



Ordinary Meeting Minutes

22 February 2022

10.00 am

Council Chambers, Bundaberg

Present:

Cr JM Dempsey (Mayor - Chairman), Cr WR Trevor OAM (Deputy Mayor), Cr JP Bartels, Cr WA Honor, Cr TM McPhee, Cr GR Barnes, Cr TM McLoughlin, Cr VJ Habermann OAM, Cr SA Cooper, Cr MBE Mitchell and Cr JD Learmonth

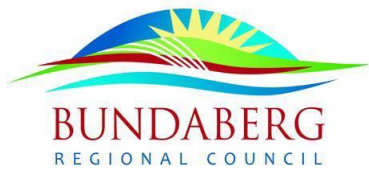
Leave of Absence: Nil

Officers:

Mr SD Johnston, Chief Executive Officer
Mr SJ Randle, General Manager Infrastructure
Mr GJ Steele, General Manager Community & Environment
Mr A Keleher, Acting General Manager Organisational Services
Mr B Artup, Executive Director Strategic Projects and Economic Development
Mr M Ellery, Group Manager Development
Mrs C Large, Chief Legal Officer
Mrs WE Saunders, Executive Services Co-ordinator
Ms B Kao, Executive Assistant/Researcher

Cr JM Dempsey acknowledged the traditional custodian owners of the land and their Elders past, present and emerging.

The Mayor also acknowledged those Australians who have given the ultimate sacrifice in service to our country.



Minutes

22 February 2022

Item Number: B1	File Number:	Part: Minutes
---------------------------	---------------------	-------------------------

Subject:

Confirmation of Minutes

Resolution

Cr JM Dempsey moved:-

That the minutes of the Ordinary Meeting of Council held on 25 January 2022 be taken as read and confirmed.

Seconded by Cr TM McPhee - and carried unanimously.



Minutes

22 February 2022

Item Number:	File Number:	Part:
C1		Councillors

Subject:

Declaration of Conflict of Interest - Cr TM McPhee

Pursuant to section 150EL of the *Local Government Act 2009*, Cr McPhee advised she has a prescribed conflict of interest in item G3 of today's agenda as the directors of the subject company also own a wholesale supply company which have been supplying several of Cr McPhee's businesses over a period of 10 years – and she will therefore leave the meeting while the matter is discussed and voted on.



Minutes

22 February 2022

Item Number:	File Number:	Part:
C2		Councillors

Subject:

Declaration of Conflict of Interest - Cr VJ Habermann OAM

Pursuant to section 150EQ of the *Local Government Act 2009*, Cr Habermann advised he has a declarable conflict of interest in item G2 of today's agenda as he volunteers for Bundaberg Race Club at their race meetings and also donates a trophy every year - but believed he could participate in the decision on the matter in the public's interest and stay in the meeting while the item is discussed and voted on.

Resolution

The remaining eligible Councillors determined that Cr Habermann does not have a conflict of interest in item G2 of today's agenda as there is no conflict between the Councillor's personal interest and the public interest – and therefore can stay and vote on the matter.



Minutes

22 February 2022

Item Number: C3	File Number:	Part: Councillors
---------------------------	---------------------	-----------------------------

Subject:

Declaration of Conflict of Interest - Cr JD Learmonth

Pursuant to section 150EQ of the *Local Government Act 2009*, Cr Learmonth advised he has a declarable conflict of interest in item G3 of today's agenda as the directors of the subject company were business associates of his, ending 8 years ago – but believed he could participate in the decision on the matter in the public's interest and stay in the meeting while the item is discussed and voted on.

Resolution

The remaining eligible Councillors determined that Cr Learmonth does not have a conflict of interest in item G3 of today's agenda as there is no conflict between the Councillor's personal interest and the public interest – and therefore can stay and vote on the matter.



Minutes

22 February 2022

Item Number:	File Number:	Part:
C4		Councillors

Subject:

Declaration of Conflict of Interest - Cr MBE Mitchell

Pursuant to section 150EQ of the *Local Government Act 2009*, Cr Mitchell advised she has a declarable conflict of interest in item G3 of today's agenda as she is a social member of Eastern Suburbs Sports Club - and she will therefore leave the meeting while the matter is discussed and voted on.



