

The following document is the minutes of the Council and Committee Meetings held on Thursday, 23 February 2012. These minutes are subject to confirmation as to their accuracy at the next meeting to be held on 8 March 2012 and therefore subject to change. Please refer to the minutes of the meeting of 8 March 2012 for confirmation.



COFFS HARBOUR CITY COUNCIL
ORDINARY MEETING
COUNCIL CHAMBERS
COUNCIL ADMINISTRATION BUILDING
COFF AND CASTLE STREETS, COFFS HARBOUR
23 FEBRUARY 2012

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COFFS HARBOUR CITY COUNCIL

ORDINARY MEETING

23 FEBRUARY 2012

Present: Councillors K Rhoades (Mayor), R Degens, M Graham, K Hines, D Knight, W Palmer and P Templeton.

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

Leave of Absence: Councillor J Bonfield

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.

APOLOGY

- 31 **RESOLVED** (Knight/Palmer) that an apology received from Councillor J Arkan for unavoidable absence be received accepted.

PUBLIC ADDRESS

Time	Speaker	Item
5.00pm	Kent Lee	L12/9 - Coffs Harbour Draft Local Environmental Plan 2012

CONFIRMATION OF MINUTES

- 32** **RESOLVED** (Templeton/Knight) that the minutes of the Ordinary meeting held on 9 February 2012 be confirmed as a true and correct record of proceedings.

LAND USE HEALTH & DEVELOPMENT DEPARTMENT REPORT

L12/9 COFFS HARBOUR DRAFT LOCAL ENVIRONMENTAL PLAN 2012

The purpose of this report is to seek Council's endorsement of recommended modifications to draft Coffs Harbour Local Environmental Plan 2012 (draft LEP 2012) in order to:

1. implement appropriate recommendations from the Review of the Business Centres Hierarchy (BCH) Final Report, as reported to Council on 15 December 2011; and
2. undertake minor additional amendments as outlined in this report.

The draft Plan, once gazetted, will apply to the entire local government area (LGA) and will repeal the provisions of both Coffs Harbour Local Environmental Plan 2000 (LEP 2000) and Coffs Harbour City Centre Local Environmental Plan 2011.

The draft Plan was last endorsed by Council on 23 June 2011 (under the name of draft Coffs Harbour Local Environmental Plan 2011). The subject report details alterations which have been made to the draft LEP since it was last endorsed by Council. If items are not mentioned in the report, it means there is no change made to the LEP in relation to that item since previously endorsed.

The report recommends that Council adopt draft LEP 2012 as presented and refer the necessary documentation to NSW Planning and Infrastructure (NSW P&I) for certification to enable the Plan to be publicly exhibited. It further recommends that upon complying with all Certificate conditions the Plan be publicly exhibited. A copy of draft LEP 2012 (both the written instrument and supporting maps) is attached separately.

33 RESOLVED (Palmer/Degens):

1. That Council endorse draft Coffs Harbour Local Environmental Plan 2012.
2. That Council seek authority from NSW Planning and Infrastructure to issue a certificate under Section 65 of the Environmental Planning and Assessment Act, 1979 to allow draft Coffs Harbour Local Environmental Plan 2012 to be exhibited.
3. That upon complying with all conditions established at Section 65 certification, draft Coffs Harbour City Local Environmental Plan 2012 be exhibited for a period of six weeks (or such other period to be advised by NSW Planning and Infrastructure) in accordance with NSW Planning and Infrastructure's project timeframe.
4. That Council seek a suitable split lot subdivision clause from NSW Planning and Infrastructure for insertion into draft Coffs Harbour Local Environmental Plan 2012 (and any modification of the Lot Size Maps to suit the intention of the clause), as a condition of the certificate under Section 65 of the Environmental Planning and Assessment Act, 1979, should such a clause become available prior to the exhibition of draft Coffs Harbour Local Environmental Plan 2012.
5. All persons directly affected by the draft Plan be advised of Council's decision by notification in relevant newspapers at the time the draft Plan is placed on exhibition.

