

The following document is the minutes of the Council and Committee Meetings held on Thursday, 15 December 2011. These minutes are subject to confirmation as to their accuracy at the next meeting to be held on 9 February 2012 and therefore subject to change. Please refer to the minutes of the meeting of 9 February 2012 for confirmation.



COFFS HARBOUR CITY COUNCIL
ORDINARY MEETING
COUNCIL CHAMBERS
COUNCIL ADMINISTRATION BUILDING
COFF AND CASTLE STREETS, COFFS HARBOUR
15 DECEMBER 2011

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COFFS HARBOUR CITY COUNCIL

ORDINARY MEETING

15 DECEMBER 2011

Present: Councillors K Rhoades (Mayor), J Arkan, J Bonfield, M Graham, K Hines, D Knight and W Palmer.

Staff: General Manager, Director Corporate Business, Director of City Services, Director Land Use, Health & Development, Executive Manager Cultural & Community Development, Manager Special Projects SLEP, Manager Land Use Planning, Manager Health, Executive Manager Business Units and Executive Assistant

Leave of Absence: Councillors R Degens and P Templeton.

We respectfully acknowledge the Gumbayngirr Country and the Gumbayngirr Aboriginal peoples who are traditional custodians of the land on which we meet and their Elders both past and present.

The meeting commenced at 5.00pm with the Mayor, Cr K Rhoades in the chair.

DISCLOSURE OF INTEREST

There were no disclosures of interest tabled.

PUBLIC FORUM

Time	Speaker	Item
5.00pm	Eric Bennett	Street Mowing in Woolgoolga
5.05pm	Nan Cowling	Time Capsule Project

PUBLIC ADDRESS

Time	Speaker	Item
5.10pm	Shirley Barnett	NOM11/23 - Jetty Memorial Theatre - Amateur Theatre Company Fee
5.15pm	Tom Strickland	L11/33 - Review of Coffs Harbour Business Centres Hierarchy Final Report

CONFIRMATION OF MINUTES

- 277 **RESOLVED** (Arkan/Hines) that the minutes of the Ordinary meeting held on 24 November 2011 be confirmed as a true and correct record of proceedings.

NOTICE OF MOTION

NOM11/23 JETTY MEMORIAL THEATRE - AMATEUR THEATRE COMPANY FEES AND CHARGES FOR 2011/2012

- 278 **RESOLVED** (Palmer/Arkan) that Coffs Harbour City Council's fees and charges for the Amateur Theatre Company using the Jetty Memorial Theatre remain the same as the 2010/2011 rates until the end of the current financial year.

GENERAL MANAGER'S REPORT

L11/33 REVIEW OF COFFS HARBOUR BUSINESS CENTRES HIERARCHY FINAL REPORT

The purpose of this report is to advise Council of the outcomes of the community consultation process for the Review of Coffs Harbour Business Centres Hierarchy Discussion Paper, and to present the Final Report for adoption.

The Review of Coffs Harbour Business Centres Hierarchy Final Report (BCH Final Report) makes recommendations to strengthen the existing Business Centres Hierarchy, which is designed to protect the primacy of the Coffs Harbour City Centre Central Business District (CBD). It further recommends modifications to draft Coffs Harbour Local Environmental Plan (LEP) 2011 that could assist to strengthen this hierarchy.

L11/33 - Review of Coffs Harbour business Centres Hierarchy Final Report (Cont'd)

This report recommends that Council adopt the BCH Final Report and implement its findings as appropriate. A copy of the BCH Final Report is provided as an addendum to this report (refer Appendix A).

MOTION

MOVED (Bonfield/Graham) that this matter be deferred to the February 2012 meeting of Council.

Upon agreement of the Mover and Seconder, the **MOTION** was withdrawn.

279 RESOLVED (Bonfield/Hines):

1. That Council adopts the Review of Coffs Harbour Business Centres Hierarchy Final Report.
2. That appropriate recommendations from the adopted Review of Coffs Harbour Business Centres Hierarchy Final Report be used to inform amendments to draft Coffs Harbour Local Environmental Plan 2011.
3. That the amended draft Coffs Harbour Local Environmental Plan 2011 be reported to Council early in 2012.
4. That Council note the issues raised in the public submissions received in response to the community engagement process for the Review of the Coffs Harbour Business Centres Hierarchy.
5. That Council inform all submission writers of Council's decision.

280 RESOLVED (Bonfield/Hines) that Item GM11/35 - Conduct Reviewer/s Reports into allegations against Councillor Mark Graham, be moved to the latter part of the meeting.

