



Redland
CITY COUNCIL

MINUTES

SPECIAL MEETING

Wednesday 9 November 2011

The Council Chambers

35 Bloomfield Street

CLEVELAND QLD

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1 DECLARATION OF OPENING

The Mayor declared the meeting open at 10.05am.

2 RECORD OF ATTENDANCE AND LEAVE OF ABSENCE

PRESENT

Members:

Cr M Hobson PSM	Mayor
Cr W Boglary	Councillor Division 1
Cr C Ogilvie	Councillor Division 2
Cr D Henry	Councillor Division 3
Cr J Burns	Councillor Division 4
Cr T Bowler	Councillor Division 6
Cr M Elliott	Deputy Mayor & Councillor Division 7
Cr K Williams	Councillor Division 9
Cr H Murray	Councillor Division 10

Executive Leadership Group:

Mr G Stevenson PSM	Chief Executive Officer
Mr N Clarke	General Manager Governance
Mrs T Averay	General Manager Environment, Planning & Development

Minutes:

Mrs E Striplin	Corporate Meetings & Registers Team Officer
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APOLOGIES

Cr B Townsend	Councillor Division 5
Cr K Reimers	Councillor Division 8

3 CONFLICT OF INTEREST

Cr Bowler declared a conflict of interest on Item 4.1 (see Item for details)

Crs Burns, Murray, Elliott, Bowler, Williams, Henry, Ogilvie, Hobson and Boglary declared a conflict of interest in Item 5.1 (see Item for details)

Mr G Stevenson (CEO) declared a conflict of interest on Item 6.1 (see Item for details)

COUNCILLOR ABSENCES DURING MEETING

Cr Boglary left the meeting at 10.56am and returned at 11.01am (during Item 4.1)
Cr Ogilvie left the meeting at 11.12am and returned at 11.16am (during Item 4.1)
Cr Elliott left the meeting at 11.40am and returned at 11.45am (during item 4.1)
Cr Burns left the meeting at 11.55am and returned at 11.57am (during Item 4.1)
Cr Boglary left the meeting at 12.35pm and returned at 12.36pm (during Item 4.1)
Cr Elliott left the meeting at 12.22pm and returned at 12.24pm (during Item 4.1)
Cr Burns left the meeting at 12.33pm and returned at 12.35pm (during Item 4.1)
Cr Ogilvie left the meeting at 3.08pm and returned at 3.14pm (during Item 5.1)
Cr Boglary left the meeting at 3.09pm and returned at 3.11pm (during Item 5.1)
Cr Williams left the meeting at 3.01pm and returned at 3.02pm (during Item 5.1)
Cr Ogilvie left the meeting at 2.15pm and returned at 2.37pm (during Item 5.1)
Cr Boglary left the meeting at 2.17pm and returned at 2.22pm (during Item 5.1)
Cr Henry left the meeting at 2.27pm and returned at 2.28pm (during Item 5.1)
Cr Henry left the meeting at 2.33pm and returned at 2.35pm (during Item 5.1)
Cr Elliott left the meeting at 2.46pm and returned at 3.02pm (during Item 5.1)
Cr Ogilvie left the meeting at 3.58pm and returned at 4.01pm (during Item 6.1)
Cr Elliott left the meeting at 4.07pm (during Item 6.1)

MOTION TO MOVE INTO OPEN FORUM

Moved by: Cr T Bowler
Seconded by: Cr D Henry

That the presentation, by Mr G Hillier, be given in open forum.

CARRIED (unanimously)

PROCEDURAL MOTION

Moved by: Cr W Boglary
Seconded by: Cr K Williams

That a non-member, Mr G Hillier, be allowed to participate in discussion for the purpose of making his presentation.

CARRIED (unanimously)

Cr Bowler declared a conflict of interest or perceived conflict of interest in the following item stating that she offered to assist Mr Hillier with his presentation on his computer as he has vision impairment. Cr Bowler elected to stay in the room and vote in the best interests of the community.

