

MINUTES

Ordinary Meeting

Thursday, 22 October 2015

6pm

Council Chambers, 9 Pelican Street, Tewantin

**Crs Noel Playford (Chair), Bob Abbot, Sandy Bolton, Joe Jurisevic,
Frank Pardon, Tony Wellington, Frank Wilkie**

“Engagement with our community to protect and enhance our lifestyle”

1 ATTENDANCE & APOLOGIES

COUNCILLORS

Councillor N Playford, Mayor
Councillor B Abbot
Councillor S Bolton
Councillor J Jurisevic
Councillor F Pardon
Councillor T Wellington
Councillor F Wilkie

EXECUTIVE

B de Chastel, Chief Executive Officer
K Contini, Acting Director Community Services
M Drydale, Director Planning & Infrastructure
M Shave, Director Corporate Services

APOLOGIES

Nil.

The meeting commenced at 6.00pm

2 CONFIRMATION OF MINUTES

Council Resolution

Moved: Cr Bolton
Seconded: Cr Wilkie

The Minutes of the Ordinary Meeting held on 24 September 2015 be received and confirmed.

Carried.

3 MAYORAL MINUTES

Nil.

4 NOTIFIED MOTIONS

Nil.

5 CONSIDERATION OF COMMITTEE RECOMMENDATIONS**AUDIT & RISK COMMITTEE RECOMMENDATIONS****14 OCTOBER 2015 – Cr Wellington, Cr Wilkie, Scott Williams, Cameron Jagers**

External attendees: Debra Stoltz, Denis Byram and Lawrence Liao (Queensland Audit Office – via teleconference)

The following Recommendations from the Audit & Risk Committee were adopted without further amendment.

Council Resolution

Moved: Cr Abbot
Seconded: Cr Pardon

The Audit & Risk Committee recommendations dated 14 October 2015 be adopted.

Carried.

1 QUEENSLAND AUDIT OFFICE CLOSING REPORT

The Audit & Risk Committee noted the interim closing report provided by the Queensland Audit Office (QAO) to the Audit & Risk Committee meeting dated 14 October 2015.

2 INTERNAL AUDIT PROGRAM AND COMMITTEE ACTION ITEMS - UPDATE

That Council note the report by the Governance Advisor to the Audit & Risk Committee Meeting dated 14 October 2015 and adopt the updated Internal Audit Plan for 2015/16 provided at Attachment 1 to the report with the inclusion of Social Media as a potential future internal audit item.

3 DRAFT FINANCIAL STATEMENTS 2014/15

That Council note the report by the Manager Financial Services to the Audit & Risk Committee and approve the 2014/15 Annual Financial Statements (provided at Attachment 1 to the report) for signature by the Mayor and Chief Executive Officer.

4 RISK MANAGEMENT PROGRAM UPDATE

That Council note the report by the Governance Advisor to the Audit & Risk Committee Meeting dated 14 October 2015 providing an update on the progress of implementing Council's Risk Management Program.

5 WORKPLACE HEALTH & SAFETY UPDATE

That Council note the report by the Executive Manager to the Audit and Risk Committee Meeting dated 14 October 2015 providing an update on a recent review of Council's Workplace Health & Safety System and Plan.

6 DRAFT ANNUAL REPORT 2014-15, LOCAL GOVERNMENT ACT/REGULATION REVIEW AND NOOSA COUNCIL POLICY REGISTER REVIEW

That Council note the report by the Governance Advisor to the Audit & Risk Committee Meeting dated 14 October 2015 providing an update on the development of Noosa Council's Annual Report 2014-15, Noosa Council Local Government Act and Regulation Compliance Review and the Noosa Council Policy Register

7 ICT ASSURANCE AND ICT SYSTEMS UPDATE

That Council note the report by the ICT Manager to the Audit & Risk Committee meeting dated 14 October 2015 providing an update on Council's ICT security and audit activities.

INFRASTRUCTURE & SERVICES COMMITTEE RECOMMENDATIONS**13 OCTOBER 2015 - Crs Sandy Bolton (Chair), Bob Abbot, Frank Pardon****Apology: Cr Playford***Other Councillors in Attendance: Cr Jurisevic****The following Recommendations from the Infrastructure & Services Committee were adopted without discussion or further amendment.*****Council Resolution****Moved: Cr Bolton****Seconded: Cr Pardon**

The Infrastructure & Services Committee recommendations dated 13 October 2015 be adopted.