Councillor Graham formally advised his opposition to moving the item to the end of the meeting.

GM11/30 CODE OF MEETING PRACTICE

To adopt the Code of Meeting Practice separately attached.

281 RESOLVED (Bonfield/Arkan) that Council adopt the attached Code of Meeting Practice

GM11/31 NSW 2021 - A PLAN TO MAKE NSW NUMBER ONE

To advise Council of the NSW Government's timeframes and process to localise NSW 2021.

- 282** **RESOLVED** (Arkan/Palmer) that Council note the information regarding NSW 2021 and the State Government's desire to localise this strategic plan.

GM11/32 ONE ASSOCIATION TO REPRESENT LOCAL GOVERNMENT IN NSW

To inform Council of the status of the process to form One Association to represent Local Government in NSW. Comments and feedback is also sought.

- 283** **RESOLVED** (Palmer/Bonfield) that:

- (a) Council indicates its preference in respect of the Rights of Directors to be:
"Support for the current Local Government Association of NSW rules, namely that Members of the Executive be entitled, by virtue of being an Executive Member, to both vote in the elections of Office Bearers, and in relation to motions at Conference".
- (b) the preference indicated in (a) above, along with general acceptance of other provisions within draft version six of the proposed constitution for One Association be conveyed to the Local Government Association of NSW by 16 December 2011.

GM11/33 LOAN BORROWING POLICY AND GIFTS AND BENEFITS POLICY

To review and adopt the following policies:

- Loan Borrowing Policy
- Gifts and Benefits Policy

- 284** **RESOLVED** (Bonfield/Knight):

1. That Council adopt the Loan Borrowing Policy.
2. That Council adopt the Gifts and Benefits Policy.

GM11/34 OUTCOMES OF SERVICE REVIEW FOR COFFS HARBOUR CITY COUNCIL

To inform Council as to the outcomes of the Service Review process, and to discuss the next steps towards sustainable service provision.

- 285 RESOLVED** (Palmer/Hines) that Council note the completion of this phase of the Service Review project and the proposal to undertake a community survey to gain better information regarding the community priorities for service provision by Council.

GM11/36 2012/2016 DELIVERY PROGRAM AND 2012/2013 OPERATIONAL PLAN – PROJECT SCHEDULE

To seek approval for the proposed project schedule to develop Council's 2012/2016 Delivery Program and 2012/2013 Operational Plan. This report recommends the schedule be implemented to enable the Draft Delivery Program, Operational Plan and supporting documents to be prepared for adoption for public exhibition in April 2012.

- 286 RESOLVED** (Bonfield/Hines):
1. That the following project schedule for developing Council's 2012/2016 Delivery Program and 2012/2013 Operational Plan be adopted.

Meeting/Activity	Date	Councillor Participation
Closing date to notify IPART of intention to apply for variation	16 Dec 2011	N/A
Councillor workshops	Dec/Jan 2012	Yes
Senior Staff/Managers consultations	Dec/Feb 2012	N/A
Closing date to lodge application for rate variation	24 Feb 2012	N/A
Closing date for completion of CAPEX review (if required - depends on nature of works)	24 Feb 2012	N/A
Council to consider Draft Delivery Program / Operational Plan for adoption for public exhibition	22 March 2012	Yes
29-day public exhibition period (includes information sessions, displays, media activities, etc)	Mon, 26 March to Mon, 23 April 2012	As required
Consideration of Submissions / Review of Draft Plan	From Tue 24 April 2012	As required

GM11/36 - 2012/2016 Delivery Program and 2012/2013 Operational Plan - Project Schedule (Cont'd)

Council to consider adoption of final Delivery Program / Operational Plan	24 May 2012	Yes
Lodge adopted Operational Plan with IPART / Division of Local Government	By 1 June 2012	N/A

2. That Councillors note their participation is requested at the meetings, as indicated in the above schedule, to develop Council's 2012/2016 Delivery Program and 2012/2013 Operational Plan.

GM11/37 OPERATIONAL PLAN REPORTING FOR THE QUARTER ENDED 30 SEPTEMBER 2011

To report on the progress of implementation of Council's 2011/2012 Operational Plan.

287 RESOLVED (Palmer/Knight) that Council:

1. Notes the operational status of Budget Programs for the quarter ended 30 September 2011, as outlined in the body of this report.
2. Continues to monitor its performance with a view to improving service delivery.

CORPORATE BUSINESS DEPARTMENT REPORTS

CB11/87 CBD SPECIAL RATE VARIATION APPLICATION

To seek Council's endorsement to notify IPART (Independent Pricing & Regulatory Tribunal) of its intention to submit a Special Rate Variation Application for an extension of the existing CBD Special Rate.