Minutes

22 February 2022

Item Number: F1	File Number:	Part: FINANCE
---------------------------	---------------------	-------------------------

Portfolio:

Organisational Services

Subject:

Finance Summary as at 1 February 2022

2876

Resolution

Cr SA Cooper presented the report; and moved:-

That the Financial Summary as at 1 February 2022 be noted by Council.

Seconded by Cr VJ Habermann.

The motion was put - and carried unanimously.



Minutes

22 February 2022

Item Number:

G1

File Number:

Part:

GOVERNANCE

Portfolio:

Organisational Services

Subject:

Audit and Risk Management Committee Minutes

2877

Resolution

Cr SA Cooper presented the report; and moved:-

That the minutes of the Audit and Risk Committee meeting held on 7 October 2021 be received and noted.

Seconded by Cr MBE Mitchell.

The motion was put - and carried unanimously.



Minutes

22 February 2022

Item Number: G2	File Number:	Part: GOVERNANCE
---------------------------	---------------------	----------------------------

Portfolio:

Organisational Services

Subject:

Bundaberg Racecourse - Leases

2878

Resolution

Cr SA Cooper presented the report; and moved:-

That:-

1. Council apply the exception contained in section 236(1)(b)(ii) of the *Local Government Regulation 2012*;
2. The Chief Executive Officer be authorised to enter into a Lease to Bundaberg Greyhound Racing Club Inc and a Lease to Bundaberg Race Club Incorporated for parts of the Bundaberg Racecourse, known as Lot 159 on SP128642 for an initial term of 5 years;
3. Pursuant to section 122(1) of the *Local Government Regulation 2012*, Council grants The Bundaberg Greyhound Racing Club Inc and Bundaberg Race Club Incorporated, 6,000 kilolitres of water per financial year each, free of consumption charges, on the condition that the allowance be provided to one (1) water meter, that the allowance be used only for watering of the Racecourse site and the Club's develop and implement a Water Efficiency Management Plan; and
4. Pursuant to section 122 (1) of the *Local Government Regulation 2012*, Council grants 50% concession on sewerage pedestal charges within the lease area.

Seconded by Cr JP Bartels.

The motion was put - and carried unanimously.



Minutes

22 February 2022

Item Number:

G3

File Number:

Part:

GOVERNANCE

Portfolio:

Organisational Services

Subject:

Sale of part of Native Park - East Bundaberg Developments Pty Ltd as Trustee

Crs McPhee and Mitchell left the meeting, the time being 10.14 am.

2879

Resolution

Cr SA Cooper presented the report; and moved:-

That:

- 1. Council apply the exception contained in section 236(1)(c)(iv) the *Local Government Regulation 2012 (Qld)* to the disposal of a portion of Lot 1 on RP134603 and Lot 14 on RP122951; and**
- 2. the Chief Executive Officer be authorised to enter into a Contract of Sale with the Buyer and attend to all items required to finalise the sale.**

Seconded by Cr VJ Habermann.

The motion was put - and carried unanimously.

Crs McPhee and Mitchell returned to the meeting, the time being 10.17 am.



Minutes

22 February 2022

Item Number:

G4

File Number:

Part:

GOVERNANCE

Portfolio:

Organisational Services

Subject:

Sale of Lot 9 on SP311608, Bundaberg Regional Aviation and Aerospace Precinct

2880

Resolution

Cr SA Cooper presented the report; and moved:-

That:

- 1. Council apply the exception contained in section 236(1)(a)(i) of the *Local Government Regulation 2012 (Qld)* to the disposal of Lot 9 on SP311608; and**
- 2. the Chief Executive Officer be authorised to enter into a Contract of Sale with the Buyer and attend to all items required to finalise the sale of the Lot.**

Seconded by Cr WA Honor.

The motion was put - and carried unanimously.



Minutes

22 February 2022

Item Number: H1	File Number:	Part: INFRASTRUCTURE
---------------------------	---------------------	--------------------------------

Portfolio:

Infrastructure Services

Subject:

Specialised Supplier Arrangement with DormaKaba Australia

2881

Resolution

Cr JM Dempsey presented the report; and moved:-

That:

- a) Council enters into an arrangement with DormaKaba Australia Pty Ltd for the supply of parts and test equipment for Dorma automatic doors without first inviting written quotes pursuant to Section 235(b) of the *Local Government Regulation 2012*; and
- b) this arrangement be made for a period of 3 years.

