



**MINUTES
OF THE
SPECIAL MEETING**

**HELD IN THE BOARDROOM
DOOMADGEE ABORIGINAL SHIRE COUNCIL
275 Sharpe Street
Doomadgee Qld 4830**

**On Friday 28th September 2018
Tuesday 2nd October 2018**

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01. OPENING

Due to not reaching a quorum, after fifteen minutes the Acting Chief Executive Officer adjourned the meeting at 10:15am for fifteen minutes to 10:30am.

The Acting mayor opened the meeting at 10:35am

02. RECORD OF ATTENDANCE

Elected Members

Acting Mayor Jason Ned

Cr Veron Ned

Cr Scharrayne Foster

Staff

Juanita Holden – Acting Chief Executive officer

Garry Jeffries – Director of Engineering

Trudy Mellor – Governance Officer

03. ATTENDANCE BY TELECONFERENCING

Resolution No SM1-09/18

Moved Cr Vernon Ned

Seconded Cr Vernon Ned

That Council in accordance with section 276 of the Local Government Regulation 2012, allows the following person/s to take part in the meeting by teleconferencing:

Cr Scharrayne Foster

Joanne Parisi – MacDonnells Law

Carried

04. APOLOGIES

Nil

05. DISCLOSURE OF INTERESTS

Noted

06. CLOSED SESSION

That Council move into closed session to discuss confidential items as stated in the Local Government Regulation 2012 in Chapter 8 Administration, part 2 local Government meetings and committees, under Sections 275 (1) (a, e and h)

- (a) The appointment, dismissal or discipline of employees; or
- (e) Contracts proposed to be made by it; or
- (h) Other business for which a public discussion would be likely to prejudice the interest of the Local Government or someone else, or enable a person to gain a financial advantage

Resolution No SM2-09/18

Moved Cr Vernon Ned

Seconded Cr Jason Ned

That Council close the meeting to the public at 3:36pm under section 275 Local Government Regulations 2012. Carried

Attendance: Juanita Holden declared a conflict of interest in Agenda Item 6.01 and left the room at 3:38pm for the discussion.

- HR Matter

Attendance: Joanne Parisi – MacDonnells Law ended the teleconference at 4:09pm.

Attendance: Juanita Holden entered the meeting at 4:10pm

Resolution No SM3-09/18

Moved Cr Jason Ned

Seconded Cr Vernon Ned

That Council opening the meeting to the public at 4:10pm, under section 275 Local Government Regulations 2012 for the taking of Resolutions.

Resolution No SM4-09/18

Moved Cr Jason Ned

Seconded Cr Vernon Ned

1. That Council notes the contents of the report (6.01)

2. That the report/attachment be deemed a confidential document and be treated as such, and remain confidential unless Council decide by resolution, pursuant to the provisions of the Local Government Regulation 2012 in Chapter 8 Administration, part 2 Local government meetings and committees, under Sections 275 (1);

(a) the appointment, dismissal or discipline of employees

3. That Council resolve to suspend the current Chief Executive Officer, Mr Lothar Siebert until further notice effective immediately.

4. That Council appoint Juanita Holden as Acting Chief Executive Office until an Interim Chief Executive Officer is appointed. **Carried**

Attendance: Cr Scharrayne Foster left the meeting via teleconference at 4:20pm

Due to loss of a Quorum, the Special Meeting was convened until Tuesday 2nd October at 3:00pm

Resolution No SM4-09/18

Moved Cr Vernon Ned

Seconded Cr Jason Ned

That Council reconvene the meeting until Tuesday 2nd October 2018 at 3:00pm.

Carried

07. REOPENING

The Acting Mayor reopened the meeting at 3:04pm – Tuesday 2nd October 2018

08. RECORD OF ATTENDANCE

Acting Mayor Jason Ned

Cr Veron Ned

Cr Dean Jupiter

Staff

Juanita Holden – Acting Chief Executive officer

Garry Jeffries – Director of Engineering

09. APOLOGIES

Cr Scharrayne Foster

10. DISCLOSURE OF INTERESTS

Noted

11. CLOSED SESSION

That Council move into closed session to discuss confidential items as stated in the Local Government Regulation 2012 in Chapter 8 Administration, part 2 local Government meetings and committees, under Sections 275 (1) (a, e and h)

- (a) The appointment, dismissal or discipline of employees; or
- (e) Contracts proposed to be made by it; or
- (h) Other business for which a public discussion would be likely to prejudice the interest of the Local Government or someone else, or enable a person to gain a financial advantage

Resolution No SM5-09/18

Moved Cr Vernon Ned

Seconded Cr Dean Jupiter

That Council close the meeting to the public at 3:15pm under section 275 Local Government Regulations 2012. Carried

Attendance: Juanita Holden and Garry Jeffries left the meeting at 3:15pm and returned at 3:20pm for the continued discussion of the HR Matter.

