## Memorandum

CRIME & MISCONDUCT COMMISSION No. 2005-5 Date 17 Nov or IN THE MATTER OF:

GRAND



TO

Cr David Power

COPY

Warren Rowe, I

FROM

Dale Dickson, Crief Lacueive

SUBJECT

Cr Sarroff's submission to the Grime & Misconduct Commission dated

18 August 2004

DATE

9 November 2005

FILE NO

I refer to your request for information dated 3 November 2005, relating to a letter addressed to the Assistant Commissioner, Crime and Misconduct Commission dated 18 August, 2004 from Cr Eddy Sarroff in regard to an item considered by Council 5 Planning Committee on 3 August 2004 and actemine by collection in a line of the collection of the collecti

The letter deals with the changes made to the Officers regommended conditions by the Planning Committee at its meeting of 3 August, 2004, the recording of the minutes of the Planning Committee's recommendation and the final condition of approval resolved by Council.

The letter draws upon alleged discussions held between Cr Sarroff and Council officers in regard to the formation of the conditions and the recording of the minutes. In regard to the various matters raised in the letter the Director Planning Environment and Transport has provided the following response:

## "Background information

The application to Council was for a development permit for a Material Change of Use establishing land uses and levels of assessability for future development applications. Whilst the report and conditions referred to specific lots, the approval was not granted for a detailed allotment design. In essence this would be submitted later to Council for arther assessment under a development permit for a reconfiguration of a lot (ROL).

The ROL application is the development permit that establishes the final design and lot configuration and yield based upon detailed site analysis and compliance with the conditions of the Material Change of Use approval including the resolution of the stormwater management regime.

## Relevant points

- Council Officers report did recommend the removal of lots 24 to 30 to facilitate stormwater treatment outside of the creek corridor.
- Council was advised that Main Roads do require the detention of stormwater to match predeveloped flows but they did not specify any specific lats for deletion.
- Council Officers report did recommend the removal of lot 206 because it was identified as a future shop and the application submitted did not deal with any change in use. The lot was considered unsuitable as a single residential logidue to its isolation.
- The Planning Committee was advised of an erapr in the recommended condition 40(d) which should have read "In order to accommodate starmwater quality improvement devices outside of the waterway buffers the applicant shall delete Lois 24 - 30 and use this area of the site for stormwater management purposes (both quality and quantity)."

The Planning Committee debated the item which, included consideration of the provision of stormwater treatment on a regional basis rather than a site specific basis and the consequential reinstatement of some of the loss recommended for deletion for this purpose.

The Committee resolved to adopt the recommendations of the Officer subject to the

following amendments:

Conditions 1(a) which read "The 'Residential A' Designation (i.e. Lots 24 to 30, 86, 87 and 206) as identified on the indicative Subdivision Plan of Development No. DL3058-00-047:G drawn by Keilar Fox & McGhie & dated 12 July, 2004) shall be deleted and incorporated into the Open Space Land Use category.", was proposed to read "The 'Residential A' Designation (i.e. Lots 86 and 87 as identified on the indicative Subdivision Plan of Development No. DL3058-00-047:G drawn by Keilar Fox & McGhie & dated 12 July, 2004) shall be deleted and incorporated into the Open Space Land Use category."

Condition 40(d) was amended to read "In order to accommodate stormwater quality improvement devices outside of the waterway buffers the applicant shall delete Lots 24 - 30 and use this area of the site for stormwater management purposes (both quality and quantity)."

New Condition: Payment of contributions shall be made towards down stream stormwater treatment.

It became clear following the meeting that amended conditions 1(a) and 40(d) contradicted

each other and new conditions were required to fauthung the displementation commends and proved make the suppresentable space on the suppresent the provider of the relationship was connected, become applicable of the relationship was connected, become applicable of the relationship second and the relationship was connected, become applicable of the relationship second and the relationship was connected, become applicable of the relationship second and the relationship was connected, become applicable of the relationship second and the relationship

clarify the intent of the proposed amended conditions to anable a complete and contradictory set of conditions to be presented to Council for adoption.