Seconded by Cr TM McPhee.

The motion was put - and carried unanimously.



Minutes

22 February 2022

Item Number:	File Number:	Part:
L1	522.2021.268.1	DEVELOPMENT ASSESSMENT

Portfolio:

Planning & Development Services

Subject:

1A Kensington Street, Norville - Material Change of Use for Telecommunication Facility

2882

Resolution

Cr JM Dempsey presented the report; and moved:-

That the Development Application 522.2021.268.1 detailed below be decided as follows:

1. Location details

Street address: 1A Kensington Street, Norville

Real property description: Lot 2 on RP96755

Local government area: Bundaberg Regional Council

2. Details of the proposed development

Development Permit for Material Change of Use (Telecommunication Facility)

3. Decision

Decision details: Refused

4. Referral agencies for the application

For an application involving	Name of referral agency	Advice agency or concurrence agency	Address
<p>State-controlled road Schedule 10, Part 9, Division 4, Subdivision 2, Table 4, Item 1 <i>Development application for a material change of use, other than an excluded material change of use, that is assessable development under a local categorising instrument, if all or part of the premises—</i> <i>(a) are within 25 m of a State transport corridor; or</i> <i>(b) are a future State transport corridor; or</i> <i>(c) are—</i> <i>(i) adjacent to a road that intersects with a State-controlled road; and</i> <i>(ii) within 100m of the intersection</i></p>	Department of State Development, Manufacturing, Infrastructure and Planning	Concurrence Agency	State Assessment and Referral Agency (SARA) E: WBBSARA@dilgp.qld.gov.au P: PO Box 979 Bundaberg Qld 4670

5. Details of refusal

The Bundaberg Regional Council was not directed to refuse the application by a referral agency.

6. Reasons for refusal

Under section 63(2)(f)(ii) of the *Planning Act 2016*, the Bundaberg Regional Council must set out reasons for the decision to refuse the application.

The reasons for this refusal are:

1. The proposed development does not comply with the provisions of the Bundaberg Regional Council Planning Scheme 2015, namely:
 - (a) The proposed development does not comply with specific outcome 3.6.2.1(e)(v) & (vi) and specific outcome 3.6.5.1(c)(ii) of the Infrastructure and Services Theme of the Strategic Framework, because:
 - (i) The development is greater than twice the height of any surrounding element of the built environment;
 - (ii) The development is setback as close as 15m to a neighbouring residential activity;
 - (iii) The development locates nearby a thoroughfare (Walker Street) and is a key location in the context of the Norville locality;
 - (iv) As a result of (i)-(iii), the development is not able to integrate in a sustainable and attractive manner, has not been designed to promote high quality urban design outcomes and will unduly impact on the amenity qualities of the area.

- (b) The proposed development does not comply with specific outcome 3.4.2.1(a) of the Economic Development Theme of the Strategic Framework, because:
- (i) The proposed development is for an “other use” in the Neighbourhood centre zone;
 - (ii) The Neighbourhood centre zone is to provide for small-scale convenience shopping that caters for the day-to-day and top-up needs of the immediate residential neighbourhood.
 - (iii) The development does represent a small-scale convenience shopping use;
 - (iv) As a result of (i)-(iii) the proposed development does not reflect or support the preferred pattern of settlement described by the Bundaberg Regional Council Planning Scheme 2015.
- (c) The proposed development does not comply with the purpose of the Neighbourhood centre zone code, because:
- (i) The neighbourhood centre zone is to provide for a small range of land uses and activities that support the basic convenience needs of local neighbourhoods or parts of neighbourhoods;
 - (ii) The proposed development is for Telecommunications facility and does not represent a “basic convenience need”;
 - (iii) The proposed development removes an existing tenancy from the existing supply of commercial tenancies in the locality that are intended to provide for “basic convenience needs”.
- (d) The proposed development does not comply with the overall outcomes of the Neighbourhood centre zone code, because:
- (i) The development is not for a business activity that services the day-to-day needs of the local catchment;
 - (ii) The development comprises an overall height of 22.5 m, is physically distinct as a telecommunication tower and is setback as close as 15 m to neighbouring residential activities;
 - (iii) As a result of (ii), the development does not have a low-rise built form and does not incorporate a high standard of architecture and urban design;
 - (iv) As a result of (ii) & (iii), the development is considered to be incompatible with and is not sympathetic to its local setting and context;
 - (v) As a result of (ii)-(iv), the development will unreasonably impact on the amenity of the surrounding premises.
- (e) The proposed development does not comply with the purpose of the Telecommunications facility code, because:
- (i) The development comprises an overall height of 22.5 m, is physically distinct as a telecommunication tower;
 - (ii) The development is setback as close as 15 m to neighbouring residential activities;
 - (iii) As a result of (i) & (ii), the development does not protect the amenity of the surrounding premises.
- (f) The proposed development does not comply with the overall outcomes of the Telecommunications facility code, because:
- (v) The development is greater than twice the height of any surrounding element of the built environment;