Carried.

1 NOOSA COUNCIL TRAFFIC ADVISORY AND SPEED MANAGEMENT COMMITTEE AUGUST 2015

That Council note the report by the Technical Officer - Transport & Traffic to the Infrastructure & Services Committee Meeting dated 13 October 2015 detailing the key outcomes of the Noosa Traffic Advisory Committee and Speed Management Committee meeting dated 27 August 2015.

2 ADOPTION OF ASSET MANAGEMENT PLANS

That Council note the report by the Infrastructure Planning & Design Manager and the Asset Planning Coordinator to the Infrastructure & Services Committee Meeting dated 13 October 2015 and:

- A. Adopt the following Asset Management Plans subject to minor wording amendments as discussed at the meeting:
1. Bridges Asset Management Plan;
 2. Building & Facilities Asset Management Plan;
 3. Foreshore Asset Management Plan;
 4. Parks, Playgrounds & Reserves Asset Management Plan;
 5. Pathways & Boardwalks Asset Management Plan;
 6. Roads & Carparks Asset Management Plan;
 7. Stormwater Asset Management Plan; and
 8. Waste Infrastructure Asset Management Plan.
- B. Request the CEO to provide a report to a future Council meeting on furthering the advancement of Council's Asset Management Framework and Plans.

PLANNING & ORGANISATION COMMITTEE RECOMMENDATIONS

13 OCTOBER 2015 – Crs. Joe Jurisevic (Chair), Noel Playford, Tony Wellington, Frank Wilkie

Other Councillors in Attendance: Cr Bolton

6 WALLACE PARK FLYING FOX MANAGEMENT PLAN**Council Resolution**

Moved: Cr Pardon
Seconded: Cr Wellington

That Council note the report by the Principal Environment Officer to the Planning & Organisation Committee Meeting dated 13 October 2015 and:

- A. Commence public consultation on the Wallace Park Draft Flying Fox Management Plan; and
- B. Provide a further report to Council on the results of public consultation and recommended flying fox management actions.

Carried.

The following Recommendations from the Planning & Organisation Committee were adopted without discussion or further amendment.

Council Resolution

Moved: Cr Wilkie
Seconded: Cr Wellington

The Planning & Organisation Committee recommendations dated 13 October 2015 be adopted except where except where dealt with or held over by separate resolution.

Carried.

1 STATE PLANNING REFORM - DRAFT PLANNING BILLS

Item not dealt with by Planning & Organisation Committee. Referred to General Committee for consideration.

Reason for referral – P&O Committee suggest a number of changes to the recommendation. A revised recommendation will be presented to the General Committee for consideration.

2 DEVELOPMENT APPLICATION FOR MATERIAL CHANGE OF USE FOR A DETACHED HOUSE AT 38 PARK CRESCENT, SUNSHINE BEACH - MCU15/0070

Item not dealt with by Planning & Organisation Committee. Referred to General Committee for consideration.

Reason for referral – Cr Wellington disagreed with the Recommendation.

3 DEVELOPMENT APPLICATION FOR MATERIAL CHANGE OF USE FOR A SERVICE AND UTILITY TYPE 3 (TOWER) AT DAVIS ROAD, COOTHARABA (MCU15/0061)

That Council note the report by the Development Planner to the Planning & Organisation Committee Meeting dated 13 October 2015 regarding Application No. MCU15/0061 for a Development Permit for Material Change of Use for Service & Utility Type 3 (Tower) situated at Davis Road, Cootharaba and

- A. Approve the application in accordance with the conditions contained in the Planning and Organisation Committee Agenda dated 13 October 2015; and
- B. Find the following are sufficient grounds to justify the decision despite the conflict with the Planning Scheme:
 - 1. The telecommunications facility will provide coverage for the NBN fixed wireless network, allowing for the delivery of higher speed data to rural residential households in the Cootharaba area; and
 - 2. The proposal will not significantly impact on the visual or residential amenity of the locality as it is to be located near existing infrastructure, and is screened by existing vegetation.

