update on progress;
- Minister Miles was advised that Council has a Special Meeting scheduled for 13 October 2017 and that if Council supported the project “in principle” there would be no barriers to the Minister making an announcement of this project at a time after that date to be determined by the Minister;
- Mr Elmes also committed to supporting the project and not making any announcement before the Minister;
- We also provided positive feedback to the Minister on the support from Departmental staff; and
- Further, the Minister advised that he would brief the new Minister for Agriculture and Fisheries (Anthony Lynham MP). The previous Minister has resigned due to ill health earlier this week.

2.2. Shadow Minister for Environment and Heritage Protection

Mr Elmes also arranged a deputation with Dr Christian Rowan MP, Shadow Minister for Environment and Heritage Protection. Dr Rowan was briefed on the project and he provided an assurance that if there was a change of government at the upcoming election, an incoming LNP government would honour and support the continuation of this project. Dr Rowan indicated that this type of partnership model to enhance the conservation estate was one that would have the Opposition's full support.

3. Format of the MOU

As flagged in the original report to the Special Meeting, the format of the draft MOU had not been signed off by HQP or DAF at the time that report was finalised. Indeed, while our informal understanding was that DAF was somewhat comfortable with the earlier version of the MOU, their subsequent formal advice on 10 October 2017 was that they would prefer a simplified MOU at this stage with the detail to be included in the formal transaction agreements. At a meeting on 11 October 2017, HQP indicated a similar view.

The parties have therefore developed a "short version" MOU (see attachment 1). This MOU will achieve the following:

- Allow all of the parties to the project to sign off the project "in principle" and then work through the details to be contained in the transactional documents;
- Allow for a Ministerial announcement of the project at an earlier stage rather than waiting for the finalisation of the transactional documents;
- Allow for the Transition Committee to commence sooner rather than later which will be beneficial as the project unfolds; and
- Not bind the parties into the detail (which can be done via the transactional documents) but rather simply confirm the intent to work towards that outcome (noting that an MOU is not legally binding in any event).

The intention is to use the format of the MOU attached to this report rather than the draft MOU attached to the original report.

4. Further information

In my original report to the Special Meeting, I set out some details of what would be addressed in the different transaction agreements. Further information has been provided since that report (particularly from HQP) which clarifies certain elements. Details are as follows:

4.1. Early access to PLA area

HQP have shared (on a "commercial in confidence basis") details of their proposed pine cut schedule for the PLA area. It seems likely that HQP may finish their harvest of their pine (particularly at Yurol) before the 5-year timeframe. HQP and Council have also discussed further how Council may wish to access some of the existing PLA areas in the first 5 years (particularly the recently fallow PLA pine areas) in the event that we are able to secure external funding for remediation. It was agreed that these matters can be managed through the Transition Committee process with, for example, early access for remediation work to be dealt with via a permit from HQP. This may reduce the Council's long term remediation costs.

4.2. Extra PLA areas to be surrendered at the outset of the agreement

HQP have identified some additional parcels in the Ringtail PLA area that can be immediately excluded from the PLA area and transferred into National Park. One of these in particular will provide potential better access and linkage to the recently purchased Franz land. Others parcels to the north of Louis Bazzo Drive can also be immediately transferred to National Park. These are on separate titles to the other PLA lands in the Ringtail locality. A map identifying these parcels will be shown to Councillors at the Special Meeting.

4.3. Clarification of hardwood PLA areas to be surrendered at the outset of the agreement

HQP have now identified which hardwood areas can be immediately excluded from the PLA area and transferred into National Park. This covers almost all of the hardwood areas. The remaining hardwood areas cannot be surrendered at this stage as they are part of the same title of an existing pine plantation block and access to the pine is through that hardwood area. None of the hardwood plantation areas will be cut. A map identifying these parcels will be shown to Councillors at the Special Meeting.

4.4. Clarification of harvesting practices and pine clearance

HQP have confirmed that they will be bound by the Conservation Handback Guidelines for the Yurol forest area. This is due to the endangered giant barred frog habitat. However, those guidelines do not apply to the Ringtail forest area under the HQP PLA. HQP agree that they will ensure that any native forest species contained in their pine harvest area that is 20cm diameter or greater will be retained (subject to any WH&S requirements). Their harvest will be of the planted pine areas, not any pine wildings that have emerged in fallow or buffer areas.

There are also practical issues that will need to be managed through the Transition Committee. For example, the "Christmas tree" block of pine at the eastern edge of the Ringtail block will not be of merchantable quality due to the 5 year harvesting period and HQP do not wish to be required to harvest this block. Options that can be explored through the Transition Committee include early mulching of this block to allow early remediation access.

