



Burdekin Shire Council

MINUTES

ORDINARY COUNCIL MEETING

**HELD AT COUNCIL ADMINISTRATION BUILDING,
145 YOUNG STREET, AYR**

on 14 May 2024

COMMENCING AT 9:00 AM

ORDER OF BUSINESS:

1. ATTENDANCE

Councillor Pierina Dalle Cort, Councillor Michael Detenon, Councillor John Furnell, Councillor Amanda Hall, Councillor Max Musumeci, Councillor Callan Oar, Councillor Fina Vasta

Mr. T. Brennan - Chief Executive Officer
Mr. N. O'Connor - Director Corporate and Community Services
Mr. N. Wellwood - Director of Infrastructure, Planning and Environmental Services
Mr. G. Arboit - Manager Community Services (Part)
Mr. K. Byers - Manager Technical Services (Part)
Ms. L. Govan - Coordinator Environment and Health Projects (Part)
Mrs. K. Olsen - Manager Financial and Administrative Services (Part)
Mrs. K. Galletta - Manager Planning and Development (Part)
Mr. J. Tickle - Manager Water and Waste Water(Part)
Mr. W. Saldumbide - Manager Operations(Part)
Ms. T. Heuir - Project Engineer (Part)

Minutes Clerk - Mrs. S. Iturriaga

2. PRAYER

The meeting prayer was delivered by Malia Ma'u of the Burdekin Uniting Church.

3. DECLARATIONS OF INTEREST

The Mayor called for declarations of interest.

Mayor Dalle Cort advised she had a Declarable Conflict of Interest in relation to Item 6.4.3 Trustee Lease Renewal - Lease C and D in Part of Lot 141 on Crown Plan GS808420 (adjacent 129 Boorman road, Rita Island) - James William Kelly and Annette Marie Kelly as Mrs. Kelly is a life long friend, however Mayor Dalle Cort believes this will not impact the matter and will ask Council for approval to stay in the chambers for discussion and voting on the matter.

Mayor Dalle Cort advised she and Councillor Hall had a Declarable Conflict of Interest in relation to Item 7.3.2 Request to Apply Superseded Planning Scheme for Development (Roadwork, Engineering Works and Excavation and Filling Works Involving a Waterway) Within the Bill Britt Road Reserve, Lot 96 on SP143120 and the Haughton River, Upper Haughton as she had received an email from Mr. Mario Barbagallo outlining their conflict. Mayor Dalle Cort and Councillor Hall will address these concerns and ask Council for approval to stay in the chambers for discussion and voting on the matter.

Mr. Brennan advised he had a Perceived Conflict of Interest in relation to Item 7.3.2 Request to Apply Superseded Planning Scheme for Development (Roadwork, Engineering Works and Excavation and Filling Works Involving a Waterway) Within the Bill Britt Road Reserve, Lot 96 on SP143120 and the Haughton River, Upper Haughton as he is a personal friend of Mr. Mario Barbagallo who owns land adjoining a section of Bill Britt Road. Mr. Brennan advised of his intention to leave the meeting during this discussion.

Mr. Wellwood advised he had a Perceived Conflict of Interest in relation to Item 7.3.2 Request to Apply Superseded Planning Scheme for Development (Roadwork, Engineering Works and Excavation and Filling Works Involving a Waterway) Within the Bill Britt Road Reserve, Lot 96 on SP143120 and the Haughton River, Upper Haughton as he is a personal friend of Mr. Mario Barbagallo who owns land adjoining a section of Bill Britt Road. Mr. Wellwood advised of his intention to leave the meeting during this discussion.

4. MINUTES AND BUSINESS ARISING

4.1. Ordinary Council Meeting Minutes - 23 April 2024

Recommendation

That the minutes of the Ordinary Council Meeting held on 23 April 2024 be received as a true and correct record.

Resolution

Moved Councillor Musumeci, seconded Councillor Furnell that the recommendation be adopted.

CARRIED

4.2 Community Grants Panel Meeting Minutes - Round 4 - 24 April 2024

Executive Summary

This report provides the minutes of the Community Grants Panel Meeting held on 24 April 2024.

Recommendation

Item 1 – Consideration of Grants Applications Round 4 – 2023/2024 Financial Year

No.	Applicant	Recommended Cash Funding	Recommended In-kind Support
1.1	Burdekin Junior Rugby League	\$2,500.00	
1.2	Burdekin Brass Band	\$4,000.00	
1.3	Burdekin Artisan Community Association	\$1,000.00	
1.4	Burdekin Junior Eisteddfod	\$5,000.00	
1.5	Burdekin Netball Association	\$1,200.00	\$400.00
1.6	Rotary Club of Home Hill Inc		\$545.00
1.7	Ayr Pastoral Agricultural & Industrial Association Inc		\$4,725.00
1.8	Rotary Club of Ayr		\$265.00
1.9	Giru Show & School of Arts		\$1,020.50
1.10	Lower Burdekin Ski Club		\$975.00

That:

1. the minutes of the Community Grants Panel Meeting held on 24 April 2024 be noted; and
2. the recommended funding as detailed in the minutes and noted in Items 1.1 - 1.10 be adopted; and
3. it be noted that the remaining cash funds following the 2023/2024 Financial Year after the allocation from Round 4 will be \$10,864.00.

Resolution

Moved Councillor Vasta, seconded Councillor Oar that the recommendation be adopted.