4 DEVELOPMENT APPLICATION FOR A MATERIAL CHANGE OF USE FOR MULTIPLE HOUSING - TYPE 4 CONVENTIONAL FOR 16 UNITS AT 30-32 DOONELLA STREET, TEWANTIN (MCU15/0053)

That Council note the report by the Coordinator Planning to the Planning & Organisation Committee Meeting dated 13 October 2015 regarding Application No. MCU15/0053 for a Development Permit for Material Change of Use for Multiple Housing - Type 4 Conventional (16 units) situated at 30-32 Doonella Street, Tewantin and:

- A. Approve the application in accordance with the conditions contained in the Planning and Organisation Committee Agenda dated 13 October 2015; and
- B. Find the following are sufficient grounds to justify the decision despite the conflict with the Planning Scheme:
 - 1. The multiple dwelling use is existing on the site.
 - 2. The development will provide centrally located small dwelling units with access to Tewantin's facilities and services.
 - 3. The development's small dwelling units will increase residential housing options in the locality and are likely to be relatively affordable.
 - 4. There is no identified need for further community or infrastructure facilities within Tewantin and the development will not unduly constrain land available for commercial uses consistent with the site's zoning provisions.
 - 5. The development is consistent with the developed character of the area and will not negatively impact on visual or residential amenity.

5 PLANNING & ENVIRONMENT COURT APPEAL D128/15 FOR A DEVELOPMENT APPLICATION FOR OPERATIONAL WORKS (CLEARING VEGETATION) IN AN ENVIRONMENTAL COVENANT AREA AT 10 SERENITY CLOSE, NOOSA HEADS

That Council note the report by the Environment Officer to the Planning & Organisation Committee Meeting dated 13 October 2015 regarding Planning and Environment Court Appeal D128/15 and agree to defend the appeal.

7 OYSTER RECRUITMENT ASSESSMENT PROJECT

That Council note the report by the Environment Officer (Rivers and Coast) to the Planning & Organisation Committee Meeting dated 13 October 2015 and:

- A. Confirm support for the establishment of a small scale pilot oyster reef restoration project to build further knowledge in this area of aquatic restoration of the Noosa Estuary; and
- B. Agree to provide in kind technical support to the Thomas Foundation for the development of a detailed project proposal.

8 UPDATE ON NOOSA COUNCIL'S INFORMATION COMMUNICATION TECHNOLOGY (ICT)

That Council note the report by the ICT Manager to the Planning & Organisation Committee Meeting dated 13 October 2015 providing an update on Council's Information Communication Technology systems and upcoming initiatives.

9 PROPOSED ASSIGNMENT OF SUNRISE NEIGHBOURHOOD SHOP 2 LEASE 2 GRASSTREE CRT, SUNRISE BEACH

That Council note the report by the Property Officer to the Planning & Organisation Committee Meeting dated 13 October 2015 and approve the assignment of the existing contract lease arrangement for Sunrise Neighbourhood Shopping Centre, Shop 2 - Pharmacy, from KA & RJ Teed to Sunrise Healthcare Pty Ltd on or after 23 October 2015.

10 CONFIDENTIAL NOT FOR PUBLIC RELEASE KIN KIN QUARRY BREACH ACTION

That Council note the report by the Manager, Planning & Environment to the Planning & Organisation Committee Meeting dated 13 October 2015 and authorise the Chief Executive Officer to proceed with further legal action if required in accordance with the proposed approach set out in the confidential report.

GENERAL COMMITTEE RECOMMENDATIONS

19 OCTOBER 2015 - Crs Frank Wilkie (Chair), Sandy Bolton, Joe Jurisevic, Frank Pardon, and Tony Wellington

Apologies: Crs Noel Playford and Bob Abbot

The following Recommendations from the General Committee were adopted without discussion or further amendment.

Council Resolution

Moved: Cr Wilkie
Seconded: Cr Jurisevic

The General Committee recommendations dated 19 October 2015 be adopted.

Carried.