4 PRESENTATION

4.1 MR G HILLIER PRESENTATION AT 10.30AM

MOTION TO ADJOURN MEETING AT 10.43AM

Moved by: Cr C Ogilvie
Seconded by: Cr D Henry

That the meeting be adjourned to allow the Mayor and Deputy Mayor to discuss procedural issues.

CARRIED

MOTION TO RESUME MEETING AT 11.01AM

Moved by: Cr D Henry
Seconded by: Cr M Elliott

That the proceedings of the meeting resume.

CARRIED

It was concluded that Mr Hillier would no longer use his Power Point Presentation as it had names and allegations within; that Mr Hillier was not to refer to any names of any individuals and make allegations that may or may not be founded, due to the interests of other parties, being that the meeting was in Open Forum.

Mr Hillier resumed his presentation at 11.09am with Mr S Baltais reading his notes for him to aid with his vision impairment.

Mr Hillier completed his presentation at 12.56pm.

PROCEDURAL MOTION

Moved by: Cr D Henry
Seconded by: Cr T Bowler

That the meeting resume without further participation by Mr Hillier.

CARRIED (unanimously)

MOTION TO ADJOURN MEEETING AT 1.01PM

Moved by: Cr C Ogilvie

Seconded by: Cr J Burns

That the meeting be adjourned to allow a 10-15 minute break.

CARRIED

MOTION TO RESUME MEETING AT 1.16PM

Moved by: Cr M Elliott

Seconded by: Cr K Williams

That the proceedings of the meeting resume.

CARRIED

The meeting resumed with Crs Hobson, Boglary, Ogilvie, Henry (1.18pm), Burns, Bowler, Elliott, Williams and Murray present.

Cr Burns declared a conflict of interest or perceived conflict of interest in the following item, stating that he was named in the report. Cr Burns elected to stay in the room and vote in the best interests of the Community. Cr Burns voted in the affirmative.

Cr Murray declared a conflict of interest or perceived conflict of interest in the following item, stating that she was named in the report. Cr Murray elected to stay in the room and vote in the best interests of the community. Cr Murray voted in the affirmative.

Cr Elliott declared a conflict of interest or perceived conflict of interest in the following item, stating that he was named in the report and that he was present at the last Council decision process in 2008 and involved in an interview with the complainant. Cr Elliott elected to stay in the room and vote in the best interests of the community. Cr Elliott voted in the affirmative.

Cr Bowler declared a conflict of interest or perceived conflict of interest in the following item, stating that she offered to assist Mr Hillier with his presentation on his computer as he has vision impairment; and that she was present at an interview with the complainant conducted in 2008. Cr Bowler elected to stay in the room and vote in the best interests of the community. Cr Bowler voted in the negative.

Cr Williams declared a conflict of interest or a perceived conflict of interest in the following item, stating that she was named in the report, was present at the last Council decision process, was interviewed by the CEO and had also received allegations by email. Cr Williams elected to stay in the room and vote in the best interests of the community. Cr Williams voted in the affirmative.

Cr Henry declared that she did not believe that she has a conflict of interest but that others might perceive her conflict of interest as she was named in the report and was present at the last Council decision process in 2008. Cr Henry declared also, that it may be perceived by some that she has a conflict of interest as she is a member of the Wildlife Preservation Society, to which Mr S Baltais is secretary of. Cr Henry elected to remain in the room and stated that she would vote in the best interests of the public as she did in 2007. Cr Henry voted in the affirmative.

Cr Ogilvie declared a conflict of interest or perceived conflict of interest in the following item, stating that he was named in the report and was present at the last Council decision process in 2008. Cr Ogilvie elected to stay in the room and vote in the best interests of the community. Cr Ogilvie voted in the affirmative.

Cr Boglary declared a conflict of interest or perceived conflict of interest in the following item, stating that her name was on the report and that Mr S Baltais had attended Art in the Park. Cr Boglary elected to stay in the room and vote in the best interests of the community. Cr Boglary voted in the affirmative.