There are also other practical matters in the pine harvesting to be considered including leaving rows of stumps intact along the property boundaries to provide a physical barrier to unauthorised entry. Further, while the agreement provides that the hardwood areas are not harvested, there may be some environmental benefits in thinning the hardwood mono-culture. HQP have agreed that they would consider any request to facilitate the use of their contractors (at normal contract cost) to undertake this work while their contractors are on site undertaking their pine harvest. Again, this is a matter that could be addressed via the Transition Committee if required.

5. The Way Forward - Approved Actions

If Council wishes to proceed with this project in principle, the following actions would be need to be approved by Council:

- Authorise the CEO to enter into a Memorandum of Understanding generally in accordance with the terms of the draft MOU contained in **Attachment 1** to the further report to achieve the overall project objectives;
- Authorise the CEO to work with the other parties to develop the required transactional documents and to report back to a future Council meeting with those transactional documents for Council's consideration;
- Authorise the CEO to remove the confidentiality associated with the two reports to the Special Council meeting regarding this project once the project has been publically announced by the Minister for the Environment.

Previous Council Consideration

Nil.

Finance & Risk

Refer to original report.

Consultation

External Consultation - Community & Stakeholder

Refer to original report.

Internal Consultation

Refer to original report.

Departments/Sections Consulted:

- | | | |
|--|--|---|
| <input checked="" type="checkbox"/> Chief Executive Officer
Executive Officer
Executive Support | <input type="checkbox"/> Community Services
Community Development
Community Facilities
Libraries & Galleries
Local Laws
Waste & Environmental Health | <input type="checkbox"/> Corporate Services
Financial Services
ICT
Procurement & Fleet
Property
Revenue Services |
| <input type="checkbox"/> Executive Services
Community Engagement
Customer Service
Governance
People and Culture | <input type="checkbox"/> Environment & Sustainable Development
Building & Plumbing Services
Development Assessment
Economic Development
Environmental Services
Strategic Land Use Planning | <input type="checkbox"/> Infrastructure Services
Asset Management
Buildings and Facilities
Civil Operations
Disaster Management
Infrastructure Planning,
Design and Delivery |

Memorandum of Understanding

between

the **State of Queensland**

acting through the Department of Environment and Heritage Protection, the Department of Agriculture and Fisheries and the Department of National Parks, Sport and Racing

(**'State'**)

and

the **Noosa Shire Council ('Council')**

and

the **Noosa Parks Association Incorporated ('Association')**

and

HQPlantations Queensland ('HQP')

IT IS AGREED as follows:

1. **SCOPE OF THE MEMORANDUM OF UNDERSTANDING ('MOU')**

- 1.1 The objective of this MOU is to reflect an intention between the parties to convert the Yurol and Ringtail State Forests ('Land') to protected area tenure as set out in the Terms of Reference.
- 1.2 The parties agree to collaborate and further enhance their relationship to realise the long-term environmental benefits of preserving the Land for future generations.
- 1.3 This collaboration may focus on, but is not limited to, the following areas:
 - 1.3.1 the relinquishment of harvesting rights by HQP.
 - 1.3.2 the State, Council and Association jointly funding costs incurred to transition the Land to the protected area estate.
 - 1.3.3 joint engagement on issues relating the management and rehabilitation of the Land for environmental outcomes.

2. **ESTABLISHMENT OF A JOINT TRANSITION COMMITTEE**

- 2.1 The joint transition committee will meet as per the terms of reference to progress priority issues.
- 2.2 Joint annual reports on progress will be provided to respective Directors-General and CEOs of the relevant parties.

- 2.3 Working groups will be convened as necessary to consider specific management issues.
- 2.4 It is intended that stakeholders external to government will be actively engaged in the collaborative effort.
- 2.5 State agencies remain responsible for the delivery of and compliance with legislative obligations and associated agreement obligations within their jurisdictions, and such obligations prevail in the case of inconsistencies with the intent articulated within this MOU.

3. STATUS OF THE MOU

- 3.1 The parties acknowledge that the provisions of this MOU are not legally binding (except for clause 6, 'Confidential Information'). Final policy decisions and legislative enactments remain the responsibility of the respective departments of the State and the Council.
- 3.2 Nothing contained in this MOU will fetter, act as an estoppel or as an agreement about the exercise of discretion or the making of a decision or subordinate legislation under any law.

4. TIMEFRAME, MODIFICATION AND TERMINATION

- 4.1 This MOU commences on the date the last party to do signs this MOU and will be operative for a period of seven (7) years from that date, unless otherwise varied by the parties or terminated.
- 4.2 Any variation of this MOU must be in writing and signed by all parties.

5. MOU MANAGEMENT

- 5.1 Each party nominates the Contact Officer for the purpose of this MOU.
- 5.2 A party's Contact Officer is responsible for:
 - 5.2.1 receiving communications;
 - 5.2.2 issuing and signing notices; and
 - 5.2.3 responding to requests or directions,on behalf of that party in relation to this MOU.
- 5.3 The Contact Officers, or any officer appointed by each Contact Officer, will meet as reasonably required by the parties for the purpose of discussing the performance of this MOU.

