

The following document is the minutes of the Council and Committee meeting held on 11 April 2013. These minutes are subject to confirmation as to their accuracy at the next meeting to be held on 24 April 2013 and therefore subject to change. Please refer to minutes of 24 April 2013 for confirmation.



COFFS HARBOUR CITY COUNCIL
ORDINARY MEETING
COUNCIL CHAMBERS
COUNCIL ADMINISTRATION BUILDING
COFF AND CASTLE STREETS, COFFS HARBOUR
11 APRIL 2013

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COFFS HARBOUR CITY COUNCIL

ORDINARY MEETING

11 April 2013

Present: Councillors D Knight (Mayor), J Arkan, N Cowling, R Degens, G Innes, B Palmer and S Townley

Staff: General Manager, Acting Director Corporate Business, Director City Services, Director Land Use, Health & Development and Executive Assistant.

The meeting commenced at 5.00 pm with the Mayor, Cr D Knight in the chair.

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 Mayor reminded the Chamber that the meeting was to be recorded, and that no other recordings of the meeting would be permitted.

DISCLOSURES OF INTEREST

The General Manager read the following disclosure of interest to inform the meeting:

Councillor	Item	Type of Interest
Cr Innes	NOM13/5 - City Wide LEP - B6 Enterprise Corridor	Pecuniary - as wife owns two businesses in close proximity to a corridor

APOLOGY

82 **RESOLVED** (Arkan/Degens) that an apology received from Councillor Sultana for unavoidable absence be received and accepted.

83 **RESOLVED** (Townley/Innes) that leave of absence as requested from Councillor Rhoades be approved.

PUBLIC FORUM

Time	Speaker	Item
5.00pm	Faye Urquhart	Environmental Protection habitat at Pines Estate, Woolgoolga

CONFIRMATION AND ADOPTION OF MINUTES

- 84** **RESOLVED** (Innes/Townley) that the minutes of the Ordinary meeting held on 27 March 2013 be confirmed as a true and correct record of proceedings.

Cr Innes declared an interest in the following item, vacated the chamber and took no part in the discussion or voting, the time being 5.08 pm.

NOTICES OF MOTION

NOM13/5 CITY WIDE LEP - B6 ENTERPRISE CORRIDOR

- 85** **RESOLVED** (Degens/Cowling) that:

The following letter be sent to the Minister for Planning for his consideration and action with respect to the Coffs Harbour City LEP.

Letter to the Minister for Planning:

The City Wide LEP was formally adopted by Council last year in December, approximately three months into the electoral term. Subsequent to the adoption of the City Wide LEP on 13 December 2012 a majority of elected councillors have agreed that certain aspects of the adopted LEP should be amended prior to its approval by the Minister and subsequent gazettal. However the legislation under which the LEP was made has no provision for Council to withdraw the LEP, make the changes and resubmit the LEP. The power to make changes now rests solely with the Minister.

Coffs Harbour City Council therefore respectfully requests that the Minister exercise his powers under the Planning Act to make the changes to the Coffs Harbour City Wide LEP, adopted by council on 13 December 2012 (and subsequently sent to the Department for approval by the minister and gazettal) prior to its approval and gazettal.

Cont'd

The preferred adjustment to the Coffs Harbour Local Environment Plan is:

That the B6 business zone which currently has a restriction of 150m² maximum floor space for business and office premises be raised to 600m² for all of the land zoned B6 in Coffs Harbour under the City Wide LEP adopted 13 December 2012

Regards

Steve McGrath
General Manager of CHCC

Denise Knight
Mayor Coffs Harbour City Council

Cr Innes returned to the meeting, the time being 5.20pm.