Cr Hobson declared a conflict of interest or perceived conflict of interest in the following item, stating that she was named in the report, was in attendance at the 2008 meeting and that she had been in receipt of many of the numerous communications from the complainant. Cr Hobson stated that she would vote in the best interests of the community. Cr Hobson voted in the affirmative.

5 OFFICE OF CEO

5.1 COMPLAINTS REGARDING COUNCIL'S HANDLING OF BIOMASS POWER PLANT DEVELOPMENT (GC #601, 602 AND 603)

Datworks Filename: GOV LG Act s.501E Investigation Reports - General Complaints Process

Responsible Officer: Gary Stevenson
Chief Executive Officer

Author: Gary Stevenson
Chief Executive Officer

EXECUTIVE SUMMARY

Formal complaints have been received about Council's handling of MC008414 determined on 20 March 2007. A comprehensive investigation of complaints has been provided to the Complainant who has requested that it be considered by Council, however the matter has not been resolved due to protracted communications with the Complainant.

PURPOSE

Council is requested to consider the Investigation Report Findings and intended actions and to determine the complaint outcome.

BACKGROUND

The Investigation Report was finalised on 12 December 2010. The Report contains comprehensive background information, analysis findings and intended actions. At a Special Meeting on 16 December 2010 Council resolved unanimously as follows:

"That Council resolve to:

1. Invite the Complainant to provide a written response to the Investigation Report at his earliest convenience;
 2. Invite the Complainant to address Councillors;
 3. Advise the Complainant that thereafter Council will determine its position in relation to findings and intended action; and
 4. Deem the Investigation Report not to be confidential and advise the Complainant and other stakeholders."
-

Despite many attempts by the Mayor and Chief Executive Officer to arrange for the Complainant to attend a Council meeting, this has not been achieved.

Council General Complaints Policy and Guidelines (adopted November 2007) entitles the Complainant to seek Council's consideration of the complaints if he/she is not satisfied with the findings and intended action arising from the investigation. The Complainant has exercised this option.

The Complainant continues to submit frequent allegations, complaints and questions. Most of the ongoing communication contains matters that have already been investigated. Nevertheless responding to the extraordinary volume of communication from the Complainant is consuming significant resources.

The statutory complaints process simply requires Council to review the Investigation Report and determine if it supports the findings and intended actions. It is not intended to serve as a protracted negotiation process for a complainant.

At its meeting on 26 October 2011 Council resolved as follows:

1. Conduct a Special Meeting commencing 10.00 am on Wednesday 9 November 2011 for the purpose of determining the complain investigation outcomes; and
2. Invite the Complainant to attend the Special Meeting to present his Submission for up to 45 minutes, as a final opportunity prior to Council determining the complain investigation outcomes.

ISSUES

The entire Investigation Report has been distributed to all Councillors in December 2010 and again in October 2011. It is a comprehensive report which comprises the following:

1. Investigation by independent investigators (Rose/Cronin).
2. Legal Investigation and Advice (McCullough Robertson).
3. Own Investigation by Chief Executive Officer.

The report is presented for Council's determination with particular attention drawn to the findings and intended actions.

A concise summary of the main allegations and findings (extracted from the Investigation Report) is tabulated as follows:

