MINUTES

of the

GENERAL MEETING

CHAIRPERSON: Cr R Dyne (Mayor)

Held in the Boardroom
Old Bank Building,
46 Nash Street,
Gympie Qld 4570

On Wednesday 8th October 2008
At 9.00 am
Mayor R.J. Dyne (Chairman),
Crs. A.J. Perrett, G.L. Engeman, R.A. Gâté, LJ Friske,
DR Neilson, IT Petersen, J Watt and J.A. Walker.

APPOINTMENTS etc.

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The meeting commenced at 9:02 am.

PRESENT: Mayor Cr R.J. Dyne (Chairman), Cr A.J. Perrett, Cr G.L. Engeman, Cr L.J. Friske, Cr R.A. Gâté, Cr D.R. Neilson, Cr I.T. Petersen, Cr J. Watt and Cr J.A. Walker.

Also in attendance were Chief Executive Officer (Mr K.A. Mason), and Minutes Clerk (Miss S Bull).

DECLARATIONS OF INTEREST BY COUNCILLORS

Planning & Development Committee Meeting
P07/10/08 – Cr J.A. Walker Material Personal Interest.
P08/10/08 – Cr G.L. Engeman Material Personal Interest.

SECTION 1: OPEN WITH PRAYER

Minister Robert Chippendale from the Anglican Church offered a Prayer for the advancement of the Region and the true welfare of its people.

One Minute’s silence was observed for family and friends of deceased residents of the Region.

SECTION 2: APOLOGIES

Nil

SECTION 3: CONFIRMATION OF MINUTES OF PREVIOUS GENERAL MEETING

G01/10/08 Moved: Cr I.T. Petersen Seconded: Cr J.A. Walker

That the Minutes of the Gympie Regional Council General Meeting held on 24 September 2008 be taken as read and confirmed.

Carried

SECTION 4: PETITIONS

Gympie Regional Council
SECTION 5: ADOPTION OF CORPORATE GOVERNANCE & FINANCE COMMITTEE RECOMMENDATIONS

G02/10/08 Moved: Cr D.R. Neilson Seconded: Cr G.L. Engeman

That the Recommendations of the Corporate Governance & Finance Committee Meeting held on 24 September 2008 as presented, be received.

Carried

G03/10/08 Moved: Cr D.R. Neilson Seconded: Cr G.L. Engeman

That the Recommendations of the Corporate Governance & Finance Committee Meeting held on 24 September 2008, be adopted.

Carried

SECTION 6: REPORT BY THE CORPORATE GOVERNANCE & FINANCE COMMITTEE CHAIRMAN

Cr Donna Neilson presented the following Report:

An amount of $6,000 has been provided in the 2008/2009 budget for the Kilkivan Great Horse Ride. Prior to the Gympie Regional Council coming into being, the Local Transition Committee agreed to continue support for iconic events in the former shires.

It was disappointing to note the extent of damage to Council property during September. Offenders broke into the Cooloola Coast Water Treatment Plant and stole breathing apparatus and digital scales valued at $2,400. A solar panel worth $1,000 was removed from Fat Hen Creek Rest Area and a baby’s change table and shrubs were damaged at the Kilkivan Lions Park toilets.

Council will offer a lease over land at the end of Batchelor Road, Gympie to the Edmund Rice Flexible Learning Centre Network. The Centre intends to relocate a building offered by Energex to the site for the purpose of providing a flexible learning environment for children. The lease, for a period of 20 years, will cover...
4000 square metres of land and be subject to resolution of all planning and building matters.

Following a request from the Kilkivan Kindergarten Association Inc, the committee resolved to grant it a lease over part of a reserve in Bligh Street, Kilkivan. The kindergarten occupies the building known as the old RSL Hall but has not been eligible for Gambling Community Benefit Fund grants in the absence of a formal lease.

A recently vacated house owned by the former Kilkivan Shire will be retained by Council and made available for lease. The meeting recommended that the property at Cave Street, Kilkivan not be sold at this point in time.

A three year contract for the management of the Kilkivan Swimming Pool has been entered into, which will provide for the pool to be open every day except Tuesday during the swimming season.

G04/10/08 Moved: Cr D.R. Neilson Seconded: Cr R.A. Gâté
That the Report be received.

Carried

SECTION 7: ADOPTION OF PLANNING & DEVELOPMENT COMMITTEE RECOMMENDATIONS

G05/10/08 Moved: Cr I.T. Petersen Seconded: Cr A.J. Perrett
That the Recommendations of the Planning & Development Committee Meeting held on 1 October 2008 as presented, be received with the exception of P07/10/08 and P08/10/08 to be withdrawn and dealt with later in the meeting.

Carried

G06/10/08 Moved: Cr I.T. Petersen Seconded: Cr R.A. Gâté
That the Recommendations of the Planning & Development Committee Meeting held on 1 October 2008, be adopted.

Carried
Cr J.A. Walker declared a Material Personal Interest in the next matter due to being the applicant and left the meeting at 9.11am.

Recommendation P07/10/08 of the Recommendations of the Planning & Development Committee Meeting held on the 1 October 2008

G07/10/08  Moved: Cr I.T. Petersen  Seconded: Cr L.J. Friske

That Recommendation P07/10/08 of the Recommendations of the Planning & Development Committee Meeting held on 1 October 2008 be received and adopted.

Carried

Cr J.A. Walker returned to the meeting at 9.12am.

Cr G.L. Engeman declared a Material Personal Interest in the next item due to business contacts and left the meeting at 9.12am.

Recommendation P08/10/08 of the Recommendations of the Planning & Development Committee Meeting held on the 1 October 2008

G08/10/08  Moved: Cr I.T. Petersen  Seconded: Cr A.J. Perrett

That Recommendation P08/10/08 of the Recommendations of the Planning & Development Committee Meeting held on 1 October 2008 be received and adopted.

Carried

Cr G.L. Engeman returned to the meeting at 9.13am.