288 RESOLVED (Bonfield/Arkan):

1. That Council writes to IPART notifying it of its intention to make an application for an extension of the current CBD Special Rate.
2. That ongoing consultation takes place with the relevant ratepayers to discuss implications of the rate and the possible program of works.

CB11/88 BANK BALANCES AND INVESTMENTS FOR AUGUST AND SEPTEMBER 2011

To list Council's Bank Balances and Investments as at 31 August 2011 and 30 September 2011.

289 RESOLVED (Palmer/Knight):

1. That the bank balances and investments totalling (from loans, Section 94 and other avenues that form the restricted accounts and are committed for future works) one hundred and seventy seven million, four hundred and twenty five thousand, five hundred and sixty three dollars (\$177,425,563) as at 31 August 2011 be noted.
2. That the general fund unrestricted cash and investments totalling seven hundred and forty five thousand, two hundred and fifty nine dollars (\$745,259) as at 31 August 2011 be noted.
3. That the bank balances and investments totalling (from loans, Section 94 and other avenues that form the restricted accounts and are committed for future works) one hundred and sixty nine million, eight hundred and seventy five thousand, three hundred and fifty eight dollars (\$169,875,358) as at 30 September 2011 be noted.
4. That the general fund unrestricted cash and investments totalling seven hundred and forty five thousand, two hundred and fifty nine dollars (\$745,259) as at 30 September 2011 be noted.

CB11/89 FINANCIAL STATEMENTS - 2010/2011

Consideration of the audited financial statements for the year ended 30 June 2011.

290 RESOLVED (Bonfield/Hines):

1. That the audited financial statements be received and adopted.
2. That the report on the audited financial statements be received and noted.

CB11/90 MONTHLY BUDGET REVIEW FOR OCTOBER 2011

To report on the estimated budget position as at 31 October 2011.

- 291 RESOLVED** (Bonfield/Arkan) that the budget adjustments be approved and the current budget position be noted.

Estimated Budget Position as at 31 October 2011:

	General Account \$	Water Account \$	Sewer Account \$
Original Budget adopted 23 June 2011	182,220 (D)	4,897,205 (D)	3,591,600 (D)
Approved Variations for 30 September 2011	(118,364) (S)	Nil	Nil
Recommended variations for October 2011	(42,406) (S)	Nil	Nil
Estimated result as at 31 October 2011	<u>21,450 (D)</u>	<u>4,897,205 (D)</u>	<u>3,591,600 (D)</u>

CB11/91 APPOINTMENT OF DIRECTORS - PROSPER COFFS HARBOUR LTD

The objective of this report is to seek approval from Council to appoint the initial Directors of Prosper Coffs Harbour Ltd, being the Mayor, one Councillor, the General Manager and the Director of Corporate Business.

- 292 RESOLVED** (Hines/Knight) that Council appoint the Mayor, one Councillor, the General Manager and the Director of Corporate Business as Directors of Prosper Coffs Harbour Ltd.
- 293 RESOLVED** (Palmer/Hines) that Councillor Bonfield be the Councillor Director of Prosper Coffs Harbour Ltd.

CB11/92 FITZROY OVAL LIGHTING

To provide a summary to Council of funding for installation of training lighting at Fitzroy Oval, and to seek approval for the contract to be undertaken and for the project to proceed.

294 RESOLVED (Palmer/Arkan):

1. That Council resolve under Section 55 (3) (i) of the Local Government Act 1993 that due to extenuating circumstances, being that the ex Stadium lighting fixtures require Musco fittings and poles, that a satisfactory result would not be achieved by inviting tenders for the project.
2. That Council approve the contract with Musco Lighting Australia Pty Ltd to install training lighting at Fitzroy Oval.
3. That Council approve the re-allocation of \$42,000 from the Community Facilities Fund, to enable the project to proceed.

CB11/93 BCU INTERNATIONAL STADIUM FOCUS GROUP

To approve vacant community representative positions for BCU International Stadium Focus Group.

295 RESOLVED (Bonfield/Arkan) that Council approve the appointment of Mr Phil Crofts as a Community member of the BCU International Stadium Focus Group until 30 June 2013.

296 RESOLVED (Hines/Knight) that Item CB11/94 - Sale of 23-31 Gordon Street, Coffs Harbour be referred to Confidential session at the end of the meeting.

CITY SERVICES DEPARTMENT REPORTS

CS11/50 TRAFFIC COMMITTEE REPORT NO. 5/2011

To confirm Minutes from the Traffic Committee held on Thursday, 1 December 2011.