6. **CONFIDENTIAL INFORMATION**

6.1 Subject to clause 6.2, a Recipient must not:

6.1.1 disclose Confidential Information to a third party; or

6.1.2 use Confidential Information other than for the purpose of this MOU.

6.2 **Exceptions**

A party may disclose Confidential Information:

6.2.1 with the other party's prior written consent;

6.2.2 to a professional adviser, financial adviser, banker, financier or auditor if that person is obliged to keep the information disclosed confidential;

6.2.3 to any of its Representatives who are bound to keep the information confidential and to whom it is necessary to disclose the information;

6.2.4 to comply with the law, or a requirement of a regulatory body;

6.2.5 to the responsible Minister administering the department or the agency and their personal and departmental advisers;

6.2.6 in response to a request by the Parliament or a Committee of the Parliament of the State of Queensland; or

6.2.7 where disclosure is required to be made in accordance with established governmental policies, procedures or for public accountability purposes.

7. **LIABILITY**

The parties agree that they enter into this MOU and the purpose entirely at their own risk and without exception.

8. **DISPUTE RESOLUTION**

The parties agree that any dispute arising during the course of this MOU is to be dealt with by a process of escalation through each party's respective management hierarchy.

9. **GENERAL**

9.1 **Assignment**

A party must not assign, novate or subcontract the whole or any part of this MOU without the prior written consent of the other party, such consent not to be unreasonably withheld or delayed.

9.2 Notices

Each communication (including each notice, consent, approval, request and demand) in connection with this MOU to be given by either party to the other must be in writing and delivered to the address specified in Schedule 1 (or any other address notified from time to time) by hand, posted by pre-paid post, or sent by facsimile transmission or email.

9.3 No relationship

Nothing contained in this MOU will be taken as giving rise to any employment, agency, partnership or joint venture relationship between the parties.

10. DEFINITIONS AND INTERPRETATION

10.1 Definitions

In this MOU:

Confidential Information means all information, trade secrets and knowledge of or disclosed by a party (the **Discloser**) to another party (the **Recipient**) that:

- 10.1.1 is by its nature confidential;
- 10.1.2 is designated or marked by the Discloser as confidential; or
- 10.1.3 the Recipient knows or ought to know is confidential,
- 10.1.4 but does not include information which:
- 10.1.5 is or becomes public knowledge other than by breach of this MOU or any other confidentiality obligation; or
- 10.1.6 is independently developed by a party while having no knowledge of or access to the other party's Confidential Information.

Contact Officer means the contact person for each party specified in Schedule 1.

Relevant Parties means the parties who are signatories to this MOU.

Representative means an employee, agent, officer, director, contractor, subcontractor or other authorised representative of a party.

Terms of Reference means any document issued by either party to the other specifying the Purpose and the parties' obligations, a copy of which is contained in Schedule 2.

10.2 Interpretation

In this MOU unless the context indicates a contrary intention:

- 10.2.1 a reference to a document (including this MOU) is to that document as varied, novated, ratified or replaced from time to time;

- 10.2.2 a reference to a statute includes its delegated legislation and a reference to a statute or delegated legislation or a provision of either includes consolidations, amendments, re-enactments and replacements;
- 10.2.3 a word importing the singular includes the plural (and vice versa), and a word indicating a gender includes every other gender;
- 10.2.4 a reference to a party, clause, schedule, attachment or annexure is a reference to a party, clause, schedule, attachment or annexure to or of this MOU, and a reference to this MOU includes all schedules, attachments and annexures to it;
- 10.2.5 includes in any form is not a word of limitation;
- 10.2.6 a reference to \$ or dollar is to Australian currency; and
- 10.2.7 if a word or phrase is given a defined meaning, any other part of speech or grammatical form of that word or phrase has a corresponding meaning.

Schedule 1

Contact Officers

State

1. Department of Environment and Heritage Protection:

Party Name: State of Queensland acting through the Department of Environment and Heritage Protection

ABN: 46 640 294 485

Street Address: Level 5, 400 George Street, Brisbane QLD 4000

Contact Officer Name: Lisa Watts, A/Director

Contact Officer Postal Address: Level 5, 400 George Street Brisbane Q 4000

Contact Officer Telephone: 07 3330 6080

Contact Officer Facsimile: n/a

Contact Officer Email: Lisa.watts@ehp.qld.gov.au

2. Department of Agriculture and Fisheries:

Party Name: State of Queensland acting through the Department of Agriculture and Fisheries

ABN: 66 934 348 189

Street Address: [insert details]

Contact Officer Name: [insert details]

Contact Officer Postal Address: [insert details]

Contact Officer Telephone: [insert details]