SECTION 8: REPORT BY THE PLANNING & DEVELOPMENT COMMITTEE CHAIRMAN

Nil
SECTION 9: MEETING DATES

The meeting dates for the month of November 2008 have been set as follows:

TUESDAY, 4 NOVEMBER 2008  Works & Services Committee Meeting 9am

WEDNESDAY, 5 NOVEMBER 2008 Planning & Development Committee Meeting 9am

WEDNESDAY, 12 NOVEMBER 2008 General 9am
   Community & Economic Development Committee Meeting to Commence at the
   Conclusion of the Preceding General Meeting

WEDNESDAY, 19 NOVEMBER 2008 Planning & Development Committee Meeting 9am

WEDNESDAY, 26 NOVEMBER 2008 General 9am
   Corporate Governance & Finance Committee Meeting to Commence at the
   Conclusion of the Preceding General Meeting.

G09/10/08 Moved: Cr J.A. Walker Seconded: Cr G.L. Engeman

That the meeting dates for the month of November 2008 be adopted.

Carried

SECTION 10: OTHER MATTERS

10/1 Ingenero 2010 Solar Challenge

Re: G10/10/08 Ingenero 2010 Solar Challenge
From: Mark Kibby, Business Development Manager, Ingenero Pty Ltd, PO
       Box 2199, Toowong Qld 4066
File: 4/1/4/1
Date: 26 September 2008 Doc ID 925399

“Thankyou for taking the time to meet with us at the 112th Local Government
Annual Conference in Cairns. The weather was wonderful which highlights the
fact it is always a benefit to visit the tropics during the cooler months!”

Gympie Regional Council
Ingenero has recently launched the **Ingenero 2010 Solar Challenge** which aims to have 20 Councils across Australia generating renewable energy by 2010. Only a limited number of Councils will be invited to participate in the program which commences with the Ingenero at no cost to visit your Council site/s to determine a suitable renewable energy solar solution.

The Ingenero solar solution is the first of its kind in Australia. We design, install, own, operate, maintain and monitor the facility – Council simply pays for the actual renewable electricity output each month. This provides council with several powerful benefits:

- No up-front capital required
- No risk to council in choosing the most appropriate technology
- No cost to council if output is low during cloudy weather
- No need for council to worry about maintenance or monitoring preference

The Ingenero solar solution will assist your council in demonstrating their environmental leadership. It will provide council with immediate carbon reductions which are accredited, highly visible and affordable.

I would like to personally invite you to nominate your council for the Ingenero 2010 Solar Challenge.

Please call Mark Kibby on 07 3327 9889 to organise a time to talk to your key stakeholders and progress your participation. As spaces are limited, and by invitation only, I encourage you to call within the next two weeks.”

**G10/10/08 Moved: Cr J.A. Walker**

**Seconded: Cr R.A. Gäté**

That Council accept the invitation to participate in the Ingenero feasibility assessment at no cost to Council.

**Carried**

Re: **G11/10/08 Toward Q2: Tomorrow’s Queensland**

From: Anna Bligh MP, Premier of Queensland, PO Box 15185 City East, QLD 4002

File: 1/4/05/4

Date: 29 September 2008  Doc ID 925522

“Since becoming Premier twelve months ago, my government has been looking over the horizon and working on the challenges that confront our state. Recently I launched my Government’s blueprint for our State called Toward Q2: Tomorrow’s Queensland. It is my pleasure to provide you with a copy of the plan.
We see Q2 as the Queensland you love today, only better. The blueprint is all about protecting our unique Queensland lifestyle by planning ahead. Q2 is framed around five ambitions for the entire state, encompassing our economy, environment and lifestyle, education and skills, health & community.

Within each of these areas, for the first time my Government has set long-term targets for 2020 that tackle some of the biggest challenges Queensland faces, including climate change, population growth, a rising tide of preventable disease and entrenched disadvantage.

The future of our State is everyone’s business. Meeting these long-term targets will require government, businesses, communities and individuals to work together to ensure the Tomorrow’s Queensland is strong, smart, green, healthy and fair.

My Government is committing to new initiatives to help meet each of these targets. But we also want your ideas on how – together – we can achieve them. To have your say on Q2 please visit www.towardQ2.qld.gov.au. I look forward to working with you as we head Toward Q2: Tomorrow’s Queensland.”

Booklet was available at the meeting for viewing.

G11/10/08 Moved: Cr R.A. Gâté Seconded: Cr G.L. Engeman

That the information be received.

Carried

Rainbow Beach Community Information and Resource Service

Re: G12/10/08 Rainbow Beach Community Information and Resource Service
From: Heather Robertson - President, Rainbow Beach Community Centre, PO Box 306 Rainbow Beach QLD 4581
File: Date: 28 August 2008

"During the Gympie Regional Council Budget meeting a unanimous decision was made by the Mayor and all Councillors to cut funding of lease payments of Rainbow Beach Community Information and Resource Service on December 31 2008. Without this assistance we cannot continue to operate.
The letter forwarded to us had several inconsistencies:
1. Letter addressed to Fiona, who has not been part of this organization for the past two years. GRC Community Officer has updated information
pertaining to our centre.

2. Federal Services we support as access points are Medicare and Centrelink.

3. We do not have State Services at our centre however are a referral point for Gympie services upon request.

4. Our main purpose, besides the above, is to provide service to Gympie Regional Council residents, (remember we are a remote area) with Computer. Internet, Photocopying and Fax access. Our service allows the elderly to use machines with assistance and for students to have after school and evening tutoring.

5. Community groups, such as, the Lions Club; Ratepayers Association and Playgroup also use services provided.

The centre is manned by volunteers the majority of whom are retirees Over the past twelve months we have been open daily to service the needs of the local community and tourists alike. We have organized morning teas for the Cancer appeal; Senior Citizen Week and will participate in Adult Learners' Week with Computer and Craft workshops. Computer tutorials are also given upon request.

The centre has become an integral part of our community, without the lease payments continuing Rainbow Beach will be once again disadvantaged. Due to the remoteness of Rainbow Beach we need a centre such as ours. Please reconsider your decision for the residents of Rainbow Beach."

G12/10/08 Moved: Cr L.J. Friske Seconded: Cr G.L. Engeman

That Council allow the Rainbow Beach Community Information and Resource Service to remain in the building for the term of the lease.

