



ORDINARY COUNCIL PUBLIC MINUTES

24 JULY 2012 AT 9.00 AM

Council Members >>

The Mayor, Councillor Jenny Hill
Councillor Suzanne Blom
Councillor Colleen Doyle
Councillor Gary Eddiehausen APM
Councillor Pat Ernst
Councillor Ray Gartrell
Councillor Jenny Lane
Councillor Anthony Parsons
Councillor Trevor Roberts
Councillor Vern Veitch
Councillor Les Walker

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MINUTES >> ORDINARY COUNCIL MEETING

DATE >> Tuesday 24 July 2012 at 9.00 AM

ITEMS >> 1 TO 14

PRESENT >> The Chair, Mayor J Hill
Councillor V Veitch
Councillor S Blom
Councillor C Doyle
Councillor G Eddiehausen APM
Councillor P Ernst
Councillor R Gartrell
Councillor J Lane
Councillor A Parsons
Councillor T Roberts
Councillor L Walker



Opening of Meeting and Announcement of Visitors

The Chair, Mayor Hill opened the meeting at 9.00 am and welcomed the public, the media and the council members.

Prayers

Reverend Warren Crank of the Baptist Church delivered the opening Prayers.

Apologies and Leave of Absence

There were no apologies.

Confirmation of Minutes of Previous Meetings

It was MOVED by Councillor V Veitch, SECONDED by Councillor C Doyle:

"that the Minutes of the Ordinary Council Meeting held on 26 June 2012 be confirmed."

CARRIED

Disclosure of Interests

1. Councillor P Ernst declared a real conflict of interest in regards to item 9 of the Officer's Reports, as he is the Director of the North Queensland Small Business Centre.
2. Councillor J Lane declared a real conflict of interest in regards to item 2 of the Community and Cultural Committee Report, as she is the Director of Dancenorth (North Queensland Ballet and Dance Company Ltd).

Correspondence

There was no correspondence.

Petitions

There were no petitions.

Deputations

There were no deputations.

PRESENTATION

1 PRESENTATION - SOCIAL RETURN ON INVESTMENT REPORT - BARK (BROTHERS ACTS OF RANDOM KINDNESS) PROGRAM

REPORT TO COUNCIL

Authorised by Director Townsville Water and Waste
Prepared by Brothers Acts of Random Kindness (BARK)
Date 24 July 2012

Executive Summary

Mr Gavin Kumsing delivered a presentation to council regarding the social return on investment report for the Brothers Acts of Random Kindness Program (BARK).

It was MOVED by Councillor P Ernst, SECONDED by Councillor L Walker:

"That council resolve to receive the Brothers Acts of Random Kindness Social Return on Investment Report and the Brothers Acts of Random Kindness representatives be thanked for their presentation."

CARRIED

REPORTS OF STANDING COMMITTEE MEETINGS

2 REPORT - PLANNING AND DEVELOPMENT COMMITTEE - 11 JULY 2012

REPORT	PLANNING AND DEVELOPMENT COMMITTEE MEETING	
DATE	Wednesday 11 July 2012 at 12.00 pm	
ITEMS	1 TO 9	
PRESENT	Councillor A Parsons, Chair Councillor R Gartrell Councillor P Ernst Councillor V Veitch Councillor L Walker The Mayor, Councillor J Hill (as indicated)	
OBSERVERS	Councillor T Roberts	

Opening of Meeting

The Chair, Councillor A Parsons opened the meeting at 12.00 pm.

Apologies and Leave of Absence

It was moved by the Chair, Councillor A Parsons, seconded by Councillor P Ernst:

"that the apology from Councillor R Gartrell be received and that for the purposes of Section 162(1)(e) of the *Local Government Act 2009*, Councillor R Gartrell be granted leave of absence from this meeting."

CARRIED

Disclosure of Interests

There were no conflicts of interest or material personal interests declared.

Deputations

There were no deputations.

Officers Reports

Administrative Governance

1 Outcome of Appeal No. 222 of 2010, Bushland Grove Pty Ltd t/a Mt Low Developments v Townsville City Council and Sunland Group Ltd, AP10/0014, Mt Low Parkway, Bushland Beach

REPORT TO COUNCIL

Authorised by Director Planning and Development
Department Planning and Development
Date 26 June 2012

Applicant AP10/0014, 11075006, Mt Low Parkway, Bushland Beach (MC08/0199)
Bushland Grove Pty Ltd t/a Mt Low Developments v Townsville City Council and
Sunland Group Ltd

Executive Summary

On 8 September 2010 an appeal was filed in the Planning and Environment Court by Bushland Grove P/L t/a Mount Low Developments (submitter) against council's decision to approve an application for a development permit and negotiated development permit, for a Material Change of Use Impact (MI09/0039) Proposed Shopping Centre and Neighbourhood Centre.

A Notice of Withdrawal was filed in the Planning and Environment Court by the appellant on 14 June 2012.

This matter is now at an end.

Officer's Recommendation

That council receive this report.

Committee Recommendation

That the Officer's Recommendation be adopted.

2 Outcome of Appeal No. 242 of 2011, Pearlbrim Pty Ltd v Townsville City Council and Stockland Development P/L, AP12/0001, 15-63 Main Street, Burdell

REPORT TO COUNCIL

Authorised by	Director Planning and Development
Department	Planning and Development
Date	26 June 2012
Application	AP12/0001, Assessment No. 10906008, 15-63 Main Street, Burdell (MI10/0070) Pearlbrim Pty Ltd v Townsville City Council and Stockland Development Pty Ltd

Executive Summary

A Notice of Appeal was filed by Pearlbrim Pty Ltd in the Planning and Environment Court in Maroochydore on 17 November 2011 against council's decision to approve Stockland's development application seeking a development permit for material change of use for extension to an existing shopping centre and commercial premises with respect to land located at 15 - 63 Main Street, Burdell.

The appellant filed a Notice of Discontinuance in the Planning and Environment Court on 18 May 2012.

Planning and Environment Court Appeal No. 242 of 2011 is now at an end.

Officer's Recommendation

That council receive this report.

Committee Recommendation

That the Officer's Recommendation be adopted.

3 Outcome of Appeal No. 30 and 35 of 2012, Bunnings Group Ltd v Townsville City Council and Ors and Duckworth Nominees Pty Ltd v Townsville City Council and Ors, AP12/0003, AP12/0004, 315-343 Dalrymple Road, Garbutt

REPORT TO COUNCIL

Authorised by	Director Planning and Development
Department	Planning and Development
Date	25 June 2012
Application	AP12/0003 and AP12/0004, Assessment No. 1038315, 315-343 Dalrymple Road (Main), Garbutt (MI10/0040) Bunnings Group Ltd v Townsville City Council and Wagners Properties Pty Ltd Duckworth Nominees Pty Ltd v Townsville City Council and Wagners Properties Pty Ltd

Executive Summary

A Notice of Appeal was filed by Bunning Group Ltd (submitter) in the Planning and Environment Court in Townsville on 7 February 2012 and Duckworth Nominees P/L (submitter) on 6 February 2012 against council's decision to approve the co-respondent's development application for Development Permit - Material Change of Use (Impact) (MI10/0040) Preliminary Approval to Affect the Planning Scheme in accordance with Section 242 of the *Sustainable Planning Act 2009* to facilitate Use Rights in accordance with the Business and Industry Precinct and Green Space Precinct at 315 - 343 Dalrymple Road, Garbutt.

The appeals were heard together in the Planning and Environment Court on 18 June 2012 by His Honour Judge Durward who adjudged that the appeal be allowed.

This matter is now at an end.

Officer's Recommendation

That council receive this report.

Committee Recommendation

That the Officer's Recommendation be adopted.

4 Outcome of Appeal No. 1874 of 2012, Coles Group Property Development Ltd v Townsville City Council and Department of Transport and Main Roads, AP12/0011, Thuringowa Drive, Kirwan

REPORT TO COUNCIL

Authorised by	Director Planning and Development
Department	Development Governance
Date	25 June 2012
Application	AP12/0011, Assessment No. 12712001, Thuringowa Drive, Kirwan (MC10/0127) Coles Group Property Development Ltd v Townsville City Council and Department of Transport and Main Roads

Executive Summary

An Originating Application was filed by Coles Group Property Development Ltd in the Planning and Environment Court (No. 1874 of 2012) on 14 May 2012 for a permissible change to the preliminary approval overriding the planning scheme under section 3.1.6 of the now repealed Integrated Planning Act 1997 for Major Shopping Development (Additional Commercial and Retail Uses subject to a Plan of Development - Peripheral Sites).

This matter was heard in the Planning and Environment Court on 15 June 2012 before Judge Jones who ordered that the request be approved subject to conditions.

This matter is now at an end.

Officer's Recommendation

That council receive this report.

Committee Recommendation

That the Officer's Recommendation be adopted.

The Mayor, Councillor J Hill took a seat in the Chambers during the following item.

Development Assessment

5 MI07/0047 Material Change of Use Extractive Industry to Remove Sand, 159 Carty Road, Cape Cleveland

REPORT TO COUNCIL

Authorised by	Director Planning and Development
Department	Development Assessment
Date	8 June 2012
Address	Lot 500 RP 860205, 159 Carty Road, Cape Cleveland
Applicant/Owner	Stephen Edwards and Bruce Fisher C/- Brazier Motti
Description	MCU Impact MI07/0047 - Extractive Industry to Remove Sand

Executive Summary

A Development Application for Material Change of Use - Extractive Industry on Lot 500 RP 860205 situated at Carty Road, Cape Cleveland has been received from Applicant Stephen Edwards and Bruce Fisher on behalf of Brazier Motti - MI07/0047 6304001 and has been recommended for approval.

Officer's Recommendation

That council approve application MI07/0047 for a development permit for Extractive Industry to Remove Sand under section 243 of the *Sustainable Planning Act 2009* on land described as Lot 500 RP 860205, more particularly 159 Carty Road, Cape Cleveland, subject to the following conditions -

1. Site Layout

- a) The proposed development must generally comply with drawing(s) as referenced in the table below, which forms part of this application, except as otherwise specified by any condition of this approval.

DRAWING/REPORT NAME	DRAWING NO./ REPORT AUTHOR	REVISION No.	DATE
Conceptual Layout - Overview	27654/2	D	18 December 2007
Conceptual Layout - Detail	27654/4	D	18 December 2007
Conceptual Layout - Section	27654/5	D	18 December 2007
Site Access Plan	27654/012	A	24 April 2012
Revegetation Management Plan	C & R Consulting		February 2010
Site Based Management Plan for Extractive Industry	C & R Consulting		February 2010
Fauna Survey & Protected Species Investigation Report	C & R Consulting		February 2010
Acid Sulphate Soil Investigation	C & R Consulting		August 2009
Cultural Heritage Impact Assessment Study	Northern Archaeology Consultancies Pty Ltd		October 2009
Groundwater Impacts and Monitoring	Rob Lait & Associates Pty Ltd		February 2009

- b) The proposed development must comply with all conditions of this approval prior to commencement of the use.
- c) The proposed development must comply with all Planning Scheme requirements as applying at the date of this application, except as otherwise specified by any condition of this approval.

2. Rehabilitation and Site Management

Where not in conflict with conditions imposed by respective concurrence agencies, the approved development is to be in accordance with the following reports:

- Revegetation Management Plan, prepared by C & R Consulting, dated February 2010;
- Site-Based Management Plan for an Extractive Industry, prepared by C & R Consulting, dated February 2010;
- Fauna Survey & Protected Species Investigation Report, prepared by C & R Consulting dated, February 2010;
- Acid Sulphate Soil Investigation, prepared by C & R Consulting, dated August 2009;
- Cultural Heritage Impact Assessment Study prepared by Northern Archaeology Consultancies Pty Ltd, dated October 2009;
- Groundwater Impacts and Monitoring prepared by Rob Lait & Associates Pty Ltd dated February 2009.

3. Defined Use

The use hereby permitted must be conducted at all times in conformity with the associated definition in City Plan 2005.

4. Area of Extraction

All quarrying of materials for the approved development (Extractive Industry) must be confined to the land described in the approved plans, except where specified otherwise in these conditions of approval.

5. Hours of Operation

Unless otherwise approved by Council, the activities associated with the use must only be conducted between 6:00 am to 6:00 pm Monday to Friday and 7:00am to 1:00pm Saturday. The use is not permitted to operate on Sunday or Public Holidays.

6. Fencing and Signage

Any excavated areas having water deeper than 1.5 metres is to be fenced to a height of 2 metres to prevent unauthorised or accidental public entry.