CARRIED

5. EXECUTIVE

5.1. CEO

5.1.1. Council Workshops - April 2024

Executive Summary

During the month of April only one (1) general workshop was conducted due to a heavy program of meetings associated with the delivery of the Councillor induction program and the commencement of budget workshops.

A range of policy and operational issues was discussed by Councillors and staff at the workshop held on 11 April. A summary of the items discussed is outlined in the report.

Recommendation

That the report on the Council workshop held on 11 April 2024 be received and noted.

Resolution

Moved Councillor Detenon, seconded Councillor Furnell that the recommendation be adopted.

CARRIED

5.1.2. Bowen Pipeline Project

Executive Summary

The Bowen Pipeline Company (BPC) recently held a briefing with Councillors and provided a presentation updating the current status of the proposed Bowen Pipeline Project. The company is seeking a letter of support from Council in relation to its application to the State Government for a Ministerial Infrastructure Designation (MID) for the proposed project.

Recommendation

That Council determine if its wishes to provide a letter of 'in principle' support for the Bowen Pipeline Project.

Resolution

Moved Councillor Vasta, seconded Councillor Musumeci that the recommendation be adopted.

Motion Arising

After discussing the recommendation Council determined they would provide a letter of "in principle" support for the Bowen Pipeline Project.

Resolution

Moved Councillor Oar, seconded Councillor Vasta that the motion arising recommendation be adopted.

CARRIED

9.16am - Mrs. Olsen and Mr. Arboit entered the meeting.

5.2. ECONOMIC DEVELOPMENT**6. CORPORATE AND COMMUNITY SERVICES****6.1. CLIENT SERVICES****6.3. FINANCIAL AND ADMINISTRATIVE SERVICES****6.3.1. Adoption of 2024/2025 Revenue Policy****Executive Summary**

Under the *Local Government Act 2009*, Council is required to prepare, and by resolution, adopt a Revenue Policy for each financial year.

The policy identifies the principles Council intends to apply in relation to levying rates and charges, granting concessions for rates and charges, recovering overdue rates and charges and cost-recovery methods.

Recommendation

That Council adopts the attached 2024/2025 Revenue Policy.

Resolution

Moved Councillor Detenon, seconded Councillor Furnell that the recommendation be adopted.

CARRIED

6.3.2. Consideration for Annual Valuation - 2025 Land Valuation Program

Executive Summary

Council has received correspondence from the Valuer-General, Laura Dietrich, seeking Council's view in relation to the revaluation of its Local Government area as part of the 30 June 2025 Land Valuation Program.

Recommendation

That Council responds to the Valuer-General requesting the inclusion of the Burdekin Shire in the 2025 Land Valuation Program.

Resolution

Moved Councillor Oar, seconded Councillor Hall that the recommendation be adopted.

CARRIED

9.21am - Mrs. Olsen left the meeting.

6.2. COMMUNITY DEVELOPMENT

6.2.1. Show Office Relocation to Multi-Purpose Building - Ayr Pastoral, Agricultural and Industrial Association Inc (Ayr Show Society)

Executive Summary

Ayr Show Society has formally written to Council requesting approval to relocate to the administration area of the Multi-Purpose Building.

Burdekin Academy (Gymnastics) has now vacated the Multi-Purpose Building which provides Council the opportunity to consider approval for the Ayr Show Society to occupy the administration area.

Recommendation

That Council approves for the Ayr Show Society to occupy the administration area of the Multi-Purpose Building for the purpose of planning and conducting the Annual Burdekin Show.

That a formal agreement is put in place to outline Council's requirements, establish responsibilities of both parties, provide an equitable and easily administered framework, and protect the safety of users.

Resolution

Moved Councillor Oar, seconded Councillor Furnell that the recommendation be adopted.

CARRIED

9.23am - Mr. Arboit left the meeting.

6.4. GOVERNANCE

6.4.1. Freehold Lease Renewal - Part of Lot 106 on Registered Plan 898777, Ayr Aerodrome (Lease S) - Kevin Frederick Scheuber

Executive Summary

Council approval is requested to enter into a new Freehold Lease as follows:

Lessor:	Burdekin Shire Council
Lessee:	Kevin Frederick Scheuber
Leased Area:	Lease S in Part of Lot 106 on RP898777, Ayr Aerodrome
Term:	Five (5) years, 1 July 2024 – 30 June 2029
Rent:	As per Council's Fees and Charges

Recommendation

That Council agree to enter into a Freehold Lease with Kevin Frederick Scheuber over Part of Lot 106 on Registered Plan 898777, Ayr Aerodrome shown on Attachment 1 as Lease S, for an initial five (5) year term being 1 July 2024 - 30 June 2029.

Resolution

Moved Councillor Oar, seconded Councillor Musumeci that the recommendation be adopted.

CARRIED

6.4.2. Freehold Lease Renewal - Part of Lot 106 on Registered Plan 898777, Ayr Aerodrome (Lease G) - Neil Christopher Hoffensetz

Executive Summary

Council approval is requested to enter into a new Freehold Lease as follows:

Lessor:	Burdekin Shire Council
Lessee:	Neil Christopher Hoffensetz
Leased Area:	Lease G in Part of Lot 106 on RP898777, Ayr Aerodrome
Term:	5 years, 1 July 2024 – 30 June 2029
Rent:	As per Council's Fees and Charges

Recommendation

That Council agree to enter into a Freehold Lease with Neil Christopher Hoffensetz over Part of Lot 106 on Registered Plan 898777, Ayr Aerodrome shown on Attachment 1 as Lease G, for an initial five (5) year term being 1 July 2024 - 30 June 2029.