Carried

10/4 Development Approval for Material Change of Use – Commercial Premises (Massage and Well-Being Retreat) – S. Gills & A. Kendell

Re: G13/10/08 Development Approval for Material Change of Use – Commercial Premises (Massage and Well-Being Retreat)

From: Tania Stenholm - Manager Development and Compliance

File: DA17212

Site: Lot 2 SP189594, 58 Fisher Road, Araluen

Date: 1 October, 2008

Gympie Regional Council
Report: (Manager Development & Compliance – T.M. Stenholm)

1.0 Introduction

Applicants for this development addressed Council’s Planning and Development Committee on 1 October 2008 in relation to a condition of approval requiring payment of a $9,000 road contribution.

Copies of the approved plans are inserted following.
2.0 Applicant’s Request

In their presentation to Council the applicant requested Council’s further consideration to an amendment of condition 1.15 of the approval in relation to a road contribution, primarily based on financial hardship and the difficulty in paying the amount in conjunction with establishing the approved business.

The condition reads:

‘1.15 In accordance with Planning Scheme Policy 11: Road Contributions a contribution is to be paid toward road improvements as a result of the increased traffic generated by this development. The amount is currently assessed at $9 000, however will be subject to ABS ANZSIC Index Class 4121 annually from the date of this approval.’

3.0 Assessment

As previously reported, the amount calculated is considered reasonable given the traffic proposed to be generated by the use.

In some instances Council has previously permitted staged payments for contributions as an offer of assistance.

G13/10/08 Moved: Cr I.T. Petersen Seconded: Cr D.R. Neilson

That in relation to development approval DA17212 for Material Change of Use – Commercial Premises (Massage and Well-being Retreat) over Lot 2 SP189594 located at 58 Fisher Road, Araluen, Council issue and Amended Decision Notice amending condition 1.15 to read:

‘(a) In accordance with Planning Scheme Policy 11: Road Contributions a contribution is to be paid toward road improvements as a result of the increased traffic generated by this development. The amount is currently assessed at $9 000, however will be subject to ABS ANZSIC Index Class 4121 annually from the date of this approval.

Note: Council permits this contribution to be paid in three (3) annual installments as follows:
(i) First payment $3 000 due upon commencement of the use;
(ii) Second payment $3 000 (+ Indexation), 12 months after first payment
(iii) Third payment $3 000 (+Indexation), 12 months after second payment.’

Carried
Resolutions moved and passed at Public Meeting, Tin Can Bay

Re:  G14/10/08,  G15/10/08,  G16/10/08,  G17/10/08 &  G18/10/08
Resolutions moved and passed at Public Meeting, Tin Can Bay.

From: SOS TCB Saving Quality of Life in Tin Can Bay, 142 Toolara Rd, Tin Can Bay, 4580
File:  6/5/14/1
Date:  24 September 2008   Doc ID 924366

"Thankyou for your attendance at last Sunday’s public meeting regarding planning issues in and around the Snapper Creek Boat Harbour.

Attached are the four motions passed unanimously by that meeting. In accord with the clear expression of the meeting, we request that you table these motions in an upcoming General Meeting of Council and move the intent within them as resolutions to be adopted by Council.

Can you please arrange for copies of this document to be distributed as per the cc list above."

Motion 1
That the Gympie Regional Council reaffirm its continued commitment to the policy of the former Cooloola Council, adopted on the 16 March 2004:

“That Council request the State Government to involve the Cooloola Shire Council and the local community in the development of a Master Plan for Snapper Creek, the Norman Point foreshore and Tin Can Bay Inlet before any further (marina) approvals are given”

Moved:  Greg Wood
Seconded:  Vivien Griffin
Passed unanimously

Motion 2
That the Gympie Regional Council agree to actively seek a partnership with Queensland Transport, EPA, DPI and other relevant government agencies to develop in consultation with the local community a Master Plan for Snapper Creek, the Norman Point foreshore and Tin Can Inlet and adjacent coastal lands that protects local recreational, social, economic and environmental values of the region.

Moved:  Ian Donald
Seconded  Maree Prior
Passed unanimously

[Note: Experience demonstrates that State Agencies hold the key to delivering socially acceptable outcomes in the locality, however they are reluctant, or too

Gympie Regional Council
divergent in their respective interests, to readily accommodate the ideal process for achieving such outcomes. Constructive, concerted effort upon them is required to bring forth the necessary willingness. Experience also demonstrates that such effort is beyond the capacity of the community acting alone. Thus the local community is asking Council to pursue a program of active engagement with the relevant State agencies to support and assist the communities effort toward getting State agencies’ adequate attention.

Motion 3:
That we ask the Gympie Regional Council to agree to form a joint Councillor/community working group to work co-operatively towards the achievement of the Master Plan identified in (2) above.

Moved: Lucien Lowe
Seconded: Pat Atkins
Passed unanimously

[Note: As discussed briefly within the meeting, such a working group would ideally be constituted upon the following principles:
  i. clear and appropriate Terms of Reference
  ii. broad and genuine community representation developed by invitation to distinct groups of interest and/or relevant local knowledge within the local community.]

Motion 4:
This meeting requests the Gympie Regional Council to commit to calling a public meeting in Tin Can Bay once the applicant has completed all Information Request requirements — as empowered by 5.3.2.7 of IPA (“third party advice”)
This meeting requests the GRC to also commit to seeking written submissions from the community on the proposal following this presentation.

Moved: Ros Raynes
Seconded: Pam Graham
Passed unanimously

[Note: such meeting and submission is to facilitate presentation by planning staff on the application once all of the relevant inputs to the application are known, and enable open, constructive engagement with community knowledge and concern on the application as it appears in its entirety]”

G14/10/08 Moved: Cr J. Watt Seconded: Cr R.A. Gâté

That the four (4) motions put forward by the SOS TCB Saving Quality of Life in Tin Can Bay be received.

