



## MINUTES

### COFFS HARBOUR CITY COUNCIL ORDINARY COUNCIL MEETING COUNCIL ADMINISTRATION BUILDING

VIA AUDIO-VISUAL LINK  
ON THURSDAY, 27 AUGUST 2020 AT 5.00PM

**PRESENT:** Cr Denise Knight, Cr Michael Adendorff, Cr Paul Amos, Cr John Arkan, Cr George Cecato, Cr Keith Rhoades, Cr Tegan Swan, Cr Sally Townley (via video link)

**STAFF:** General Manager, Acting Director Sustainable Infrastructure, Director Sustainable Communities, Director Business Services and Executive Assistant

**LEAVE OF ABSENCE** Nil

### OPENING OF ORDINARY MEETING

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

### ACKNOWLEDGEMENT OF COUNTRY

We respectfully acknowledge the traditional custodians of the land on which we meet, the Gumbaynggirr people, who have cared for this land since time immemorial. We pay our respects to their Elders, past, present and emerging, and commit ourselves to a future with reconciliation and renewal at its heart.

### STATEMENT IN RELATION TO RECORDING OF MEETINGS

The Mayor reminded the Chamber that the meeting is being recorded and broadcast live and anyone attending the meeting should refrain from making any defamatory statements. The recording will be made publicly available on Council's website once the minutes are finalised.

The Mayor advised that NSW/ACT Park and Leisure Australia Awards of Excellence were announced today and Coffs Harbour city Council was successful in two categories, being named winners in Community Facility of the Year – The C.ex Coffs International Stadium; and also Major Event of the Year – Elton Rocks the Coffs Coast. The Mayor congratulated and thanked and all the staff, the volunteers, the team that was involved and the community for attending.

### PUBLIC FORUM COMMENCED AT 5.00PM

Due to there being no public gallery as a precaution to help reduce the risk of Coronavirus COVID-19 infection, all speakers are providing a written statement which will be read to the meeting.

Speaker	Item
Kim Towner	For NOM20/10 Seek Legal Advice Adverse Occupier – Unoccupied Lands East of the Railway Line and North of Marina Drive Jetty Foreshores
Peter Wardman	Against BS20/50 Coffs Harbour Airport Long Term Lease – Stage 3 Tender for Binding Bids
Gai Anderson	For BS20/50 Coffs Harbour Airport Long Term Lease – Stage 3 Tender for Binding Bids
John Widdowson	Against SC20/45 Development Application No. 0564/20 – Plant Nursery, Landscaping Material Supplies and Café – Lot 17 DP 1141168, 16 Wakelands Road, Sapphire
Barb Wenman	Against SC20/45 Development Application No. 0564/20 – Plant Nursery, Landscaping Material Supplies and Café – Lot 17 DP 1141168, 16 Wakelands Road, Sapphire
Jim Booth	For SC20/45 Development Application No. 0564/20 – Plant Nursery, Landscaping Material Supplies and Café – Lot 17 DP 1141168, 16 Wakelands Road, Sapphire

## DISCLOSURE OF INTEREST

No disclosures of interest.

## APOLOGIES

No apologies.

## REQUESTS FOR LEAVE OF ABSENCE

No requests for leave of absence.

## CONFIRMATION OF MINUTES

### 2020/178 RESOLVED (Cr John Arkan / Cr George Cecato)

That the minutes of the Ordinary Meeting held on 13 August 2020 be confirmed.

**The Motion on being put to the meeting was carried unanimously.**

**CARRIED**

## NOTICES OF MOTION – GENERAL

### NOM20/10 SEEK LEGAL ADVICE ADVERSE OCCUPIER - UNOCCUPIED LANDS EAST OF THE RAILWAY LINE AND NORTH OF MARINA DRIVE JETTY FORESHORES

### 2020/179 RESOLVED (Cr Paul Amos / Cr John Arkan)

Council seek legal opinion as to if Adverse Occupier title may apply to unoccupied lands east of the railway line and north of Marina Drive at Coffs Harbour Jetty Foreshores. In particular

council seek to clarify if any of the subject land has been previously 'dedicated under any act for a public purpose'. Any resulting claim would be on behalf of the community of Coffs Harbour.

**For:** Crs Knight, Adendorff, Amos, Arkan, Rhoades and Townley

**Against:** Crs Cecato and Swan

**CARRIED**

## MOTION

### 2020/180 RESOLVED (Cr Keith Rhoades / Cr John Arkan)

That Council move into confidential closed session, at the conclusion of consideration of matters in open session, to discuss Item BS20/50 Coffs Harbour Airport Long Term Lease – Stage 3 Tender For Binding Bids.

**The Motion on being put to the meeting was carried unanimously.**

**CARRIED**

### SC20/45 DEVELOPMENT APPLICATION NO. 0564/20 - PLANT NURSERY, LANDSCAPING MATERIAL SUPPLIES AND CAFE - LOT 17 DP 1141168, 16 WAKELANDS ROAD, SAPPHIRE BEACH

## EXECUTIVE SUMMARY

This report provides an assessment of Development Application No. 0564/20 for a plant nursery, landscaping material supplies and cafe at 16 Wakelands Road, Sapphire Beach.

At its meeting of 12 October 2017, Council adopted the 'Development Applications - Consideration by Council Policy', which outlined:

*That development applications for approval involving substantial aspects of the following elements be referred to Council for determination:*

- Significant public interest and community input;
- A proposed variation to the Local Environmental Plan that varies from the development standard by more than 10%;
- Significant land use; and
- Major environmental issues.

Following public exhibition of the application, Council received eleven submissions (including a petition). Accordingly, this matter is reported to Council for determination due to 'significant public interest and community input'.