297 RESOLVED (Palmer/Arkan):

T.49 - Mount Browne Road, Karangi – Extension of Unbroken Line (IR 2917868) {502860}

That approval be given for the double barrier lines (BB) to be extended 30m to just before the driveway of 90 Mount Browne Road, Karangi, as per plan T.49.

T.50 - Coast Hotel – Taxi Rank Adjustment (1.30am – 2am) for 24 Hour Licence Bar (IR 2907465)

That approval be given for one rear to kerb parking bay to be designated as a timed Taxi Zone (9.00pm – 6.00am) in front of the Court House in Moonee Street, Coffs Harbour, and the existing Taxi / Loading Zone adjacent to the Coast Hotel remain as a Loading Zone only, as per Plan T.50.

T.51 - -Bruxner Park Road, Korora - Traffic Calming (IR 2924096 {R 503040})

That Roads and Maritime Services be requested to review the speed zone on Bruxner Park Road, Korora, and an on-site inspection be carried out to determine any modification or extension of the centre line.

T.52 - St Nicholas Anglican Church Sawtell – Request for 2 More Disable Parking Spaces (IR 2932243 {501530})

That approval to extend the accessible (disabled) parking space in Elizabeth Street, Sawtell, adjacent to St Nicholas Anglican Church, by 7.0m to the north of the existing 7.0m space, as per T.52.

T.53 - First Ave Arrawarra – “No Stopping” Signage Request (IR 2929877 {507980})

That approval be given for 'No Parking' signs to be installed from culvert to the western end of First Avenue, Arrawarra, adjacent to the pump station, as per plan T.53.

T.54 - Narranga School, Robin Street, Coffs Harbour – Disable Parking Space Issue (IR 2725306 {R 505840})

That subject to confirmation from Narranga Primary School of parental notification/approval that “No Stopping” zone (2 spaces) north of the car park exit at Narranga Public School, Robin Street, Coffs Harbour, be approved to replace the existing “No Parking” (8:30am - 9.00am), as per plan T.54.

CS11/50 - Traffic Committee Report No. 5/2011 (Cont'd)

T.55 - Corner of Rose Avenue & Marcia Street, Coffs Harbour – “No Stopping” signs (IR 2944243 {R 505630 & R 505190})

That approval be given to install “No Stopping” signs in Rose Avenue, Coffs Harbour, on the eastern side from Marcia Street 30m north, as per plan T.55.

T.56 - Karangi School – Bus & Vehicle Access Signage Coramba Road (IR 2942906 {500120})

That approval be given for installation of 'No Parking' zone at front of Karangi Public School and the internal access and two all day parking spaces in front of school on road reserve, as per plan T. 56.

T.57 - North Boambee Road NBV – RMS Speed Zones (IR 2868457 {R 500270})

That the Roads and Maritime Services be requested to review the speed zone for North Boambee Road, North Boambee Valley.

T.58 - Parking Issues Network Video Shop – 2/36 Park Avenue Coffs Harbour (IR 2944223 {R 505670})

That no action be taken to install one hour parking in Park Avenue, Coffs Harbour, between Gordon Street and Earl Street, in order to keep parking times uniform.

T.59 - Bus Stops - Mackays Road, Coffs Harbour (IR 2917734 {R 502870})

That approval for the existing 'No Parking' zone near the northern most driveway of the Masonic Village in Mackays Road, Coffs Harbour, be removed and replaced with a 'Bus Zone' north of the driveway to provide a 22.5m bus zone and a J-pole to be installed on the opposite side, as per plan T.59.

T.60 - Request for Signage – Boronia Street, Sawtell (IR 2944796 {R 501140})

Approval to install 'No Parking' signs either side of the lifeguard shed access off Boronia Street, Sawtell, as per Plan T.60

T.61 - Sawtell New Years Day Fun Day – First Avenue, Sawtell -Temporary Road Closure (IR 2924376{R 501520})

- (a) the temporary road closure of First Avenue, Sawtell , between Boronia Street and Second Avenue, from 7.30am to 11.00am on Sunday, 1 January 2012, for the purpose of conducting the street parade associated with the Sawtell Super Fun Day, be advertised and providing no substantive objections are received, the closure be approved.
- (b) the organisers of the Fun Day liaise with affected traders and obtain traders approval.
- (c) the organisers be responsible for erection of traffic barriers and control of traffic using accredited traffic controllers, in accordance with the Traffic Management Plan.
- (d) the organisers be responsible for all costs associated with the temporary closure and clean up, including advertising.
- (e) a temporary bus zone be established on the east side of First Avenue, Sawtell, north of Second Avenue to enable buses to continue to operate.