Table 18 Summary of Allegations and Findings

Allegation	Findings
Plans for the development changed substantially after public notification	<p>Partly substantiated.</p> <p>Plans did not change substantially in relation to location, scope, scale, configuration or process. However plans relating to cooling system changed and Plans are Inconsistent regarding combustion mechanism and stack dimensions. Such Inconsistencies are mitigated by notation giving precedence to Stanley & Partners Plans.</p>
Capacity of plant will be significantly increased as a result of changes	<p>Not substantiated.</p> <p>If precedence is given to Stanley & Partners Plans and other Approved documents the capacity of the plant did not change.</p>
Changed plans should have been publicly re-notified	<p>Not substantiated.</p> <p>Changes to cooling system was a result of ongoing refinement of proposal due to concerns of water supply requirements and was not likely to attract further objections.</p>
Proposed use was not correctly classified under Redland Planning Scheme	<p>Not substantiated.</p> <p>Council was required to consider the application as submitted. In any case the development was subject to the highest order of assessment - "<i>impact</i>".</p>
Council officers were subject to undue influence	<p>Not substantiated.</p> <p>There was no evidence of undue influence apart from strong views of support and opposition expressed by some Councillors. An offer by the Applicant to fund an officer's inspection of UK reference site plants was made but appropriately declined.</p>
That Councillors were misled	<p>Not substantiated.</p> <p>There is no evidence of officers misleading Councillors however the Inconsistent detail on Approved Plans A and B was not drawn to Councillors' attention. This has no consequence given the notation on plans giving precedence to the Stanley & Partners</p>

Allegation	Findings
	Plans.
That the Planning and Environment Court was misled	<p>Not substantiated.</p> <p>There is no evidence of officers misleading the Court or any of the parties to the Appeal, however the Inconsistent detail on Approved Plans A and B does not appear to have been reviewed at Appeal. Given this is subject of the EPA's scope of authority and given that there is some evidence of EPA considering alternative combustion mechanism, EPA should be requested to clarify what it approved.</p>
That the Crime and Misconduct Commission was misled	<p>Not substantiated.</p> <p>However the CMC will receive this report and is the most competent and appropriate authority to assess this allegation.</p>
That Council officers covered up	<p>Not substantiated.</p> <p>The allegation is wrongly founded on the expectation that all other allegations are true.</p>
That Council's handling of the Complaints has not been compliant with Council's General Complaints Policy and the Local Government Act 1993	<p>Partly substantiated.</p> <p>Some Complaints were not initially registered and a response was not given to the Complainant in an acceptable timeframe.</p> <p>However this report serves to correct the previous deficiencies albeit belatedly.</p>

The Investigation Report also included some poignant observations as follows:

1.1 Observations

1. Generally Council's development assessment of the Bio-mass Power Plant application was complex and unique in many ways. It was subject to ongoing communication with the Applicant and the EPA to address problems identified by Council (eg water supply requirements for the Cooling System) which resulted in changes to the application at a late stage. The assessment task was made more difficult due to inconsistencies in plans provided by the Applicant (eg configuration on the site).

A more structured approach to the ongoing communications might have resulted in better documentation and might have eliminated the inconsistencies.

2. The departure of a key officer prior to the conclusion of the development assessment introduced further complexity to the administration of the assessment.

However it is evident that some effort was made to achieve continuity by the engagement of the officer to complete the process after his departure.

3. While there was apparently some non-compliance of the Integrated Planning Act 1997 (eg formal notification of changes to the application to Referral Agencies) there is ample evidence to demonstrate that the EPA was fully aware of all changes proposed by the Applicant.
4. The inconsistent Approved Plans A and B (undated, untitled and designer/draftsman not identified) create the prospect for future confusion and mis-interpretation of the development which has actually been approved.

As the inconsistencies relate to the combustion mechanism (kiln and stack) it is clear that the EPA is the authority for this aspect of the Approval.

As such it is considered necessary to eliminate the inconsistency in conjunction with the Applicant and the EPA, and if necessary, the Planning and Environment Court.

5. Allegations of impropriety on the part of Council officers have not been substantiated and have progressively been built up by the Complainant on a flawed foundation that the scale of the development was covertly being increased three-fold.
6. The Complainant has engaged in potentially defamatory communication with a litany of emails to various officers and Councillors and on occasion also to parties external to Council including the media.

It is also noted that the Complainant has on several occasions clearly stated his primary objective – ie to have the development approval rescinded and to stop the development from proceeding.

For example the Complainant's email to the Chief Executive Officer dated 27 September 2010 stated:

"You know well that our position is that the approval must be cancelled and that the method can be a number of methods available to the RCC, we need you to commit the RCC to a path that culminates in that goal."