Resolution No SM6-09/18

Moved Cr Dean Jupiter

Seconded Cr Vernon Ned

That Council open the meeting to the public at 3:45pm under section 275 Local Government Regulations 2012 for the taking of resolutions. Carried

Resolution No SM7-09/18

Moved Cr Dean Jupiter

Seconded Cr Jason Ned

That Council appoint Juanita Holden as Acting Chief Executive Officer until Friday 12th October 2018. Carried

Resolution No SM8-09/18

Moved Cr Vernon Ned

Seconded Cr Jason Ned

That Council appoint Rod Richardson on subject of availability as the Acting Chief Executive Officer until further notice. Carried

Agenda Reference: 11.01

Title: Contract - AWL

REPORT AUTHOR(S) Garry Jeffries / Juanita Holden

REPORT APPROVED BY Juanita Holden

DEPARTMENT Engineering Services

PURPOSE

Council has entered into the Contract without first undertaking an open tender process.

This likely results in the contract being void as ultra vires, although it is arguable that this is not the case as there is no specific case law addressing this particular legislative provision. In any event, Council has decided not to proceed with the contract and wishes to bring it to an end.

ISSUES/BACKGROUND

Fibreglass components have been shipped, currently in storage in Cairns, incurring costs of \$30 per day.

Contract provides for payment of deposit of 25% (which has been paid) and a further payment of 50% on proof of shipment of fibreglass components.

Contractor claimed \$277,520 plus GST being 50% of the contract price on 23 July. Invoice was issued under the BCIPA. Contractor did not provide proof of shipment until 14 August 2018 therefore payment claim was submitted earlier than the reference date.

Council has provided no reasons for not paying this invoice other than that the Contract is void.

Invoice was resent on 20 August, that is, after the reference date arose. This is consistent with the terms of the contract. No payment terms were in the contract, therefore payment is due 10 business days after the claim was made, that is, by 3 September 2018 (subject to entitlement as contract void and no QBCC license).

If contract is void, then it is unenforceable, meaning the Contractor's claim lies in restitution or quantum merit, which cannot be claimed under the BCIPA.

Putting this aside, Council appears not to have provided a payment schedule in response to this invoice at any stage. Accordingly, subject to the Contractor having no entitlement to utilise the BCPA as the contract is void, the Contractor is entitled to give a notice under Section 20A within 20 business days after the due date for payment, that is, by 1 October 2018.

If the contract were not void, then the Contractor would have been entitled, subject to any basis for non-payment by Council, to payment of \$277,520 plus GST being the 50% milestone payment for shipping of the fibreglass components on 3 September 2018.

Questions for now:

To what payment is the contractor entitled on the basis of restitution/quantum merit?

What is Council prepared to pay?

What terms should we look to negotiate?

Proposed Actions:

- Council to register interest in the slides on PPSR;
- W/O prejudice teleconference with Contractor to outline proposal: - Completed
- Deed of agreement providing that:
- To the extent necessary, the parties agree that the contract is of no force and effect or is at an end;
- Contractor is to be paid \$X. Council proposes that the payment be calculated on the basis of actual costs incurred to date, plus 10% GST;
- Contractor to pay Council \$X in return for taking ownership of slides on settlement;
- Council is to take ownership of the slides on payment.
- Parties release each other from all other claims.

REFERENCE TO CORPORATE PLAN

Goal 1: Key Governance – Financial Management Outcome: To achieve maximum community benefit from available financial resources

CONSULTATION

Consultation has occurred with executive leadership team, Helix Legal and Mead Perry

ATTACHMENTS

Nil

RECOMMENDATIONS

That Council proceed with the original funding project for the Doomadgee Water Park funded under Department of Local Government, Racing and Multicultural Affairs (\$371,628), with Council contribution of \$32,000 and furthermore can have the project completed by June 2019.