7. Site Appearance

The site is to be kept in a clean and tidy condition at all times consistent with the use to the satisfaction of Council.

8. Relocation of Utilities

The developer must be responsible for any relocation and/or alteration to any public utility installation required as a result of any works carried out in connection with this development at no cost to Council.

9. Water Supply

The developer must supply and maintain a supply of on-site potable water for employees and visitors at all times.

10. Sewerage

All effluent and polluted waste water must be disposed of within the boundaries of the site in accordance with the Plumbing and Drainage Act 2002 to the satisfaction of Council.

11. Stormwater Quality Management

A stormwater quality management plan (SQMP) must be submitted to and be approved by council prior to the commencement of the use. The SQMP must be prepared by a suitably qualified person*.

12. Soil Erosion Sediment Control Plan

Due to the potential for significant erosion and sediment discharge from this project soil erosion and sediment control must be provided, so as to achieve Specific Outcome SO3 of the *Works Code*. A detailed Soil Erosion Sediment Control Plan in accordance with *City Plan Policy 1 - Section 12 - Soil Erosion and Sediment Control* must be submitted to Council for approval as part of Compliance Assessment for the development. The Soil Erosion Sediment Control Plan must:

- * incorporate performance standards, hold points and end points.
- * include maps, calculations, timing/staging and rainfall events/design criteria.
- * include specifications and construction details.
- * include soil and water management plans.
- * contain supporting documentation.
- * include a maintenance and monitoring program.
- * include geotechnical advice relating to the stability of the site during and after works including details on revegetation and stabilisation of the site.

An appropriately qualified professional must design and certify the program which must comply with the *Environmental Protection Act 1994* and all its subordinate legislation using appropriate principals and techniques detailed in the "Soil Erosion and Sediment Control – Engineering Guidelines for Queensland Construction Sites".

13. Release of Contaminants to Waters

Contaminants must not be directly or indirectly released from the premises to any waters or the bed and banks of any waters.

14. Roadworks and Traffic

- a) The developer must construct the new access to the site from the existing edge of bitumen to the property boundary at the developer's expense, generally in accordance with Council's standard Drawing for "Constructed Access to Rural Properties.
- b) Prior to the commencement of use, the developer must pay a contribution of \$10, 000 to Council (Construction and Maintenance Section, Infrastructure Services) for the maintenance of Carty Road between Cape Cleveland Road and Meehan Road. A further annual contribution of \$10, 000 is to be made to Construction and Maintenance Section for the following 4 years totalling a combined contribution of \$50,000.
- c) During the construction phase, any damage within the road reserve must be replaced or repaired by the developer in accordance with Council's standards.
- d) Compliance with sub-condition a) – c) above must be achieved prior to the commencement of use.

15. Vegetation Disposal

All felled trees and waste vegetation on the site must be treated in accordance with the Site-based Management Plan for extractive Industry as contained in Condition 1 above. Burning or burying of waste vegetation on site is not permitted.

16. Quarterly Monitoring

Quarterly groundwater monitoring is to be undertaken during extractive operations. Monitoring locations and testing parameters are to be agreed with the Department of Environment and Resource Management (DERM) and testing is to include groundwater elevation, indicators of ASS disturbance and saline intrusion. New groundwater monitoring bores are to be established within the extractive area as voids are completed. Reporting is to be supplied to DERM on an annual basis, summarising the findings, any problems and how these have/are to be remedied.

During quarterly monitoring, other related aspects are to be recorded. These aspects include evidence of any fish deaths (including stranding of fish when voids dry), erosion on batters and establishment of vegetation in void bases and batters. Reporting is to be supplied to DERM on an annual basis, summarising the findings, any problems with the landform design and how these have/are to be remedied.

17. Further Approvals Required

a) Compliance Assessment

All engineering associated with this development must be submitted to Council for approval prior to the issue of a Development Permit for Building Works, unless otherwise approved by Council.

All engineering designs/documentation associated with such an application must be prepared and where necessary, certified by a suitably qualified/experienced person.

b) Plumbing and Drainage Works

The developer must obtain a Development Permit to carry out plumbing and drainage works prior to the commencement of sanitary drainage works.

Concurrence Agency Conditions -Department of Transport and Main Roads

Pursuant to Section 3.3.16(1) of the *Integrated Planning Act 1997*, the Department of Transport and Main Roads advises that it has no objection to Townsville City Council issuing a Development Permit for Material Change of Use subject to the conditions, as attached. The applicant must comply with the Department of Transport and Main Roads conditions as outlined in the Department's correspondence dated 24 February 2012.

Concurrence Agency Conditions - Department of Environment and Resource Management

Pursuant to Section 285 and Section 287 of the *Sustainable Planning Act 2009*, the Department of Environment and Resource Management advises that it has no objection to Townsville City Council issuing a Development Permit for Material Change of Use subject to the conditions, as attached. The applicant must comply with the Department of Environment and Resource Management conditions as outlined in the Department's correspondence dated 21 January 2011.

Advice Agency - Department of Environment and Resource Management

Pursuant to Section 3.3.16(2) of the *Integrated Planning Act 1997*, Department of Environment and Resource Management advises that it has no objection to Townsville City Council issuing a Development Permit for Material Change of Use, as attached.

Advice Agency - Ergon Energy

Pursuant to Section 292 of the *Sustainable Planning Act 2009*, Ergon Energy advises that it has no objection to Townsville City Council issuing a Development Permit for Material Change of Use, as attached.

ADVICE

1. Infrastructure Charges

An Adopted Infrastructure Charges Notice outlining the estimated infrastructure contributions payable relevant to the Development Permit is attached for your information.

2. Environmental Considerations

DERM Requirements

Construction must comply with the *Environmental Protection Act 1994*, Policies and Guidelines.

3. Environmentally Relevant Activity

The developer is required to obtain an environmentally relevant activity approval from the relevant State Agency before any stormwater runoff can be discharged into the adjacent RAMSAR Wetland.

4. Portable Toilets

Adequate numbers of portable toilets for staff are to be provided on site and to be maintained in an environmentally friendly and hygienic way.

Committee Recommendation

1. That the Officer's Recommendation be adopted.
2. That council liaise with environmental authorities (Department of Environment and Resource Management and state government) and express council's strongest possible concerns that this activity needs independent monitoring.

6 MI12/0006 Material Change of Use Telecommunications Facility Lot 44 Jensen Road, Deeragun

REPORT TO COUNCIL

Authorised by	Director Planning and Development
Department	Planning and Development – Development Assessment
Date	8 June 2012
Address	Lot 44 EP 1017, Jensen Road Deeragun
Applicant/Owner	Optus Mobile Pty Ltd/Townsville City Council As Trustee
Description	Material Change of Use (Impact) - MI12/0006 Telecommunications Facility

Executive Summary

A Development Application for Material Change of Use (Impact) – Telecommunications Facility on Lot 44 EP 1017 situated at Jensen Road, Deeragun has been received from Applicant Optus Mobile Pty Ltd C/- Aurecon Group – MI12/0006 11635002 and has been recommended for approval.

Officer's Recommendation

That council approve application MI12/0006 for a development permit for a Telecommunications Facility under section 243 of the *Sustainable Planning Act 2009* on land described as Lot 44 EP 1017, more particularly Jensen Road, Deeragun, subject to the following conditions –

1. Site Layout

- a) The proposed development must generally comply with drawing(s) as referenced in the table below and attached as stamped “Approved Subject to Conditions”, except as otherwise specified by any condition of this approval.

DRAWING NAME	DRAWING NO.	REVISION No.	PLAN DATE
Overall Site Plan	B888D-P1	02	21 September 2011
Draft Site Elevation	B888-D-P2	02	21 September 2011

- b) The proposed development must comply with all conditions of this approval prior to commencement of the use.
- c) The proposed development must comply with all Planning Scheme requirements as applying at the date of this application, except as otherwise specified by any condition of this approval.

2. Storage of Materials and Machinery

All materials and machinery to be used during the construction period are to be wholly stored on the site, unless otherwise approved by council.

3. Site Access

Access to the Jensen Landfill and Transfer Station must not be impeded in anyway during the construction or subsequent maintenance of the proposed facility. The developer must liaise with Townsville Waste Services in order to reduce any impacts on the operation of the Jensen Landfill and Transfer Station.

4. Lighting

The developer must ensure all internal and external lighting is fitted with shades and erected in a manner that ensures that roads are not affected.

5. Relocation of Utilities

The developer must be responsible for any relocation and/or alteration to any public utility installation required as a result of any works carried out in connection with this development at no cost to Council.

6. Stormwater Drainage

- a) The developer must ensure that no ponding of stormwater occurs on adjacent allotments and that no stormwater formerly flowing onto their development site is diverted onto other neighbouring allotments.
- b) Overland flow paths and underground drainage must be designed so as not to directly or indirectly cause nuisance to a downstream or adjoining property.

7. Soil Erosion Minimisation, Sediment Control and Dust Control

During the construction phase of this development the developer must be responsible for the installation and maintenance of adequate erosion and sediment control management. In particular,

- a) The contingent design, implementation and maintenance of measures must be provided in accordance with *Aus-Spec Specification - C211 Control of Erosion and Sedimentation*.
- b) During the construction and maintenance phases of this development the developer must be responsible for adequate mitigation measures being put in place for the suppression of dust so as not to cause a nuisance to neighbouring property.

8. Vegetation Disposal

All felled trees and waste vegetation on the site must be removed from site, unless an alternative method of disposal, such as wood chipping, is approved by Council. This material must be transported to the nearest approved waste disposal facility. Burning or burying of waste vegetation on site is not permitted.

9. Roadworks and Traffic

- a) The developer must construct a new access track from the existing Jensen Landfill and Transfer Station road to the development site at the developer's expense.
- b) During the construction phase, any damages to the road reserve (i.e. footpath/kerb and channel) must be replaced by the developer in accordance with Council's standards.

Concurrence Agency Condition – Department of Environment and Resource Management

Pursuant to Section 285 and Section 287 of the *Sustainable Planning Act 2009*, the Department of Environment and Resource Management advises that it has no objection to Townsville City Council issuing a Development Permit for Material Change of Use subject to the conditions, as attached. The applicant must comply with the Department of Environment and Resource Management conditions as outlined in the Department's correspondence dated 22 March 2012.

ADVICE

1. Noise

The hours of audible noise associated with construction and building work on site must be limited to between the hours of–

- * 6.30 a.m. to 6.30 p.m. Monday to Saturday; with
- * No work on Sundays or Public Holidays.

2. Environmental Considerations

DERM Requirements

Construction must comply with the *Environmental Protection Act 1994*, Policies and Guidelines.

3. Defence Registration

The developer is advised that a structure 30 meters or more above ground level (within 30 kilometres of an aerodrome) and 45 metres above ground level elsewhere is required to be registered on the RAAF Aeronautical Information Service database in accordance with the Civil Aviation Safety Authority. For further information please contact the Aeronautical Data Office at ais.data@defence.gov.au or (03) 9282-6400.

PRELIMINARY APPROVAL

BUILDING WORK

SCHEDULE OF CONDITIONS

1. The proposed development has been assessed against the relevant provisions of the Planning Scheme. However, assessment against the *Building Act 1975*, the *Building Regulation 2006* and the *Building Code of Australia* is still required.
2. An application for a Development Permit - Building Work is required for the proposed development. This application needs to be approved prior to any works commencing on the site.
3. All building work is to comply with the *Building Act 1975*, the *Building Regulation 2006* and the *Building Code of Australia*.

Committee Recommendation

That the Officer's Recommendation be adopted.

7 MI11/0047 Material Change of Use - Landscape Supplies 2-8 Jensen Road, Deeragun

REPORT TO COUNCIL

Authorised by	Director Planning and Development
Department	Development Assessment
Date	14 June 2012
Address	Lot 1 RP 722701 2-8 Jensen Road, DEERAGUN
Applicant/Owner	BNC Planning/E G Clark Holdings Pty Ltd
Description	Material Change of Use (Impact) – Landscape Supplies

Executive Summary

A Development Application for Material Change of Use (Impact) – Landscape Supplies on Lot 1 RP 722701 situated at 2-8 Jensen Road, Deeragun has been received from Applicant BNC Planning – MI11/0047 11635007 and has been recommended for approval.