Despite the Complainant's persistent coercive attempts to influence the outcome of the Investigation, the Chief Executive Officer has maintained an objective and structured approach to ensure that no person (including the Complainant) would compromise the integrity of the Investigation.

7. The Complainant's frustration with the protracted timeframes for dealing with his complaints is acknowledged and his strong dissatisfaction and lack of trust with Council is understandable to some extent.

The Actions Intended (as extracted from the Investigation Report) are as follows:

1. This Report will be presented formally to Council for its general consideration in relation to the Complaint and specifically in relation to the options for Development Approval clarification.
2. The Applicant will be advised of Council's description of the development which has been approved and its interpretation of the inconsistent Approved Plans, and the Applicant will be requested formally to confirm its intentions regarding the combustion mechanism (kiln and stack) and the scale of the development.
3. If the Applicant advises that changes to the combustion mechanism (eg from fluidised bed furnace to rotating kiln or increased dimension of the stack) or to the scale of the development are intended, the EPA (DERM) will be requested to advise whether or not such changes are acceptable under the ERA Permit approved by the Planning and Environment Court.

If the EPA (DERM) advises that the changes are accepted, Council will be requested to formally consider the merit of seeking a declaration from the Planning and Environment Court to give certainty regarding the detail of the approved development.

4. If the Applicant advises that no changes to the combustion system or the scale of the development are intended, Council will be requested to reiterate its interpretation of the detail of the approved development, and advise the Applicant and the EPA accordingly.
5. Council will implement the Primary Investigation Report recommendations (Appendix R page 26):
 - a) That the CEO invites any interested Councillor and the Complainant to an informal meeting with relevant Council officers for the purpose of all attendees gaining a better understanding and appreciation of:
 - i) the processes Council and other parties must follow,
 - ii) how the perceptions of the parties were formed, and
 - iii) available resources, training and other opportunities that might assist in improving knowledge about the processes involved.
 - b) That the CEO makes training in good decision making available for Councillors and relevant Council officers [eg Queensland Ombudsman's Office resources and training course].

- c) That the CEO makes training in the roles and functions of Council as assessment manager under the Sustainable Planning Act 2009 available for Councillors and relevant Council officers [ideally presented by knowledgeable Council officers].
 6. Council will implement the McCullough Robertson Report recommendations (Appendix S page 13):
 - a) In light of the allegation, Council implement some changes to its current development assessment to incorporate SPA process checklists, flowcharts and procedures.
 - b) We agree with the recommendations in the Investigation Report and suggest that Council provide its officers with further training with respect to Council's roles and responsibilities as an assessment manager under SPA, and the procedures it is required to follow in assessing development applications. That might include a review of Council's delegations to ensure that Council officers have power to decide discretionary based decisions (for example, decisions as to whether a change amounts to a 'minor change', or whether a changed development application is required to be re-notified).
 - c) Council should prepare a standard form to be used to notify a referral agency of any changes to a development application, and the effect of those changes on the IDAS process under division 3 of SPA.
 - d) It should also ensure that the issue is properly addressed in the Council officer's assessment reports and in internal documents on the development application files, where there have been changes to the development application during or after the public notification stage in the IDAS process.
 7. The CEO will present this Report to the Complainant and in accordance with Council's General Complaints Policy and Guidelines (adopted November 2007) and the Local Government Act 1993, the Complainant will be invited to confirm that the matter be formally considered by Council.
 8. The CEO will refer a copy of this Report to the Crime and Misconduct Commission (CMC) and seek its direction again as to any aspect it considers relevant, including the allegation that Council officers previously misled the CMC.
 9. The CEO will issue a written apology to the Complainant on behalf of Council for the protracted timeframes in dealing with his complaints.
 10. The CEO will issue a written advice to the Complainant regarding Council's intended future handling of any potentially defamatory communications from him with a clear statement that legal action will be taken by Council if such communication continues.
-

11. All parties to the Appeal and other relevant stakeholders will be advised that the Investigation has concluded and generally in relation to the findings.