AMENDMENT

MOVED (Degens/Graham)

1. That Council endorse draft Coffs Harbour Local Environmental Plan 2012.
2. That Council seek authority from NSW Planning and Infrastructure to issue a certificate under Section 65 of the Environmental Planning and Assessment Act, 1979 to allow draft Coffs Harbour Local Environmental Plan 2012 to be exhibited.
3. That upon complying with all conditions established at Section 65 certification, draft Coffs Harbour City Local Environmental Plan 2012 be exhibited for a period of six weeks (or such other period to be advised by NSW Planning and Infrastructure) in accordance with NSW Planning and Infrastructure's project timeframe.
4. That Council seek a suitable split lot subdivision clause from NSW Planning and Infrastructure for insertion into draft Coffs Harbour Local Environmental Plan 2012 (and any modification of the Lot Size Maps to suit the intention of the clause), as a condition of the certificate under Section 65 of the Environmental Planning and Assessment Act, 1979, should such a clause become available prior to the exhibition of draft Coffs Harbour Local Environmental Plan 2012.
5. All persons directly affected by the draft Plan be advised of Council's decision by notification in relevant newspapers at the time the draft Plan is placed on exhibition.

L12/9 - Coffs Harbour Draft Local Environment Plan 2012 (Cont'd)

6. That included in this document for the B6 zone from Stadium Drive to Bray Street is the following
 1. A maximum floor space ratio of 0.5:1.0 be implemented.
 2. A maximum floor space size be adopted of 600 sqm.
 3. A maximum individual office or Business Premises size of 150sqm.
7. That Council retain the environmental protection zones for Lot 66, DP 551005, Lot 22 DP 1070182 and Lots 497 and 498 DP 227298 as per the existing resolution of Council.

The **AMENDMENT** on being put to the meeting was **LOST**

VOTED FOR

Cr Graham
Cr Degens
Cr Hines

VOTED AGAINST

Cr Templeton
Cr Knight
Cr Rhoades
Cr Palmer

AMENDMENT

MOVED Graham/Knight

1. That Council endorse draft Coffs Harbour Local Environmental Plan 2012.
2. That Council seek authority from NSW Planning and Infrastructure to issue a certificate under Section 65 of the Environmental Planning and Assessment Act, 1979 to allow draft Coffs Harbour Local Environmental Plan 2012 to be exhibited.
3. That upon complying with all conditions established at Section 65 certification, draft Coffs Harbour City Local Environmental Plan 2012 be exhibited for a period of six weeks (or such other period to be advised by NSW Planning and Infrastructure) in accordance with NSW Planning and Infrastructure's project timeframe.
4. That Council seek a suitable split lot subdivision clause from NSW Planning and Infrastructure for insertion into draft Coffs Harbour Local Environmental Plan 2012 (and any modification of the Lot Size Maps to suit the intention of the clause), as a condition of the certificate under Section 65 of the Environmental Planning and Assessment Act, 1979, should such a clause become available prior to the exhibition of draft Coffs Harbour Local Environmental Plan 2012.
5. All persons directly affected by the draft Plan be advised of Council's decision by notification in relevant newspapers at the time the draft Plan is placed on exhibition.
6. That Council retain the environmental protection zones for Lot 66, DP 551005, Lot 22 DP 1070182 and Lots 497 and 498 DP 227298 as per the existing resolution of Council.

L12/9 - Coffs Harbour Draft Local Environment Plan 2012 (Cont'd)

The **AMENDMENT** on being put to the meeting was **LOST**

VOTED FOR

Cr Graham
Cr Degens

VOTED AGAINST

Cr Templeton
Cr Knight
Cr Rhoades
Cr Palmer
Cr Hines

AMENDMENT

MOVED (Degens/Knight)

1. That Council endorse draft Coffs Harbour Local Environmental Plan 2012 subject to amending Schedule 1 so that development for the purpose of public administration buildings not exceeding 15.5m building height is permitted with consent on land at Lot 107, DP 752817, Beryl Street, Coffs Harbour.
2. That Council seek authority from NSW Planning and Infrastructure to issue a certificate under Section 65 of the Environmental Planning and Assessment Act, 1979 to allow draft Coffs Harbour Local Environmental Plan 2012 to be exhibited.
3. That upon complying with all conditions established at Section 65 certification, draft Coffs Harbour City Local Environmental Plan 2012 be exhibited for a period of six weeks (or such other period to be advised by NSW Planning and Infrastructure) in accordance with NSW Planning and Infrastructure's project timeframe.
4. That Council seek a suitable split lot subdivision clause from NSW Planning and Infrastructure for insertion into draft Coffs Harbour Local Environmental Plan 2012 (and any modification of the Lot Size Maps to suit the intention of the clause), as a condition of the certificate under Section 65 of the Environmental Planning and Assessment Act, 1979, should such a clause become available prior to the exhibition of draft Coffs Harbour Local Environmental Plan 2012.
5. All persons directly affected by the draft Plan be advised of Council's decision by notification in relevant newspapers at the time the draft Plan is placed on exhibition.