Resolution

Moved Councillor Furnell, seconded Councillor Vasta that the recommendation be adopted.

CARRIED

Mayor Dalle Cort advised she had a Declarable Conflict of Interest in Item 6.4.3 Trustee Lease Renewal - Lease C and D in Part of Lot 141 on Crown Plan GS808420 (adjacent 129 Boorman road, Rita Island) - James William Kelly and Annette Marie Kelly as Mrs. Kelly is a life long friend. In the Interest of openness and transparency Mayor Dalle Cort confirmed that she will consider agenda item 6.4.3 impartially, with a clear mind and clear conscious. Mayor Dalle Cort asked for Council approval to stay in the chamber for discussion and voting on the matter.

Resolution

Moved Councillor Musumeci, seconded Councillor Furnell that Mayor Dalle Cort can remain in the meeting to participate in discussions and voting on item 6.4.3.

FOR - Councillors Max Musumeci, Micheal Detenon, John Furnell, Amanda Hall, Callan Oar, Fina Vasta.

CARRIED

6.4.3. Trustee Lease Renewal – Lease C and D in Part of Lot 141 on Crown Plan GS808420 (adjacent 129 Boorman Road, Rita Island) – James William Kelly and Annette Marie Kelly

Executive Summary

Council approval is requested to enter into a new Trustee Lease as follows:

Lessor:	Burdekin Shire Council
Lessee:	James William Kelly and Annette Marie Kelly
Leased Area:	Lease C and D in Part of Lot 141 on Crown Plan GS808420 (adjacent 129 Boorman Road, Rita Island)
Term:	Five (5) years, 17 May 2024 – 16 May 2029
Rent:	\$350.15 per annum (including GST) – Annual CPI review.

Recommendation

That Council agree to enter into a Trustee Lease with James William and Annette Kelly over part of Lot 141 on Crown Plan GS808420 (adjacent 129 Boorman Road, Rita Island) shown on Attachment 1 as Lease C and D, for an initial five (5) year term being 17 May 2024 to 16 May 2029.

Resolution

Moved Councillor Hall, seconded Councillor Furnell that the recommendation be adopted.

CARRIED

6.4.4. Surrender of Lease - The State of Queensland (represented by Department of Community Safety) - Lease A on SP250569 (Clare RFB)

Executive Summary

Council approval is requested to consent to the surrender of the following Trustee lease:

Lessor: Burdekin Shire Council
Lessee: The State of Queensland (represented by Department of Community Safety)
now known as Queensland Fire and Emergency Services (QFES)
Leased Area: Lease A on SP250569 on Lot 2 on CP838549
Term: 11 May 2012 to 10 May 2032

Recommendation

That Council agree to the surrender of Trustee Lease A on SP250569 on Lot 2 on CP838549 with The State of Queensland (represented by Department of Community Safety) effective 14 May 2024.

Resolution

Moved Councillor Vasta, seconded Councillor Musumeci that the recommendation be adopted.

CARRIED

6.4.5. Trustee Lease Surrender and Re-issue – Part of Lot 91 on Crown Plan GS980 (Lease A) - Queensland Police Citizens Youth Welfare Association

Executive Summary

Council approval is requested to consent to the surrender and issue of the following Trustee lease:

Lease to be surrendered:

Lessor: Burdekin Shire Council
Lessee: Queensland Police Citizens Youth Welfare Association
Leased Area: Lease A on Part of Lot 91 on Crown Plan GS980
Term: 1 April 2020 to 31 March 2030

New Lease to be issued:

Lessor: Burdekin Shire Council
Lessee: Queensland Police Citizens Youth Welfare Association
Leased Area: Lease A on Part of Lot 91 on Crown Plan GS980
Term: 1 April 2024 to 31 March 2034

Recommendation

That Council agree to the surrender of current Trustee Lease A on Part of Lot 91 on Crown Plan GS980 (building site and car park) as shown on Attachment 1 and issue of a new Trustee Lease A on Part of Lot 91 on Crown Plan GS980 (building site only, excluding car park) as shown on Attachment 2 with Queensland Police Citizens Youth Welfare Association (PCYC) for an initial ten (10) year term being 1 April 2024 to 31 March 2034.

Resolution

Moved Councillor Furnell, seconded Councillor Detenon that the recommendation be adopted.

CARRIED

6.4.6. Trustee Lease Surrender – Part of Lot 91 on Crown Plan GS980 (Lease P) - Burdekin Touch Association Incorporated

Executive Summary

Council approval is requested to consent to the surrender to the following Trustee lease:

Lessor:	Burdekin Shire Council
Lessee:	Burdekin Touch Association Incorporated
Leased Area:	Lease P on Part of Lot 91 on Crown Plan GS980
Term:	1 October 2017 to 6 April 2025

Recommendation

That Council agree to the surrender of current Trustee Lease on Part of Lot 91 on Crown Plan GS980 shown as Lease P on Attachment 1 with Burdekin Touch Association Incorporated (BTA) effective 6 December 2023.

Resolution

Moved Councillor Furnell, seconded Councillor Vasta that the recommendation be adopted.

CARRIED

9.32am - Ms. Govan entered the meeting.