Officer's Recommendation

That council approve application MI11/0047 for a development permit for Landscape Supplies under section 243 of the *Sustainable Planning Act 2009* on land described as Lot 1 RP 722701, more particularly 2-8 Jensen Road, Deeragun, subject to the following conditions –

1. Site Layout

- a) The proposed development must generally comply with drawing(s) as referenced in the table below and attached as stamped “Approved Subject to Conditions”, except as otherwise specified by any condition of this approval.

DRAWING NAME	DRAWING NO.	REVISION NO.	REV. DATE
Site Layout Plan	DA018-11-IRR	C	February 2012
Proposed Development Layout Plan & Associated Details	11227TC – SK01	A	7 February 2012
Proposed Development Layout Plan & Associated Details	1227TC – SK02	A	7 February 2012
Proposed Design Vehicle Turning Paths & Associated Details	11227TC	A	7 February 2012

- b) The proposed development must comply with all conditions of this approval prior to commencement of the use.
- c) The proposed development must comply with all Planning Scheme requirements as applying at the date of this application, except as otherwise specified by any condition of this approval.

2. Lighting

The developer must ensure all internal and external lighting is fitted with shades and erected in a manner that ensures that adjoining premises and roads are not affected.

3. Hours of Operation

Unless otherwise approved by Council, the activities associated with the use must only be conducted between 7am to 5pm Monday to Saturday inclusive. The use is not to operate on Sunday or Public Holidays.

4. Site Operation

- a) This Development Approval does not permit the following activities onsite:
 - i) Mixing/preparation of soils,
 - ii) Tub grinding activity; and/or
 - iii) Mulching, shredding or chipping of garden waste.
- b) The activities hereby permitted onsite are:
 - i) The display and retail sale of plants to be used for gardening or landscaping; and/or
 - ii) The display and retail sale of garden mulch.
- c) The loading bays 1 to 5 identified on the Site Layout Plan DA218-11-IRR are for the display and sale of garden mulch only.
- d) A masonry brick wall to a height of 1 metre must be built around the loading bays identified on the Site Layout Plan DA218-11-IRR to contain mulch within the bays. The wall must be built along the northern, eastern and southern boundaries of the loading bay area. A wall separating the bays or on the western boundary of the bays is not required.
- e) Following completion of this development the developer must suppress dust emissions generated from the loading bays and mulch piles by providing a sprinkler system that will water the mulch piles on a daily basis.

5. Signage

Should signage associated with the use exceed 2m², the developer must submit plans of the signage as an application for Operational Works for approval by Council prior to commencement of the use. Details must include the location of the signage, construction materials, size of the sign and graphic content. All signage must comply with the City of Thuringowa Planning Scheme Policy for Advertising Devices. Approved signs must be maintained to the satisfaction of Council.

6. Storage

Goods, equipment, packaging material or machinery must not be stored or left exposed outside the building so as to be visible from any public road or thoroughfare. Any storage on site is required to be screened from view from all roads and adjacent properties.

7. General Waste

- a) An approved waste storage area is to be made available on site. The storage area is to be of sufficient size to house all waste containers. The storage area is to be an imperviously paved area, graded and drained through an approved sediment/silt trap to the waste water disposal system with a hose cock and hose fitted in close proximity to the enclosure.
- b) Any disposal of green waste must be to a Council approved site or with the landowners permission.
- c) The minimum overhead clearance required for mobile garbage (wheelie) bin refuse collection is 4200mm. The minimum overhead clearance required for bulk bin refuse collection is 6500mm. Access for the collection of bins is not to be impeded by any overhead obstructions such as trees, wires or other structures. This minimum height clearance is to be maintained at

all times.

- d) If bulk bins are use the bulk refuse storage facilities must be:
 - i) a suitable enclosure with an impervious floor, with dimensions which exceed the size of the nominated bin size by at least 300mm at the rear and both sides and 600mm at the front;
 - ii) within the curtilage of the premises in an accessible location to receive the service;
 - iii) graded and drained through an approved sediment/silt trap to the waste water disposal system.
 - iv) provided with a hose cock and hose in close proximity to the enclosure.

8. Car Parking

- a) All car parking facilities, associated ramps and driveways must be constructed in accordance with Council Standards and as detailed in the latest amendment of the Australian/New Zealand Standard AS/NZ 2890 and must be maintained thereafter to the standard.
- b) The minimum car parking classifications for off-street carparking applicable to this development are as per Table 1.1 in AS/NZS 2890.
- c) The layout of the on-site car parking spaces must be designed to ensure that all vehicles entering and leaving the site may do so in a forward direction.
- d) The developer must provide a minimum of 11 car spaces including disabled parking on site in accordance with Australian/New Zealand Standard AS/NZ2890.
- e) The car parking area must be suitably screened so as to prevent light spillage from the car park areas and car headlights into adjoining properties and roads. Details of such screening must be submitted to and approved in writing by Council prior to the issue of a Development Permit for Building Work.
- f) All signage and line marking for off-street car parking must comply with the requirements of AS/NZS2890 and AS1742 and associated standards.
- g) The developer must provide details to ensure the balance of the development site is treated to minimise dust nuisance (grassed with irrigation) for approval prior to the issue of a Development Permit for Building Works.

9. Stormwater Drainage

Prior to the issue of a Development Permit for Building Works, certification by an appropriately qualified and experienced Registered Professional Engineer of Queensland (RPEQ) of the following requirements must be provided so as to achieve. In particular:

- a) The development site must be graded so that it is free draining. All runoff from storms naturally falling into this development site (including roof runoff) must be collected within the property boundaries and discharged to the lawful point of discharge being Jensen Road or as agreed upon by Council.
- b) The developer must ensure that no ponding of stormwater occurs on adjacent allotments and that no stormwater formerly flowing onto their development site is diverted onto other neighbouring allotments.
- c) The developer must ensure that the post development discharge of stormwater from the subject land does not exceed pre-development peak flows.
- d) Overland flow paths and underground drainage must be designed so as not to directly or indirectly cause nuisance to a downstream or adjoining property.
- e) Overland flow paths must be designed and constructed to ensure that they do not allow mulch

to be mobilised during an event and carried into adjoining properties and roads. Amended plans must be submitted and accepted by council prior to commencement of works.

10. On-site Sewerage Disposal

The development must dispose of all effluent and polluted waste water within the boundaries of the site. In particular:

- a) An on-site sewerage disposal report must be prepared and accepted by council prior to commencement of works. Prospective purchasers of the land must be notified of the assessment report.
- b) The site must be serviced by an advanced secondary on-site domestic waste treatment system in accordance with AS/NZS 1547:2000 and the Queensland Plumbing and Wastewater Code.
- c) On-site sewerage information supplied with this application does not mean permission is given to install the plant or commence building work. Under the *Plumbing and Drainage Act 2002*, an application must be lodged with the Hydraulic Certification Unit, Townsville City Council before any building work or installation of an on-site treatment plant can be carried out.

11. Screen Fencing

The developer must provide a visual screen being a 1.8 metre high timber paling fence with a minimum 30mm gap between palings to assist with breeze between the site and any adjoining land occupied by a residential building or any adjoining land contained in a Residential precinct, unless otherwise approved by Council.

Notwithstanding the above, with the written consent of the proprietor of any adjoining land, the screen on the boundary shared with that neighbour may consist of other materials or lesser height or no fencing. For such a variation the developer must submit to and be approved by Council details of the alternative screen together with the written consent of the applicable adjoining owner prior to a Development Permit for Building Work being issued.

Unless written consent is obtained from the affected adjacent property owner, the developer must not construct a fence adjacent to the property boundary where it impedes the maintenance and serviceability of an existing boundary fence.

Furthermore consultation with adjoining property owners is essential so an amicable result is achieved in respect to the removal or retention of any existing adjoining fence.

The screen must be erected/planted prior to the commencement of the use and maintained thereafter to the satisfaction of the Council.

12. Soil Erosion Minimisation, Sediment Control and Dust Control

During the construction phase of this development and during operation of the use, the developer must be responsible for the installation and maintenance of adequate erosion and sediment control management. In particular:

- a) The contingent design, implementation and maintenance of measures must be provided in accordance with *Aus-Spec Specification - C211 Control of Erosion and Sedimentation*.
- b) During the construction and maintenance phases of this development the developer must be responsible for adequate mitigation measures being put in place for the suppression of dust so as not to cause a nuisance to neighbouring property.

13. Roadworks and Traffic

- a) The developer must construct the new access driveway and crossover from the existing edge

of bitumen to the property boundary at the developer's expense generally in accordance with Council's relevant Standard Drawings for Driveway Access and Driveway Crossovers.

- b) The developer must remove the existing vehicle accesses and reinstate the footpath in accordance with Council's Standard Drawing.
- c) During the construction phase, any damages to the road reserve (i.e. footpath/kerb and channel) must be replaced by the developer in accordance with Council's standards.
- d) The developer must provide an improved intersection layout which will provide safe access to the site from the existing road network allowing for turning and entry/exit movements for articulated heavy vehicles without impeding existing traffic movements to the satisfaction of Council.

Further, amended drawings must be submitted and be accepted by Council prior to the submission of an application for Operational Works/Compliance Assessment.

14. Relocation of Utilities

The developer must be responsible for any relocation and/or alteration to any public utility installation required as a result of any works carried out in connection with this development at no cost to council.

15. Stormwater Quality Management

A stormwater quality management plan (SQMP) must be submitted to and be approved by council prior to the issue of a Development Permit for Building Work. The SQMP must be prepared by a suitably qualified person*.

In particular, the SQMP must adopt the water quality strategy of council's Coastal Dry Tropics Water Sensitive Urban Design Technical Design Guidelines.

The SQMP must be implemented in accordance with the guideline and incorporate any further reasonable requests from council. All works must be carried out in accordance with council Development Specifications.

- Suitably Qualified Person as defined by the State Planning Policy 4/10 Healthy Waters.

16. Noise

A noise level of 50dB or less must be maintained at all boundaries of the site at all times.

17. Vegetation Disposal

All felled trees and waste vegetation on the site must be removed from site, unless an alternative method of disposal, such as wood chipping, is approved by council. This material must be transported to the nearest approved waste disposal facility. Burning or burying of waste vegetation on site is not permitted.

18. Landscaping

- a) Prior to any works commencing on site, a landscaping plan is required to be submitted to and be approved by council as part of Compliance Assessment against the applicable Landscaping Code and/or relevant approval.

The Landscape and Irrigation Design Plans must be prepared in accordance with the relevant sections of Thuringowa Planning Scheme - General Development Code 5.5.1 (Landscaping). As part of the landscaping plan the following items are to be included:

- * The footpath/road reserve along Jensen Road to be turfed and provided with automated irrigation.

- * Details showing the east and west boundaries of the site being extensively landscaped including a mixed height canopy using mature dense plantings to council's satisfaction.
 - * Details of the existing vegetation on site. Any vegetation proposed to be removed or retained should be identified accordingly.
- b) The landscape plans must be prepared by a suitably Qualified person who:
- * is a Qualified Landscape Architect with current membership to the Australian Institute of Landscape Architects; and/or
 - * is an experienced Landscape Designer
- c) All works must be completed in accordance with the approved landscaping plan and constructed to a standard detailed within Thuringowa Planning Scheme - General Development Code 5.5 (Landscaping). Following the approval of the plan, with or without amendments, the developer must implement the plan prior to the commencement of the use. Furthermore, all landscaped areas must be maintained thereafter to the satisfaction of council.

19. Further Approvals Required

Compliance Assessment

All engineering and landscaping works associated with this development must be submitted to council for approval prior to the issue of a Development Permit for Building Works, unless otherwise approved by council.

All engineering and landscaping designs/documentation associated with such an application must be prepared and where necessary, certified by a suitably qualified/experienced person.

ADVICE

1. Infrastructure Charges

An Adopted Infrastructure Charges Notice outlining the estimated infrastructure contributions payable relevant to the Development Permit is attached for your information.

2. Environmental Considerations

DERM Requirements

Construction must comply with the *Environmental Protection Act 1994*, Policies and Guidelines.

3. Haulage of Materials

- a) Where the development of the subject site requires materials to be imported or exported in excess of 2,500 m³, the developer must obtain a separate Council approval for the transport route. Specific conditions may apply, including contributions towards the cost of accelerated pavement degradation along haulage routes and/or repairs to haulage routes.
- b) The approval for the route of transport must show the period and time of transport during the construction phase of the development.

Committee Recommendation

That the Officer's Recommendation be adopted.