CS11/50 - Traffic Committee Report No. 5/2011 (Cont'd)

T.62 - Jordan Esplanade, Coffs Harbour - Temporary Road Closure - New Year's Eve' (R.506100 / 1618)

- (a) the temporary road closure of Jordan Esplanade, Coffs Harbour , between Marina Drive and car park entry to Jetty on Saturday, 31 December 2011 from 6.00pm and reopen Sunday 12.30am 1 January 2012 for the purpose of New Year's Eve celebrations, be advertised and providing no substantive objections are received, the closure be approved.
- (b) the organisers, March's Amusements, liaise with affected traders and obtain traders approval.
- (c) the organisers be responsible for erection of traffic barriers and control of traffic using accredited traffic controllers, in accordance with the Traffic Management Plan and police approval in writing.
- (d) the organisers be responsible for all costs associated with the temporary closure and clean up, including advertising.

CS11/51 COMMITTEE MEMBERSHIP

To recommend to Council appointments of a number of community members to management and advisory committees.

298 RESOLVED (Arkan/Knight) that the following committee member nominations be appointed to their relevant committees:

- Woolgoolga Community Village Management Committee
Mr John Finlay and Ms Karen Sedgwick
- Eastern Dorrigo Showground and Community Hall Management Committee
Mr Craig Robson, Ms Sharon Gaynor, Ms Felicity-Marie Cochrane
- Lowanna Community Hall Management Committee
Ms Crystal Quick and Ms Helen Clarke
- Multicultural Reference Group
Mr Yarob Haddad, Ms My Holland, Mr Dennis Kpodo, Ms Papha Marshall, Mr Dieudonne Ininahazwe, Mr Bill Van Den Bosch, Ms Cathy Curan, Ms Dianne Jacobus and Mr Wilson D Loyo

CS11/52 TENDER: LINING OF SEWER PIPES (TENDER RFT-496-TO)

To report on tenders received for contract RFT-496-TO for the internal lining of various sewer pipes and to gain Council approval to accept a tender.

299 RESOLVED (Arkan/Hines):

1. That Council accept the tender of Interflow P/L, ABN 34 000 563 208, for the part Lump Sum and part Schedule of Rates amount of \$546,421.37, inclusive of GST on the basis that:
 - a) The tender is the most advantageous tender following the application of Council's Tender Value Selection System
 - b) The Tenderer has the necessary experience in similar works and its ability and performance are satisfactory
 - c) The Tenderer's financial capacity is acceptable
2. That the contract documents be executed under the Seal of Council.

CS11/53 TENDER: WOOLGOOLGA FLOOD STUDY (TENDER RFT-506-TO)

To report on tenders received for contract RFT-506-TO for the undertaking of a Floodplain Risk Management flood study and to gain Council approval to accept a tender.

300 RESOLVED (Arkan/Knight):

1. That Council accept the tender of BMT WBM Pty Ltd for the Lump Sum in the tender amount of \$81,225- exclusive of GST on the basis that:
 - a) The tender is the most advantageous tender following the application of Council's Tender Value Selection System.
 - b) The Tenderer has the necessary experience in similar works and its ability and performance are satisfactory.
 - c) The Tenderer's financial capacity is acceptable.
 - d) The Office of Environment and Heritage concur subject to a condition.
2. That the contract documents be executed under the Seal of Council.

LAND USE HEALTH & DEVELOPMENT DEPARTMENT REPORT

L111/34 PLANNING PROPOSAL – REZONING FOR RESIDENTIAL PURPOSES LOT 61 DP 852851 BACKHOUSE STREET, WOOLGOOLGA

The purpose of this report is to inform Council of the response to the public exhibition of the planning proposal and to seek Council's endorsement of the planning proposal to progress the matter to NSW Planning and Infrastructure (P&I) to enable the subject land to be rezoned from Rural 1A Agriculture to part Residential 2A Low Density and part Environmental Protection 7A Habitat and Catchment to permit the development of 57 residential lots.

301 RESOLVED (Arkan/Hines):

1. That Council endorse, the final planning proposal at Lot 61, DP 852851 Backhouse Street, Woolgoolga and forward it to NSW Planning and Infrastructure to coordinate the legal drafting of the Local Environmental Plan Instrument and the making of the Local Environmental Plan.
2. That Council instruct the General Manager or his delegate to consult with NSW Planning and Infrastructure on the terms of the Local Environmental Plan, to ensure its consistency with the objectives, outcomes and provisions of the planning proposal.
3. That upon completion of the legal instrument being drafted, that the Minister for Planning be requested to make a Local Environmental Plan.
4. That Council inform the landowner and all submission authors of Council's decision.