7. INFRASTRUCTURE, PLANNING AND ENVIRONMENTAL SERVICES

7.1. ENVIRONMENTAL AND HEALTH SERVICES

7.1.1. Acceptance of Tender - TBSC/23/027 - Provide Animal Pound Services

Executive Summary

Councils' current agreement for provision of animal pound services expires on 30 April 2024. Tenders were called and one (1) tender was received.

Recommendation

That Council:

1. awards TBSC/23/027 – Provision of Animal Pound Services to Robert and Jessica Lowing, trading as Foxtail Park Boarding Kennels and Cattery for the base rate price of \$79,000.00 excluding GST.
2. delegates authority under s257(1)(b) of the Local Government Act 2009 to the Chief Executive Officer to negotiate, finalise and execute any and all matters.

Resolution

Moved Councillor Oar, seconded Councillor Musumeci that the recommendation be adopted.

CARRIED

7.1.2. Extension of Interim Management arrangements - Home Hill Caravan Park and Swimming Pool

Executive Summary

At the meeting on 23 January 2024, Council approved the engagement of Sage Swim Pty Ltd for the interim management of Home Hill Swimming Pool and Caravan Park while Council retendered the contract. No response was received to the tender that closed on 3 April 2024 and Council Officers are now seeking approval to extend the interim management agreement during the re-tendering process that is currently underway.

Recommendation

That Council approves due to "emergent circumstances" (being there is only one (1) supplier available), Sage Swim Pty Ltd to continue as the temporary Manager at the Home Hill Caravan Park and Swimming Pool for a total cost of \$45,000.00 excluding GST based on a maximum period of two (2) months whilst the formal tender process is completed and new management is appointed.

Resolution

Moved Councillor Musumeci, seconded Councillor Vasta that the recommendation be adopted.

CARRIED

9.42am - Ms. Galletta entered the meeting.

9.42am - Ms. Govan left the meeting.

7.2. OPERATIONS

7.3. PLANNING AND DEVELOPMENT

7.3.1. Request to apply Superseded Planning Scheme for Development – Reconfiguring a Lot (One (1) Lot into Two (2) lots) on land located at 4225 Ayr Dalbeg Road, Mulgrave (Lot 34 on SP331997)

Executive Summary

Council is in receipt of a request lodged on 23 February 2024 by Milford Planning on behalf of applicant Townsville City Council pursuant to section 29(4)(b) of the Planning Act 2016 that Council agree to apply the superseded planning scheme, being the Integrated Planning Act 1997 Burdekin Shire IPA Planning Scheme 2011 to the carrying out of development (being Reconfiguring a Lot to create two (2) lots and creation of an access easement) as specified in the plan prepared by Stantec, referenced as 300203499-SK-G014 Plan F included as Attachment 2 of the Request.

The Request is not a development application. In this circumstance, it is a process giving a Local Government the discretion to consider the following options:

- (a) As the specified works were code development under the superseded Planning Scheme, meaning if the request was agreed to:
 - i. the proposed development is assessed and conditioned under the Planning Act 2016 and
 - ii. the application is for code assessable development, not impact assessable as required under the current 2022 Burdekin Shire Council Planning Scheme.

Recommendation

After considering the Request and the relevant provisions of the Planning Act 2016, Officers recommend the request by applicant Townsville City Council for Burdekin Shire Council to apply the superseded Integrated Planning Act 1997 Burdekin Shire IPA Planning Scheme 2011 to the proposed development specified in the plan prepared by Stantec, referenced as 300203499-SK-G014, Plan F, included as Attachment 2 of the Request, be agreed to, for the following reasons:

1. The proposed development is assessable development under both the Integrated Planning Act 1997 Burdekin Shire IPA Planning Scheme 2011 (superseded) and the 2022 Burdekin Shire Council Planning Scheme (the current scheme).
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2. On 1 March 2023, the 2022 Burdekin Shire Council Planning Scheme (the current scheme) was gazetted and introduced amongst other matters the need for impact assessment for certain reconfigurations in the Rural Zone i.e. where lots under 30.0ha in area were proposed.
 3. While the current scheme is the most recent expression of the public interest and planning policy for the Burdekin Local Government area, the proposed development is assessable development under both planning schemes, with the key difference being the change to the level of assessment in each scheme i.e. code (superseded) and impact (current) for subdivisions in the Rural Zone that do not achieve the 30.0ha minimum lot size.
 4. Similar benchmarks for assessment apply under both Schemes including Bushfire Hazard.
 5. Assessment of any future subdivision approval under the superseded scheme is considered by officers to be acceptable, given the context of the reasoning for of the subdivision, despite its rural zoning, being:
 - a. Future development on the site is for an infrastructure activity (TCC Haughton Pipeline Project - Pump Station) which has already been approved under separate cover in 2023.
 - b. Site is not currently nor historically used for agricultural activities nor has the ability to be joined with other lots to increase farming capacity.
 - c. Does not create residential natured lots within the Rural zone.
 6. Despite the public's right to lodge a properly submission not being available for code assessable development, any future development permit application and approval given can be appropriately assessed and reasonably conditioned by Council to ensure an appropriate development outcome for the site, in line with anticipated community expectations and a decision made in the best public interest.

Resolution

Moved Councillor Detenon, seconded Councillor Musumeci that the recommendation be adopted.

CARRIED

9.47am Mr. Brennan left the meeting at the commencement of this discussion as he had a Perceived Conflict of Interest in relation to Item 7.3.2 Request to Apply Superseded Planning Scheme for Development (Roadwork, Engineering Works and Excavation and Filling Works Involving a Waterway) Within the Bill Britt Road Reserve, Lot 96 on SP143120 and the Haughton River, Upper Haughton as he is a personal friend of Mr. Mario Barbagallo who owns land adjoining a section of Bill Britt Road.