8 MI10/0055 Material Change of Use - Preliminary Approval (Section 242 of SPA) to Override the Planning Scheme to allow Development in Accordance with the Cosgrove Plan of Development

REPORT TO COUNCIL

Authorised by	Director Planning and Development
Department	Planning and Development - Development Assessment
Date	12 June 2012
Address	Lot 666 SP 227922 and Part of Lot 406 EP 805928, 760 - 832 Woolcock Street COSGROVE
Applicant/Owner	Parkside Development Pty Ltd C/- Brazier Motti / District Land Office
Description	Preliminary Approval for Material Change of Use (Section 242 of SPA) to Override the Planning Scheme to allow development in accordance with the Cosgrove Plan of Development

Executive Summary

A Development Application for Preliminary Approval for Material Change of Use (Impact Assessment) to affect the City Plan 2005 in accordance with Section 242 of the *Sustainable Planning Act 2009* to facilitate the Cosgrove Plan of Development comprised of residential, village, business and industry, open space precincts and open space reserve to be retained by Department of Environment and Resource Management (DERM) in accordance with The Cosgrove Plan of Development on Lot 666 on SP227922, Part of Lot 406 EP805928 and CT49014329 situated at 760 - 832 Woolcock Street, Cosgrove has been received from Applicant/Owner: Department of Environment and Resources Management C/- Brazier Motti - MI10/0055, 1201026 and has been recommended for approval.

Committee Recommendation

That this item be withdrawn (as the applicant requested this application be withdrawn).

9 MI09/0018 and MC08/0299 Request for Adopted Infrastructure Charges - Bruce Highway, Deeragun

REPORT TO COUNCIL

Authorised by	Director Planning and Development
Department	Planning and Development - Development Assessment
Date	13 June 2012
Address	Lot 268 SP 151997, Bruce Highway, Deeragun
Applicant/Owner	Deeragun Trade Centre, C/- Honeycombes Property Group
Description	Request for an Adopted Infrastructure Charges Notice for Showroom, Local Shop, Veterinary Hospital, Medical Centre, Service Premises (Office) and Restaurant (Café)

Executive Summary

A Request for an Adopted Infrastructure Charges Notice for the development of a Showroom, Local Shop, Veterinary Hospital, Medical Centre, Service Premises (Office) and Restaurant (Café) on Lot 268 SP151997 situated at Bruce Highway, Deeragun has been received from Owner: Deeragun Trade Centre Pty Ltd Applicant: Honeycombes Property Group MC08/0299 and MI09/0018 and has been recommended for Approval.

Officer's Recommendation

That council approve the request for an Adopted Infrastructure Charges Notice for the development of a Showroom, Local Shop, Veterinary Hospital, Medical Centre, Service Premises (Office) and Restaurant (Café) on Lot 268 SP151997 situated at Bruce Highway, Deeragun (as attached in the report to council).

Committee Recommendation

That the Officer's Recommendation be adopted.

General Business

1. UDIA (Urban Development Institute of Australia) (Qld) Developers Conference 2012 – 23 and 24 August 2012 – Townsville

The Chair, Councillor A Parsons requested approval to attend the UDIA (Urban Development Institute of Australia) (Qld) Developers Conference 2012 being held on 23 and 24 August 2012 in Townsville.

Committee Recommendation

1. That council approve the attendance of the Chair, Councillor A Parsons at the UDIA (Urban Development Institute of Australia) (Qld) Developers Conference 2012 being held on 23 and 24 August 2012 in Townsville.
2. That council approve the attendance of Councillor/s at the UDIA (Urban Development Institute of Australia) (Qld) Developers Conference 2012 being held on 23 and 24 August 2012 in Townsville.

Close of Meeting

The Chair, Councillor A Parsons declared the meeting closed at 1.00pm.

Councillor L Walker requested that item 5 of the Planning and Development Committee report be dealt with separately.

It was MOVED by Councillor A Parsons, SECONDED by Councillor V Veitch:

"that the report of the Planning and Development Committee meeting held on 11 July 2012 be received and the recommendations contained therein, excluding item 5, be adopted."

CARRIED

It was MOVED by Councillor L Walker, SECONDED by Councillor V Veitch:

"that item 5 of the report of the Planning and Development Committee meeting held on 11 July 2012 be received and that this item be held over to the next Planning and Development Committee meeting, for further clarification on questions raised by councillors."

CARRIED

3 REPORT - INFRASTRUCTURE COMMITTEE - 10 JULY 2012

REPORT **INFRASTRUCTURE COMMITTEE MEETING**

DATE **Tuesday 24 July 2012 at 9.02 am**

ITEMS **1 TO 2**

PRESENT Councillor T Roberts, Chair
 Councillor S Blom
 Councillor R Gartrell
 Councillor A Parsons
 Councillor L Walker
 The Mayor, Councillor J Hill

OBSERVERS Councillor C Doyle
 Councillor V Veitch

Opening of Meeting

The Chair, Councillor T Roberts opened the meeting at 9.02 am.

Apologies and Leave of Absence

There were no apologies or leave of absence.

Disclosure of Interests

There were no conflicts of interest or material personal interests declared.

Deputations

There were no deputations.

Officers Reports

Technical Services

1 Petition - Request for Repairs to Evans Street

REPORT TO COUNCIL

Authorised by Director Infrastructure Services
Department Technical Services
Date 27 June 2012

Executive Summary

Council received a petition containing 27 signatures at its meeting on 28 February 2012, drawing *"the attention of the council that the current infrastructure of Evans Street in Belgian gardens is of such poor condition that it needs to be repaired"*. The petitioner requests that Evans Street be brought up to contemporary standards of council infrastructure for residential areas.

The petition is from the members, their families and friends of the Scout Group who have a hall on the western side of Evans Street, between Hooper Street and the Rowes Bay canal.

Officer's Recommendation

That council advise the lead petitioner that their request will not be acceded to as council has other unfunded drainage projects with a higher priority across the city and that the Scout Group consider options based on parking vehicles on the Scout Group property.

Committee Recommendation

That the Officer's Recommendation be adopted.

CONFIDENTIAL ITEMS

It was moved by the Mayor, Councillor J Hill, seconded by Councillor L Walker:

"that the committee RESOLVE to close the meeting in accordance with Section 72(1)(h) of the *Local Government (Operations) Regulation 2010* which permits the meeting to be closed to the public for business relating to the following:

Section 72(1) (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 (item 2)."

CARRIED

The committee discussed the item.

It was moved by the Mayor, Councillor J Hill, seconded by Councillor L Walker:

"that the committee RESOLVE to open the meeting."

CARRIED

2 Home Services Funding Arrangements with State and Commonwealth Government

CONFIDENTIAL REPORT TO COUNCIL

Authorised by Director Infrastructure Services
Department Construction and Maintenance
Date 28 June 2012

Executive Summary

For over 20 years council has delivered home maintenance and modification services through funding agreements with the Queensland government for eligible frail, aged people and people with a disability living in the Townsville local government area.

The purpose of this report is to advise council of the imposed changes by the National Health Reform and the challenges associated with moving forward with contractual arrangements with the state and federal governments.

Officer's Recommendation

1. That the report/attachment be deemed a confidential document and be treated as such in accordance with sections 171 and 200 (9) of the *Local Government Act 2009* and that the document remain confidential unless council decides otherwise by resolution.
2. That council resolve to not renew the funding agreements with the state and federal governments for services delivered to the community, and correspondence be forwarded to the state and federal governments outlining the resolution.

Committee Recommendation

1. That Officer's Recommendation no 1 be adopted.
2. That a further report be provided to council (July meeting) advising what the contracts (for Home Assist Secure (HAS) and Home and Community Care (HACC)) entail and what other organisation/s are providing home services in the Townsville region.
3. That the lawn mowing service be provided through a transitional period and discussions be held with community organisations with a view to continuing the service.
4. That council note that the spinal injury service will now be offered as a state wide contract and that council will not be in a position to apply for this contract.

General Business

There was no general business.

Close of Meeting

The Chair, Councillor T Roberts declared the meeting closed at 10.12 am

It was MOVED by Councillor T Roberts, SECONDED by Councillor A Parsons:

"that the report of the Infrastructure Committee meeting held on 10 July 2012 be received and the recommendations contained therein be adopted."

CARRIED

4 REPORT - TOWNSVILLE WATER AND WASTE COMMITTEE - 10 JULY 2012

REPORT TOWNSVILLE WATER AND WASTE COMMITTEE MEETING

DATE Tuesday 24 July 2012 at 11.00 am

ITEMS 1 TO 3

PRESENT Councillor R Gartrell, Chair
Councillor P Ernst
Councillor A Parsons
Councillor V Veitch
Councillor L Walker
The Mayor, Councillor J Hill

OBSERVERS Councillor C Doyle
Councillor S Blom

Opening of Meeting and Announcement of Visitors

The Chair, Councillor R Gartrell opened the meeting at 11.00 am.

Apologies and Leave of Absence

There were no apologies or leave of absence.

Disclosure of Interests

There were no conflicts of interest or material personal interests declared.

Deputations

There were no deputations.

1 Residential Water Conservation – Dry Tropics Water Smart Program

PRESENTATION

Authorised by Director Townsville Water and Waste
Department Integrated Sustainability

Executive Summary

The Coordinator Strategic Sustainability Programs provided a presentation on residential water conservation – Dry Tropics Water Smart Program.

Committee Recommendation

That the presentation on residential water conservation – Dry Tropics Water Smart Program be noted.

Officers Reports

Wastewater Operations

2 Systematic Inspection Program - Infiltration and Inflow Study of Sewers - Program 9 - Catchments 2A, 2B, 3B, 3C, 4A, 4B, 4C, 4D, 5A, 5B, 5D, 5F (City, South Townsville, Railway Estate and Hermit Park)

REPORT TO COUNCIL

Authorised by Director Townsville Water and Waste
Department Wastewater Operations
Date 28 June 2012

Executive Summary

Townsville City Council resolved at its meeting of 26 August 2008 to undertake a systematic inspection program, namely infiltration and inflow study of sewers and private house drains of all premises to identify illegal connections to council's sewerage system.

Townsville Water's Wastewater Operations section seeks approval to undertake that ninth of these programs in the catchments 2A, 2B, 3B, 3C, 4A, 4B, 4C, 4D, 5A, 5B, 5D, 5F (City, South Townsville, Railway Estate and Hermit Park).

Officer's Recommendation

That, in accordance with *Section 134 of the Local Government Act 2009*, council resolve to approve the approved inspection program (systematic inspection program) to undertake infiltration and inflow study of sewers and private house drains within the sewerage catchments 2A, 2B, 3B, 3C, 4A, 4B, 4C, 4D, 5A, 5B, 5D, 5F (City, South Townsville, Railway Estate and Hermit Park).

Committee Recommendation

That the Officer's Recommendation be adopted.

CONFIDENTIAL ITEMS

It was moved by Councillor V Veitch, seconded by Councillor P Ernst:

"that the committee RESOLVE to close the meeting in accordance with Section 72(1)(c) of the *Local Government (Operations) Regulation 2010* which permits the meeting to be closed to the public for business relating to the following:

Section 72(1)(c) the local government's budget (item 3)."

CARRIED

The committee discussed the item.

It was moved by Councillor V Veitch, seconded by Councillor P Ernst:

"that the committee RESOLVE to open the meeting."

CARRIED

3 Commercial Performance - Monthly Report Card - June 2012

CONFIDENTIAL REPORT TO COUNCIL

Authorised by Director Townsville Water and Waste
Department Commercial Performance
Date 28 June 2012

Executive Summary

Townsville Water and Waste's monthly report card containing year to date operating results for 2012/2013 for the month of June 2012 was tabled at the meeting by the Director Townsville Water and Waste.

Officer's Recommendation

1. That the report/attachment be deemed a confidential document and be treated as such in accordance with sections 171 and 200 (9) of the *Local Government Act 2009* and that the document remain confidential unless council decides otherwise by resolution.
2. That council note the report card from Townsville Water and Waste for the month of June 2012.

Committee Recommendation

That the Officer's Recommendation be adopted.

General Business

1. Proposal to change day of Townsville Water and Waste Committee meetings

The committee proposed that the Townsville Water and Waste Committee meet at 11.00am on the Tuesday of the first week preceding the week of the Ordinary Council meetings.

Committee Recommendation

That the Townsville Water and Waste Committee meet at 11.00 am on the Tuesday of the first week preceding the week of the Ordinary Council meetings.

2. Peter Turl – Retirement

The Chair, Councillor R Gartrell advised that Peter Turl (Manager Program and Technical Support) is retiring from council and he thanked Peter for his contribution.