Carried

Gympie Regional Council
G15/10/08 Moved: Cr I.T. Petersen Seconded: Cr G.L. Engeman

That the Gympie Regional Council reaffirm its continued commitment to the stated position of the former Cooloola Council, adopted on the 16 March 2004:

“That Council request the State Government to involve the Cooloola Shire Council and the local community in the development of a Master Plan for Snapper Creek, the Norman Point foreshore and Tin Can Bay Inlet before any further (marina) approvals are given”

Carried

G16/10/08 Moved: Cr I.T. Petersen Seconded: Cr J. Watt

That the Gympie Regional Council agree to actively seek agreement from Queensland Transport, EPA, DPI and other relevant government agencies that they will develop in consultation with the local community a Master Plan for Snapper Creek, the Norman Point foreshore and Tin Can Inlet and adjacent coastal lands that protects local recreational, social, economic and environmental values of the region.

Carried

G17/10/08 Moved: Cr G.L. Engeman Seconded: Cr J.A. Walker

That Gympie Regional Council agrees to form a joint Council/community working group to work co-operatively towards the achievement of the Master Plan identified in (2) above.

Further that such a working group would ideally be constituted upon the following principles:

i. clear and appropriate Terms of Reference

ii. broad and genuine community representation developed by invitation to distinct groups of interest and/or relevant local knowledge within the local community.

Carried
G18/10/08   Moved: Cr R.A. Gâté   Seconded: Cr A.J. Perrett

That Gympie Regional Council agrees to call a public meeting in Tin Can Bay for the purpose of providing information relevant to the application once the applicant has completed all Information Request requirements — as empowered by 5.3.2.7 of IPA (“third party advice”).

Carried

Director of Planning & Development Mr Mike Hartley entered the meeting at 9.35am.

SECTION 11: LATE ITEMS

Late Item 1 Silting of dam on Lot 3 on MPH23385 – owned by Mr Chris Thomas

Re:     G19/10/08 Silting of dam on Lot 3 on MPH23385 – owned by Mr Chris Thomas
From: Northern Resources Pty Ltd
File: DA13662 xref DA09659
Date: 24 September 2008

“Without any admissions and further to our discussions we confirm Northern Resources Pty Ltd will honour an agreement reached in September 2007 between our foreman Mr. Jim Croll and Chris Thomas to the following:

1. Place some old tree stumps in a gully down stream of the dam.
2. Clear and grade a small area in the south west corner of the allotment.
3. Undertake some desilting work of the margins of the dam at Chris Thomas

Item 1 and 2 were completed about September 2007, item 3 was to commence when Mr. Thomas stated he required the whole dam to be drained and completely desilted and any disturbed area’s to be fully reinstated. This request was unacceptable to Northern.

As an act of good faith Northern are prepared to abide by the original agreement. The extent of the desilting work will comprise of 20 ton excavator to reach in to the dam from waters edge and remove silt within its reach. The silt will be placed behind the excavator to dry.

The value of this work is estimated as follows:

1. Transport of the excavator Caboolture to Gympie $ 750.00
2. Excavator hire at $160 per hour PC item $2560.00
3. Return of excavator to Caboolture $ 750.00

This offer is made as an act of good faith and should not be interpreted otherwise.”
Report: (General Manager Design Services Division - R. Chapman)

This letter is in response to Council notices to the Consulting Engineer and Northern Resources for failing to meet:
Condition 2.15 of the Reconfiguration Approval, “Siltation and Erosion control methods shall be implemented and maintained at all times in accordance with Council’s Environmental Management Plan to the satisfaction of Council’s Chief Executive Officer” and
Condition 10 of the Operational Works Permit, “The erosion and sediment control measures approved as part of this development permit for operational works:
   a) are to be in place and fully operational during periods of rain and at the end of each day; and
   b) maintained until soils are stabilized on the site area.”

The whole of the site was cleared prior to June 2005 as evidenced by aerial photos taken at that time. Some siltation of the dam most likely occurred during the period up to the commencement of the Stage 2 Works at approximately 12 August 2007.

Council gave written undertakings to Mr Thomas that silt, observed by the writer to be entering Thomas’ dam on the 24 August when there were no silt or erosion control measures observed on the construction site, would be removed.

Whilst Council has authority under the IPA conditions to require de-silting of the dam, it does not appear to have any powers regarding the siltation resulting from clearing of the land that was not approved by Council.

The amount of silt deposited in the dam from either source is not able to be quantified. However, an excavator of that size proposed by Northern Resources would be able to shift a large volume of material despite it having to work in water over eight hours. Hence, it seemed a reasonable offer. However, the offer does not include removing the material off the site or reinstating the worked on area. It is estimated that an additional two hours excavator time loading two trucks would be required to remove the material at an estimated cost of $730 plus say reinstatement costs of $1,000.

G19/10/08 Moved: Cr I.T. Petersen Seconded: Cr L.J. Friske

That Council proceed with either of the two options.

That Northern Resources Pty Ltd de-silt the dam as offered, provided all excavated material is removed from the site and the working area reinstated to the satisfaction of Council’s Chief Executive Officer and that Mr Thomas be advised accordingly.

Alternatively, Northern Resources Pty Ltd pay the amount of $5,970 to Mr Thomas to enable him to de-silt his dam accordingly.
Further that these options will be presented to Mr Thomas for his decision within 7 days.

Note completion of either of the above options will enable Council to sign off conditions 2.15 and 10 of the Decision Notice issued for DA09659 and DA13662 respectively. Council could also accept a bond for that amount should that be necessary.

Carried

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<tr>
<th>Late Item 2</th>
<th>Stage 2 Araluen Heights – Sewerage Connection</th>
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Re: **G20/10/08** Stage 2 Araluen Heights – Sewerage Connection  
From: Darren Brighton, Director @1 Investments Pty Ltd, PO Box 1589, Burleigh Heads Qld 4220  
File: DA13662 Doc ID:919940  
Date: 28 August 2008  
Letter addressed to the Mayor, Gympie Regional Council

“Thank you for meeting on Wednesday 20 August to discuss the endorsement of Stage 2 ‘Araluen Heights’. Gympie Regional Council’s time and assistance in progressing this matter is appreciated.