The **AMENDMENT** on being put to the meeting was **LOST**.

VOTED FOR

Cr Degens

VOTED AGAINST

Cr Templeton
Cr Knight
Cr Rhoades
Cr Palmer
Cr Hines
Cr Graham

L12/9 - Coffs Harbour Draft Local Environment Plan 2012 (Cont'd)

AMENDMENT

MOVED (Hines/Knight)

1. That Council endorse draft Coffs Harbour Local Environmental Plan 2012.
2. That Council seek authority from NSW Planning and Infrastructure to issue a certificate under Section 65 of the Environmental Planning and Assessment Act, 1979 to allow draft Coffs Harbour Local Environmental Plan 2012 to be exhibited.
3. That upon complying with all conditions established at Section 65 certification, draft Coffs Harbour City Local Environmental Plan 2012 be exhibited for a period of six weeks (or such other period to be advised by NSW Planning and Infrastructure) in accordance with NSW Planning and Infrastructure's project timeframe.
4. That Council seek a suitable split lot subdivision clause from NSW Planning and Infrastructure for insertion into draft Coffs Harbour Local Environmental Plan 2012 (and any modification of the Lot Size Maps to suit the intention of the clause), as a condition of the certificate under Section 65 of the Environmental Planning and Assessment Act, 1979, should such a clause become available prior to the exhibition of draft Coffs Harbour Local Environmental Plan 2012.
5. All persons directly affected by the draft Plan be advised of Council's decision by notification in relevant newspapers at the time the draft Plan is placed on exhibition.
6. That Council retain the environmental protection zones for Lot 22 DP 1070182 and Lots 497 and 498 DP 227298 as per the existing resolution of Council.
7. Provide Councillors with a briefing regarding Lot 66, DP 551005.

The **AMENDMENT** on being put to the meeting was **LOST**.

VOTED FOR

Cr Hines
Cr Knight

VOTED AGAINST

Cr Templeton
Cr Palmer
Cr Degens
Cr Graham
Cr Rhoades

The **MOTION** on being put to the meeting was declared **CARRIED**.

VOTED FOR

Cr Templeton
Cr Palmer
Cr Degens
Cr Knight
Cr Rhoades
Cr Hines

VOTED AGAINST

Cr Graham

GENERAL MANAGER'S REPORT

GM12/3 STATEMENT OF BUSINESS ETHICS

The purpose of this report is to review and update the Statement of Business Ethics

34 RESOLVED (Palmer/Knight) that Council adopts the Statement of Business Ethics.

AMENDMENT

MOVED (Graham/Hines) that Council adopt the Statement of Business Ethics and ensures that in addition to Council's obligations under the Code of Conduct that Council also adheres to its Statement of Business Ethics.

The **AMENDMENT** on being put to the meeting was **LOST**. The **MOTION** on being put to the meeting was declared **CARRIED**.

GM12/4 2011/2015 DELIVERY PROGRAM - SIX MONTHLY PROGRESS REPORT

To provide a progress report on the first six months of implementation of Council's 2011/2015 Delivery Program.

35 RESOLVED (Palmer/Degens) that Council adopts the Six-Monthly Progress Report (for the period 1 July to 31 December 2011) on the Coffs Harbour City Council 2011/2015 Delivery Program.

GM12/5 OPERATIONAL PLAN REPORTING FOR THE QUARTER ENDED 31 DECEMBER 2011

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

36 RESOLVED (Palmer/Templeton) that Council:

1. Notes the operational status of Budget Programs for the quarter ended 31 December 2011, as outlined in the body of this report.
2. Continues to monitor its performance with a view to improving service delivery.

- 37** **RESOLVED** (Palmer/Graham) that item GM12/6 - Coffs Harbour City Council v Minister for Planning and Infrastructure & Ors - Land and Environment Court Proceedings No. 11/40219 be moved to Closed Committee, the reason being that part of this report is confidential under Section 10A(2):

(g) Advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege.

CITY SERVICES DEPARTMENT REPORTS

CS12/5 COMMITTEE MEMBERSHIP

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

- 38** **RESOLVED** (Templeton/Hines) that the following committee member nominations be appointed to their relevant committees:

- Sportz Central Management Committee
Mr Stuart Malouf
- Yandaarra Aboriginal Consultative Committee
Mr Dean Evers
- Woolgoolga Community Village Management Committee
Ms Anna Miley

CS12/6 COMMUNITY FACILITIES MANAGEMENT, ADVISORY COMMITTEES AND COMMUNITY DEVELOPMENT INITIATIVES UPDATE FOR 2011

To provide a report on the current operational status of Council's community facility management, advisory committees and community development initiatives.

