

MINUTES

Meeting	50
Date	20 June 2016
Time	1.20 pm
Venue	Cairns Regional Council, Committee Room, Level 3

1. Attendance

Name	Organisation	Name	Organisation
Stuart Moseley	DILGP	Adam Yem	DILGP
Robin Clark	DILGP	Luke Hannan	LGAQ
Carl Ewin	MSC	Brian Millard	MSC
Jenny Elphinstone	DSC	Sarah Cook	CRC
Lauren Stiles	CRC	Deb Wellington	CRC
John Harrision	CSC	Paul Cohen	CRC
Michael Rookwood	CRC	Danny Favier	CRC
Ian Elliott-Smith	CRC	Gary Warner	CRC
Dan Horton	CCRC	Patrick Clifton	TRC
Paul Want	TRC	Peter Boyd	CRC
Kelly Coppin	CRC	Michelle Henderson	CRC
Liz Taylor	Carpentaria Shire, Burke Shire and Croydon Shire	Teresa Schmidt	FNQROC

2. Apologies

Name	Organisation	Name	Organisation
Brett Nancarrow	DILGP	Darlene Irvine	FNQROC
Dean Davidson	TRC		

3. Presentation by Stuart Moseley and Adam Yem

A copy of the presentation will be distributed with the minutes

Key topics of discussion

- The Planning Act 2016 is available now and supporting document is currently under development. The group would like to know when the Interim Development Assessment Rules, Plan Making Guideline and other supporting documents will be available.
- The group would also like to know what other materials the Department is considering ie YouTube videos

ACTION 50.1 - Department to provide a list of supporting documents being prepared. (a list of key documents provided after the meeting – refer attachment to minutes)

- Councils would like to receive feedback on particular issues that they have raised in submissions on the Planning Act.

- Stuart Moseley is happy to provide an opportunity in the workshop scheduled for 4-5 August for DILGP provide feedback on specific items raised in submissions on the Planning Act.
- Stuart Moseley indicated that the Department is intending to provide a summary of how concerns raised in submissions to the Statutory Guidelines have been addressed.

ACTION 50.2 - Councils to provide to FNQROC by 15 July specific issues raised in their submissions to the Planning Act that they would like the Department to comment on at the workshop scheduled in early August.

- Councils raised concerns regarding SPP mapping changes and the responsibility devolved to Local Governments to undergo public consultation on those changes.
- Stuart Moseley acknowledged that there is inconsistency on this issue and improvements need to be made. DILGP currently drafting a scope on mapping improvements and will be seeking feedback from LGAQ.
- Luke Hannan confirmed that DNRM is commencing work on an open data platform.
- Stuart Moseley advised that the public notification toolkit being developed will be used by the Planning Group within the DILGP and would like other State agencies to use it as a resource.
- Stuart Moseley advised that a review of referral triggers and thresholds will occur as part of the Integrated review project. Consultation will occur later this year.
- Planning reform transition funding – three funds (Scheme, DA and Improvement and Innovation).
- Luke Hannan advised that there will be guidelines on applying for the funding
- MALPI amendments in July. Unclear the extent of those changes and requirements on Council to undertake public notification for changes to SPP mapping.

ACTION 50.3 - DILGP to advise what are the extent of the changes to MALPI expected to be released in July .

- Councils raised concerns with excessive referral agency fees in comparison to Council application fees. In particular referral triggers under the Vegetation Management Act.
- Stuart Moseley acknowledged that it is an issue and this will be addressed in the integrated review project later in the year.

ACTION 50.4 - FNQROC to collate examples of applications lodged with Council that have triggered referrals that are considered unnecessary and/or excessive referral fee for level of assessment required.

- A specific query regarding party houses was raised. Adam Yem happy for the Department to follow with a response to the specific question.

ACTION 50.5 – DILGP to provide a response to the specific query regarding party houses (refer attachment 1).

4. Actions

No.	ACTION	OWNER
50.1	DILGP to provide a list of what supporting documents the Department is preparing and estimated time of release	DILGP - Robin Clark <i>Part completed – refer attachment 2</i> <i>Awaiting indication of when instruments will be released</i>
50.2	Councils to provide to FNQROC by 15 July specific issues raised in their submissions to the Planning Act that they would like the Department to comment on at the workshop scheduled in early August.	Councils and FNQROC
50.3	DILGP to advise what are the extent of the changes to MALPI expected to be released in July .	DILGP – Robin Clark <i>Completed – refer attachment 3</i>
50.4	FNQROC to collate examples of applications lodged with Council that have triggered referrals that are considered unnecessary and/or excessive referral fee for level of assessment required.	Councils and FNQROC
50.5	DILGP to provide a response to the specific query regarding party houses (refer attachment 1).	DILGP

Party house being development and level of assessment

The provisions relating to Party houses within SPA define the activity(s755A), establish a process for allowing a planning scheme or TLPI to state that a Material change of use for a party house is assessable development and include criteria for assessing development applications for a MCU for a party house within a planning instrument(s755B). The provisions identify that this can occur despite whether this establishes conflicts with the Standard planning scheme provisions (QPP) (s755B(2)).