GENERAL MANAGER'S REPORT

GM13/10 INTEGRATED PLANNING AND REPORTING FRAMEWORK FOR THE PERIOD 2013/2014 TO 2016/2017

MOTION

86 MOVED (Cowling/Townley) that:

1. Accept the following documents for public exhibition:
 - 1.1 Draft reviewed Coffs Harbour 2030 Community Strategic Plan
 - 1.2 Draft 2013/2017 Delivery Program;
 - 1.3 Draft 2013/2017 Operational Plan;
 - 1.4 Draft Program Budgets 2013/2017 with the following amounts being reduced from the following departments:

1.4.1 Coffs Coast Marketing	\$126,307
1.4.2 Sports Development	\$100,000
1.4.3 Economic Department	\$200,000

That the following amount be added:

1.4.4 Sustainability Program	\$60,000
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 - 1.5 Draft 2013/2014 Fees and Charges with one change to the Museum Fees being increased to Single entry fee \$5 and Family \$15;
 - 1.6 Reviewed Coffs Harbour City Council Resourcing Strategy; and
 - 1.7 That all the above programs reflect the above changes.
 2. Note that the draft documents will be placed on public exhibition for a 28-day period from Friday 12 April 2013 until close of business on Friday, 10 May 2013, and that the community will be encouraged to provide feedback on the documents during that time.
 3. Consider community submissions prior to adopting the final suite of Integrated Planning and Reporting documents by 31 May 2013.
 4. Note that the Draft 2013/2014 Budget is based on a projected balanced result.
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MOTION

- 87 **MOVED** (Degens/Townley) that item GM13/11 be deferred to closed meeting for confidential discussion.

CORPORATE BUSINESS DEPARTMENT REPORTS

CB13/23 BANK BALANCES AND INVESTMENT FOR FEBRUARY 2013

To list Council's Bank Balances and Investments as at 28 February 2013.

- 88 **RESOLVED** (Palmer/Innes) that:
1. The bank balances and investments totaling (from loans, Section 94 and other avenues that form the restricted accounts and are committed for future works) one hundred and seventy four million, three hundred and fifty eight thousand, six hundred and eighty four dollars (\$174,358,684) as at 28 February 2013 be noted.
 2. The general fund unrestricted cash and investments totaling one million, eight hundred and eighty four thousand, five hundred and ninety four dollars (\$1,884,594) as at 28 February 2013 be noted.

CB13/24 MONTHLY BUDGET REVIEW FOR FEBRUARY 2013

To report on the estimated budget position as at 28 February 2013.

- 89 **RESOLVED** (Innes/Townley) that:
- That the budget adjustments be approved and the current budget position be noted.

Estimated Budget Position as at 28 February 2013:

	General Account \$	Water Account \$	Sewer Account \$
Original Budget adopted 24 May 2012	308,365 (D)	4,397,830 (D)	3,542,337 (D)
Approved Variations to 31 January 2013	(23,141) (S)	(554,150) (S)	(686,556) (S)
Recommended variations for February 2013	(80,000) (S)	Nil	Nil
Estimated result as at 28 February 2013	<u>205,224 (D)</u>	<u>3,843,680 (D)</u>	<u>2,855,781 (D)</u>

**CB13/25 ASSIGNMENT OF LEASE - CONSENT TO ASSIGNMENT OF
LEASE, KIOSK A, CITY SQUARE, COFFS HARBOUR**

Seeking Council's consent to the assignment of the lease for Kiosk A in the City Square and more particularly described as Lot 13 in Deposited Plan 1031722 and for the execution of a Deed of Assignment of lease and ancillary documents under the Common Seal of Council.

90 RESOLVED (Arkan/Innes) that:

1. The Council as registered proprietor of Kiosk A being Lot 13 in DP 1031722 (the demised premises) consent to the assignment of registered lease AE670508 subject to the provisions of the lease agreement and the terms and conditions contained in this report.
2. Any necessary documents required to give effect to the assignment of registered lease AE670508 of Kiosk A being Lot 13 in DP 1031722 be executed under the common seal of Council.

**CB13/26 TENDER RFT-572-TO: COFFS HARBOUR REGIONAL AIRPORT -
RUNWAY ASPHALT RESHEETING**

To report on tenders received for Contract RFT-572-TO, for the asphalt overlay of the main runway at the Coffs Harbour Regional Airport, and to gain Council approval to accept a tender.