- 39** **RESOLVED** (Degens/Palmer):

1. That Council note the valuable assistance, advice and good management of Council's community facilities and advisory committees by volunteer members.
2. That a letter under the signatures of the Mayor and General Manager be sent to each committee congratulating them on their achievements over the last 12 months.

**CS12/7 NSW WATER SUPPLY & SEWERAGE PERFORMANCE REPORT
2009/10**

To inform Council about the results of the 2009/10 NSW Water Supply and Sewerage Performance Report in relation to Coffs Harbour's system.

MOVED (Graham/Degens):

1. That Council note the Performance Monitoring Report and the 2009-10 NSW Water Supply and Sewerage document in relation to Coffs Harbour's systems.
2. That Council note that mining proposals in the Orara and Nymboida catchments endanger the quality of our drinking water supply.

AMENDMENT

- 40 RESOLVED** (Rhoades/Palmer) that Council note the Performance Monitoring Report and the 2009-10 NSW Water Supply and Sewerage document in relation to Coffs Harbour's systems.

The **AMENDMENT** on being put to the meeting was **CARRIED**. It then became the **MOTION** on being put to the meeting was declared **CARRIED**.

CORPORATE BUSINESS DEPARTMENT REPORTS

CB12/10 ENVIRONMENTAL LEVY PROGRAM REVIEW

To provide Council with recommendations following the review of the Environmental Levy Program.

- 41 RESOLVED** (Graham/Hines) that Council adopt the 10 recommendations in the attached Environmental Levy Review document.

AMENDMENT

MOVED (Degens/Templeton):

1. That Council adopt the 10 recommendations in the attached Environmental Levy Review document.
2. That Council suspend the Committee process for the current year and that the submissions to the Environmental Levy fund be determined by Council staff.

The **AMENDMENT** on being put to the meeting was **LOST**. The **MOTION** on being put to the meeting was declared **CARRIED**.

CB12/11 QUARTERLY BUDGET REVIEW STATEMENT FOR DECEMBER 2011

To provide the quarterly budget review statement and report on the estimated budget position as at 31 December 2011.

The following attachments are included with this report:

- Attachment A - Budget Review Income and Expenses Statement by Program
- Attachment B - Budget Review Capital Budget
- Attachment C - Budget Review Cash and Investments position
- Attachment D - Budget Review Key Performance Indicators
- Attachment E - Budget Review Contracts and Other Expenses

42 RESOLVED (Palmer/Hines):

1. The Quarterly Budget Review Statements be noted.
2. That the budget adjustments be approved and the current budget position be noted.

Estimated Budget Position as at 31 December 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 to September 2011	(118,364) (S)	Nil	Nil
Recommended variations for quarter ending 31 December 2011	(77,662) (S)	Nil	Nil
Estimated result 2011/12 as at 31 December 2011	<u>(13,806) (S)</u>	<u>4,897,205 (D)</u>	<u>3,591,600 (D)</u>

CB12/12 LOANS POLICY FOR COMMUNITY GROUPS

To gain approval for a revision of Council's policy in relation to loans to incorporated community groups which provide services on behalf of Council on Council land.

43 RESOLVED (Palmer/Degens) that Council approve the revised lending policy to incorporated groups and associations.

CB12/13 COMMUNITY FACILITIES PROGRAM

To provide Council with recommendations in relation to the ongoing management of the Community Facilities Program.

44 RESOLVED (Hines/Templeton):

1. That Council endorses the overall framework of the Community Facilities Program as outlined in the report.
2. That the Community Grants Program commence from 1 July 2012 as outlined in the report.

CB12/14 CENTRAL BUSINESS DISTRICT SPECIAL RATE VARIATION APPLICATION

To seek Council's endorsement to apply to the Independent Pricing and Regulatory Tribunal (IPART) for a ten year extension to the existing CBD Special Rate.

45 RESOLVED (Hines/Degens):

1. That Council makes a Special Rate Variation Application to IPART for 10 Year extension to the existing CBD Special Rate.
2. That a report come to Council detailing the Terms of Reference for a CBD Masterplan Committee and a draft brief for the development of the CBD Masterplan.

SUPPLMENTARY MOTION

- 46 RESOLVED** (Templeton/Hines) that a list be provided to Council and to the CBD Master Plan Committee (once formed) of Reserve Funds Council has in the CBD. Also included in the list any relevant background information related to the funds.