- (vi) The development is setback as close as 15 m to a neighbouring residential activity;
 - (vii) The development locates nearby a thoroughfare (Walker Street) and is a key location in the context of the Norville locality;
 - (viii) As a result of (i)-(iii), the development is not able to visually integrate with its setting and will adversely affect the amenity of surrounding sensitive land uses.
- (g) The proposed development does not comply with the purpose or overall outcomes of the Landscaping code, because:
- (i) The development is not located on a site that provides for opportunities to provide for landscaping in a manner consistent with the desired character and amenity of the Bundaberg Region.

Findings on material questions of fact

- The subject site is located in the Neighbourhood centre zone of the Bundaberg Regional Council Planning Scheme 2015;
- The development application was made for a Material Change of Use for a Telecommunications Facility;
- The subject site is located at 1A Kensington Street, properly described as Lot 2 on RP96755, locates adjacent to Kensington Street and comprises an area of 319 m²;
- Nearby land is predominantly located within the Low density residential zone and improved by residential activities commensurate to the intent of the zone. Nearby land immediately adjacent to the Walker Street and Kensington Street intersection are improved by commercial development for Health Care Services, Shop and Service Station.
- Bundaberg Regional Council, as the statutory Assessment Manager, undertook assessment of the development application against the applicable assessment benchmarks identified by the Local categorising instrument and the *Planning Regulation 2017*.

Evidence or other material on which the findings were based

- The development application;
- The Bundaberg Regional Council Planning Scheme 2015;
- The *Planning Act 2016*;
- The *Planning Regulation 2017*; and
- State Planning Policy 2017.

7. Properly made submissions

Properly made submissions were received from the following principal submitters:

Name of principal submitter	Residential or Business Address	Electronic Address
Kevin Megaw	100 Walker Street, Norville	esldrivingschool@yahoo.com

Deirdre & Chris Barraclough	98 Walker Street, Norville	Erinb04@live.com
Hannah Jonas	96 Walker Street, Norville	Hannah.rose.watson94@hotmail.com.au
Christine Cross	81 walker Street, Bundaberg West	Christinec656@gmail.com
Grant Morgan	98 Walker Street, Norville	redridgenursery@gmail.com
Carol Thompson	79 Walker Street, Norville	Carolthompson91151@gmail.com
Grace Scheuer	15 Glenmorris Street, Norville	-
Kay Thomas	47 Nott Street, Norville	Thomaskay7@gmail.com
Jeff & Leanne Bradley	7 Forsyth Street, Gin Gin	Bradleybunch68@gmail.com
Ross Dunn	27 Brand Street, Norville	rosszen@gmail.com

8. Rights of appeal

The rights of applicants to appeal to a tribunal or the Planning and Environment Court against decisions about a development application are set out in Chapter 6, Part 1 of the *Planning Act 2016*. For particular applications, there may also be a right to make an application for a declaration by a tribunal (see Chapter 6, Part 2 of the *Planning Act 2016*).

Appeal by an applicant

An applicant for a development application may appeal to the Planning and Environment Court against the following:

- the refusal of all or part of the development application
- a provision of the development approval
- the decision to give a preliminary approval when a development permit was applied for
- a deemed refusal of the development application.