@1 Investments Pty Ltd understands that council requires four matters to be finalised and prior to the partial endorsement (30 lots) of Stage 2. They are:

1. Submission of compaction results for constructed lots involving fill;
2. Consultation with Mr Chris Thomas regarding the perception of off-site sedimentation and dam siltation;
3. Payment of external works and bring forward, out of sequence costs in relation to the Gum Tree Road pump station and associated trunk sewer;
4. Payment of charges/fees prior to endorsement.

A fifth matter concerning the complete endorsement of Stage 2 (5 remaining lots) is also to be finalised. This is:
5. Confirmation of overland flow paths (Q50 events) between Heights Drive and Skyline Terrace.

**Submission of compaction results for constructed lots involving fill**

Since April 2008 a number of verbal discussions have occurred between Northern Resources Pty Ltd and Council Engineering Department regarding the testing of lot fill. Northern Resources has subsequently undertaken additional testing when requested and in the attempt to satisfy Council requirements. Advice from the Director of Engineering (Wednesday 20 August) indicates that additional tests are still required.
A review of the soil tests required to be undertaken for the partial endorsement (30 lots) of Stage 2 has been undertaken since our meeting. It appears that additional tests may be required (the uncertainty relates to variations between design and actual ground levels and the requirement to test in nominal heights) for the 7 lots which involved fill. South East Soil Testing Pty Ltd has since been engaged to determine the depth of lot fill in outstanding lots/areas and test in accordance with Council relevant standard (AS3798). The results of these tests will be supplied to Council’s Engineering Department by Friday 29 August. It is requested that Council review these results and advise in writing that the number of tests are suitable and within 7 days of their receipt. If insufficient, it would be appreciated if the location and depth of additional tests to be undertaken is provided. This process will provide certainty between all parties and avoid further delays.

Consultation with Mr Chris Thomas regarding the perception of off-site sedimentation and dam siltation

@1 has previously discussed Mr Chris Thomas concerns with Northern Resources and inspected the dam in question. This inspection was undertaken with Chris in attendance and in good faith. @1 does not believe that Northern Resources is responsible for siltation of the dam. This is primarily due to the existence of natural sediment basins between Araluen Heights and the dam. If significant quantities of silt were to have washed from Araluen Heights these basins would also be full and the pattern of sediment within the dam not concentrated along the margins of its side walls. Fines or colloidal particles may have mobilised during rain events (within Araluen Heights) but not of an amount to have caused the filling alleged. In @1 opinion the siltation appears to have been a long term process whereby fines from a number of sources have collected in the dam. This includes partial subsidence of the dam walls and erosion along David Street and internal roads (all unsealed) with Chris property. Photos supporting these sources of sediment have previously been provided to Council and in a report provided by @1.

In recognition that a small amount of fines may have washed from ‘Araluen Heights’ and into Chris dam, Northern Resources has previously agreed to clean the margins of the dam. At this time Chris also requested that some trees be cleared, an area of land be graded and some stumps be places in a gully downstream of the dam. Northern Resources agreed to this in the interests of maintaining a good relationship and commenced work. All work had been completed and the cleaning of the dam planned when Chris requested that the entire dam now be drained and cleaned. Northern Resources considered this to be unreasonable request and did not undertake any further work. This position is supported by @1.

Northern Resources offer of compensatory works is considered more than fair and was most likely not required. @1 believes that Chris current requests are unreasonable and cannot be justified. Council offer to discuss this matter further with the landowner by 28 August is appreciated and it is hoped that an amicable
agreement, consistent with that previously discussed within Northern Resources can be reached. Regardless, statutory requirements are not considered to have been breached in this instance and it is therefore requested that this matter does not further delay the endorsement of Stage 2.

**Payment of external works and bring forward, out of sequence costs in relation to the Gum Tree Road pump station and associated trunk sewer.**

In September 2007 @I became aware that Gympie Regional Council was planning to construct the pump station (and associated trunk sewer) at Gum Tree Road. This was due to discussions with Gympie Developments Pty Ltd, a company which is constructing a residential estate adjacent to Banks Pocket Road. Gympie Development advised that their company had been in discussions with Council’s Engineering Department since 2007 regarding construction of this pump station.

@I subsequently called Engineering on the 6 and 13 September to confirm Council’s intention and the possible connection of Araluen Heights. Discussions with the Water and Sewerage Manager indicated that this was the case and that the maintenance and operation of one major pump station, rather than three (one is existing within Heights Drive) smaller stations was preferred by Council. @I was also advised that the upfront payment of Sewerage Headworks (as offered to Gympie Developments) would fund construction costs and be of assistance to Council. The pump station at Gum Tree Road would also negate the need to construct the small, internal pump station within Araluen Heights as well.

This approach was seen as cost effective for both parties (Council and @I) and was agreed. A letter confirming discussions was forwarded at Council’s request on 10 October 2008 and a second with more detail on the 27 November 2007. The second letter included a check for the upfront payment of sewerage headworks. This correspondence occurred prior to the completion of works at Araluen Heights.

@I has subsequently received correspondence (the latest being 1 February 2008) from Council advising that previous discussions are not correct and that external works and bring forward out of sequence costs are also due. These additional costs are significant and total $76,981.

These additional costs are considered unreasonable and inconsistent with previous discussions and offers to other developers within the catchment. Both the pump station and trunk sewer are identified in the Headworks Policy, a document which is used to calculate headworks charges. @I believes that Council may inadvertently be charging twice for this infrastructure and has provided independent advice (attached) from Martoo Consulting to that effect. Council has also recently drawn (24 July 2008) on the cheque provided in November 2007 which was offered on substantially different terms.
The pump station at Gum Tree Road and associated trunk sewer are now complete and prior to the endorsement of Stage 2. It is therefore indicated that external work and bring forward costs are not payable by @1 and prior to the endorsement of Stage 2.

Payment of charges/fees prior to endorsement.

Clarification of the charges/fees due for the partial endorsement of Stage 2 was received from the Director of Planning on Thursday 21 August. Thank you for this prompt response. It is proposed that the remainder of these costs (with the exclusion of external and bring forward costs) be paid upon confirmation that all engineering matters are resolved and that endorsement is conditional upon the payment of charges/fees only.