CB12/15 TENDER: SUPPLY & DELIVERY OF BULK FUELS

To report on the tenders received by Regional Procurement Initiative (division of Hunter Council Incorporated) on behalf of the Mid North Coast Procurement Alliance Group of Councils for the Supply and Delivery of Bulk Fuels and to gain Council approval.

47 RESOLVED (Graham/Degens):

1. That Council accepts the tender offer of Hastings Co-operative Ltd for the supply and delivery of the following bulk fuels for the period commencing from 1 March 2012 until 30 June 2013:

- Distillate
- E10
- Unleaded

The recommendation is on the basis that:

- a) The tender offers are the most suitable and advantageous following the application of Regional Procurement's Tender Value Selection System
- b) By actively participating in this Regional Procurement Tender T41112MNC on behalf of the Mid North Coast Procurement Alliance Group of Councils, Coffs Harbour Council will not breach the Local Government (General) Regulation 2005 - Section 7 Tendering, for annual expenditure over \$150,000.
- c) Savings will be achieved as follows:

Based on benchmarking the NSW Department of Commerce contract 366 and Procurement Australia contract 1110/0103 Council can anticipate making an average saving of between \$0.025 and \$0.03 cents per litre for the supply of distillate. Also identified are potential savings of a minimum of \$0.01 cents per litre for unleaded fuel with the added expectation that under this tender Council will achieve equal to or better pricing than the NSW Department of Commerce contract 366 for E10 fuel.

2. That provision be allowed for a 12 month extension based on satisfactory Supplier performance which may take this tender through to 30 June 2014.
3. That the contract documents be executed under Council's Seal.

**CB12/16 TENDER: PROVISION OF INVESTMENT ADVISORY SERVICES -
CONTRACT NO. RFT-502-TO**

To report to Council on tenders received for the provision of investment advisory services, Contract RFT-502-TO and to gain Council approval to accept a tender.

48 RESOLVED (Graham/Degens):

1. That Council accept the conforming tender of CPG Research & Advisory Pty Limited for Contract RFT-502-TO Provision of Investment Advisory Services, for the rate as tendered.
2. That the contract documents be completed under Seal of Council.

REQUESTS FOR LEAVE OF ABSENCE

49 RESOLVED (Palmer/Degens) that the following Councillors be granted leave of absence from Council:

Councillor D Knight on 8 March 2012 and 22 March 2012.
Councillor K Hines on 8 March 2012.

MATTERS OF AN URGENT NATURE

There were no Matters of an Urgent Nature.

QUESTIONS ON NOTICE

There were no Questions on Notice.

CLOSED MEETING – SECTION 10(A)

The Mayor requested a motion to close the meeting to consider a confidential report as outlined in the meeting agenda, the time was 7.04pm.

- 50** **RESOLVED** (Palmer/Graham) that the meeting be closed to the press and public during consideration of the following items for the reasons as stated:

GM12/6 - Coffs Harbour City Council v Minister for Planning and Infrastructure & Ors - Land and Environment Court Proceedings No. 11/40219

This report was confidential for the reason of Section 10A(2):

- (g) Advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege.

The **MOTION** on being put to the meeting was **CARRIED**.

The press and public vacated the Chamber.

The meeting adjourned for a short recess, the time being 7.04 and reconvened at 7.08pm.

GM12/6 COFFS HARBOUR CITY COUNCIL v MINISTER FOR PLANNING AND INFRASTRUCTURE & ORS - LAND AND ENVIRONMENT COURT PROCEEDINGS NO. 11/40219

For Council to make a determination on whether to appeal the decision - Coffs Harbour City Council v Minister for Planning and Infrastructure & Ors - Land and Environment Court Proceedings No. 11/40219 (Sandy Shores) to the Court of Appeal.

- 51** **RESOLVED** (Hines/Palmer) that Council issue instructions to appeal the judgement handed down by the Land and Environment Court, in Proceedings No. 11/40219 and progress the matter in the Court of Appeal.

The resolution was carried unanimously.

OPEN MEETING

The Mayor requested an appropriate motion to enable the meeting to resolve into Open Meeting.

- 52** **RESOLVED** (Graham/Templeton) that the Committee now move into Open Meeting.

The Mayor read to the meeting the resolution of the Closed Meeting.

This concluded the business and the meeting closed at 8.02 pm.

Confirmed: 8 March 2012.

.....
K D Rhoades, AFSM
Mayor