9.47am Mr. Wellwood left the meeting at the commencement of this discussion as he had a Perceived Conflict of Interest in relation to Item 7.3.2 Request to Apply Superseded Planning Scheme for Development (Roadwork, Engineering Works and Excavation and Filling Works Involving a Waterway) Within the Bill Britt Road Reserve, Lot 96 on SP143120 and the Haughton River, Upper Haughton as he is a personal friend of Mr. Mario Barbagallo who owns land adjoining a section of Bill Britt Road.

Mayor Dalle Cort advised she had a Declarable Conflict of Interest on Item 7.3.2 Request to Apply Superseded Planning Scheme for Development (Roadwork, Engineering Works and Excavation and Filling Works Involving a Waterway) Within the Bill Britt Road Reserve, Lot 96 on SP143120 and the Haughton River, Upper Haughton as she received an email from Mr. Mario Barbagallo regarding this matter in which he suggested that paid advertising placed in a local newspaper by another landowner in the vicinity of Bill Britt Road in the lead up to the 16 March election indirectly supported her Mayoral Campaign. Mayor Dalle Cort confirmed to have had no direct or indirect involvement in the placing of the advertising and as such believed she did not have a Conflict of Interest in the matter. In the interest of openness and transparency Mayor Dalle Cort confirmed that she will consider agenda item 7.3.2 impartially, with a clear mind and clear conscious. Mayor Dalle Cort asked for Council approval to stay in the chamber for discussion and voting on the matter.

Resolution

Moved Councillor Oar, seconded Councillor Hall that Mayor Dalle Cort request is approved and she can remain in the meeting to participate in discussions and voting on item 7.3.2.

FOR - Councillors Max Musumeci, Micheal Detenon, John Furnell, Amanda Hall, Callan Oar, Fina Vasta.

CARRIED

Councillor Hall advised she had a Declarable Conflict of Interest on Item 7.3.2 Request to Apply Superseded Planning Scheme for Development (Roadwork, Engineering Works and Excavation and Filling Works Involving a Waterway) Within the Bill Britt Road Reserve, Lot 96 on SP143120 and the Haughton River, Upper Haughton as within the same email received by the Mayor from Mr. Mario Barbagallo and forwarded to herself. Mr. Barbagallo requested Councillor Hall remove herself from the chambers due to his assertion that she has a conflict of Interest on the matter as her husband, Peter Hall was involved in a historical legal matter some 6-7 years ago with Mr. Barbagallo. Councillor Hall believed she did not have a Conflict of Interest as it has no relevance on this matter. In the interest of openness and transparency, Councillor Hall confirmed that she will consider agenda item 7.3.2 impartially, with a clear mind and clear conscious. Councillor Hall asked for Council approval to stay in the chambers for discussion and voting on the matter.

N.B. Councillor Hall requested a copy of the conversation from Mr. Barbagallo be included in the meeting minutes. This correspondence can found at the end of this item.

Resolution

Moved Councillor Oar, seconded Councillor Detenon that Councillor Hall's request is approved and she can remain in the meeting to participate in discussions and voting on item 7.3.2.

FOR - Councillors Max Musumeci, Micheal Detenon, John Furnell, Pierina Dalle Cort, Callan Oar, Fina Vasta.

CARRIED

7.3.2. Request to Apply Superseded Planning Scheme for Development (Roadwork, Engineering Works and Excavation and Filling Works Involving a Waterway) Within the Bill Britt Road Reserve, Lot 96 on SP143120 and the Haughton River, Upper Haughton

Executive Summary

Council is in receipt of a request lodged on 29 February 2024 by Milford Planning on behalf of Bohle Grazing Pty Ltd pursuant to section 29(4)(b) of the *Planning Act 2016* that Council agree to apply the superseded Planning Scheme, being the *Integrated Planning Act 1997 Burdekin Shire IPA Planning Scheme 2011*, to the carrying out of works specified in Plans prepared by Northern Consulting Engineers, referenced as:

- Project TUR0019/01 Issue P16; Project TUR0019/02 Issue P12; Project TUR0019/03 Issue P15; Project TUR0019/04 Issue P6; Project TUR0019/05 Issue P16; Project TUR0019/06 Issue P3; Project TUR0019/07 Issue P5; Project TUR0019/08 Issue P1; Project TUR0019/A01 Issue P3; Project TUR0019/Q01 Issue P10; TUR0019/Q02 Issue P14; TUR0019/Q03 Issue P2; TUR0019/Q04 Issue P1; TUR0019/SID01 Issue P2; TUR0019/V01 Issue P7; TUR0019/V02 Issue P7; and
- Standard drawings listed in Attachment 1 of the Request.

The Request is not a Development Application, nor a merit assessment giving any approval to the works themselves as being appropriate or safe for a Public Road Reserve.

In this circumstance it is a process that triggers a Local Government to exercise its discretion to consider the following assessment options for the proposed works:

- As the specified works were exempt development under the superseded planning scheme, *if the request was agreed to*:
 - The proposed Works are unable to be assessed or conditioned under the *Planning Act 2016* as they are exempt development without applicable assessment criteria; and
 - No application for assessable development under the current *2022 Burdekin Shire Council Planning Scheme* would be required for the initial works, or any rebuilding, repair or significant maintenance of the initial works, limited to a period of two (2) years, (upon which works may become assessable under any criteria applicable at that time).
- *If the request is not agreed to*, then the works would require code assessment under the current *2022 Burdekin Shire Council Planning Scheme* and, subject to further Council assessment against the standard applicable codes, could be approved, in perpetuity by a binding Development Permit over the land.