That Council resolve to cancel the project with the Department of Local Government, Racing and Multicultural Affairs, refund the 10% deposit paid, furthermore that Council will prepare a fully scoped project, community consultation, receive Council endorsement for project and re apply for funding in the next round.

Resolution No SM7-09/18

Moved Cr Dean Jupiter

Seconded Cr Vernon Ned

That Council proceed with the original funding project for the Doomadgee Water Park funded under Department of Local Government, Racing and Multicultural Affairs (\$371,628), with Council contribution of \$32,000 and furthermore can have the project completed by June 2019. **Carried**

Agenda Reference: 11.02

Title: Staff Accommodation (High Density Townhouse Project)

REPORT AUTHOR(S) Garry Jeffries
REPORT APPROVED BY Juanita Holden
DEPARTMENT Engineering Services

PURPOSE

The purpose of this report is to update council on the abovementioned project and request additional council contribution towards the project.

ISSUES/BACKGROUND

It has been identified that there is a need for Council housing in the Doomadgee community as there is a current shortage and it is difficult to attract and retain skilled staff without quality housing. Doomadgee Aboriginal Shire Council where successful in obtaining \$345,000 worth of funding to construct townhouse units suitable for staff accommodation, under the 2016–17 Local Government Grants and Subsidies Program. The project has ultimately been at a standstill since being approved in November 2016. This has been due to a number of issues:

- Having multiple projects to deliver within a 12-month time period
- Limited number of key staff to manage, coordinate and supervise the delivery of multiple projects (1 person)
- Employee absenteeism
- Difficulty in contracting tradespersons

Council has applied for a total of 3 extensions to the department to retain the funds and complete the works. A submission was prepared last week to the department to extend the works until June 2019.

Another important delay to the project worth mentioning is that the original plans developed (included 2 x 3 Bedroom Houses) did not fit the scope of works required under the funding, therefore plans have now been revised at short notice. The revised plans include 2 x 3 Bedroom and 1 x 1 Bedroom townhouse complex (attached), with shared facilities. The additional 1B dwelling to the complex, although comes at additional cost, addresses the much-needed shortage of staff housing available.

PROJECT COSTINGS

Due to the change in scope of works, the project costings have been revisited and the cost of the revised plans is much higher than originally anticipated.

The funding application has been approved for –

Department provided Funding – \$345,000

Council contribution – \$ 230,000

Total – \$575,000

There are a number of options councils can consider in order to deliver the project in accordance with the funding agreement.

OPTION ONE – CONTINUE WITH CURRENT PLANS (REVISED COSTS) – INCREASE COUNCIL CONTRIBUTION BY \$469,000

The following estimations have been made based on the revised plans – continuing with 2 x 3 Bedroom and 1 x 1 Bedroom Dwelling:

DASC STAFF HOUSING PROJECT - ESTIMATE			
	Area	Rate	Cost
	m2	\$/m2	\$
1st Floor			
2x 3 Bedroom	149.6	\$2,000	\$299,200.00
1x 1 Bedroom	92.7	\$1,500	\$139,050.00
2nd Floor			
2x 3 Bedroom	149.6	\$2,500	\$374,000.00
1x 1 Bedroom	92.7	\$2,500	\$231,750.00
TOTAL			\$ 1,044,000.00

Department provided Funding – \$345,000
 Council contribution – \$ 699,000 (increased by \$469,000)
Total – \$1,044,000.00

The above estimates have ensured that sufficient contingency has been made so that no further requests for funds should be required. While there is more financial impact on council, high density housing is delivered enabling council to increase resources internally and attract suitable candidates.

OPTION TWO – REMOVE 1B DWELLING – INCREASE COUNCIL CONTRIBUTION BY \$469,000

There is an option to reduce costings by removing the additional 1 x bedroom dwelling. Estimations and contributions would be:

DASC STAFF HOUSING PROJECT - ESTIMATE			
	Area	Rate	Cost
	m2	\$/m2	\$
1st Floor			
2x 3 Bedroom	149.6	\$2,000	\$299,200.00
2nd Floor			
2x 3 Bedroom	149.6	\$2,500	\$374,000.00
TOTAL			\$ 673,200.00

Department provided Funding – \$345,000
 Council contribution – \$328,200 (increased by \$98,200)
Total – \$673,200.00

The above estimates have ensured that sufficient contingency has been made so that no further requests for funds should be required. While there is still financial impact on the council budget, it decreases by removing the 1 Bedroom Dwelling, however, it also decreases accommodation available to future staff members.

