



## MINUTES

<b>Meeting No</b>	51
<b>Meeting</b>	Planners Group Meeting
<b>Date</b>	29 July 2016
<b>Time</b>	10am
<b>Venue</b>	Teleconference

The meeting opened at 10:00am.

### 1. Attendance

Name	Organisation
Teresa Schmidt	FNQROC
Sarah Cook	Cairns Regional Council
Lauren Stiles	Cairns Regional Council
Liz Taylor	Carpentaria Shire, Burke Shire and Croydon Shire
Jenny Elphinstone	Douglas Shire Council
Carl Ewin	Mareeba Shire Council
Brian Millard	Mareeba Shire Council
Tracy Haynes	LGAQ
Brett Nancarrow	DILGP

### 2. Apologies

Name	Organisation
Darlene Irvine	FNQROC
Peter Boyd	Cairns Regional Council
Gary Warner	Cairns Regional Council
Kelly Reaston	Cairns Regional Council
Dan Horton	Cassowary Coast Regional Council
John Pettigrew	Cook Shire Council
Patrick Clifton	Tablelands Regional Council
Dean Davidson	Tablelands Regional Council
Paul Want	Tablelands Regional Council
Diana Russell	Torres Strait Regional Council

### 3. Acceptance of previous minutes

Minutes of the previous meetings no. 49 held on 6 May 2016 and meeting no. 50 held on 20 June 2016 adopted with no alterations.

### 4. Actions from Previous Minutes

No.	ACTION	OWNER	COMPLETED
49.1	Write to Robin Clark requesting that she raise in Department review meetings the concerns with the high referral agency application fees.	FNQROC	Refer to action 50.4

No.	ACTION	OWNER	COMPLETED
49.2	Luke Hannan to confirm which Councils in the region are participating in the DA monitoring project.	LGAQ	<i>Completed</i> Luke confirmed CRC and TRC invited. TRC initially deferred
49.3	DILGP to confirm if proposed MyDAS2 can be used by Councils for electronic lodgment of development applications.	DILGP	<i>Completed</i> Response documented in minutes of Meeting No. 50
49.4	Brett Nancarrow to follow up response to TRC for extension to LGIP.	DILGP	<i>Completed</i> response provided to TRC
49.5	Travis Sydes to touch base with individual Council's to develop an understanding of where each Council is at regarding Coastal Hazard Management	FNQROC	<i>Completed</i> ongoing
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</i> – refer attachment 2 of Meeting No. 50. Awaiting indication of when instruments will be released
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	<i>Completed</i> CRC provided three issues which were forwarded to DILGP Refer 7.1
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</i> refer attachment 3 of Meeting No. 50
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	<b>Outstanding to discuss at next meeting</b>
50.5	DILGP to provide a response to the specific query regarding party houses (refer attachment 1 of meeting No. 50).	DILGP	<i>Completed</i> Refer 7.2

## 5. Update from DILGP

### 5.1. Planning Reform

- Working on the planning reform transition process
- Upcoming workshops - 4/5 August. 4 August for wider audience and 5 August for local government only
- New guidance material coming out on the planning reform and new website to be released shortly. Various guidance documents will be distributed at the workshop. Robin previously provided a list of key documents to be developed (refer attachment to 20 June 2016 meeting minutes)
- Brett provided a hard copy of three fact sheets (Statement of reasons, Exemption Certificates, Alternative Assessment Manager) for the Planning Act 2016

**Action 51.1 – FNQROC to distribute a copy of the Planning Act 2016 fact sheets with the minutes.**

5.2. Recent commencement of amendments to Planning Regulations and MALPI

- Amendments to Regulations – commenced 8 July – SARA fee increases
- Regulation change and SDAP version 1.9 commenced 22 July 2016 – most significant change is the inclusion wind farm code and guidelines. Summary of changes available on DILGP website. <http://www.dilgp.qld.gov.au/planning/development-assessment/sdap-changes.html>
- Amended version of MALPI commences 8 July 2016. Amendments relate to natural hazard mapping and notification of property owners. Brett acknowledge that there was a delay notification of the amendment and is raising this issue internally.

5.3. Future commencement of amended Planning Regulations and State Planning Policy

- Amendments to Regulations and SDAP – due to commence mid November – includes amendments to require referral of applications adjoining a heritage place, comprehensive rewrite of SDAP Module 9: Cultural heritage, clarification of fee levels for dam and amendments as a result of Water Regulation 2016.