The Request process is therefore not a merit assessment of the works, but merely a decision on the process for assessment. As exempt development is not assessed by Council, there is no assessment of the proposed plans undertaken if the request is accepted, or a future assessment will occur in a necessary Development Application if it is not.

In either scenario, further approvals of the State and the Council under the *Local Government Act 2009*, *Local Law No. 1 (Administration) 2012* and its *Subordinate Local Law No. 1.15 (Carrying out Works on a Road or Interfering with a Road or its Operation) 2012*, are required.

Recommendation

After considering the Request, and the relevant provisions of the *Planning Act 2016*, officers recommend the request by Bohle Grazing Pty Ltd for Council to apply the superseded *Integrated Planning Act 1997 Burdekin Shire IPA Planning Scheme 2011* to the proposed works specified in Plans prepared by Northern Consulting Engineers, referenced as:

- Project TUR0019/01 Issue P16; Project TUR0019/02 Issue P12; Project TUR0019/03 Issue P15; Project TUR0019/04 Issue P6; Project TUR0019/05 Issue P16; Project TUR0019/06 Issue P3; Project TUR0019/07 Issue P5; Project TUR0019/08 Issue P1; Project TUR0019/A01 Issue P3; Project TUR0019/Q01 Issue P10; TUR0019/Q02 Issue P14; TUR0019/Q03 Issue P2; TUR0019/Q04 Issue P1; TUR0019/SID01 Issue P2; TUR0019/V01 Issue P7; TUR0019/V02 Issue P7; and
- Standard drawings listed in Attachment 1 of the Request,

to be carried out as exempt development is not agreed to for the following reasons:

1. On 1 March 2023, the *2022 Burdekin Shire Council Planning Scheme* (the current scheme) was gazetted and introduced, amongst other matters, the need for certain civil and engineering works including roadworks, stormwater management works and filling and excavations works involving a watercourse in the Rural Zone to be assessable development.
 2. The current scheme is the most recent expression of the public interest and planning policy for the Burdekin Local Government area.
 3. The superseded planning scheme was made under planning legislation from 1997 (repealed *Integrated Planning Act 1997*) that has been superseded twice since by new legislation (repealed *Sustainable Planning Act 2009* and the current *Planning Act 2016*). It is outdated and not reflective of modern planning criteria for application by Council.
 4. The application of the current Planning Scheme differs to the applicable areas under assessment under *Local Law No. 1 (Administration) 2012* and its *Subordinate Local Law No. 1.15 (Carrying out Works on a Road or Interfering with a Road or its Operation) 2012*.
 5. Agreement to the request would remove assessment of the complete works within the watercourse and Lot 96 under the current Planning Scheme and its applicable codes, as Council's Local Law mechanism may only assess the proposed works and condition safety mitigations in the area of Bill Britt Road Reserve. Such Local Laws are intended to be in addition to, not a replacement of, the planning process and serve different purposes.
 6. It is considered to be the reasonable expectations of the community that Council assess and determine development in accordance with current Planning Scheme Policy, especially for development that affects the use of Council Controlled Road Infrastructure and Public Safety in accordance with the purposes of the *Planning Act 2016*.
 7. To the extent the requested works are within private land (Lot 96 only), future development rights are not unreasonably diminished by the introduction of the *2022 Burdekin Shire Council Planning Scheme*. The proposed works within private land (Lot 96 only), merely facilitate works on State or Local Government owned land that cannot be undertaken without approval and consent of third parties.
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8. Acceptance of a request is final. There is no ability to change the works and with the expiry of the 12 month period under the *Planning Act* for lawful superseded Planning Scheme requests to be made, no new request can be lodged.

9. The process therefore risks futility as the works are neither finally approved by the State or by the Local Government and may be changed by future required assessment processes.

10. Persons seeking to use and/or interfere with a Council managed Road Reserve, including to construct these works will require:

- a prescribed activity permit ('written approval' given under the Local Law) to be in place to ensure there is no breach and/or offence committed under s75 of the *Local Government Act 2009*, where Council has the power as 'road owner' to decide what works it would allow on a road it is responsible for; and
- to be an authorised user pursuant to the Council resolved process to do so in accordance with the formal resolution of Council made on 12 December 2023.

11. The Request is premised on an assumption made by the Applicant that Council has previously assessed the proposed works, which is incorrect, given:

- the works differ to those provided to Council for the application for a prescribed Activity Permit under the *Local Law No. 1 (Administration) 2012* and its *Subordinate Local Law No. 1.15 (Carrying out Works on a Road or Interfering with a Road or its Operation) 2012*, made in 2021, that was the subject of the Appeal,
- previous assessment under the Local Laws was limited to works within the Road Reserve only. Council's jurisdiction is expanded under the current Planning Scheme and current Planning Policy requires Council consideration of the works in their entirety, including within the watercourse and Lot 96.

12. The request contains no justification for why the proposed works should not be assessed under the current Planning Scheme.

13. The request contains requirements from a Traffic Engineer that actions to mitigate public safety risks, would be imposed by conditions.