91 RESOLVED (Innes/Degens) that:

1. Council accept the tender of Fulton Hogan Industries Pty Ltd, ABN 54 00 538 689 for the amount of \$7,382,884.30 inclusive of GST on the basis that:
 - a) The tender is the most advantageous to Council.
 - 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. The contract documents be executed under the Seal of Council.
3. Council authorise the allocation of \$500,000 from the Airport Reserve Funds for the project.
4. Council authorise a short term, up to one year, internal loan of \$500,000 from ELE Reserve Funds for the project, to be repaid from Airport revenue.

CITY SERVICES DEPARTMENT REPORTS

CS13/20 NIGHTRIDER SERVICE - NORTHERN BEACHES

To report back to Council on the issues arising from implementing the resolution to Notice of Motion regarding the Nightrider Service to Northern Beaches

92 RESOLVED (Townley/Cowling) that:

1. Council allocate \$10,000 to be allocated to the Northern Beaches Nightrider Service in the 2013/2014 budget.
 2. The allocation previously made in the 2012/13 budget of \$10,000 for the Northern Beaches Nightrider Service be removed.
 3. Council note that this be a “free” service to patrons.
 4. Council note that staff will continue to investigate other funding options to offset lack of fares.
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CS13/21 COMMITTEE MEMBERSHIP - BAYLDON COMMUNITY CENTRE AND SPORTZ CENTRAL

To recommend to Council appointment of community members to facility management committees.

93 RESOLVED (Arkan/Degens) that:

The following committee member nominations be appointed to the relevant committees:

- Bayldon Community Centre Management Committee
Mrs Shirley Mason
 - Sportz Central Management Committee
Mr Scott Goodhand
-

REQUESTS FOR LEAVE OF ABSENCE

94 RESOLVED (Arkan/Degens) that Cr Townley be granted leave of absence from Council for 24 April 2013.

MATTERS OF AN URGENT NATURE

No matters of an urgent nature.

QUESTIONS ON NOTICE

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 5.56 pm.

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

GM13/11 - Coffs Harbour City Council V Minister for Planning and Infrastructure and Ors - Advice Regarding Application for Special Leave to the High Court of Australia

This report was confidential for the reason of Section 10A(2) of the Local Government Act, 1993:

- (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.

MOTION

- 96** **MOVED** (Townley/Arkan) to go into Committee of the Whole.

GM13/11 COFFS HARBOUR CITY COUNCIL V MINISTER FOR PLANNING AND INFRASTRUCTURE AND ORS ADVICE REGARDING APPLICATION FOR SPECIAL LEAVE TO THE HIGH COURT OF AUSTRALIA

To provide Councillors with the advice received from the Senior Counsel engaged by Sparke Helmore Lawyers, following resolution 78 of Council at the meeting on 27 March 2013.

- 97** **RECOMMENDED** (Degens/Arkan) that:

1. Council accepts the decision of the Court of Appeal and negotiates costs with the Respondents as detailed in the advice from Sparke Helmore Lawyers dated 18 March 2013 (provided as a confidential attachment to the report considered by Council at its meeting on the 27 March 2013);
2. Council consider a further report once further advice has been received from Sparke Helmore Lawyers regarding the processing of future development applications arising from the NSW Government Part 3a approved concept plan.
3. Council seek a second legal opinion, in relation to the matter raised in point 2 above, from an accredited environmental / planning law specialist solicitor from within Council's legal panel.

MOTION

- 98** **MOVED** (Townley/Palmer) out of Committee of the Whole.
-

OPEN MEETING

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

- 99** **RECOMMENDED** (Arkan/Degens) that the Council now move into Open Meeting.

- 100** **RESOLVED** (Degens/Arkan) to adopt the report of the Closed Meeting.

1. Council accepts the decision of the Court of Appeal and negotiates costs with the Respondents as detailed in the advice from Sparke Helmore Lawyers dated 18 March 2013 (provided as a confidential attachment to the report considered by Council at its meeting on the 27 March 2013);
2. Council consider a further report once further advice has been received from Sparke Helmore Lawyers regarding the processing of future development applications arising from the NSW Government Part 3a approved concept plan.
3. Council seek a second legal opinion, in relation to the matter raised in point 2 above, from an accredited environmental / planning law specialist solicitor from within Council's legal panel.

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

This concluded the business and the meeting closed at 6.26 pm.

Confirmed: 24 April 2013

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Denise Knight
Mayor