Confirmation of Overland Flow Paths (Q50 events) between Heights Drive and Skyline Terrace

Council Engineering Department has previously advised (2004) of an overland flow issue from Heights Drive, with the roads sag point distant to a designated overland flow path. This situation results in the stormwater from large storm events dispersing over a wider area and is not in accordance with recognised design guidelines. Legally, this situation is not the responsibility of @1 to minimise or mitigate and has the potential to disadvantage @1.

Regardless of responsibility, @1 has worked closely with Engineering and attempted, at no cost to Council to mitigate the existing situation. This includes the development of a detailed Stormwater Drainage Report by an RPEQ and the integration of additional and oversized infrastructure. This process has occurred over a period of 3 years and is unfortunately continuing.

Engineering has now advised that constructed works are not in accordance with approved drawings and that further works are required. Discussions indicated that this relates to a small length of a general cross section (CH104 metres) in the Approved Plan 0508-5. This cross section shows a constant fall along its entire length (towards Skyline Terrace) and not a small sag in one area as indicated in the Approved Plan 0508-E. This small sag (within Araluen Heights) is to contain the overland flow from Heights Drive and specifically includes an inlet gully pit for collection and distribution to oversized stormwater pipes.

@1 believes Engineering’s assessment is not consistent with previous discussions and the intent of Approved Plans. Additional assessment has again been undertaken and at Councils’ request. Further measures (effectively a table drain) to accommodate overland flow from Height Drive have been recommended and consistent with those originally recommended (by @1) in 2005. This table drain runs along the perimeter of proposed Lots 30-32 (and in their existing configuration) and into Skyline Terrace. It is therefore requested that Council approve this table drain and finalise the requirements for the
residual lots of Stage 2. It would be appreciated if this could occur within 14 days of receipt of this letter.

@1 has attempted to be understanding of the demands on Council however the construction of Araluen Heights (Stage 2) has now been complete for almost 8 months. Delays in endorsement are now causing financial hardship of which @1 is unable to sustain. Conditional of the above, the partial endorsement of Stage 2 would therefore be appreciated by Thursday 4 September.”

(b) Stage 2 Araluen Heights – Sewerage Connection

Re: Stage 2 Araluen Heights – Sewerage Connection
From: Martoo Consulting
File: DA13662 Doc ID:919940
Date: 26 August 2008
Letter addressed to the Darren Brighton

“I refer to your request for advice relating to certain Infrastructure considerations for the above development as approved under Negotiated Decision Notice as issued by Cooloola Council and dated 11th October 2005.

The following background is understood to apply when providing this advice:

a) The above development application was lodged when the 1997 Cooloola Planning Scheme and associated local planning policies had force and effect. These approvals were therefore not issued under the current 2005 Cooloola Planning Scheme.

b) The headworks policy for the former Cooloola Shire Council at the time this development application was lodged has limited infrastructure planning documentation and is acknowledged to have limited legal standing. The current 2005 headworks policy had force and effect when the development permit was issued by the former Cooloola Shire Council in May 2005.

c) A condition in the development permit for subdividing Stage 1 in essence provided for the ability for Council to require the applicant to prepare a detailed planning study for water and sewerage infrastructure and to enter into an Infrastructure agreement with Council prior to the issue of the development permit for operational works for Stage 1. The study and agreement could be assumed to be required should headworks infrastructure not be available at that time.

d) The development permit for operational works was issued by Council without requiring you to prepare a planning study or to enter into such an infrastructure agreement with Council. The plans of surveys for Stage 1 of the approved have since been signed and sealed by Council. Council does not currently hold any security for either the preparation of a detailed
planning study for water and sewerage Infrastructure and to enter into an Infrastructure agreement acceptable to Council. There is no other form of agreement with Council between @ininvestments and Council regarding either the preparation of a detailed planning study for water and sewerage infrastructure acceptable to Council and to enter into an infrastructure agreement acceptable to Council.

e) There have been a series of meetings and exchange of letters with Council and reports to Council’s meetings by Councils engineers where the matter was further considered by Council but @ininvestments have not yet entered into any agreement with Council with respect to water or sewerage headworks infrastructure.

f) There was no condition on the development permit for subdividing Stage 2 provided for the ability for Council to require you to prepare a detailed planning study for water and sewerage infrastructure and to enter into an infrastructure agreement with Council.

g) Council’s current Headwork policy identifies that your site is within a headworks area and that a new pump station and certain sewer mains at Gum Tree Road and downstream of Araluen Heights are headworks items.

h) Council has itself acknowledged that the existing pump station in Heights Drive did not have sufficient capacity for approved development and this has been confirmed several times such as in the minutes of Council’s Planning and Development Committee Meeting on 10 May 2005. In these minutes the then Design Department Manager specified – ‘Relocation of the pump station to where shown on the headworks policy is a headworks issue which should be funded by headworks contributions to be paid up front in funds are so required.’

i) The development permit for Operational Works for Stage 2 (DA 13662) was issued by the former Cooloola Shire Council in April 2007. It is noted that in this permit Council approved the installation of an internal pump station within your site as part of your development works.

j) There has been a level of development application activity in close proximity to your site that was possibly not envisaged by the Council when the current 2005 Cooloola planning scheme was prepared. Discussions with parties associated with an approved subdivision in Banks Pocket Road in about mid 2007 indicated that Council was planning to construct the pump station at Gum Tree Road. Council indicated that it would construct the pump station and rising main on receipt of the up-front payment of headworks for that development. An extract of a letter from Council is provided below:-

‘Council will credit the value of trunk infrastructure constructed by the developer to connect to the pump station and the cost of
upgrading of the size of the sewer (where required by Council) against sewerage headworks charges provided the infrastructure was installed to Council’s requirements. Council would construct the pumping station and rising main on receipt of the full headworks charges for the development. This effectively limits the contribution for trunk sewerage infrastructure to a sum equals to sewerage infrastructure charges for the development (including bring forward) costs provided contributions are made for the full instance.