VOTED FOR

Cr Hines
Cr Knight
Cr Bonfield
Cr Rhoades
Cr Palmer
Cr Arkan

VOTED AGAINST

Cr Graham

L11/35 DEVELOPMENT APPLICATION 1082/11 – SUBDIVISION (BOUNDARY ADJUSTMENT) – LOTS 431 AND 432 DP 854892, LOT 2 DP 1159627 AND LOT 7 DP 740444, FRIDAYS CREEK ROAD, UPPER ORARA

This is a report on Development Application 1082/11 which is for a boundary adjustment between Lots 431 and 432 DP 854892, Lot 2 DP 1159627 and Lot 7 DP 740444, Fridays Creek Road, Upper Orara.

As one of the lots will be under the minimum area for boundary adjustments of 10 hectares specified in the Coffs Harbour City Council Local Environmental Plan (LEP) 2000, a variation to this development standard is required. It is recommended that the application be approved subject to conditions.

302 RESOLVED (Arkan/Palmer) that

1. That the objection under SEPP No. 1 - Development Standards for the variation to the minimum allotment size under Clause 18 (5A) of Coffs Harbour Local Environmental Plan 2000 be supported in this particular case.
2. That Development Application 1082/11 for Subdivision (Boundary Adjustment) involving Lots 431 & 432 DP 854892, Lot 2 DP 1159627 and Lot 7 DP 740444, Fridays Creek Road, Upper Orara be approved subject to conditions appended to this report (Appendix C).

VOTED FOR

Cr Hines
Cr Knight
Cr Bonfield
Cr Rhoades
Cr Palmer
Cr Arkan
Cr Graham

VOTED AGAINST

L11/36 CARBON FARMING OPPORTUNITIES IN COFFS HARBOUR

To inform Council of the Federal Governments' Carbon Farming Initiative (CFI) and to explain the opportunities it presents to landholders in the Coffs Harbour region.

303 RESOLVED (Arkan/Graham):

1. That Council note the development of the Coffs Harbour Carbon Farming Opportunities Project with a further report to be presented in early 2012.
2. That Council continue to engage with the Northern Rivers Catchment Management Authority, Coffs Harbour Regional Landcare and Orara Valley RiverCare Groups Management Committee and other partners to prepare a joint grant application to meet the requirements of the Federal Government's Carbon Farming Initiative Biodiversity Fund due on 31 January 2012 and to pursue additional funding opportunities under the Federal Government's Carbon Farming Initiative.

L11/37 PRESERVATION OF VEGETATION - CITY CENTRE LOCAL ENVIRONMENTAL PLAN 2011

To apply the new vegetation controls adopted under the Coffs Harbour City Centre Local Environmental Plan 2011 and Coffs Harbour City Centre Development Control Plan 2011.

304 RESOLVED (Graham/Bonfield):

1. That Council endorses the City Centre Preservation of Vegetation Corporate Map which spatially identifies the vegetation controls detailed in Section 6.8 of the Coffs Harbour City Centre Development Control Plan 2011.
2. That Council update property notations and issue advice on 149 certificates where applicable.

L11/38 NON DOMESTIC TIPPING CHARGES - SHORTFALL

To address a financial shortfall, that has become evident in the Non Domestic Waste Management Program in 2011/12.

305 RESOLVED (Palmer/Hines):

1. That Council note this report and that the financial implications for the reduction in non-domestic waste will be addressed through the December 2011 Quarterly Budget Review.
2. That a further report be presented to Council in 2012 that outlines the non-domestic waste management program for 2012/13 and beyond.

The meeting adjourned for a short recess, the time being 6.59pm and reconvened at 7.07pm.

GM11/35 CONDUCT REVIEWER/S REPORTS INTO ALLEGATIONS AGAINST COUNCILLOR MARK GRAHAM

To present reports from the sole conduct reviewer and subsequent peer reviewer of investigations into alleged breaches of the Code of Conduct by Cr Mark Graham.

MOTION

MOVED (Graham/) that in relation to the six items, that Council dismiss all findings because they have not been made in accordance with the conduct review procedures prescribed within Council's adopted Code of Conduct.

The matter lapsed for want of a seconder.