It should be noted that the passage of time has seen some of the actions already implemented (at least partially) eg items 5, 6, 7, 8 and 9.

The Complainant does not accept the findings of the Investigation Report and has frequently put forward alternative suggestions. While it is for the Complainant to make his own presentation to Council, the Chief Executive Officer had previously undertaken to present Councillors with the Complainant's proposed motion as follows (as provided by the Complaint to the Chief Executive Officer at a meeting on 19 July 2011):

1. *"That the meeting directs the CEO to notify the Planning and land court that the agreement reached is to be "struck out" from the court records, that the development department manager is to be instructed to return the Biomass application to the "notification stage" and that all parties are to be informed, including the concurrent agencies that the Council has found that the procedures and provisions of the Integrated planning act, the IDAS and Council procedures have been substantially breached in the assessment process and that the information provided by the administration to councillors was defective and used substituted documents that were included contrary to the requirements of the IPA and council procedures, those documents were never available at the "Notification stage" or at any time for the Public or the Councillors to examine, the false and defective recommendations to the Council resulted in the fraudulent approval of the Development application and that vote recorded is reversed.*
2. That the CEO be instructed to advise the CMC and all parties that the letter of the 15th February 2008 called the Rankin/CMC Investigation report was defective in that it contained material that misled the CMC regarding the availability of the "substituted documents" being in accordance with the IPA and Council procedures, and that the letter misled the CMC in that the legal aspect of Minor or not Minor was also incorrect, and that the CMC are to be notified that the possibility arises that the breaches of the IPA and other acts may be gross misconduct by a number of officers that did have knowledge of the breaches of the IPA.
3. That the Council advise all the objectors of the decision to cancel the approval of the Biomass application and to return it to the notification stage. The council is further to reimburse the expenses of the appeal by the residents group in full.
4. That the Administration issue a public statement explaining what action is being taken to prevent a reoccurrence of the substantial defects that have been exposed in the development department and Officers associated with the Biomass application."

The Chief Executive Officer does not support the Complainant's proposed motion and strongly advises Council that such a motion would be ultra vires (ie beyond Council's statutory powers), hence not lawful or achievable.

Councillors are also requested to note that numerous ongoing complaints have been submitted by the Complainant. A separate report is included in this agenda, authorised by the General Manager Governance.

However Council's attention is drawn to the following more recent formal complaints which are considered by the Chief Executive Officer to be adequately addressed by the Investigation Report:

GC562A – June 2010: allegation about flawed handling of 2008 complaint

GC726 – Sep 2011 – restatement of GC601, 602 and 603

GC727 – Sep 2011 – further restatement of allegations made in GC601

RELATIONSHIP TO CORPORATE PLAN

8. Inclusive and ethical governance

Deep engagement, quality leadership at all levels, transparent and accountable democratic processes and a spirit of partnership between the community and Council will enrich residents' participation in local decision making to achieve the community's Redlands 2030 vision and goals.

8.5 Be transparent and consistent in the way we manage the organisation, its risks and obligations and ensure we are delivering against our priorities.

FINANCIAL IMPLICATIONS

There are minor financial implications impacting Council as a result of this report related to administrative implementation of the intended actions.

PLANNING SCHEME IMPLICATIONS

Nil.

CONSULTATION

The Investigation Report outlines the extensive investigation/consultation efforts of the three investigations.

OFFICER'S RECOMMENDATION

It is recommended that Council resolve to:

1. Endorse the findings set out in the Investigation Report;
2. Endorse the intended actions set out in the Investigation Report;
3. Note the observations set out in the Investigation Report; and

4. Determine that formal complaints (GC 562A, 726 and 727) have been adequately addressed by the Investigation Report and that no further action be taken in relation to these complaints.