OPTION THREE – REQUEST TO CANCEL THE PROJECT

Should the financial impact on Council be considered too costly, the project can be cancelled and the funds returned to the department. Council needs to consider the social and economic impact of this decision.

A total of \$ 39,959 has already been spent on the project – soil testing and site preparation. The full amount of funding provided (\$345,000) would need to be returned to the Department if this is council's preferred option.

REFERENCE TO CORPORATE PLAN

Goal 1: Key Governance – Financial Management Outcome: To achieve maximum community benefit from available financial resources

Goal 9: Infrastructure – Development, Maintenance and Replacement Outcome: To Maintain and upgrade essential infrastructure to maximise the utility of existing assets and provide for their long-term improvement and / or replacement

REFERENCE TO OPERATIONAL PLAN

1.2 Effective Grants Management

CONSULTATION

Consultation has occurred with executive leadership team.

ATTACHMENTS

1. Proposed Concept Drawings

RECOMMENDATIONS

That Council resolve to supply additional funding towards the Staff Housing Project and finalise concept drawings to include a further 1 bedroom dwelling.

Resolution No SM7-09/18

Moved Cr Dean Jupiter

Seconded Cr Vernon Ned

That Council proceed with the original funding project for the Doomadgee Water Park funded under Department of Local Government, Racing and Multicultural Affairs (\$371,628), with Council contribution of \$32,000 and furthermore can have the project completed by June 2019. **Carried**

Agenda Reference: 11.03

Title: LGSSP Funding – Facility expansion and functionality Improvement Initiative – Doomadgee Rodeo Facilities

REPORT AUTHOR(S) Garry Jeffries
REPORT APPROVED BY Juanita Holden
DEPARTMENT Engineering Services

PURPOSE

The purpose of this report is to provide council with information regarding 4 x Demountable Buildings purchased under LGGSP funding - *Facility expansion and functionality improvement initiative - Doomadgee Rodeo Amenities.*

ISSUES/BACKGROUND

Doomadgee Aboriginal Shire Council was successful in obtaining \$120,000 in funding for the expansion and functionality improvement initiative at the Doomadgee Rodeo Ground. It was originally proposed to construct a caretaker/visitor accommodation facility, together with the installation of floodlighting over the rodeo ground to provide increased utilisation and attract increased patronage.

Originally, 4 x demountable buildings were purchased for \$36,000 and were to be installed for caretaker's accommodation facility. After further discussion and to address social issues and needs of the community, Councillors and the Executive team have made the decision to construct a robust, secure ablution building for the rodeo grounds.

Council are still in possession of the 4 x demountable buildings and the executive team need some direction as to what do to with the assets. The buildings can still be used to expand/improve the Rodeo Ground facilities,

however, due to the change in scope the purchase amount of \$36,000 cannot be funded under this project, therefore Council will be responsible for the full amount as well as any works involved in installation.

Council can also choose to utilise the buildings for a new or identified community project and source appropriate funding once a scope of works and costings are considered.

REFERENCE TO CORPORATE PLAN

Goal 1: Key Governance – Financial Management Outcome: To achieve maximum community benefit from available financial resources

Goal 9: Infrastructure – Development, Maintenance and Replacement Outcome: To Maintain and upgrade essential infrastructure to maximise the utility of existing assets and provide for their long-term improvement and / or replacement

REFERENCE TO OPERATIONAL PLAN

1.2 Effective Grants Management

CONSULTATION

Consultation has occurred with executive leadership team.

ATTACHMENTS

1. Nil

RECOMMENDATIONS

That Council resolve to utilise the demountable buildings in future works/expansion of the Doomadgee Rodeo Grounds OR provide the executive team with directions so that a scope of works and costings can be produced for Council consideration.

Noted: Garry Jeffries to report back to Council on the options for tender or sale of the assets.

12. CLOSURE OF MEETING

The Meeting closed 3:50pm

Jason Ned
Acting Mayor
Doomadgee Aboriginal Shire Council