5.4. Future amendments to Planning Regulations, SPP, SDAP to be open for comment

- Amended regulations will be open for comment - 16 October
- Revised State Planning Policy and SDAP open for comment – October 2016

**6. Update from LGAQ**

*Tracy Haynes from LGAQ provided an update.*

- LGAQ Future Cities Summit 2016 – Looking over the horizon – 2020 vision 18, 19 August 2016 Brisbane – <http://www.lgaq.asn.au/web/guest/future-cities-summit>
- Seeking expressions of interest for LGAQ Advisory Groups – closes 22 August 2016
- Reviewing the subordinate instruments – Interim DA rules and interim Minister’s Guidelines and Rules - LGAQ planning on making submission. Primarily focussing on the Minister’s Guidelines. Comments and feedback from Council to LGAQ welcome – **due 26 August 2016**
- The State has promised a ‘consultation report’ to be available shortly on the *Better Planning for Queensland website*. It is expected to provide an overview of the subordinate planning instruments, submissions on the instruments, and how the identified issues were addressed in the interim Instruments.
- Tracy advised that SEQ Council of Mayors managing the DA systems improvement project (part of the planning reform transition project).

**ACTION: 51.2 FNQROC to contact Scott Smith of SEQ Council of Mayors to get an update on the DA systems improvement project.**

**7. General business**

7.1. Feedback on specific issues raised in CRC submission on Planning Act (action item 50.2)

- CRC provided three specific issues that they sought feedback on from the Department. (Refer attachment 1 for CRC submissions and the summary of response provided by Brett)
- Following on from the responses provided by Brett a number of matters required further clarification. Namely:
  - *What are the limitations on changes which can be made to development approvals under s82 of the Planning Act? (including can it include different types of development and changes to a different defined land use)*
  - *Will submitters for the development application need to be provided a copy of the notice of decision for other changes if they made a submission on the development application but not the change application?*
  - *Will there be further fact sheets or guidance material regarding change applications?*
  - *What else is on 'the list' to be amended in the act and associated instruments documents prior to commencement?*

**ACTION 51.3: DILGP to follow up and provide a response to the following:**

- *What are the limitations on changes which can be made to development approvals under s82 of the Planning Act? (including can it include different types of development and changes to a different defined land use)*
- *Will submitters for the development application need to be provided a copy of the notice of decision for other changes if they made a submission on the development application but not the change application?*
- *Will there be further fact sheets or guidance material regarding change applications?*
- *What else is on 'the list' to be amended in the act and associated instruments documents prior to commencement?*

7.2. DILGP response to Party House query raised by CRC (refer action 50.5 of meeting held on 29 July 2016)

- CRC query attached (refer attached 2)
- CRC advised the reason for raising this issue was primarily concern that their original submissions were not addressed and not particular concerns with their party houses
- In summary if
  - If the planning scheme hasn't defined party house - most planning schemes in the table of assessment identify undefined uses and uses not listed in the table as impact assessable. This will cover newly established party houses.
  - If there are concerns with party houses established previously, it is recommended that a party house restriction area be included in the planning scheme to ensure that retrospective provisions apply.
  - Brett happy to discuss further with CRC

7.3. Engagement with DILGP regional officers on issues raised in Council submissions

- Brett is raising internally concept for the regional office to be involved more in the monitoring of submissions lodged by key stakeholders in the region and particularly to be able to provide feedback to the Councils
- Suggested sending submissions to far North Queensland regional office
- If Councils would like feedback on preparing their submissions or to discuss in detail particular issues raised in their submissions he is happy for Council to contact him directly. He can then also raise particular issues internally in the Department.

#### 7.4. Update from Councils

##### Cairns Regional Council

- Draft LGIP lodged with the Department for first state interest review.

### 8. Matters not discussed at meeting

#### 8.1. Expression of interest for LGAQ Advisory Group – closes 22 August 2016

FNQROC is seeking to ensure there are representatives on each advisory group across our member Councils. It would be appreciated if you could advise FNQROC if you or someone within your Council is intending to nominate for the Planning and Development Advisory Group.

**ACTION 51.4: Advise FNQROC if you are or someone within your Council is intending to nominate for the Planning and Development Advisory Group.**

#### 8.2. FNQROC Strategic Directions

An email was sent to the group on 19 July 2016 seeking your input into a discussion paper to be presented to the FNQROC Board ahead of their Strategic Directions workshop to be held in October.