The Director Townsville Water and Waste advised that Peter has worked for council for 38 years and that Peter has incredible knowledge and will be sorely missed. The Director Townsville Water and Waste sincerely thanked Peter for his efforts, which included working on some iconic projects.

Close of Meeting

The Chair, Councillor R Gartrell declared the meeting closed at 11.56 am.

It was MOVED by Councillor R Gartrell, SECONDED by Councillor V Veitch:

"that the report of the Townsville Water and Waste Committee meeting held on 10 July 2012 be received and the recommendations contained therein be adopted."

CARRIED

5 REPORT - COMMUNITY AND CULTURAL COMMITTEE MEETING - 12 JULY 2012

REPORT >>	COMMUNITY AND CULTURAL COMMITTEE	
DATE >>	Tuesday 24 July 2012 at 10.05 AM	
ITEMS >>	1 TO 5	
PRESENT >>	Councillor S Blom, Chair Councillor C Doyle Councillor G Eddiehausen Councillor T Roberts Councillor V Veitch	
OBSERVERS>>	Councillor L Walker Councillor A Parsons	

Opening of Meeting and Announcement of Visitors

The Chair, Councillor S Blom opened the meeting at 10.05 am.

Apologies and Leave of Absence

It was **MOVED** by Councillor G Eddiehausen, **SECONDED** by Councillor C Doyle:

"that the apology received from Councillor The Mayor, Councillor J Hill be received and that for the purposes of section 162(1)(e) of the *Local Government Act 2009*, the Councillor The Mayor, Councillor J Hill be granted leave of absence from this meeting."

CARRIED

Disclosure of Interests

There were no conflicts of interest or material personal interests.

Deputations

There were no deputations.

OFFICERS REPORTS

COMMUNITY SERVICES

1 FESTIVALS & EVENTS GRANT PROGRAM - RECOMMENDATIONS

REPORT TO COUNCIL

AUTHORISED BY	Director Community and Environmental Services
PREPARED BY	Community Grants Officer
DEPARTMENT	Community Services
DATE	5 July 2012

Executive Summary

Council has received a number of applications for financial support through the Festivals & Events Grant Program. This program is part of the Community Grants and Sponsorships Scheme which sits under the Community Development Section of the Community Services Department.

The aim of council's Festivals and Events Grant Program is to support festivals, community events and celebrations which showcase Townsville's talent and enhance community identity and pride; and bring economic and tourism opportunities to the region.

The objectives of the Festivals & Events Grant Program are to:

- » Encourage opportunities for participation in community life by the diverse range of groups which comprise Townsville's community.
- » Support the development and sustainability of local events and festivals.
- » Encourage accessibility and community participation from all sectors of the community.
- » Positively contribute to the quality of life for the Townsville community.
- » To provide a contribution to the economic growth of Townsville (for corporate and feature events only).

Applications submitted through this program will be considered under the following five categories:

- » Corporate Events – Funding between \$1,000 and \$250,000
- » Feature Events – Funding between \$1,000 and \$100,000
- » Developing Events – Funding between \$1,000 and \$15,000
- » Community Events – Funding between \$1,000 and \$15,000
- » One –Off Events - Funding between \$1,000 and \$25,000

The following report outlines recommendations from the Financial Assistance & Events Group held 4 July 2012. There were 5 grant applications submitted through this program during May 2012 and it is recommended council fund 3 of those applications.

Officer's Recommendation

That council approve the amounts recommended by the Financial Assistance and Events Group (FAEG) through the Festivals & Events Grant Program as detailed in the following table:

Organisation	Activity/Project	Recommendation (Ex GST)
Event Category: Feature Events		
Townsville Fashion Festival Inc.	Towards event infrastructure required to deliver the Townsville Fashion Festival in 2012 and 2013. (2012 event to be held 25 to 27 October)	2012/13 - \$25,000, plus waiver of CBD Square hire fees 2013/14 - \$20,000, plus waiver of CBD Square hire fees
Event Category: Community Events		
Magnetic Island Jazz Association	Towards the 2012 Great Tropical Jazz Festival to be held on Magnetic Island from 24 to 26 August 2012	2012/2013 - \$5,000 2013/2014 - \$5,000 2014/2015 - \$5,000
Rollingstone & District Lions Club	Sponsorship of the 2012 Pineapple Festival	2012/2013 \$2,000

The following applications are **not recommended** by the Financial Assistance and Events Group (FAEG).

Organisation	Activity/Project	Rationale Declining
Australian Defence Force - RAAF	Sponsorship of the 2012 Australian Defence Charity Ball to be held at the Townsville Entertainment & Convention Centre. (Raising money for Legacy). Request: \$20,000	<i>\$0 - Council has been consistent in its approach not to fund charity fundraising functions. This event was run for the first time in 2011 however no funds were received from sponsors and ticket just covered costs. Therefore it appears that if council were to approve funding of this level it could lead to dependence on council funding for future event success.</i>
NQ Babies & Kids Market	Waiver of Townsville RSL Stadium fees for the next 3 years months plus a cash contribution for hire of trestle tables. Request: 2012/13 \$1,320 waived hire fees plus \$462 cash 2013/14 \$1,320 waived hire fees plus \$462 cash 2014/15 \$1,320 waived hire fees plus \$462 cash	<i>\$0 – Applicant organisation is run as a commercial enterprise and the success of the event should cover basic operational costs such as a venue and equipment hire. The event organisers have expressed an interest to increase the markets from 4 to 6 events per year, which would indicate that they are confident enough in covering the current expenses without council support. Unlike all other community run markets, this event charges an entry fee to all adults.</i>

Committee Recommendation

That the Officer's Recommendation be adopted.

2 PARTNERSHIPS & SPONSORSHIPS PROGRAM - RECOMMENDATIONS

REPORT TO COUNCIL

AUTHORISED BY	Director Community and Environmental Services
PREPARED BY	Community Grants Officer
DEPARTMENT	Community Services
DATE	5 July 2012

Executive Summary

Council has received a number of applications for financial support through the Partnerships and Sponsorships Program. This program is part of the Community Grants and Sponsorships Scheme which sits under the Community Development Section of the Community Services Department. The following recommendations are made in accordance with the Financial Assistance Policy adopted by council in April 2010.

The Partnerships and Sponsorships Program aims to assist Townsville organisations to provide community services, cultural development, and sport and recreation development activities in Townsville by contributing funds for capital costs, events, programs and operational expenses.

The following report outlines recommendations from the Financial Assistance & Events Group held 4 July 2012. There were 2 grant applications submitted through this program during May 2012 and it is recommended council fund one of those applications.

This report also seeks council support on the following requests:

1. Museum of Tropical North Queensland for council to re-negotiate a previous approval of \$140,000 towards the Community Pass Program in 2012/13; and
2. Wanderer's Cricket Club expression of interest to purchase two surplus mowers:
 - » John Deere mower, asset number 1300.9, available 15-11-2012 (\$6,000 ex GST)
 - » Toro mower, asset number 2387, available 15-10-2012. (\$2,000 ex GST)

Officer's Recommendation

That council approve the amounts recommended by the Financial Assistance and Events Group (FAEG) through the Partnerships and Sponsorships Program as detailed in the following table.

Organisation	Activity/Project	Recommendation (Ex GST)
Dancenorth (North Queensland Ballet and Dance Company Ltd)	Operational support for Dancenorth, School of Arts building enhancement costs and funding towards initiative to increase usage of School of Arts Building. 2012/2013 Breakdown - Performers (\$7,500), Producer fees (\$7,500), on costs (\$5,000), Building Maintenance (\$10,000), Advertising (\$5,000).	2012/2013 - \$35,000 2013/2014 - \$25,000 2014/2015 - \$15,000
Museum of Tropical Queensland	Request for council to reconsider previous approval of \$140,000 towards 2012/13 Community Pass Program (allowing free admission to the museum for local residents)	2012/2013 - \$140,000 approval to remain. Council to negotiate alternate admission/subsidy arrangements with MTQ
Wanderer's Cricket Club	Disposal of two surplus Mowers from Council to be used to maintain club grounds located at Gill Park, 261 Hugh St Pimlico	Purchase of Asset # 1300.9 (John Deere Mower) - \$6,000 ex GST Asset # 2387 (Toro Mower) - \$2,000 ex GST

The following applications are **not recommended** by the Financial Assistance and Events Group (FAEG).

Organisation	Activity/Project	Rationale Declining
The Golden Quill	Sponsorship of the TNQ Event Calendar for 2013, 2014 & 2015 Request: 2012/13 - \$2,577 2013/14 - \$2,577 2014/15 - \$2,577	<i>This project is not run on a not-for-profit model and therefore does not meet program criteria. Income and expenditure information provided with the application indicate the calendar will continue to go ahead without financial support from Townsville City Council. The calendar costs approximately \$167,000 to produce each year and makes \$140,000 from retail sales (\$20 per calendar).</i>

Committee Recommendation

That the Officer's Recommendation be adopted.

3 MAGNETIC ISLAND MEN'S SHED REQUEST TO UTILISE SHED

REPORT TO COUNCIL

AUTHORISED BY	Director Community and Environmental Services
PREPARED BY	Team Leader Community Development
DEPARTMENT	Community Services
DATE	3 July 2012

Executive Summary

The Magnetic Island Men's Shed (MIMS) seeks consent to utilise the 6 metre x 6 metre shed on Lease E on Lot 13 on plan E124292 adjacent to the existing Solar City building, 64-88 Horseshoe Bay Road, Horseshoe Bay. The proposed use of the shed is for the storage of tools and donated items that the committee have generated from the Magnetic Island community.

The Magnetic Island Men's Shed is a community project that is under the auspices of Magnetic Island Community Care and has generated positive interest and outcome from the community with donations of tools, saw benches and other equipment.

The Magnetic Island Men's Shed has been granted use of the Solar City building in Horseshoe Bay through Ergon Energy who holds the current lease on the building. The Magnetic Island Men's Shed has been using the building for committee meetings and weekly coffee mornings for their members until they can provide a shed for future uses.

Officer's Recommendation

That council approve the Magnetic Island Men's Shed committee to enter into a lease of the 6 metre x 6 metre shed on Lease E on Lot 13 on plan E124292, 64-88 Horseshoe Bay Road, Horseshoe Bay for an agreed period of time.

Committee Recommendation

That the Officer's Recommendation be adopted.

REPORT TO COUNCIL

Authorised by Director Community and Environmental Services
Prepared by Manager Gallery Services
Department Gallery Services
Date 29 June 2012

Executive Summary

Attached to the agenda item, are the Minutes of the Gallery Acquisition Working Group meeting held on 7 June 2012 for the information and consideration of the committee.

Officer's Recommendation

That council receive the Minutes of the Gallery Acquisition Working Group meeting 7 June 2012.

Committee Recommendation

That the Officer's Recommendation be adopted.

CONFIDENTIAL ITEMS

It was moved by Councillor G Eddiehausen, seconded by Councillor V Veitch:

"that the committee RESOLVE to close the meeting in accordance with Section 72(1)(e) of the *Local Government (Operations) Regulation 2010* which permits the meeting to be closed to the public for business relating to the following:

Section 72(1) (e) contracts proposed to be made by it (item 5)."

CARRIED

The committee discussed the items.

It was moved by Councillor G Eddiehausen, seconded by Councillor V Veitch:

"that the committee RESOLVE to open the meeting."

CARRIED

5 T6687 - PROVISION OF FOOD AND BEVERAGE SERVICES AT CIVIC THEATRE AND RIVERWAY ARTS CENTRE

CONFIDENTIAL REPORT TO COUNCIL

Authorised by Director Community and Environmental Services
Prepared by Acting Manager Performing Arts
Department Community Services
Date 28 June 2012

Executive Summary

Council owns and operates two performing arts facilities that present local, national and international performances for the communities of Townsville and the region.

The Townsville Civic Theatre incorporates a 1000 seat main auditorium (raked seating), a flat floor flexible space and two bars. The Riverway Arts Centre performance space seats up to 420. A bar and several function spaces complement the performance space.

On the recommendation of external food and beverage consultants, council decided to seek a service provider to provide food and beverage services for both venues including the operation of two bars at the Civic Theatre and one bar at the Arts Centre.

Food service is currently, and will continue to be, provided for a range of occasions from morning teas to wedding receptions. The bars operate for all shows and all functions requiring the service of alcohol. In the recent past, the provision of food has been ad hoc at the Townsville Civic Theatre and managed under an agreement at Riverway by a single provider. Council currently operates the liquor licence for both venues and employs all bar staff. Bar operations represent a significant risk to council as well as an unsustainable cost in staff wages.