Report 1 (Attachment 1)

306 RESOLVED (Bonfield/Hines) that in accordance with the provisions provided for within the Coffs Harbour City Council Code of Conduct that:

1. Council receive and note the reports of the Conduct Review Committee – Sole Reviewer and the Peer Reviewer.
2. Council note that whilst Councillor Graham did not immediately resume his seat when the Chairperson stood up at the Extraordinary Meeting of Council on 2 August 2010 and as such Councillor Graham did not act in accordance with the provision of 4.3 (a) of the Coffs Harbour City Council Code of Meeting Practice, the Code of Meeting Practice provides for such conduct to be addressed at the Council meeting by the Chairperson. As such, Councillor Graham is not in breach of the Coffs Harbour City Council Code of Conduct for this action and no action should be taken against Councillor Graham on this issue.

GM11/35 - Conduct Reviewer/s Reports into Allegations Against Councillor Mark Graham (Cont'd)

3. It be noted that section 6 'General Conduct Obligations' remain in the Sole Conduct Reviewer Report, however it should be understood 'lawfully and honestly' and their opposite meanings do not apply to Councillor Graham's behaviour.
4. Councillor Graham be required to make a public apology at an Ordinary Meeting of Coffs Harbour City Council, for releasing confidential information at the Extraordinary Meeting of Council on 2 August 2010, and thereby breaching the Coffs Harbour City Council Code of Conduct at section 6; section 10.4; and section 10.5.
5. The public apology is to be completed within 60 days of the Council decision on the report.

Report 2 (Attachment 2)

307 RESOLVED (Bonfield/Hines) that in accordance with the provisions provided for within the Coffs Harbour City Council Code of Conduct that:

1. Council receive and note the report of the Conduct Review Committee – Sole Reviewer and the Peer Reviewer.
2. Council note that the review was unable to determine on the balance of probabilities, that Councillor Graham threatened the Mayor and spoke in a loud and aggressive tone during the telephone conversation at 9am on 2 August 2010. Therefore the allegation against Councillor Graham is not sustained by this review.

Report 3 (Attachment 3)

308 RESOLVED (Hines/Bonfield) that in accordance with the provisions provided for within the Coffs Harbour City Council Code of Conduct that:

1. Council receive and note the report of the Conduct Review Committee – Sole Reviewer and the Peer Reviewer.
2. Council note that the review was unable to determine who was responsible for the release of the confidential council information from Coffs Harbour City Council to website <http://saddleton.com.au> between the period 30 July 2010 and 2 August 2010. Therefore the allegation against Councillor Graham is not sustained by this review.

GM11/35 - Conduct Reviewer/s Reports into Allegations Against Councillor Mark Graham (Cont'd)

Report 4 (attachment 4)

309 RESOLVED (Bonfield/Knight) that

In accordance with the provisions provided for within the Coffs Harbour City Council Code of Conduct that:

1. Council receive and note the report of the Conduct Review Committee – Sole Reviewer and the Peer Reviewer.
2. It be noted that section 6 'General Conduct Obligations' remain in the Sole Conduct Reviewer Report, however it should be understood 'lawfully and honestly' and their opposite meanings do not apply to Councillor Graham's behaviour.
3. Councillor Graham be required to make a public apology at an Ordinary Meeting of Coffs Harbour City Council, for releasing confidential information on the ABC Mid North Coast Radio on 4 August 2010, and thereby breaching the Coffs Harbour City Council Code of Conduct at section 6; section 10.4; and section 10.5.
4. The public apology is to be completed within 60 days of the Council decision on the report.

Report 5 (Attachment 5)

310 RESOLVED (Bonfield/Hines) that in accordance with the provisions provided for within the Coffs Harbour City Council Code of Conduct that:

1. Council receive and note the report of the Conduct Review Committee – Sole Reviewer and the Peer Reviewer.
2. It be noted that section 6 'General Conduct Obligations' remain in the Sole Conduct Reviewer Report, however it should be understood 'lawfully and honestly' and their opposite meanings do not apply to Councillor Graham's behaviour.
3. Councillor Graham be required to make an unreserved written apology to the council staff member for inappropriately contacting them on six occasions on 30 July 2010 and further, for directing the staff member in the performance of their duty via voicemail messages and thereby breaching the Coffs Harbour City Council Code of Conduct at section 6; section 9.1; and section 9.4. A copy of the written apology is to also be provided to the General Manager.
4. The written apology is to be completed within 30 days of the Council decision on the report.