S7 of SPA identifies that development is defined as *“Development is any of the following - ... (e) making a material change of use of premises”*.

s231(2) of SPA identifies that *“all development is exempt development unless it is –”* otherwise identified as self-assessable, development requiring compliance assessment, assessable development or prohibited development.

Therefore, being identified within s755B of SPA as being an activity that can be regulated by application for Material change of use (development) and by not being afforded a level of assessment within a Planning Scheme (because a Party House is not an identified under the QPP suite of use definitions) the conclusion drawn is that development for a Party house would be exempt development.

Party house restriction area

S755D(1) identifies that this section only applies if a planning scheme identifies an area as a party house restriction area, the section does not apply if a local planning scheme does not identify a party house restriction area.

This section provides that:

- a development permit or compliance permit for a residential dwelling does not authorise and has never authorised a MCU for a party house to take place as part of a residential dwelling.
- the use of a residential dwelling in the area is not, and never has been, an ordinary consequence of a residential dwelling development permit;
- that if a residential dwelling development is self-assessable or exempt development, the local planning instrument does not authorise, and never has authorised, a material change of use for a party house to be carried out as part of the residential dwelling development.

The provisions clarifying that a residential dwelling development never has been a party house are specific in regard to a local government planning scheme where the local government has a party house restriction area in force, however, these protections to existing residential dwellings do not apply to a local government area where the planning scheme has not declared a party house restriction area. The inference of this is that a party house can occur as a natural and ordinary consequence of a residential dwelling development, where a party house restriction area is not declared.

Furthermore, the references to a party house being ‘natural and ordinary consequence’ of a residential dwelling development is a contradiction to the earlier provisions that identify a party house as a Material Change of Use.

Attachment 2 : List of key documents (received from DILGP 28/6/2016)

Legislation

- [Planning Act 2016](#)
- A snapshot of the *Planning Act 2016*
- [Planning and Environment Court Act 2016](#)
- Fact Sheet - Planning and Environment Court Act 2016
- [Planning \(Consequential\) and Other Legislation Act 2016.](#)
- Fact Sheet - What is the [Planning \(Consequential\) and Other Legislation Amendment Act 2016?](#)

The new system

- The new system – fact sheet
- Infographic on the new system
- Video – A performance based planning system
- Fact Sheet – A performance based planning system
- Key differences between *Sustainable Planning Act 2009* and the *Planning Act 2016*

Plan Making

- Interim Ministers Rules and Guidelines
- Practitioner Information - Ministers Rules and Guidelines
- Video – An overview of the plan making system
- Key differences between *Sustainable Planning Act 2009* and the *Planning Act 2016*
- Fact Sheet – Natural Hazards Planning Arrangements

Development Assessment

- Interim Development Assessment Rules
- Development Assessment Flowcharts
- Key differences between *Sustainable Planning Act 2009* and the *Planning Act 2016*
- Fact Sheet - Assessment Benchmarks
- Fact Sheet – Issuing Exemption Certificates
- Fact Sheet – Statement of Reasons
- Fact Sheet – Categories of assessment
- Fact Sheet – Alternative Assessment Managers
- Video – A new DA process

Dispute Resolution

- Fact Sheet - Planning and Environment Court Act 2016

Attachment 3: Details of MALPI amendment (received from DILGP 29/6/2016)

Details of MALPI amendment which is to update the processes relating to the inclusion of natural hazard mapping in planning schemes:

1. Amending the wording of Section 2.3A.3(h) of MALPI to say that a minor amendment may be made to a planning scheme where a local government is satisfied it will ensure the planning scheme contains the most up-to-date information about the risks to life and/or property by providing for the inclusion of new or amended natural hazard mapping in the scheme and by informing every property owner affected by the new or amended mapping about the meaning of the mapping and how to obtain further advice.

2. Amending the editor's notes in relation to Section 2.4A.1 Step 7 of MALPI to say that, where the local government is seeking to ensure the planning scheme contains the most up-to-date information about the risks to life and/or property by including new or amended natural hazard mapping in a proposed planning scheme, the inclusion of the mapping in the proposed scheme during the processes conducted under Step 7 does not result in the proposed planning scheme being significantly different from the public consultation version of the proposed scheme, provided that every landowner who is affected by the new or amended mapping is informed about the meaning of the mapping and how to obtain further advice.
Amending the editor's notes in relation to Sections 2.3A.3(h) and 2.4A.1 of MALPI to advise local governments that they should inform affected property owners about the meaning of the mapping and how to obtain further advice by either:
 - sending a letter to each affected property owner when the number of affected owners is relatively low (for example, in the hundreds or less)
 - sending a brochure to all property owners in the local government's area (when the number of affected property owners is high, for example, in the thousands or more).

This proposed amendment should take effect in early July 2016 pending the Deputy Premier's approval of the Reg amendment..