Officer's Recommendation

1. That the report/attachment be deemed a confidential document and be treated as such in accordance with sections 171 and 200 (9) of the *Local Government Act 2009* and that the document remain confidential unless council decides otherwise by resolution.
2. That council award tender T6687 (Provision of Food and Beverage Services at Townsville Civic Theatre and Riverway Arts Centre) to The Pantry (NQ) Pty Ltd (trading as Jaffa Bah Café and Catering).

Committee Recommendation

1. That council adopt Officer's Recommendation no 1; and
2. That council award tender T6687 (Provision of Food and Beverage Services at Townsville Civic Theatre and Riverway Arts Centre) to The Pantry (NQ) Pty Ltd (trading as Jaffa Bah Café and Catering) and negotiate a 3 year contract with a six month probation period to commence by 30 August 2012.

Motions of which previous notice has been given

Nil.

General Business

There was no general business.

Close of Meeting

The Chair declared the meeting closed at 10.30 am.

Councillor J Lane requested that item 2 of the Community and Cultural Committee report be dealt with separately.

It was MOVED by Councillor S Blom, SECONDED by Councillor G Eddiehausen:

"that the report of the Community and Cultural Committee meeting held on 12 July 2012 be received and the recommendations contained therein, excluding item 2, be adopted."

CARRIED

In accordance with section 173 of the *Local Government Act 2009*, Councillor J Lane declared a real conflict of interest in regards to item 2 of the Community and Cultural Committee report.

- (a) the nature of the conflict of interest as described by the Councillor:**
Councillor J Lane is the Director of Dancenorth (North Queensland Ballet and Dance Company Ltd).
- (b) how the Councillor dealt with the real conflict of interest:**
The Councillor determined that she had a real conflict of interest and vacated the meeting and did not participate in debate or voting on the matter.
- (c) if the Councillor voted on the matter - how the Councillor voted:**
Councillor J Lane vacated the meeting during discussion and voting on item 2 of the Community and Cultural Committee report.
- (d) how the majority of Councillors who were entitled to vote at the meeting voted on the matter:**
The majority of Councillors voted as per the Committee Recommendation.

It was MOVED by Councillor C Doyle, SECONDED by Councillor T Roberts:

"that item 2 of the Community and Cultural Committee meeting held on 12 July 2012 be received and the recommendation be adopted."

CARRIED

REPORT >>	SMART CITY SUSTAINABLE FUTURE COMMITTEE	
DATE >>	Tuesday 24 July 2012 at 11 AM	
ITEMS >>	1 TO 2	
PRESENT >>	Councillor V Veitch, Chair Councillor C Doyle Councillor L Walker Councillor J Lane Councillor T Roberts	
OBSERVERS>>	Councillor S Blom Councillor G Eddiehausen APM	

Opening of Meeting and Announcement of Visitors

The Chair, Councillor V Veitch opened the meeting at 11.00 am.

Apologies and Leave of Absence

It was MOVED by Councillor L Walker, SECONDED by Councillor J Lane:

"that the apology received from Councillor The Mayor, Councillor J Hill be received and that for the purposes of section 162(1)(e) of the *Local Government Act 2009*, the Councillor The Mayor, Councillor J Hill be granted leave of absence from this meeting."

CARRIED

Disclosure of Interests

There were no conflicts of interest or material personal interests.

Deputations

There were no deputations.

PRESENTATION

1 GLOBAL “PARK ING DAY” ACTIVITY

REPORT TO COUNCIL

Authorised by Director Community and Environment

Date 12 July 2012

Executive Summary

“PARK(ing) Day” is the name of an annual, one-day global event held on the third Friday in September every year (21 September 2012) during which participants transform parking spaces into places for people to congregate. Web reference is – www.parkingday.org.

Vicki Salisbury, Umbrella Studios and Joanne Fisher, Ideas to Life gave a presentation to the committee regarding this event and how it would be beneficial for the city of Townsville to join PARK(ing) Day.

Committee Recommendation

That council support this initiative in principle and work with Arts NQ to refine the proposal for further consideration by council.

OFFICERS REPORTS

2 MAGNETIC ISLAND NETWORK FOR TURTLES - USE OF COUNCIL LAND

REPORT TO COUNCIL

Authorised by Director Community and Environment
Prepared by Integrated Environmental Systems Officer
Department Integrated Sustainability Services
Date 7 June 2012

Executive Summary

Magnetic Island Network for Turtles, (MINT) is a community group which care for sick and injured turtles found on Magnetic Island. Whilst the Great Barrier Reef Marine Park Authority (GBRMPA) and James Cook University (JCU) are the two main turtle rehabilitation centres in Townsville, the volume of turtles requiring assistance in recent years has exceeded their capacity. The net result has been that assistance for many turtles found on Magnetic Island has been greatly limited. In such a high profile tourist location as Magnetic Island this has resulted in negative community perceptions in relation to the management of our natural environment.

MINT provides a temporary hospital environment on Magnetic Island in which turtles can receive early treatment that increases the likelihood of a successful recovery and release. Turtles may be cared for until they are either transferred to GBRMPA or JCU for further rehabilitation or released directly back into the wild with no further intervention required.

The current location for MINT's turtle rehabilitation equipment at the Magnetic Island Veterinary Surgery in Nelly Bay is not a sustainable one primarily due to the need to transport sea water on the back of a truck back and forwards from the beach. MINT has requested assistance from council in providing temporary use of a more suitable location on council land to continue its turtle hospital operations.

MINT and the Integrated Sustainability Services (ISS) Department have identified suitable land in a council reserve, (Lot 215 EP1936). The reserve is predominantly natural environment but has a small cleared area on the south east corner where the Horseshoe Bay Waste Water Treatment Plant was decommissioned in 2006 and the site handed over to ISS Department from Townsville Water. This site is ideally located off the end of Henry-Lawson Street and in close proximity to the sea. Approval is being sought for MINT to use this land.

Officer's Recommendation

That council support the Magnetic Island Network for Turtles (MINT) by allowing a temporary turtle hospital to operate on the council reserve, (Lot 215 EP1936), to be formalised with an agreement letter containing conditions of use, (MINT – Townsville City Council Agreement and Conditions detailed in report information below).

Committee Recommendation

That the Officer's Recommendation be adopted.

Motions of which previous notice has been given

Nil.

General Business

There was no general business.

Close of Meeting

The Chair, Councillor V Veitch declared the meeting closed at 11.34 am.

It was MOVED by Councillor V Veitch, SECONDED by Councillor L Walker:

"that the report of the Smart City Sustainable Future Committee meeting held on 12 July 2012 be received and the recommendations contained therein be adopted."

CARRIED

7 REPORT - SPORTS RECREATION AND PARKS COMMITTEE - 12 JULY 2012

DATE	Thursday 12 July 2012 at 1.00 pm
ITEMS	1 TO 2
PRESENT	Councillor P Ernst, Chair Councillor G Eddiehausen APM Councillor R Gartrell Councillor A Parsons Councillor L Walker
OBSERVERS	Councillor C Doyle Councillor V Veitch

Opening of Meeting

The Chair, Councillor P Ernst opened the meeting at 1.00 pm.

Apologies and Leave of Absence

It was moved by Councillor L Walker, seconded by Councillor R Gartrell:

"that the apology from the Mayor, Councillor J Hill be received and that for the purposes of Section 162(1)(e) of the *Local Government Act 2009*, the Mayor, Councillor J Hill be granted leave of absence from this meeting."

CARRIED

Disclosure of Interests

There were no conflicts of interest or material personal interests declared.

Deputations

There were no deputations.

Confidential Items

It was moved by Councillor G Eddiehausen, seconded by Councillor L Walker:

"that the committee RESOLVE to close the meeting in accordance with Section 72(1)(e) of the *Local Government (Operations) Regulation 2010* which permits the meeting to be closed to the public for business relating to the following:

Section 72(1) (e) contracts proposed to be made by it (items 1 and 2)."

CARRIED

The committee discussed the items.

It was moved by Councillor L Walker, seconded by Councillor R Gartrell:

"that the committee RESOLVE to open the meeting."

CARRIED

1 RPS6689 - Provision of Food and Beverage Service at Tony Ireland Stadium and Townsville RSL Stadium

CONFIDENTIAL REPORT TO COUNCIL

AUTHORISED BY	Director Community and Environment
DEPARTMENT	Sports Facilities
DATE	28 June 2012

Executive Summary

Council issued Tender no RPS6689 on 12 May 2012 for a Register of Pre-Qualified Suppliers for the Provision of Food and Beverage Service at Tony Ireland Stadium and Townsville RSL Stadium. The tender closed on 6 June 2012 and seven submissions were received. The register is a three year contract.

In 2011 Townsville City Council completed a review of food and beverage services throughout council facilities and recommended that the services be outsourced as they were not considered a core function of council's management of these two facilities. Of the back of this review and the expiry of the previous panel for Tony Ireland Stadium, it was decided to implement an expanded panel of caterers across both venues to meet their requirements.

An expanded panel was required to meet the needs of the two venues as they have a broad range of functions such as small meetings, sit down dinners (ranging from 100 to 1,200 attendees), corporate catering for sporting events (from 1,000 to 10,000), expos and entertainment events.

Officer's Recommendation

1. That the report/attachment be deemed a confidential document and be treated as such in accordance with sections 171 and 200 (9) of the *Local Government Act 2009* and that the document remain confidential unless council decides otherwise by resolution.
2. That council appoint the following tenderers to form the Register of Pre-qualified Suppliers for Food and Beverage Service at Tony Ireland Stadium and Townsville RSL Stadium (RPS6689). They will hold the rights to quote for all catering opportunities at the two venues for the next three year period from 25 July 2012.
 - a. Magnums
 - b. Michels Restaurant Pty Ltd
 - c. Chef on Call
 - d. Cuisine to Go
 - e. Thuringowa Bulldogs Australian Football Club
 - f. Spotless
 - g. Roux Blond

Committee Recommendation

That the Officer's Recommendation be adopted.

2 T6690 Operation of Kiosk Services at Townsville RSL Stadium

CONFIDENTIAL REPORT TO COUNCIL

AUTHORISED BY	Director Community and Environment
DEPARTMENT	Sports Facilities
DATE	28 June 2012

Executive Summary

Council issued Tender no T6690 on 12 May 2012 for the operation of the Kiosk Facility at Townsville RSL Stadium. The tender closed on 6 June 2012 and two submissions were received. The contract term is for three years.

In March 2011 the former kiosk operator vacated the premises and we have been operating with a temporary operator up until this time.

Officer's Recommendation

1. That the report/attachment be deemed a confidential document and be treated as such in accordance with sections 171 and 200 (9) of the *Local Government Act 2009* and that the document remain confidential unless council decides otherwise by resolution.
2. That council award T6690 Operation of Kiosk Services at Townsville RSL Stadium to Cuisine to Go for a period of three years.

Committee Recommendation

That the Officer's Recommendation be adopted.

General Business

There was no general business.

Close of Meeting

The Chair, Councillor P Ernst closed the meeting at 1.07 pm

It was MOVED by Councillor P Ernst, SECONDED by Councillor R Gartrell:

"that the report of the Sports Recreation and Parks Committee meeting held on 12 July 2012 be received and the recommendations contained therein be adopted."

CARRIED

REPORT >> GOVERNANCE AND FINANCE COMMITTEE

DATE >> Tuesday 24 July 2012 at 9 AM

ITEMS >> 1 TO 3

PRESENT >> Councillor J Lane, Chair
Councillor S Blom
Councillor P Ernst
Councillor C Doyle
Councillor G Eddiehausen APM
Councillor V Veitch (proxy for the Mayor, Councillor J Hill)

OBSERVERS >> Councillor A Parsons



Opening of Meeting and Announcement of Visitors

The Chair, Councillor J Lane opened the meeting at 9.00 am.

Apologies and Leave of Absence

It was MOVED by Councillor V Veitch, SECONDED by Councillor P Ernst:

"that the apology received from The Mayor, Councillor J Hill be received and that for the purposes of section 162(1)(e) of the *Local Government Act 2009*, the Mayor, Councillor J Hill be granted leave of absence from this meeting."

CARRIED

Disclosure of Interests

There were no material personal interests or conflicts of interest.

Deputations

There were no deputations.