Without a Development Permit under the current scheme, no conditions can be imposed by Council to achieve this outcome in perpetuity to mitigate public safety risks. (Note: Prescribed activity permits are only binding on an applicant, not the land and are limited to a term).

14. The request was not supported by sufficient expert material to justify the works being assessed efficiently and in the public interest, without a Development Permit process.

Resolution

Moved Councillor Musumeci, seconded Councillor Oar that the recommendation be adopted.

FOR – Nil

AGAINST - Councillors Pierina Delle Cort, Micheal Detenon, John Furnell, Amanda Hall, Max Musumeci, Callan Oar, Fina Vasta

LOST

Reasons for Voting Against Officer Recommendation

The following points were provided as reasons Council voted against the Council Officer's recommendation for refusal of Item 7.3.2 Request to Apply Superseded Planning Scheme for Development (Roadwork, Engineering Works and Excavation and Filling Works Involving a Waterway) Within the Bill Britt Road Reserve, Lot 96 on SP143120 and the Haughton River, Upper Haughton:

- Introduction of a new Planning Scheme may adversely impact a site.
- Planning legislation provides a one (1) year transitional period.
- Burdekin Shire Council's previous Planning Scheme was updated in 2011 and is an adequate framework for decision making.
- All relevant proposed works can still be appropriately assessed, designed and constructed without making the works an "assessable development" under the superseded Planning Scheme.
- All other works proposed outside of Bill Britt Road will:
 - not be accessible to the public,
 - not on Council managed land and
 - assessable by the State (where in the Haughton River).
- All works have already been certified by a Registered Professional Engineer of Queensland as being appropriately designed.
- Supporting this request will limit the exposure to Council of a potential compensation claim that could arise by denying the request.
- It is not in the interest of Council, the public, the land owners or the developer to make the proposed works "assessable".

Motion Arising

That due to the reasons previously noted, Council approves the request Item 7.3.2 Request to Apply Superseded Planning Scheme for Development (Roadwork, Engineering Works and Excavation and Filling Works Involving a Waterway) Within the Bill Britt Road Reserve, Lot 96 on SP143120 and the Haughton River, Upper Haughton.

Resolution

Moved Councillor Furnell, seconded Councillor Detenon that the recommendation be adopted.

CARRIED

From: [REDACTED]
Sent: Sunday, May 12, 2024 4:28 PM
To: Pierina Dalle Cort <[REDACTED]>
Cc: Max Musumeci <[REDACTED]>
Subject: Agenda item 7.3.2 Bill Britt Road

Dear Mayor Pierina Dalle Cort

Firstly, I would like to congratulate yourself and the other councillors for being elected to serve the Burdekin community for the next 4 years.

I have seen in the Agenda, for the upcoming council meeting on Tuesday 14th May, discussion regarding Bill Britt Road, Upper Haughton. This road neighbours my farm and any work on the Haughton River at this location can affect my farm. As you may be aware, this issue has been simmering since 1995, with many and varied proposed amendments to the original subdivision proposal.

The reason that I am writing to you is about conflict of interests. As you know, conflict of interest can be perceived and unintentional or real, but in any case, needs to be dealt with.

During the recent Council elections, one of the landholders from the western side of the Haughton River and a beneficiary of the proposed river crossing, had a very public campaign against the

previous serving Mayor. He asked voters not to vote for her and instead vote for another candidate, which of course was yourself. I am not suggesting that you were in any way involved, or even knew that this was going to happen, but it can lead to a perception of conflict of interest.

I would respectfully ask you to excuse yourself from any discussions regarding this proposed crossing to address any perceived conflict of interest.

I would also request you as Mayor to ask that Councillor Hall remove herself from any matters where I could be involved. There was a lengthy and costly legal matter with a group in which Councillor Hall's husband was involved. The matter was finally won by me in mediation the business day before a proposed court case. Once again, I am not suggesting that Councillor Hall was involved, however perceived conflicts do extend to family members.

Feel free to call me if you require any additional information.

Yours sincerely,

Mario Barbagallo
[REDACTED]

10.05am - Ms. Heuir, Mr. Saldumbide, Mr. Tickle and Mr. Byers entered the meeting.

10.06am - Mrs. Galletta left the meeting.

10.06am - Mr. Brennan and Mr. Wellwood entered the meeting.

7.4. TECHNICAL SERVICES

7.4.1. South Ayr Filtration Plant – Construction of a Filtration Plant Tender Recommendation

Executive Summary

Over the past several months, Council has been tendering for a Principal Contractor to construct Stage 1 of a Filtration Plant within the existing South Ayr Water Treatment Plant on Burke Street, Ayr. This filtration plant is a critical piece of infrastructure that will allow Council to filter and treat water from the South Ayr bores to supplement the supply of clean, potable drinking water to the townships of Ayr, Alva and Brandon.

The Principal Contractor will be responsible for the full construction of the filtration plant to an operable standard as per the design plans developed by GHD in 2022. Through the project, the Principal Contractor will work closely with Council's Project Manager and Council's Engineering Consultant (GHD) to deliver the project.

Through an extensive tendering process, bids were assessed by an evaluation panel and a recommendation for a suitably qualified contractor has been developed for consideration by Council.

This report aims to inform Council of the evaluation panels process and provide a recommendation for the Principal Contractor.