1 STATE PLANNING REFORM - DRAFT PLANNING BILLS

That Council note the report by the Manager, Planning & Environment, Principal Strategic Planner and Infrastructure Assessment Coordinator to the Planning & Organisation Committee Meeting dated 13 October 2015 and make a submission to the Department of Infrastructure, Local Government and Planning on the draft Planning Bills in accordance with the following:

- A. The Planning & Development Bill and Planning & Development Regulations are not clear in the decision rules, particularly for those applications which conflict with the planning scheme. It is considered that where an application conflicts with the planning scheme, the onus of proof should be on the applicant to prove the merits of the proposal and justify any inconsistencies. Further, clear grounds and/or reasons should be required to be provided as part of the decision in order to ensure a transparent, accountable development assessment system for the community;
- B. The definition of material change of use should not be limited to only increases in scale and density of the premises, as there are circumstances where reducing the scale of the development does materially change the site's use. This is particularly relevant for developments which include an important community use or the like. For example removing the nursing home component from a retirement village may have a significant social impact on an area;
- C. Case law on the SPA definition of 'use' makes it clear that secondary uses forming part of a primary use must not only be incidental, but also necessarily associated such that it would be impossible for the primary use to be carried out in the absence of the incidental use. The definition proposed in the Bill related to 'use' fundamentally expands the activities that may be carried out because secondary activities need not be necessarily associated with the primary use to be considered part of that use and as a result, lawful. The regulation and enforcement of activities that were not contemplated as part of a development approval (although ancillary) may prove problematic for councils and undermine local communities' understanding of the development process;
- D. The removal of the requirement to consider whether a person may make a properly made submission objecting to change from the minor change test is likely to undermine the communities input into development assessment matters, particularly where they may be impacted upon by a proposed change;

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- E. The Planning Bill maintains and extends the time frame for applicants to be able to revive a development application where it lapses. This ability is not consistent with the principles for the DA Rules of being an applicant driven process, and is likely to create administrative problems for councils and lead to significant confusion for the community, particularly submitters;
 - F. In the absence of demonstrable net benefit, no change is sought to the existing levels of assessment or the terms used (i.e. code and impact) in the new legislation;
 - G. The proposed extension of Infrastructure Designation to privately owned infrastructure is a significant policy shift and would remove due consideration by the community, third party appeal rights and the need to comply with the planning scheme. Infrastructure charges revenue would be forfeited and would result in a considerable cost shift onto councils and their local communities. Statutory requirements around community infrastructure should at a minimum enable council to have a statutory role similar to a referral agency and allow consideration of local planning instruments in the designation process;
 - H. Key process matters (including the development assessment process) should not be moved from the principal legislation and into subordinate legislation, given the potential negative outcomes for Councils and the broader community. The framework should be located in one statutory instrument to ensure genuine review processes cannot be expedited without due consultation and engagement;
 - I. Attachment 1 of this report which includes comment on Draft Planning Bills provisions relating to Infrastructure Charges as amended at the Planning & Organisation Committee dated 13 October 2015;
 - J. Attachment 2 of this report which includes feedback to the Department of Infrastructure, Local Government and Planning on the specific issues the Department requested comment on;
 - K. The ability to opt-out of an information request in the Development Assessment Rules is likely to add significant complexity to the development assessment process without adding value, as an applicant has multiple options in regard to giving a response to a request for further information. It is critical that Councils and state agencies retain the ability to raise issues and identify further information that is required in order to fully understand and assess development proposals. The opt-out step should be deleted from the Development Assessment Rules;
 - L. The ability for applicants to determine at what point during the assessment stage public notification will occur, including prior to a response to responding to an information request, is likely to significantly complicate the development assessment process in contravention of the intended outcome. This 'floating' public notification will also impact on local government systems and process due to inconsistency in regard to when public notification will take place. Further the purpose of public notification is to assist community members in being informed of the proposed development, yet a 'floating' public notification undermines certainty and community confidence in understanding the planning processes and development proposals. It is critical that the community have all the information about a development proposal, including responses to Council's information request, when making submissions to a development application. The public notification should only occur after responses to the information request have been received and thus made public.
 - M. The removal of existing requirements for notices to be placed in local newspapers is also not supported as it may limit the ability for the community to be aware of development proposals and engagement in planning and development decisions;

- N. The Planning Bill introduces the ability for costs to be awarded in regard to enforcement notice appeals. However it is unclear in the drafting as to the rules when costs would be awarded and it is considered that the same criteria as proposed for development application appeals should apply to enforcement notice appeals; and
- O. The State Government is to be commended in acknowledging that the planning system must be grounded in local communities and for recognising and supporting the central role of local government in land use planning and decision making. In addition, the commitment the State Government has made to providing time and to consider funding support for local governments to manage a transition process to new planning legislation is appreciated. Council is also pleased that the former appeal cost provisions of SPA have been returned.