The timeframes for starting an appeal in the Planning and Environment Court are set out in Section 229 of the *Planning Act 2016*.

Schedule 1 is an extract from the *Planning Act 2016* that sets down the applicant's appeal rights.

Seconded by Cr VJ Habermann.

The motion was put - and carried unanimously.



Minutes

22 February 2022

Item Number:	File Number:	Part:
O1		COMMUNITY & CULTURAL SERVICES

Portfolio:

Community & Environment

Subject:

Lease Renewal CJ - Bundaberg Regional Airport - Ebbco Qld Pty Ltd

2883

Resolution

Cr SA Cooper presented the report; and moved:-

That:-

- 1. Council apply the exception contained in section 236(1)(c)(iii) of the *Local Government Regulation 2012*; and**
- 2. the Chief Executive Officer be authorised to enter into a Lease to Ebbco Qld Pty Ltd for part of Lot 35 on SP254546 being lease area CJ for an initial term of 5 years with a further 5 year option.**

Seconded by Cr TM McPhee.

The motion was put - and carried unanimously.



Minutes

22 February 2022

Item Number: O2	File Number:	Part: COMMUNITY & CULTURAL SERVICES
---------------------------	---------------------	--------------------------------------------------

Portfolio:

Community & Environment

Subject:

Lease Renewal AG - Bundaberg Regional Airport - Nutbush Operations Pty Ltd

2884

Resolution

Cr SA Cooper presented the report; and moved:-

That:-

- 1. Council apply the exception contained in section 236(1)(c)(iii) of the *Local Government Regulation 2012*; and**
- 2. the Chief Executive Officer be authorised to enter into a Lease to Nutbush Operations Pty Ltd for part of Lot 35 on SP254546 being lease area AG for an initial term of 5 years with a further 5 year option.**

Seconded by Cr VJ Habermann.

The motion was put - and carried unanimously.



Minutes

22 February 2022

Item Number:	File Number:	Part:
O3		COMMUNITY & CULTURAL SERVICES

Portfolio:

Community & Environment

Subject:

Lease Renewal - Lot 7 on SP199514 - The State of Queensland (Winfield Rural Fire Brigade)

2885

Resolution

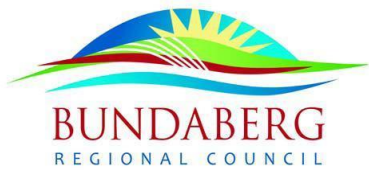
Cr SA Cooper presented the report; and moved:-

That:-

- 1. Council apply the exception contained in section 236(1)(b)(i) of the *Local Government Regulation 2012*; and**
- 2. the Chief Executive Officer be authorised to enter into a lease for a term of 10 year with a 10 year option to The State of Queensland (Represented by Queensland Fire and Emergency Services) for Lot 7 on SP199514.**

Seconded by Cr JP Bartels.

The motion was put - and carried unanimously.



Minutes

22 February 2022

Item Number:	File Number:	Part:
V1		General Business

Subject:

Donation to Tonga Appeal

As the community is aware Tonga was severely impacted by last month's volcanic eruption and tsunami.

Bundaberg has strong ties with this region and our assistance now, at their greatest time of need, will only further strengthen this relationship.

Through community collaboration the Tonga Appeal was launched.

The money raised will go direct to Api Fo'ou Catholic College to be distributed to the community and it won't be tied up and filtered through administration and logistical costs.

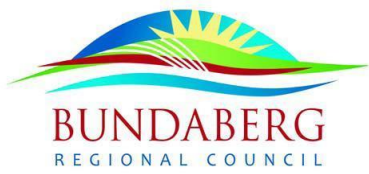
2886

Resolution

Cr JM Dempsey moved:-

That Council endorse a financial donation of \$10,000 to the Tonga Appeal.

Seconded by Cr VJ Habermann - and carried unanimously.



Minutes

22 February 2022

Item Number: V2	File Number:	Part: Meeting Close
---------------------------	---------------------	-------------------------------

Subject:

Meeting Close

There being no further business – the Mayor declared this Ordinary Meeting closed at 10.29 am.

Confirmed on 29 March 2022.

Mayor