**ACTION: 51.5: FNQROC to resend the email seeking input from the Planners group on a discussion paper to be presented to the FNQROC Board.**

**ACTION: 51.6: Council planning officers to contact Teresa to discuss any ideas or opportunities for the group.**

#### 8.3. Update on Coast Adapt Toolkit – NCCARF

- Travis Sydes (FNQROC) will be meeting with the CoastAdpat Implementation Group in mid-August.
- He has been able to have a good look around the development version at the Climate Adaptation Conference in July, looks like a good resource. He expects to soon have access to the beta version prior to its release to take people on a guided tour.
- Link to tool page – <https://www.nccarf.edu.au/content/coastal-tool-overview>

- Have also just launched a national practitioner forum - <https://www.nccarf.edu.au/content/coastadapt-online-forum>
- An early release of a series of 10 technical manuals on everything from engineering to community engagement – a great resource, quite comprehensive. This distils a lot of the science from phase one of NCCARF into tech ready manuals for end users. Should be of assistance to anyone developing a CHAS <https://www.nccarf.edu.au/coastadapt/information-manuals>
- In the near future there may be opportunities to trial the toolkit with assistance from the NCCARF team (during the consultation and feedback stage which will go through to end of year) – we will have a workshop scheduled for Cairns sometime within this timeframe. In the lead up Travis hopes to be able to show councils through the toolkit in preparation – contact Travis Sydes if you are interested.
- Useful link to compendium of climate adaptation plans from across Australia - <http://sydney.edu.au/environment-institute/contributors/lisette-collins/>

## 9. Next meeting

Next meeting will be 21 October 2016.

The meeting closed at 11.15am.

*Minutes prepared by FNQROC Office & Project Coordinator, Teresa Schmidt.*

### ACTION ITEM(S) –

No.	ACTION	OWNER	COMPLETED?
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	
51.1	FNQROC to distribute a copy of the Planning Act 2016 fact sheets with the minutes.	FNQROC	<i>Completed – distributed with the minutes</i>
51.2	FNQROC to contact Scott Smith of SEQ Council of Mayors to get an update on the DA systems improvement project.	FNQROC	<i>Completed Scott Smith advised that there is no progress on this matter and awaiting the State to make a decision on the funding</i>
51.3	DILGP to follow up and provide a response to the following: - <i>What are the limitations on changes which can be made to development approvals under s82 of the Planning Act? (including can it include different types of development and changes to a different defined land use)</i>  - <i>Will submitters for the development application need</i>	DILGP	

No.	ACTION	OWNER	COMPLETED?
	<p><i>to be provided a copy of the notice of decision for other changes if they made a submission on the development application but not the change application?</i></p> <p><i>- Will there be further fact sheets or guidance material regarding change applications?</i></p> <p><i>- What else is on 'the list' to be amended in the act and associated instruments documents prior to commencement?</i></p>		
51.4	Advise FNQROC if you are or someone within your Council is intending to nominate for the Planning and Development Advisory Group	Councils	
51.5	FNQROC to resend the email seeking input from the Planners group on a discussion paper to be presented to the FNQROC Board.	FNQROC	<i>Completed</i> Email distributed with the minutes
51.6	Council planning officers to contact Teresa to discuss any ideas or opportunities for the group.	Councils	

## APPENDICES

Attachment 1 – specific issues raised in CRC submission on the Planning Act, including response from DILGP

Exemption certificates

No.	Section reference	Issue	Officer comment	Suggested amendment	Example	Response from Brett Nancarrow (DILGP) – Planners meeting 29 July 2016
49.	Chapter 3, Section 46	The section should include provisions that provide for the imposition of minor conditions on exemption certificates.	Council considers that imposition of some conditions is appropriate to ensure the exempted development is carried out in the way described to obtain the exemption.	Amend to include provisions that provides for the imposition of conditions.	For example, the ability to condition a plan of development that the exemption specifically relates to, or condition for development to be in compliance with facts and circumstances submitted in conjunction with the request for exemption.	Exemption certificates are only intended to be used in limited circumstances and are not applicable for any development which would require the imposition of conditions. If conditions are required, an exemption certificate is not the appropriate tool and development application is required. The explanatory notes for the Bill were clear that there is no provision for exemption certificates to be subject to conditions. Fact sheet on exemption certificates provided.