OFFICERS REPORTS

1 LEGAL SERVICES - PROSECUTIONS POLICY

REPORT TO COUNCIL

AUTHORISED BY	Director Corporate Services
PREPARED BY	Legal Officer
DEPARTMENT	Legal Services
DATE	11 July 2012

Executive Summary

The council is asked to adopt a Prosecutions Policy to guide staff in managing enforcement action through the Courts.

Officer's Recommendation

That council:

1. Adopt the Prosecutions Policy; and
2. Rescind:
 - a. Conduct of Matters by Legal Services Administrative Directive and
 - b. Delegation of Authority - Prosecutions

Committee Recommendation

That the Officer's Recommendation be adopted.

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PROSECUTIONS POLICY >>

1. POLICY STATEMENT >>

The Council's enforcement of a range of State and Local laws requires that some offenders be prosecuted through the Courts. The Council will commence prosecutions when that is in the community interest, and will conduct prosecutions impartially, fairly and in a manner that demonstrates the Council's commitment to acting as a model litigant.

2. PRINCIPLES >>

The commencement and conduct of prosecutions will be guided by the principles of:

- **community interest** – the conduct of prosecutions must be in the community interest;
- **commensurate response** – the Council will assess whether the proposed prosecution is a commensurate response to the alleged offence;
- **outcome focused** – the Council will give preference to prosecutions that are likely to be most relevant to achieving the Council's objectives, and will conduct prosecutions in a way that achieves value for the time and money invested;
- **responsibility** - the Council will take enforcement action against those who are legally responsible for the alleged offence and best placed to control or prevent the offending;
- **impartiality** – the Council will conduct its prosecutions without fear or favour;
- **consistency** – while each matter must be treated on its particular merits, where relevant circumstances are broadly the same, the Council will act in a consistent way; and
- **fairness and transparency** – the Council will at all times conduct itself as a model litigant.

3. SCOPE >>

This policy applies to all prosecutions conducted as part of the Council's regulatory role.

4. RESPONSIBILITY >>

The Director of Corporate Services is responsible for ensuring this policy is understood and adhered to by all relevant staff.

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5. DEFINITIONS >>

Nil

6. POLICY >>

The Council will commence prosecutions when that is in the community interest, and will conduct prosecutions impartially, fairly and in a manner that demonstrates the Council's commitment to acting as a model litigant.

The Decision to Prosecute

6.1 Other Enforcement

Prosecution is resource-intensive and expensive. Before a decision to prosecute is taken consideration must be given to the use of other means of enforcement such as warning notices, infringement notices, statutory notices and compliance or remediation orders. However if circumstances warrant prosecution will be undertaken without warning or recourse to alternative actions.

6.2 Sufficiency of Evidence to Prosecute

Council will not commence or continue a prosecution unless it is satisfied that there is sufficient admissible and reliable evidence to create a realistic prospect of success.

6.3 Community Interest

Council regards the community interest as the dominant factor in exercising the discretion to prosecute. When determining the community interest in each case, the Council will consider at least the following factors:

- (a) The seriousness of the offence and its actual or likely impact on others and the environment;
- (b) The need to maintain public confidence in the administration of justice by Council, including whether a prosecution is likely to promote a belief that the Council's enforcement effort is unreasonable and harsh;
- (c) The prevalence of the particular offence;
- (d) The effectiveness and deterrent effect of other available enforcement action;
- (e) Whether prosecution action will disentitle a victim (including the Council) or other person in a claim for compensation or reparation;
- (f) The intent of the offender;
- (g) Whether the offender has disregarded established standards and guidelines;

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- (h) Measures taken by the alleged offender to prevent the offence or minimise its impact;
- (i) The offender's history of compliance and offending;
- (j) Voluntary actions taken by the offender to mitigate damage and prevent recurrence;
- (k) The offender's level of cooperation with the Council, including any obstruction of staff, the supply of false information or a refusal to supply information;
- (l) The personal circumstances of the alleged offender;
- (m) The deterrent effect of a prosecution on the alleged offender and others;
- (n) Mitigating or aggravating circumstances;
- (o) Any history of dealings between the council and the offender, and in particular whether the Council has acted appropriately at all times; and
- (p) The resource implications and costs of undertaking the prosecution.

6.4 Defence

Council will have regard to any defence and any other factors which are likely to affect the prospects of securing a conviction.

6.5 Impartiality

A decision to prosecute or not prosecute an alleged offender must not be made for an improper reason. Any decision about a prosecution will not be influenced by:

- (a) Any elements of discrimination against the person such as ethnicity, nationality, political associations, religion, sex or beliefs;
- (b) Personal feelings towards the alleged offender;
- (c) Possible political advantage or disadvantage to a government or any political group or party;
- (d) Any potential effect upon the personal or professional circumstances of those responsible for the prosecution decision; or
- (e) Any potential effect on the personal or professional circumstances of the alleged offender (except as part of the consideration of the community interest).

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Conducting a Prosecution

6.6 Presentation of Facts

The Council will present facts fairly and impartially to the Court.

6.7 Model Litigant

All persons involved in prosecuting a matter on the council's behalf must act at all times in a way that evidences the Council's commitment to act as a model litigant.

6.8. Information to Defendant

Council will provide a timely response to requests for information about a prosecution within the rules which apply to the proceeding and in accordance with the requirements of applicable legislation.

The Council will not usually prepare a brief of evidence in advance of a trial for most prosecutions, and so is unable to comply with the procedure followed by State prosecutors of making the brief of evidence available to a defendant. The council will advise a defendant of the council's case and the nature and general content of the evidence that the council will rely upon.

6.9 Confidentiality

Council officers will not disclose confidential information other than in accordance with and as permitted by legislation.

Council will release information about the identity of defendants after a prosecution is commenced.

6.10 Sentencing

In making sentencing submissions the Council will provide full, frank, accurate and balanced information on likely penalties.

Selecting the Appropriate Defendant

6.11 Defendants Generally

Prosecution will be considered against all persons responsible for the alleged offence. In making the decision as to who will be prosecuted, the following general considerations apply:

- (a) Who was primarily responsible for the alleged offence - that is who committed the act, who formed the intention and who created or allowed the material circumstances leading to the breach;
- (b) Who benefits from carrying out the activity that gave rise to the alleged offence;

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- (c) Who had the control of the premises or the site and was able to develop and implement management systems to ensure compliance;
- (d) Where a person is liable because the law creates strict liability, what was the role of the potential defendant;
- (e) The likely effectiveness of court orders against the potential defendant;
- (f) The objects of the governing legislation.

6.12 Prosecuting Corporations

The Council will prosecute a corporation when an offence resulted from that corporation's activities.

6.13 Prosecuting Executive Officers of Corporations

Executive officers of corporations have an obligation to ensure that the corporation complies with statutory requirements, and may be liable if they fail in discharging that obligation.

Council will not ordinarily prosecute Executive Officers for a corporation's first offence unless there is strong evidence that the relevant officers were complicit in that offence.

When determining whether to prosecute executive officers in respect of their corporation's unlawful activity the Council will consider whether:

- (a) The corporation has a compliance system in place which identified statutory requirements and approval conditions;
- (b) The compliance system had been effectively communicated and implemented throughout the corporation;
- (c) The compliance system was regularly reviewed and if necessary updated;
- (d) The officer was not in a position to influence the conduct of the corporation in relation to the alleged offence; or
- (e) The officer was in a position to influence the corporation's conduct in relation to the alleged offence; and
- (f) The officer exercised reasonable diligence to ensure the corporation complied with the relevant legislation.

6.14 Prosecuting Employees

The Council will not ordinarily prosecute employees of a corporation who were acting under direction however the council will make a decision about whether an employee should be prosecuted after considering:

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- (a) Whether the employee knew or should have known that the activity was illegal;
- (b) Whether the employee feared loss of livelihood if they did not continue acting in breach of the legislation;
- (c) The seniority of the employee and the scope of the employee's responsibilities;
- (d) Whether the employee had taken reasonable steps to draw the attention of the employer or an appropriate person to the illegality of the practice;
- (e) Whether the employee has taken reasonable steps to mitigate or prevent any harm.

6.15 Prosecuting for the Actions of Agents

A person or corporation may be vicariously liable for the actions of agents (including contractors) if those actions are done within the scope of the agent's actual or apparent authority. The law provides a defence to vicarious liability where the principal took all reasonable steps to prevent the offending acts or omissions.

The Council will not ordinarily prosecute persons or corporations (or officers of that corporation) under the vicarious liability provisions, if this is the first alleged offence for the agent or contractor unless there is strong evidence that the relevant persons, corporation or officers were arguably complicit in that offence.

When determining whether to prosecute a person or corporation for an offence caused by the actions of an agent Council will consider:

- (a) Evidence of control of the site or premises where the alleged offence occurred;
- (b) If the principal was in the position to influence the agent's conduct, whether the principal exercised reasonable diligence or took reasonable steps to ensure that the agent complied with the relevant legal requirement; and
- (c) If the principal benefits from the agent carrying out the unlawful activity that gave rise to the alleged offence;

Prosecution Delegations

6.16 Independence

To ensure independence in the bringing of prosecutions the Council has delegated that authority to the Chief Executive Officer.

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6.17 Initiating Prosecutions

The Chief Executive Officer has sub-delegated his authority to initiate prosecutions to relevant staff members.

To ensure an appropriate balance between the investigatory and prosecutorial functions, a prosecution must not be commenced unless a lawyer in the Council's Legal Services Section has recommended that the prosecution proceed after considering that prosecution against this policy (including specifically the community interest of bringing a prosecution).

6.18 Conducting Prosecutions

The Council's Legal Services Section will undertake all prosecutions. On occasions this may include having the prosecution conducted by an external legal services provider, under direction from the Legal Services Section.

The lawyers in Council's Legal Services Section have authority in respect of all matters affecting the conduct of a prosecution, including:

- (a) All correspondence concerning the prosecution and the offence for which the prosecution is brought;
- (b) The charge/s to be brought;
- (c) Which witnesses to call;
- (d) The evidence to be presented;
- (e) Amending a charge;
- (f) Submissions on penalty;
- (g) Whether or not to seek legal costs and the amount of costs to be sought;
- (h) Whether or not to seek the recording of a conviction;
- (i) Whether an issue raised by the defendant reduces the prospects of Council's succeeding so that it is in the Council's interest to discontinue the prosecution; and
- (j) Whether an issue raised by the defendant raises a community interest consideration so that it is in the community interest to discontinue the prosecution.

6.19 Discontinuing Prosecutions

Staff members with authority to commence prosecutions have authority to discontinue proceedings at any time:

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- (a) on legal grounds after receiving a recommendation to do so from a lawyer in the Council's Legal Services Section; or
- (b) on community interest grounds (including that the cost of prosecution is not warranted in the circumstances).

The lawyers in Council's Legal Services Section have authority to discontinue proceedings:

- (a) At any time on legal grounds (including for example insufficient evidence, an inappropriate charge, the incorrect defendant or a plausible defence);
- (b) When actually before the court on community interest grounds.

If not actually before the court, when a lawyer proposes that a prosecution be discontinued on community interest grounds the lawyer must seek that instruction from the staff member with authority to commence the prosecution.

In all cases, the reasons for discontinuing a prosecution must be documented on the relevant file.

7. LEGAL PARAMETERS >>

Local Government Act 2009
Townsville City Council Local Laws

8. ASSOCIATED DOCUMENTS >>

Nil

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PROSECUTIONS POLICY

2 CORPORATE GOVERNANCE - AUDIT COMMITTEE MINUTES - 19 JUNE 2012

REPORT TO COUNCIL

AUTHORISED BY Director Corporate Services
PREPARED BY Manager Governance
DEPARTMENT Corporate Governance
DATE 22 July 2012

Executive Summary

Please find the Minutes of the Audit Committee meeting held on 19 June 2012 attached to the agenda item.

Officer's Recommendation

That council receive the minutes of the Audit Committee meeting held on 16 June 2012.

Committee Recommendation

That the Officer's Recommendation be adopted.

CONFIDENTIAL ITEMS

It was MOVED by Councillor G Eddiehausen, SECONDED by Councillor P Ernst:

"that council RESOLVE to close the meeting in accordance with Section 72(1)(d) of the *Local Government (Operations) Regulation 2010* which permits the meeting to be closed to the public for business relating to the following:

(d) rating concessions (item 3)."

CARRIED

Council discussed the item/s.

It was MOVED by Councillor G Eddiehausen, SECONDED by Councillor P Ernst:

"that council RESOLVE to open the meeting".