GM11/35 - Conduct Reviewer/s Reports into Allegations Against Councillor Mark Graham (Cont'd)

Report 6 (Attachment 6)

311 RESOLVED (Bonfield/Knight) that in accordance with the provisions provided for within the Coffs Harbour City Council Code of Conduct that:

1. Council receive and note the report of the Conduct Review Committee – Sole Reviewer and the Peer Reviewer.
2. It be noted that section 6 'General Conduct Obligations' remain in the Sole Conduct Reviewer Report, however it should be understood 'lawfully and honestly' and their opposite meanings do not apply to Councillor Graham's behaviour.
3. Councillor Graham be required to make a public apology at an Ordinary Meeting of Coffs Harbour City Council, for releasing confidential information at a public meeting held at the Coffs Club, Coffs Harbour on 28 July 2010, and thereby breaching the Coffs Harbour City Council Code of Conduct at section 6: section 10.4; and section 10.5.
4. The public apology is to be completed within 60 days of the Council decision on the report.

Councillor Graham commenced delivering what he claimed was an apology as required by the Conduct Review Reports.

On the basis of the content of Councillor Graham's presentation, which was not in line with the resolution of Council, the Mayor called Councillor Graham to order and requested Councillor Graham to resume his chair.

Councillor Graham refused to resume his seat when directed by the Mayor on several occasions. Councillor Graham remained standing and speaking when the Mayor rose to his feet and asked for order.

As a result of the Act of Disorder, the Mayor adjourned the meeting, the time being 7.18pm. The meeting resumed at 7.28pm. The Mayor put a question to the Council as to whether the business of the meeting should be proceeded with or not. The Council indicated in the affirmative that the business of the meeting should be proceeded with.

As the Council had indicated that it wished to proceed with the business of the meeting, the Mayor pointed out that an Act of Disorder had been committed by Councillor Graham for his refusal to respect the Chair and for causing general disorder at the meeting. The Mayor asked Councillor Graham to retract and apologise to the Council for his Act of Disorder and advised that failure to do so would see him expelled from the meeting.

Councillor Graham did not retract or apologise to the Council for his Act of Disorder. The Mayor advised that under the power that is delegated to the Chair under Section 10.6(1) of the Code of Meeting Practice, that he was expelling Councillor Graham from the Chamber for the duration of the meeting. The Mayor requested Councillor Graham to excuse himself from the Chamber.

GM11/35 - Conduct Reviewer/s Reports into Allegations Against Councillor Mark Graham (Cont'd)

Councillor Graham refused to leave the Chamber despite several requests by the Mayor and arrangements were made by the General Manager to remove Councillor Graham as per the Code of Meeting Practice. In this regard a security guard attempted on several occasions to remove Councillor Graham from the Council Chamber. Councillor Graham refused to vacate the Chamber. The General Manager read to the meeting the relevant section of the Code of Meeting Practice relating to Power of Expulsion.

The Mayor once again adjourned the meeting, noting the further Acts of Disorder by Councillor Graham, the time being 7.37pm.

Councillor Graham left the Council Chamber during the adjournment.

The meeting resumed at 7.46pm.

- 312** **RESOLVED** (Bonfield/Knight) that advice be referred to the Chief Executive Officer of the NSW Division of Local Government that Councillor Graham was expelled from the meeting as a result of an Act of Disorder, such advice being provided in accordance with Section 440I of the Local Government Act. The notification to be forwarded at the earliest opportunity.

The Director of Land Use, Health & Development left the meeting and took no part in any discussions on item CB11/94 - Sale of 23-31 Gordon Street, Coffs Harbour.

The Mayor advised that he had received an update on Item CB11/94 and the matter was able to be dealt with in Open Council.

CB11/94 SALE OF 23-31 GORDON STREET, COFFS HARBOUR

To obtain Council approval for the sale of 23-31 Gordon Street, Coffs Harbour.

313 RESOLVED (Arkan/Hines):

- A Request for Proposal prospectus be developed and advertised. That conditions include:
 - (a) A timeframe for lodgment of the Development Application
 - (b) A timeframe for construction of the development.
 - (c) Minimum level of development with an appropriate mix.
 - (d) Occupation of Council premises until required for the development.
 - (e) Reversion of the property if the development does not proceed.
- A probity plan and process be developed.
- That an assessment panel be appointed including relevant external expertise.
- That the assessment panel recommends to Council a preferred developer to negotiate with.

Following this Council would then undertake negotiations in an attempt to secure a sale.

REQUESTS FOR LEAVE OF ABSENCE

There were no requests for leave of absence.

MATTERS OF AN URGENT NATURE

There were no matters of an urgent nature.

This concluded the business and the meeting closed at 8.16pm.

Confirmed: 9 February 2012.

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K D Rhoades, AFSM
Mayor