Further comment:

s46 of the Planning Act provides exemption certificates in certain circumstances, which allows assessable development to occur without the need for a development permit. It is noted that changes have been made to s46 specifically the addition of 4A & 4B that allow for certain matters to be included on the notice. However, the provisions do not provide the opportunity for an exemption certificate to be issued subject conditions. It is foreseeable that an exemption certificate would need to be subject to basic requirements, for example that the proposed development is undertaken in a manner consistent with the minimum standards provided within a planning scheme (e.g. landscaping, access standards, connection to services). As exempt development, these standards would not apply, unless the ability to condition for them is provided. Ultimately the inability to apply basic conditions significantly reduces the likelihood of using these provisions.

Council's submission sought amendments to the provision to allow for appropriate conditions or requirements to be imposed on an exemption certificate.

Power of a referral agency to direct approval

No.	Section reference	Issue	Officer comment	Suggested amendment	Example	Response from Brett Nanarow (DILGP) – Planners meeting 29 July 2016
59.	Chapter 3, Section 56 (1)(b), page 68	The powers of a referral agency should be limited to the extent of their jurisdiction. A referral agency should not be given the power to direct an assessment manager to give an approval for development. The use of “to give any approval...” is misleading.	Given a referral agency has a limited jurisdiction, it is not appropriate that they can direct that an approval be given. This decision should be held only by the assessment manager.	Amend the section accordingly.		While it is understood how this may have been misread, the department is not of the view this section gives a referral agency the power to direct an approval. Referral agency responses are limited by the referral agency jurisdiction. As with other sections of the Act parliamentary counsel’s view has changed on how certain sections should be drafted but this is intended to provide for the same powers as in SPA.

Further comment:

s56 of the Planning Act provides that a referral agency has the power to tell an assessment manager to give ‘any development approval’.

It is not appropriate that a referral agency, whose assessment jurisdiction is limited, be given the power to direct an assessment manager to issue a development approval. A referral agency’s response should be limited to the extent of the agency’s jurisdiction. The SPA provisions are appropriate in this regards in that they limit the agency’s response, within the limits of their jurisdiction, to telling the assessment manager the conditions that must attached, that any approval must be for part only, that the approval must be a preliminary approval only or that a refusal be issued. The SPA provisions do not vest the power to direct an approval with the referral agency.

Council’s submission sought amendments to the provision to limit a referral agency’s powers to their assessment jurisdiction and clarify that a referral agency cannot direct an assessment manager to approve a development application.

Decision notice to submitters where for a changed application

No.	Section reference	Issue	Officer comment	Suggested amendment	Example	Response from Brett Nanarrow (DILGP) – Planners meeting 29 July 2016
69.	Chapter 3, Section 83 (1), page 94	The decision notice should be required to be provided to the same entities / individuals as a decision notice is required to be provided to within section 63.	Despite section 82 providing for public consultation to be undertaken, section 83 does not provide for a copy of the decision notice to be provided to each principal submitter. This should be mandated.	Amend the section accordingly.		The department agrees this is an omission requiring correction. It has been added to the list of matters required to be addressed. Thanked CRC for raising the matter again and apologised it had not been addressed.

Further comment:

s83 of the Planning Act provides, amongst other requirements, the entities that a decision notice for a change application must be issued to. s83 does not provide for a decision notice to be issued to a submitter, despite the relevant sections, relating to change applications, allowing for additional (or initial) public notification to be undertaken in conjunction with a change application (for a change other than a minor change).

This appears to be an oversight. If additional public consultation is required, any submitters should be afforded the right to be notified of a decision and appeal rights.

In the circumstances of a change application other than a minor change, the Planning Act does not limit the extent of changes that can be sought, nor do the provisions provide clarity as to when a new application is required as opposed to when a change application can be sought. There is no reference within the relevant provisions to limitations on the extent of change applications established within a Regulation, nor do the definitions within the Planning Act provide clarity. The relevant provisions, including s78 do not provide that limitations or stipulations on what types of changes can be considered as a change to an application as opposed to when a new application is required. It is possible that a code assessable application could be amended to include new land uses that require impact assessment, the changed application could go through the process established by the Planning Act provisions, draw considerable submissions and yet the submitters are not required to be notified of the decision and are not afforded appeal rights.

Council’s submission sought for the apparent oversight to be rectified.