2 DEVELOPMENT APPLICATION FOR MATERIAL CHANGE OF USE FOR A 2 DETACHED HOUSE AT 38 PARK CRESCENT, SUNSHINE BEACH - MCU15/0070

That Council note the report by the Development Planner to the Planning & Organisation Committee Meeting dated 13 October 2015 regarding Application No. MCU15/0070 for a Development Permit for Material Change of Use (detached house) situated at 38 Park Crescent, Sunshine Beach and issue a Preliminary Approval in accordance with the conditions contained in the Planning & Organisation Committee Agenda dated 13 October 2015.

3 1516T017 DR PAGES ROAD AND KINMOND CREEK ROAD UPGRADE, CONSTRUCTION – TENDER ACCEPTANCE

That Council note the report by the Infrastructure Planning & Design Manager to the General Committee Meeting dated 19 October 2015 and:

- A. Award tender 1516T017 Dr Pages Road and Kinmond Creek Road Upgrade - Construction to Shadforths Pty Ltd for the lump sum price of \$4,659,830 (excluding GST) subject to satisfactorily responding to Council's request for tender clarification;
- B. Allocate an additional \$800,000 from Council's infrastructure renewal budget allocation for the renewal of culverts along Dr Pages Road in the second quarter budget review; and
- C. Delegate authority to the Chief Executive Officer to make a determination on any remaining issues requiring clarification.

4 SEPTEMBER 2015 FINANCIAL PERFORMANCE REPORT

That Council note the report by the Manager Financial Services to the General Committee Meeting dated 19 October 2015 providing the September 2015 monthly financial performance report for the 2015/16 financial year.

5 NOOSA BIOSPHERE RESERVE FOUNDATION GRANT PROCESS

That Council note the report by the Chief Executive Officer to the General Committee Meeting dated 19 October 2015 and advise the Noosa Biosphere Reserve Foundation Board that Council

- A. Supports the Board considering expressions of interest that have been submitted to the Noosa Biosphere Reserve Foundation as part of their grant process, where those expressions of interest relate to potential projects that require funding beyond 30 June 2016;
- B. Notes that the Board cannot provide final approval for any multi-year projects until it receives Council's approval pursuant to section 4.2 of the Funding Deed and requests the Board to seek that approval in due course; and
- C. Will consider funding for future financial years for the Noosa Biosphere Reserve Foundation as part of the Council's annual budget process in accordance with the funding agreement.

6 ORDINARY MEETING REPORTS**1 1516T035 ROAD RESURFACING & REHABILITATION - TENDER ACCEPTANCE****Council Resolution****Moved: Cr Pardon****Seconded: Cr Bolton**

That Council note the report by the Civil Operations Technical Officer to the Ordinary Meeting dated 22 October 2015 and

A. Award tender 1516T035 Road Resurfacing and Rehabilitation to the following contractors:

1. Portion A – Road Reseal & Rehabilitation Programme: Allroad Surfaces Pty Ltd;
2. Portion B – Mill and Fill Pavement Repairs: Allroad Surfaces Pty Ltd; and
3. Portion C – Bitumen Sealing: RPQ Spray Sealing;

B. Not award Portion D – Rejuvenation.

Carried.**2 HEALTHY WATERWAYS REPORT CARD****Council Resolution****Moved: Cr Bolton****Seconded: Cr Pardon**

That the verbal report by Cr Tony Wellington regarding the Healthy Waterway's Report Card announcement including the results for the Noosa River be received and noted.

Carried.**7 PETITIONS**

Nil.

8 CONFIDENTIAL SESSION

Nil.

9 NEXT MEETING

The next Ordinary Meeting will be held on 19 November 2015 at The J, 60 Noosa Drive, Noosa Heads commencing at 6pm

10 MEETING CLOSURE

The meeting closed at 6.35pm.