k) I, in a letter to Council dated 27th November 2007, following a series of meetings @1Investments made an offer for an agreement to Council which essentially included the following:

- all sewerage supply headworks for Stage 2 of Araluen Heights DA09659 will be satisfied upon payment of $157,866,
- construction of the internal pump station and associated rising main is not required by @1Investments and
- Council will now satisfy all requirements for the sewering of Stage 2 Araluen Heights DA09659 and at Councils cost.

l) @1Investments subsequently received correspondence (the latest being February 2008) from Council stating that the above agreement was incorrect and that headworks, external works and bring forward out of sequence costs are to be paid. External works were then calculated by Council to be $54,841 based on the number of allotments constructed and bring forward costs of $22,140 based on catchment charges. Further details on Council’s assessment of charges is provided in the minutes of the Works and Services Committee Meeting minutes of 15 January 2008. To date @1Investments has not agreed to either the contribution to external works and bring forward charges.

m) Council is currently constructing a sewerage pump station and extending a 225mm gravity sewer into your land without @1Investments being advised as either the landowner or applicant for the above development approvals. Most sewerage pump stations, 225mm sewer mains and all pressure mains are commonly considered to be headworks items.

n) Council has recently drawn on your cheque for $157,886 possibly when these recent works were being arranged by Council.

Based on the above I consider that a number of matters are relevant including, but by no means limited to the following:

i. Council has finalized all dealings with Stage 1 without Council requiring such a study or agreement to be finalized. It is not known why this occurred however it is acknowledged that, among other things Council had itself undertaken some infrastructure planning in association with your development and when assessing other nearby development.

Gympie Regional Council
applications. Some circumstances had changed such as Council’s decision to increase the diameter of the gravity sewer main that passes through your site to the pump station above that shown in Council’s headworks policy.

ii. Council’s development permit for Stage 2 of the subdivision did not require @1Investments either the preparation of a detailed planning study for water or sewerage Infrastructure acceptable to Council and to enter into an infrastructure agreement acceptable to Council. It is not known on what basis Council is requiring @1Investments to make contributions towards either works external or headworks that are not covered by the relevant development conditions applicable to Stage 2.

iii. Council cannot require the payment of any contributions for headworks for Stage 2 on a development application for operational works or if not provided for in the development permit for either material change of use or reconfiguring a lot for Stage 2, in my opinion.

iv. From the information provided, Council has not fully detailed how it determined contributions for external works or bring-forward costs in its letter dated 1 February 2008. It is critical to establish:

- the nature of such works being referred to;
- when Council has first planned to construct such works before your development was approved and
- Council estimate for such works when it had first planned to construct such works.

v. Council is currently constructing sewerage works through your land without any liaison with yourself as landowner. Local Governments do not normally have any automatic powers of entry to undertake such works. In any regard, Council is also currently constructing sewerage works through land over which @1 Investments is the applicant for development approvals which, in Council’s opinion, require that the applicant to partly fund such works. It may also be relevant that the applicant have not yet accepted Council’s apportioning of costs etc in relation to such works. It may therefore be difficult for Council to seek retrospective contributions to specific works which have already been undertaken without appropriate procedures being followed.

vi. These recent works involve a new 225mm sewer main and a pump station which may be considered to be headworks items and not works external. Consequently it is suggested that Council should be requested to identify the scope and nature of works external quoted in its letter of 1 February 2008 and details of its costing of $54,481.

vii. Council has drawn on your cheque for $157,866 at or about the time that these recent works in and near your land were being organised by
Council and after Council has essentially advised that it was not accepting your offer which attached this cheque.

viii. There are other significant developments approved/proposed on land surrounding your site since your development approval for stages 1 and 2 was first issued by Council. The subsequent approvals appear to reference part of the works required in Council’s opinion to service your development however it is not known what, if any, agreements have been entered into by Council in relation to headworks or works external with these applicant/s.

ix. There would appear to be the potential for certain works to be funded by several parties and as such it is suggested that council be requested to fully itemise the scope and nature of works and the details of those costings as recommended above.

Please be aware that this advice has been provided from a town planning perspective only, albeit with the benefit of considerable experience and dealings with a number of local governments and with an interest in infrastructure as it relates to development assessment. Notwithstanding this it is stressed that the above certainly raise a number of complex legal matters and it strongly suggested that you seek the services of a legal advisor that specialised in planning and development law. Such a legal advisor may also seek expert advice from a suitably experienced consulting civil engineer.

You are welcome to contact our Sunshine Coast office if you wish to discuss this advice further."

Report: (General Manager Water & Sewerage – I Schiefelbein)

In response to an email from Darren Brighton dated 1 September 2008 with attached letter from Darren Brighton to the Mayor dated 28 August 2008 and attached report from Martoo Consulting dated 26 August 2008 an investigation has been undertaken with respect to the sewerage infrastructure charges. The following comments are made:

1. Council made an offer to Darren Brighton at a meeting in November 2006 to remove the requirement to construct a pump station and rising main from the development approval. At that stage the pump station and rising main would have had to be funded by Darren Brighton as they were temporary works and not part of long term infrastructure. Infrastructure charges would be additional to these costs.

2. On 14 November 2006 Darren Brighton made an offer to design and construct an external sewer in lieu of headworks contributions. An estimate was provided pricing this work at $112,440.00. This was less than standard infrastructure charges and no external work.
The consultants estimate for the pump station and rising main was $120,000.00. It should be noted that if a pump station were required then a site would need to have been provided together with an easement for the rising main. This would also have the potential to reduce allotment sizes and/or valuations of some properties.

3. A report was prepared and submitted to Council’s Works and Services Committee Meeting on 5 December 2006. The report noted that the cost provided for the rising main and pump station was at the lower end of expectations and that the cost was more likely to be nearer $145,000.00. Options for alternative pump station sites were investigated.