PROPOSED MOTION

Moved by: Cr T Bowler
Seconded by: Cr M Elliott

That the Council engage an independent solicitor and mechanical engineer, specialising in waste incineration to investigate all the information relating to the application including recent RTI and DERM recommendations for change of licence and legal opinion on Plan A and B and to provide advice on the best options for the Council.

On being put to the vote, the motion was LOST

DIVISION

FOR: Cr Bowler

AGAINST: Crs Burns, Murray, Elliott, Williams, Henry, Boglary, Ogilvie and Hobson

Crs Townsend and Reimers were absent from the meeting.

COUNCIL RESOLUTION

Moved by: Cr D Henry
Seconded by: Cr K Williams

It is recommended that Council resolve to:

1. **Endorse the findings set out in the Investigation Report;**
 2. **Endorse the intended actions (Nos. 1-11) set out in the Investigation Report:**
 1. **This Report will be presented formally to Council for its general consideration in relation to the Complaint and specifically in relation to the options for Development Approval clarification.**
 2. **The Applicant will be advised of Council's description of the development which has been approved and its interpretation of the inconsistent Approved Plans, and the Applicant will be requested formally to confirm its intentions regarding the combustion mechanism (kiln and stack) and the scale of the development.**
 3. **If the Applicant advises that changes to the combustion mechanism (eg from fluidised bed furnace to rotating kiln or increased dimension of the stack) or to the scale of the development are intended, the EPA (DERM) will be requested to advise whether or not such changes are acceptable under the ERA Permit approved by the Planning and Environment Court.**
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If the EPA (DERM) advises that the changes are accepted, Council will be requested to formally consider the merit of seeking a declaration from the Planning and Environment Court to give certainty regarding the detail of the approved development.

4. If the Applicant advises that no changes to the combustion system or the scale of the development are intended, Council will be requested to reiterate its interpretation of the detail of the approved development, and advise the Applicant and the EPA accordingly.
5. Council will implement the Primary Investigation Report recommendations (Appendix R page 26):
 - a) That the CEO invites any interested Councillor and the Complainant to an informal meeting with relevant Council officers for the purpose of all attendees gaining a better understanding and appreciation of:
 - I. the processes Council and other parties must follow,
 - II. how the perceptions of the parties were formed, and
 - III. available resources, training and other opportunities that might assist in improving knowledge about the processes involved.
 - b) That the CEO makes training in good decision making available for Councillors and relevant Council officers [eg Queensland Ombudsman's Office resources and training course].
 - c) That the CEO makes training in the roles and functions of Council as assessment manager under the *Sustainable Planning Act 2009* available for Councillors and relevant Council officers [ideally presented by knowledgeable Council officers].
6. Council will implement the McCullough Robertson Report recommendations (Appendix S page 13):
 - a) In light of the allegation, Council implement some changes to its current development assessment to incorporate SPA process checklists, flowcharts and procedures.
 - b) We agree with the recommendations in the Investigation Report and suggest that Council provide its officers with further training with respect to Council's roles and responsibilities as an assessment manager under SPA, and the procedures it is required to follow in assessing development applications. That might include a review of Council's delegations to ensure that Council officers have power to decide discretionary based decisions (for example, decisions as to whether a change amounts to a 'minor

change', or whether a changed development application is required to be re-notified).