It was agreed with Cr Power, and the Planning Chair, that a complete solution to the stormwater treatment for the development would be a combination of water sensitive urban design systems located within the development and imbellishments to the wetland system within Bakers Creek, upstream of the Coomera River. To this end appropriate conditions were drafted that removed the contradiction between the proposed amended conditions 1 (a) and 40 (d), provided for water sensitive urban design to by incorporated into the urban design of the estate (new condition 40 (d)) and provided for a contribution towards the embellishment of the wetland in Bakers Creek. In this way the intent of the Planning Committee's amended conditions were preserved and made workable or the proposed development.

Cr Crichlow and Cr Sarroff sought a site meeting to better understand the issues associated with the development prior to the full Council meeting. They were advised of the proposed new conditions drafted by the officers and supported the outcome. The approval issued by Council did not include a detailed plan and therefore the consequences of the new proposed

condition 40 (d) on lot yield and design, were not known.

The consequential amended conditions that were presented to Council on 6 August, 2004 were as follows:

Condition 1 (a) "The 'Residential A' Designation (i.e., Lots 86 and 87 as identified on the indicative Subdivision Plan of Development To. DL3058-00-047:G drawn by Keilar Fox & McGhie and dated 12 July, 2004) shall be deleted and incorporated into the Open Space Land

Use category."

Condition 40 (d) "The development shall rely pon Water Sensitive Urban Design techniques to treat stormwater quality in the upper catchments prior to release to the ecological significant open space waterways within the size. Water sensitive urban design may include but not be limited to swale drainage, bio-retention systems and rain gardens."

Condition 46 "The developer shall provide payment in the amount of \$150,000 towards the embellishment of the existing wetland system in Bakers Creek, upstream of the confluence with the Coomera River, prior to the endorsement of the plan of subdivision for the first stage

of development. (Account No. 74648-"P&DCON")

The minutes presented to Council are an accurate reflection of the committee discussion and proposed amended conditions resulting from that discussion. They included an explanatory note on the contradiction that erose due to recommended conditions and an explanation on



proposed <del>condition</del>s arose from the intent of the Committee's recommendation with changes to make them logical and workable,

• Council Officers were not directed by any Councillar to change, amend or bring forward conditions in any format. The minutes presented to council reflect the consequences of the Planning Committee recommendations. The recommended conditions were not complete or workable and a revised set of conditions were drafted to capture the intent and presented to Council with a supporting explanation. This is not an unusual occurrence where conditions are changed in Committee without fully exploring the flow-on effects and consequences."

You would recall when this incident occurred Cr Sarroff requested that I investigate the process whereby the minutes of the City Planning Committee as presented to Council did not, in his opinion reflect the Committee's changed recommendations. I investigated the matter and my views expressed to the Council were as follows:

1. In my experience, it is not uncommon for a standing committee to propose a change to an officer's recommendation(s) whereby it is impossible to finalise the wording of the revised conditions at that same meeting. In practical terms, officers have to seek further information and carefully review the impact on all conditions. Depending on the complexity of the issue, it is not unusual for a degree of two denithing to the complexity.

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- 2. Importantly, given that the City Planning committee did not have a "delegated power" to make a final decision, the report by the standing committee was therefore only a recommendation and the final decision (with or without amendment) was made by Council. All Councillors therefore had the opportunity to contribute to, or challenge, the standing committee recommendation at the Council meeting when the decision is made.
- 3. The only real issue with what transpired, as I saw it, was that the record of the minutes of the City Planning Meeting of 3 August, 2004 were not an accurate record in that Cr Sarroff is recorded at Page 21 as requesting that his rote be recorded in the 'negative'. This was the only issue notwithstanding that the Council was initially presented with report of the Committee and that, at that time, a correction should have been made. In fact Council accepted the minutes of that meeting as presented as a true and correct record. Of course, this is a matter which should have been corrected at the Council meeting.
- 4. In my view, ideally all that should have occurred is that where it was understood that the Committee's recommendation was not finalised 'absolutely' (ie. Officers had to finalise all conditions after the meeting had concluded), the matter should have laid on the table, and the suite of proposed conditions circulated prior to the Council meeting.

Dale Dickson

Chief Executive Officer