The meeting resolved that:

_Council advise Mr Brighton that they would provide a sewer connection to the subdivision and satisfy operational works requirements for sewerage on receipt of a contribution of $145,000.00 (GST exclusive). In addition to this contribution standard infrastructure charges would also be applicable._

_No bring forward costs for out of sequence development for this catchment were applied._

_Council also requested a further report on pump station locations._

4. A letter outlining Council’s determination was sent to Darren Brighton on 12 December 2006.

5. A further report on pump station location was submitted to Council on 16 January 2007. Council adopted the Gum Tree Road site with an estimated project cost of $417,000.00.

6. After considerable delay Darren Brighton again made contact with Council’s officers in September 2007. It should be noted that Gympie Developments Pty Ltd (adjacent subdivision) have not agreed to up front payments of infrastructure charges and bring forward costs as indicated by Darren Brighton.


Council resolved to reduce infrastructure charges as follows, on the basis of Council accepting risk by relying on other developments (adjacent) proceeding and contributing to the sewerage cost. Note that to date no other developments have proceeded.

(a) A contribution of $54,841.00 (excl GST) for external work
(b) Bring forward costs of $22,140.00 (GST not applicable)
(c) Infrastructure charges based on current policy

This determination was relayed to Mr Darren Brighton on 12 February 2008.

Prior to the meeting and in response to Darren Brighton’s letter Council advised Mr Brighton that his understanding of the conversation with Council’s Manager of Water and Sewerage was substantially incorrect. This letter was sent to Mr Darren Brighton on 4 December 2007.

There have been no further discussions with Mr Darren Brighton with respect to sewerage charges since this time and Mr Darren Brighton has not responded to Council’s correspondence.

8. The $76,981.00 indicated is made up of two components:
   a. Bring forward out of sequence charges for the catchment $22,140.00
   b. Contributions for external works $54,841.00

Other developers within the catchment are also being charged bring forward out of sequence charges at the same rate. If upfront charges for this development were applied they would have been required to be paid in full several years ago ie. with Stage 1 and payment in full.

The $54,841.00 is made up of three parts:

(a) Contribution for the 225 dia sewer $5944.00
(b) Contribution for the 300 dia sewer $4730.00
(c) Contributions for the 100mm dia temporary rising main $34,167.00

It should be noted that:

(i) The charges do not include any costs (other than bring forward costs) for the pump station.
(ii) The 225 dia sewer was not included in the headworks policy. The sewer was upgraded to 225 dia to reduce the grade of the pipe and hence depth of excavation.
(iii) The 300 dia sewer was a 225 dia sewer in the headworks policy
(iv) The 100 dia temporary rising main is not included in the headworks policy.
(v) The contributions are only a proportion of the cost of the infrastructure and are based on the number of connections and design capacity.

The cost of a 150mm sewer from the subdivision to the pump station was estimated to cost $57,000.00 (ie higher) than the proportional contribution. Council elected to request a contribution based on design capacity which was a lesser cost.
It should be noted that the $54,841.00 is substantially less than the cost of a temporary pump station and rising main (estimated by the developers’ consultant to be $120,000.00). Council have not charged twice for this infrastructure.

9. The pump station and rising main are not complete. Work has been stopped on the project.

10. A detailed planning study for sewerage was not provided for Stage 1 as these properties were connected by gravity. Council determined system requirements at no cost to the developer.

11. The developer has not entered into an agreement with Council. At this stage the developer could construct an internal pump station and rising main and connect to the existing sewer in Morris Street as required by the development approval.

12. While the 150mm dia sewers downstream at the Araluen Heights development are shown on the headwork drawings they are not included in the infrastructure charges calculation.

13. The Heights Drive Pump Station has sufficient capacity to service that pump station catchment. Its ability to service other areas is limited.

14. The sewer was not extended onto Darren Brighton’s land by Council. This work was done by the developer during construction of the subdivision.

15. Temporary rising mains are not considered headworks items.

16. At this stage there are no agreements in place for other developments that could use the Gum Tree Road system.

SUMMARY

Council has offered Darren Brighton an option to eliminate the development approval requirement to construct an internal sewage pump station and temporary rising main estimated to cost $145,000 on the condition that he contributes $76,981.00 for infrastructure works. This in turn would also eliminate the need for easements within the subdivision and a site for the pump station to be provided.

G20/10/08 Moved: Cr G.L. Engeman Seconded: Cr L.J. Friske

That Council write to Darren Brighton reaffirming Council’s determination of infrastructure costs and advising him that if no agreement is forthcoming then he would need to provide an internal pump station and rising main connecting to the sewer in Morris Street.

Carried
Director of Planning & Development Mr Mike Hartley left the meeting at 9.49am.

**SECTION 12: GENERAL BUSINESS**

**Woodworks Museum**

Cr Perrett raised his concerns regarding the ongoing and protracted discussions with State Government over issues which have not yet been resolved surrounding the closure and handover of Woodworks Museum. Following advice from CEO that Minister Schwarten has been overseas, that no decision would be made in his absence and of his impending return to his office, it was decided to delay further action at this stage in the hope of receiving a response before the next meeting.

**Conservation Partnership Program**

Cr Watt invited clarification regarding the continued public perception and questions regarding the discontinuation of Council’s involvement in the Conservation Partnerships Program. Cr Watt outlined the Council’s previous commitment to the Program, the Budget discussions at the time, BMRG’s offer to GRC to participate in another Program following the Budget deliberations and the confusion within the community because of conflicting accounts of the timelines involved as expressed by BMRG and GRC. Council agreed with the account given by Cr Watt, with Cr Walker adding that MRCCC is now seeking funds to engage in the new Program and GRC has offered in-kind support to MRCCC. It was further noted that GRC takes its environmental responsibilities very seriously through other Programs (Landcare, MRCCC, City Farm etc) and the Noxious Weed and Feral Animal Management Programs within Council.

**Planning Applications - Businesses**

Cr Engeman raised the issue of compliance and enforcement in relation to businesses placing applications with Council, but commencing operation prior to approval or any conditions have been met. Cr Petersen advised that enforcement issues arise due to the lack of staffing and at this stage is complaint driven.
There being no further business the meeting closed at 10.06am.

Confirmed this TWENTY SECOND day of OCTOBER 2008

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CHAIRMAN