CARRIED

3 RATING CONCESSION FOR ABORIGINAL HOSTELS LIMITED

CONFIDENTIAL REPORT TO COUNCIL

AUTHORISED BY	Director Corporate Services
PREPARED BY	Revenue Coordinator
DEPARTMENT	Finance
DATE	9 July 2012

Executive Summary

A request has been received from Aboriginal Hostels Limited for a concession for the general rate for property number 4220 and property number 511856. The hostels provide Indigenous Australians with safe, comfortable, affordable and culturally sensitive accommodation who must live away from home to access essential services such as education, health and employment.

Officer's Recommendation

1. That the report/attachment be deemed a confidential document and be treated as such in accordance with sections 171 and 200 (9) of the *Local Government Act 2009* and that the document remain confidential unless Council decides otherwise by resolution.
2. It is recommended that the Aboriginal Hostels Limited (AHL) be granted a concession for the general rate for property number 4220 and property number 511856 and that the concession include general rates dating back to 01/01/2012.

Committee Recommendation

That the Officer's Recommendation be adopted.

Motions of which previous notice has been given

Nil.

General Business

1. Together Townsville

Councillor J Lane thanked the Together Townsville team for their efforts and congratulated the team for winning the Community Partnership Award with the International City Managers Association (ICMA). Community Partnership Award recognises the local government programs or processes that demonstrate innovation, excellence and success to improve the quality of life for residents and provide more efficient and effective services.

2. Townsville Shines

The committee members thanked the Communication and Marketing department for their efforts on the Townsville Shines project at the Sucrogen Townsville 400 V8 Supercar event.

Close of Meeting

The Chair, Councillor J Lane closed the meeting at 9.20 am.

It was MOVED by Councillor J Lane, SECONDED by Councillor C Doyle:

"that the report of the Governance and Finance Committee meeting held on 18 July 2012 be received and the recommendations contained therein be adopted."

CARRIED

Councillor J Lane acknowledged the Together Townsville team on winning the Community Partnership Award with the International City Managers Association (ICMA).

Councillor L Walker congratulated the Townsville Shines team on their efforts at the Sucrogen Townsville 400 V8 Supercar event.

The Mayor, Councillor J Hill requested that the Manager Marketing Communications pass this commendation onto the relevant staff.

OFFICERS REPORTS

CORPORATE SERVICES

Councillor P Ernst vacated the Chamber during this item.

9 TRADE MARK OPPOSITION TO CASTLE HILL SAINT APPLICATIONS

REPORT TO COUNCIL

AUTHORISED BY	Director Corporate Services
PREPARED BY	Manager Marketing Communications
DEPARTMENT	Communication and Customer Relations
DATE	12 July 2012

Executive Summary

Council has received correspondence from a Townsville based company who specialises in intellectual property protection advising that an application to trademark the “stick man” symbol that is known as the Castle Hill Saint has been made in 12 classes of goods and services. Six of these applications have been accepted and are now in a period of opposition, prior to becoming registered and the remaining six are still pending approval.

Investigations by the Manager Marketing Communications revealed that if accepted, the trademark owner, if they choose to, would be able to prevent council and any member of the public from using the graphic without permission. Whilst it is of no interest to council how this party wishes to use the trademark for commercial purposes, it is of concern that if successful council or any person other than the trademark owner would not be able to use or reproduce an image of Castle Hill that includes the saint stick figure.

Officer's Recommendation

1. That council approve the lodgement of formal Notice of Objections to the above mentioned trademark applications.
2. That council lodge the appropriate trademark applications to protect this city icon for use by the whole community into the future.
3. That council approve that a full investigation is undertaken as to the implications of the legislative reforms outlined in this report, for council's primary brand and approved sub-brands for report back to the Governance and Finance Committee with recommendations for consideration, in relation to the protection and management of council's brands.

In accordance with section 173 of the *Local Government Act 2009*, Councillor P Ernst declared a real conflict of interest in regards to item 9 of the Officer's Reports.

- (a) the nature of the conflict of interest as described by the Councillor:
Councillor P Ernst is the Director of the North Queensland Small Business Centre.
- (b) how the Councillor dealt with the real conflict of interest:
The Councillor determined that he had a real conflict of interest and left the meeting and did not participate in debate or voting on the matter.
- (c) if the Councillor voted on the matter - how the Councillor voted:
Councillor P Ernst vacated the meeting during discussion and voting on item 9 of the Officer's Reports.
- (d) how the majority of Councillors who were entitled to vote at the meeting voted on the matter:
The majority of Councillors voted as per the Officer's Recommendation.

It was **MOVED** by Councillor J Lane, **SECONDED** by Councillor V Veitch:

"That the Officers Recommendation be adopted."

CARRIED

Councillor P Ernst resumed his seat in the Chamber.

REPORT TO COUNCIL

AUTHORISED BY	Director Corporate Services
PREPARED BY	Manager Governance
DEPARTMENT	Corporate Governance
DATE	16 July 2012

Executive Summary

The 2012 Parks and Leisure Australia (PLA) National Conference will be held in Newcastle, New South Wales on 16-19 September 2012. The conference will take place at the Newcastle Town Hall in Newcastle. It is applicable for councillors and practitioners in the parks and recreation industry. The conference theme is revitalisation and will look at a range of strategies including:

- » response to large scale change (e.g. natural disasters, loss of major employer);
- » revitalisation through different approaches to projects or tasks e.g. community engagement, allocation of facility for uses; maintenance methods; and
- » examples and stories of professional development through revitalisation and reinvention in response to change.

Officer's Recommendation

1. That Councillor Pat Ernst attend the 2012 Parks and Leisure Australia National Conference to be held in Newcastle, New South Wales on 16-19 September 2012; and
2. That council approve the travel expenses and a leave of absence associated with attending this conference for Councillor Pat Ernst.

It was MOVED by Councillor S Blom, SECONDED by Councillor G Eddiehausen:

1. "That Officer's Recommendation be adopted; and
2. That a report be brought back to council by Councillor Pat Ernst on outcomes of the 2012 Parks and Leisure Australia National Conference, to a meeting of the Sports Recreation and Parks Committee."

CARRIED

PLANNING AND DEVELOPMENT

11 ECONOMIC DEVELOPMENT AND STRATEGIC PROJECTS - CHAIR OF TOWNSVILLE SISTER CITIES FORUM

REPORT TO COUNCIL

AUTHORISED BY	Director Planning and Development
PREPARED BY	Strategic Policy Officer
DEPARTMENT	Strategic Planning
DATE	13 July 2012

Executive Summary

The Townsville Sister Cities Community Forum is responsible for advising council on sister city exchanges and for recommending an annual program of sister city activities.

Under its terms of reference, the Sister Cities Community Forum is chaired by a nominated Councillor. This position is currently vacant. Cr Colleen Doyle has been nominated as the new chair of the Townsville Sister Cities Community Forum.

Officer's Recommendation

That council endorse the appointment of Councillor Colleen Doyle as chair of the Townsville Sister Cities Community Forum.

It was MOVED by Councillor J Lane, SECONDED by Councillor S Blom:

"That the Officers Recommendation be adopted."

CARRIED

12 ADDENDUM - DISPOSAL OF SURPLUS PROPERTIES - PROPERTY NUMBERS 524856 AND 521369

REPORT TO COUNCIL

AUTHORISED BY	Director Townsville Water and Waste
PREPARED BY	Director Townsville Water and Waste
DEPARTMENT	Townsville Water and Waste
DATE	19 July 2012

Executive Summary

The council owns two freehold houses situated at 1671 and 1673 Riverway Drive, Kelso. Until recently these houses were occupied by rangers employed at Ross River Dam and it was a job requirement that they live in these houses to respond to emergency events at the dam. It was determined that these properties no longer add any strategic or operational value to Townsville Water or the council and should be disposed of.

The Department of Communities were consulted (as per directions from council on 27 March 2012) to investigate opportunities for property number 521369, located at 1673 Riverway Drive to be made available (to a family left homeless as a result of the recent tornado). The Department of Communities advised that they had sufficient available accommodation to cater for the needs arising from the severe event and did not have any interest in taking on these houses.

Officer's Recommendation

That council:

1. resolve that properties numbered 524856 and 521369 situated at 1671 and 1673 Riverway Drive have no strategic or operation value; and
2. resolve that the Chief Executive Officer be directed to sell properties numbered 524856 and 521369, situated at 1671 and 1673 Riverway Drive, on the open market.

It was MOVED by Councillor J Lane, SECONDED by Councillor A Parsons:

"That the Officers Recommendation be adopted."

CARRIED

CONFIDENTIAL ITEMS

It was **MOVED** by Councillor A Parsons, **SECONDED** by Councillor V Veitch:

"that council RESOLVE to close the meeting in accordance with Section 72(1)(c)(e) of the *Local Government (Operations) Regulation 2010* which permits the meeting to be closed to the public for business relating to the following:

- (c) the local government's budget (item 14); and
- (e) contracts proposed to be made by it (item 13)."

CARRIED

Council discussed the items.

It was **MOVED** by Councillor A Parsons, **SECONDED** by Councillor V Veitch:

"that council RESOLVE to open the meeting".

CARRIED

13 PROGRAMS AND TECHNICAL SUPPORT - TENDER EVALUATION - SUPPLY AND CONSTRUCTION OF MOUNT LOW RESERVOIR 2

CONFIDENTIAL REPORT TO COUNCIL

AUTHORISED BY	Director Townsville Water and Waste
PREPARED BY	Manager Programs and Technical Support
DEPARTMENT	Programs and Technical Support
DATE	13 July 2012

Executive Summary

Tenders were called for and closed at 10.00 am on Wednesday 27 June 2012 for supply and construction of a 6.2 ML steel reservoir at Mount Low and associated work required for the full function with cathodic protection (T6543). The contract is a lump sum contract for supply and construction under AS4000 – 1997. Five contractors submitted tenders. A capital budget adjustment will be necessary in the four month review should council proceed with this project.

Officer's Recommendation

1. That the report/attachment be deemed a confidential document and be treated as such in accordance with sections 171 and 200 (9) of the *Local Government Act 2009* and that the document remain confidential unless council decides otherwise by resolution.
2. That council award the tender for supply and construction of a 6.2 ML steel reservoir at Mount Low and associated work required for the full function with cathodic protection (T6543) to Townsville Engineering Industries Pty Ltd for the price of \$2,299,137.50 (inclusive of GST).

It was **MOVED** by Councillor V Veitch, **SECONDED** by Councillor P Ernst:

"That the Officers Recommendation be adopted."

CARRIED

CONFIDENTIAL REPORT TO COUNCIL

AUTHORISED BY	Director Corporate Services
PREPARED BY	Executive Manager Finance
DEPARTMENT	Finance
DATE	17 July 2012

Executive Summary

Council is required to adopt a long-term financial forecast with its budget each year pursuant to Section 104 of the *Local Government (Finance, Plans and Reporting) Regulation 2010*. At its special meeting held on 9, 10, 11, 16 and 17 July 2012 council has provided direction on the key inputs to the forecast.

The Executive Manager Finance will present the draft long-term financial forecast 2012/13 to the meeting for council's consideration and referral to the 2012/13 Budget Meeting.

Officer's Recommendation

1. That the report/attachment be deemed a confidential document and be treated as such in accordance with sections 171 and 200 (9) of the *Local Government Act 2009* and that the document remain confidential unless council decides otherwise by resolution.
2. That council resolve to refer the 2012/13 long-term financial forecast as presented, to the 2012/13 Budget Meeting.

It was MOVED by Councillor C Doyle, SECONDED by Councillor J Lane:

"That the Officers Recommendation be adopted."

CARRIED

The Mayor, Councillor J Hill thanked the Executive Manager Finance Services and his staff for their work on the 2012/13 long-term financial forecast.

Motions of which previous notice has been given

There were no motions.

General Business

1. Peter Turl – Retirement

The Mayor, Councillor J Hill advised that Peter Turl (Manager Program and Technical Support) is retiring from council and she thanked Peter for his contribution. The Mayor advised that Peter had commenced with council as a Cadet Engineer and has now worked for council for 38 years. Peter has incredible knowledge and will be sorely missed.

2. Trevor Mobbs Memorial SLAMFEST

Councillor V Veitch and Councillor A Parsons thanked the Director Infrastructure Services and the Director Planning and Development for their work in ensuring that the Trevor Mobbs Memorial SLAMFEST event goes ahead on Saturday 28 July 2012.

Close of Meeting

The Chair, Mayor J Hill declared the meeting closed at 10.20 am.

CONFIRMED this

day of

2012

MAYOR

CHIEF EXECUTIVE OFFICER