Recommendation

That Council endorses the recommendation to:

1. Award Tallai Project Group Pty Ltd the contract for TBSC/23/037 Construction of a Filtration Plant – South Ayr Water Treatment Plant for the lump sum cost of \$34,487,777.00 excluding GST.
2. Council submits additional funding request to the Queensland State Government for an amount of \$8,000,000.00 excluding GST for the balance of construction costs of the Stage 1 Water Filtration Plant.

Resolution

Moved Councillor Furnell, seconded Councillor Detenon that the recommendation be adopted.

FOR - Councillors Max Musumeci, Michael Detenon, John Furnell

AGAINST - Councillors Pierina Dalle Cort, Amanda Hall, Callan Oar, Fina Vasta

LOST

Recommendation

That the matter lay on the table to allow for further consideration and be included in the next Ordinary Council Meeting 21 May 2024.

Resolution

Moved Councillor Oar, seconded Councillor Vasta that the recommendation be adopted.
FOR - Councillors Pierina Dalle Cort, Amanda Hall, Callan Oar, Fina Vasta

AGAINST - Councillors Max Musumeci, Michael Detenon, John Furnell

CARRIED

10.31am - Mr. Saldumbide, Mr. Tickle and Ms. Heuir left the meeting.

7.4.2. TBSC/24/004 Supply and Delivery of Nine (9) Light Vehicles (SUVs and Utilities)

Executive Summary

The Local Government Regulation Queensland 2012 (Regulation) requires Council to invite written tenders for large sized contractual arrangements for goods and services purchased from a supplier that is expected to exceed \$200,000.00 excluding GST per financial year. Section 232 of the Regulation allows an exception to this requirement if the contract is entered into with a supplier from a register of pre-qualified suppliers.

The purchase of light vehicles for the 2023/2024 year is in this category with quotations called in TBSC/24/004 – Supply and Delivery of nine (9) Light Vehicles (SUVs and Utilities). Two local Pre-qualified Suppliers were selected from Burdekin Shire Council's Register of Pre-qualified Suppliers of Motor Vehicles, Contract No TBSC/23/014 adopted by Council on 28 November 2023.

The quotation closed on Wednesday 1 May 2024 with responses received from the two suppliers consisting of quotations for fifteen (15) light vehicle options. These quotations were assessed using a multi-criteria weighting method.

Recommendation

That Council:

1. Award TBSC/24/004 Supply and Delivery of Nine (9) light vehicles (SUVs and Utilities) pursuant of Register of Prequalified Suppliers – Motor Vehicles Contract No. TBSC/23/014 for a combined value of \$374,207.17 excluding GST in part to two Prequalified Suppliers.

Burdekin Motors Pty Ltd for eight (8) light vehicles to the value of \$335,755.56 that consists of:

- Vehicle 1 - 2024 Isuzu MUX-LSU 4x4 for \$55,062.73
 - Vehicle 3 - 2024 Kia Sportage SX HEV 2WD for \$42,631.82
 - Vehicle 4 - 2024 Isuzu DMAX-SX Single Cab 2WD for \$36,502.73
 - Vehicle 5 - 2024 Isuzu DMAX-SX Dual Cab 2WD for \$42,399.09
 - Vehicle 6 - 2024 Isuzu DMAX-SX Single Cab 2WD for \$36,911.82
 - Vehicle 7 - 2024 Isuzu DMAX-SX Single Cab 2WD for \$37,844.55
 - Vehicle 8 - 2024 Isuzu DMAX-SX Single Cab 2WD for \$37,844.55
 - Vehicle 9 - 2024 Isuzu DMAX-SX Dual Cab 4WD for \$46,558.27
-

Honeycombes Sales and Service Pty Ltd for one (1) light vehicle to the value of \$38,451.61 for

- Vehicle 2 - 2024 Mazda CX5 MAXX SPORT AWD for \$38,451.61.

2. Delegates authority under s257(1)b of the Local Government Act 2009 to the Chief Executive Officer to negotiate, finalise and execute any and all matters related to the execution of Contract TBSC/24/004 Supply and Delivery of Nine (9) light vehicles (SUVs and Utilities).

Resolution

Moved Councillor Detenon, seconded Councillor Vasta that the recommendation be adopted.

CARRIED

10.35am - Mr. Byers left the meeting.

8. NOTICE OF MOTION

9. RECEIPT OF PETITIONS

10. CORRESPONDENCE FOR INFORMATION

Local Government Association of Queensland (LGAQ)

Policy Executive Ballot Letter and Form - District 9 - Northern Queensland - Burdekin - Local Government Association Queensland

Council had previously endorsed the nomination of Hinchinbrook Shire Council Mayor Ramon Jayo as the District 9 representative for the Local Government Association of Queensland Policy Executive. A further nomination has been received for the position and therefore a ballot is required.

Resolution

Moved Councillor Oar, seconded Councillor Furnell that Council support the nomination of Mayor Ramon Jayo for election as the District 9 representative to the LGAQ Policy Executive.

CARRIED

11. GENERAL BUSINESS

11.3 Approved Leave of Absence - Councillor John Furnell

Councillor Furnell requested approval for a leave of absence for the period of 12 July to 28 July 2024.

Resolution

Moved Councillor Detenon, seconded Councillor Musumeci that Councillor Furnell be granted a leave of absence for the period 12 July to 28 July 2024.

CARRIED

12. CLOSED BUSINESS ITEMS

13. DELEGATION

There being no further business the meeting closed at 10.46 am.

These minutes were confirmed by Council at the Ordinary Council Meeting held on 28 May 2024.

MAYOR