- c) Council should prepare a standard form to be used to notify a referral agency of any changes to a development application, and the effect of those changes on the IDAS process under division 3 of SPA.
 - d) It should also ensure that the issue is properly addressed in the Council officer's assessment reports and in internal documents on the development application files, where there have been changes to the development application during or after the public notification stage in the IDAS process.
7. The CEO will present this Report to the Complainant and in accordance with Council's General Complaints Policy and Guidelines (adopted November 2007) and the Local Government Act 1993, the Complainant will be invited to confirm that the matter be formally considered by Council.
 8. The CEO will refer a copy of this Report to the Crime and Misconduct Commission (CMC) and seek its direction again as to any aspect it considers relevant, including the allegation that Council officers previously misled the CMC.
 9. The CEO will issue a written apology to the Complainant on behalf of Council for the protracted timeframes in dealing with his complaints.
 10. The CEO will issue a written advice to the Complainant regarding Council's intended future handling of any potentially defamatory communications from him with a clear statement that legal action will be taken by Council if such communication continues.
 11. All parties to the Appeal and other relevant stakeholders will be advised that the Investigation has concluded and generally in relation to the findings;
3. Note the observations set out in the Investigation Report;
 4. Determine that formal complaints (GC 562A, 726 and 727) have been adequately addressed by the Investigation Report and that no further action be taken in relation to these complaints; and
 5. Acknowledge that the Development Application process and outcomes contained inconsistencies and ambiguity; notification to the Referral Agency was deficient and that the application was complex.

CARRIED

DIVISION

FOR: Crs Burns, Murray, Elliott, Williams, Henry, Ogilvie, Boglary, and
Hobson

AGAINST: Cr Bowler

Crs Townsend and Reimers were absent from the meeting.

Mr G Stevenson – CEO, declared a conflict of interest or perceived conflict of interest in some aspects of the following item stating that the report contained complaints regarding his actions. Mr Stevenson stated that he would not be in attendance during this item unless Councillors wished him to be in attendance.

Mr Stevenson left the meeting at 3.59pm

6 GOVERNANCE

6.1 RESOLUTION OF COMPLAINTS – MR G HILLIER

Datworks Filename: CR Complaints – Staff
GOV – Special Meetings

Responsible Officer: Nick Clarke
General Manager Governance

Author: Nick Clarke
General Manager Governance

EXECUTIVE SUMMARY

A confidential report from the General Manager Governance was discussed in open forum.

OFFICER'S RECOMMENDATION

That Council resolve as follows:

1. To note that the following complaints have been completed and that no further action in relation to them is to be undertaken: GC48, GC114; GC562C; GC562D; GC598 and GC728A;
2. To undertake no further investigation into the following complaints and determine that they be marked as closed: GC562A; GC562B; GC601; GC602; GC603; GC620; GC642; GC716; GC726; GC727 and GC728B; and
3. That the Mayor advise the complainant in writing of Council's decisions with regard to these complaints; inform the complainant that no further complaints about the approval of the biomass facility or the handling of investigations and enquiries undertaken prior to the date of this Council meeting will be accepted; and that Council will not respond to any future correspondence about those matters.

COUNCIL RESOLUTION

Moved by: Cr K Williams

Seconded by: Cr H Murray

That Council resolve as follows:

- 1. To note that the following complaints have been completed and that no further action in relation to them is to be undertaken: GC48, GC114; GC562C; GC562D; GC598 and GC728A;**
- 2. To undertake no further investigation into the following complaints and determine that they be marked as closed: GC562A; GC562B; GC601; GC602; GC603; GC620; GC642; GC716; GC726; GC727 and GC728B;**
- 3. That the Mayor advise the complainant in writing of Council's decisions with regard to these complaints; inform the complainant that no further complaints about the approval of the biomass facility or the handling of investigations and enquiries undertaken prior to the date of this Council meeting will be accepted; and that Council will not respond to any future correspondence about those matters;**
- 4. That in the interest of natural justice, the applicant be provided with the audio recording of Mr Hillier's presentation and offered the same opportunity to respond to his points raised in the Special Meeting of 9th November 2011; and**
- 5. That Mr Hillier receive a copy of the audio recording of the Special Meeting of 9th November 2011.**

CARRIED

DIVISION

FOR: Crs Burns, Murray, Ogilvie, Henry, Williams, Boglary and Hobson

AGAINST: Cr Bowler

Cr Elliott was not present when the motion was put.

Crs Townsend and Reimers were absent from the meeting.

7 MEETING CLOSURE

There being no further business, the Mayor declared the meeting closed at 4.12pm

Signature of Chairperson: _____

Confirmation date: _____