Contact Officer Facsimile: [insert details]

Contact Officer Email: [insert details]

3. Department of National Parks, Sport and Racing:

Party Name: State of Queensland acting through the Department of National Parks, Sport and Racing

ABN: 11 322 391 452

Street Address: L6, 12 First Avenue, Maroochydore Q 4558

Contact Officer Name: Geoff Brittingham, Regional Director

Contact Officer Postal Address: L6, 12 First Avenue, Maroochydore Q 4558

Contact Officer Telephone: 07 5459 6112

Contact Officer Facsimile: 07 5443 8942

Contact Officer Email: Geoff.brittingham@npsr@qld.gov.au

Noosa Council:

Party Name: Noosa Shire Council
ABN: 97 969 214 121
Street Address: 9 Pelican Street, Tewantin, QLD 4565
Contact Officer Name: Brett de Chastel, CEO
Contact Officer Postal Address: P O Box 141, Tewantin QLD 4565
Contact Officer Telephone: 07 5329 6500
Contact Officer Email: Brett.dechastel@noosa.qld.gov.au

Noosa Parks Association:

Party Name: Noosa Parks Association Incorporated
ABN: 18 870 049 909
Street Address: Environment Centre, 5 Wallace Drive, Wallace Park, Noosaville QLD 4567
Contact Officer Name: Michael Gloster, President
Contact Officer Postal Address: P O Box 836, Noosa Heads, QLD 4567
Contact Officer Email: president@noosaparks.org.au

HQPlantations Queensland:

Party Name: HQPlantations Pty Ltd
ABN: 25 142 448 977
Street Address: 3A/2 Flinders Parade
Contact Officer Name: Brian Farmer CEO
Contact Officer Postal Address: PO Box 785 North Lakes Qld 4509
Contact Officer Telephone: 3882 8200
Contact Officer Email: brian.farmer@hqplantations.com.au

Schedule 2

Terms of Reference

The role of the joint transition committee is to provide a coordinated approach to the transition of the Yurol and Ringtail State Forest lands to protected tenure and on issues relating to management and rehabilitation of the Land for environmental outcomes.

Responsibilities

The key responsibilities of the committee will include:

- Work collaboratively to achieve the project outcomes.
- Ensure project management processes are put in place to achieve agreed Project timelines.
- Assess and report on progress including an annual joint report to respective Directors-General and Chief Executive Officers of the relevant parties.
- Monitor risks and assist in resolving any issue that has implications for the Project.
- Identify opportunities and use best endeavours to facilitate early access to plantation areas post-harvest for land remediation activities.
- Convene working groups as necessary to provide specialist input.

Membership

The joint transition committee membership will include one (1) member and one (1) proxy member from:

- Council
- Department of Environment & Heritage Protection
- Department of National Parks, Sport & Racing
- Department of Agriculture & Fisheries
- HQP
- NPA

Meetings

Meetings shall be convened by the Council committee member.

The Committee will nominate a chairperson.

Meetings will be held a minimum of 6 monthly in the first two years after the signing of this MOU and a minimum of annually thereafter.

Council will provide secretariat services to the joint transition committee and ensure appropriate meeting records are maintained and provided to all parties.

Any disputes in the Transition Committee will be managed by the provisions of Clause 8 of the MOU.

EXECUTED AS A MEMORANDUM OF UNDERSTANDING

Signed for and on behalf of the **State of Queensland** acting through the **Department of Environment and Heritage Protection** ABN 46 640 294 485 by

(name and position)

a person duly authorised to act in that behalf in the presence of:

Signature of Witness

Name of Witness in full

Signed for and on behalf of the **State of Queensland** through the **Department of Agriculture and Fisheries** ABN 66 934 348 189 by

(name and position)

a person duly authorised to act in that behalf in the presence of:

Signature of Witness

Name of Witness in full

Signed for and on behalf of the **State of Queensland** through the Department of **National Parks, Sport and Racing** ABN 11 322 391 452 by

(name and position)

a person duly authorised to act in that behalf in the presence of:

Signature of Witness

Name of Witness in full

Signature

Date: _____

Signature

Date: _____

Signature

Date: _____

Signed for and on behalf of the **Noosa Shire Council** ABN 97 969 214 121 by

(name and position)

a person duly authorised to act in that behalf in the presence of:

Signature of Witness

Name of Witness in full

Signed for and on behalf of the **Noosa Parks Association** ABN 18 870 049 909 by

(name and position)

a person duly authorised to act in that behalf in the presence of:

Signature of Witness

Name of Witness in full

Signed for and on behalf of **HQ Plantations Queensland** ABN 25 142 448 977 by

(name and position)

a person duly authorised to act in that behalf in the presence of:

Signature of Witness

Name of Witness in full

Signature

Date: _____

Signature

Date: _____

Signature

Date: _____