## MOTION (Cr Sally Townley / Cr Tegan Swan)

That Council:

1. Defer consideration of Development Application No. 0564/20 for a plant nursery, landscaping material supplies and cafe at Lot 17 DP 1141168, 16 Wakelands Road, Sapphire Beach pending Council (in liaison with the RMS and Traffic Committee) completing a comprehensive investigation into the feasibility of using Solitary Islands Way as the primary access for the site. This investigation is to be reported back to Council and is to include a comparison of all alternatives together with actual and projected traffic volumes.
2. Advise persons who made a submission on Development Application No. 0564/20 of Council's decision.

The Mayor requested a motion to adjourn the meeting to address sound/audio-visual issues.

**MOTION****2020/181 RESOLVED (Cr Paul Amos / Cr Keith Rhoades)**

That the meeting be adjourned, the time being 6.11pm.

**The Motion on being put to the meeting was carried unanimously.**

**CARRIED**

The meeting resumed at 6.18pm.

**MOTION****2020/182 RESOLVED (Cr Sally Townley / Cr Tegan Swan)**

That Council:

1. Defer consideration of Development Application No. 0564/20 for a plant nursery, landscaping material supplies and cafe at Lot 17 DP 1141168, 16 Wakelands Road, Sapphire Beach pending Council (in liaison with the RMS and Traffic Committee) completing a comprehensive investigation into the feasibility of using Solitary Islands Way as the primary access for the site. This investigation is to be reported back to Council and is to include a comparison of all alternatives together with actual and projected traffic volumes.
2. Advise persons who made a submission on Development Application No. 0564/20 of Council's decision.

**The Motion on being put to the meeting was carried unanimously.**

**CARRIED****NOM20/11 POLICY DEVELOPMENT FOR COUNCIL UNDERTAKING DEVELOPMENT****2020/183 RESOLVED (Cr Sally Townley / Cr John Arkan)**

Council develop a comprehensive policy which outlines parameters for Council acting as a developer.

**The Motion on being put to the meeting was carried unanimously.**

**CARRIED****GENERAL MANAGER'S REPORTS****GM20/20 COUNCIL COMMITTEES - REVIEW OF THE AUSTRALIA DAY COMMITTEE TERMS OF REFERENCE****EXECUTIVE SUMMARY**

The Australia Day Committee's membership has recently declined. In advance of seeking new members, Council has reviewed and updated the Committee's Terms of Reference to ensure its continuing suitability.

The purpose of this report is to present the amended Australia Day Committee's Terms of Reference for Council adoption and advise Council of the plans to seek expressions of interest from the community for new members.

**2020/184 RESOLVED (Cr Denise Knight / Cr John Arkan)**

That Council

1. Adopts the amended Australia Day Committee Terms of Reference.
2. Notes that Council will be seeking expressions of interest for new members to join the Australia Day Committee.

**The Motion on being put to the meeting was carried unanimously.**

**CARRIED**

**DIRECTORATE REPORTS - BUSINESS SERVICES****BS20/47 BANK AND INVESTMENT BALANCES FOR JUNE 2020****EXECUTIVE SUMMARY**

Council's Bank Balances and Investments as at 30 June 2020 totalled \$224,574,947.88. Council receives independent advice and invests surplus funds in accordance with Council's Investment Policy to maximise investment income and preserve capital to assist with funding requirements for projects listed under the Delivery Program and associated Operational Plans.

**2020/185 RESOLVED (Cr George Cecato / Cr Paul Amos)**

That Council note the bank balances and investments totalling \$224,574,947.88 (including from loans, Developer Contributions and other avenues that form the restricted accounts and are committed for future works) as at 30 June 2020.

**The Motion on being put to the meeting was carried unanimously.**

**CARRIED**

**BS20/48 BANK AND INVESTMENT BALANCES FOR JULY 2020****EXECUTIVE SUMMARY**

Council's Bank Balances and Investments as at 31 July 2020 totalled \$217,843,746.59. Council receives independent advice and invests surplus funds in accordance with Council's Investment Policy to maximise investment income and preserve capital to assist with funding requirements for projects listed under the Delivery Program and associated Operational Plans.

**2020/186 RESOLVED (Cr George Cecato / Cr Michael Adendorff)**

That Council note the bank balances and investments totalling \$217,843,746.59 (including from loans, Developer Contributions and other avenues that form the restricted accounts and are committed for future works) as at 31 July 2020.

**The Motion on being put to the meeting was carried unanimously.**

**CARRIED**

**BS20/49 CERTIFICATION OF DRAFT 2019/20 ANNUAL FINANCIAL STATEMENTS****EXECUTIVE SUMMARY**

The draft Annual Financial Statements, which include the General Purpose Financial Statements, the Special Purpose Financial Statements and the Special Schedules, are required to be certified to meet legislative requirements in relation to the completion and audit of the Annual Financial Statements for 2019/2020.

**2020/187 RESOLVED (Cr George Cecato / Cr Tegan Swan)**

That Council approve the General Purpose Financial Statements – Statement by Councillors and Management and Special Purpose Financial Statements – Statement by Councillors and Management forms for 2019/2020 for completion by the designated signatories.

Cr Amos gave notice of a Foreshadowed Motion.

**For:** Crs Knight, Adendorff, Arkan, Cecato, Rhoades, Swan and Townley

**Against:** Cr Amos

**CARRIED**

The Motion was carried, therefore the Foreshadowed Motion lapsed and was not considered.

**FORESHADOWED MOTION**

**(Cr Paul Amos)**

That Council defer the adoption of the draft financial statements until they accompanied by the Full Infrastructure reporting component as has been standard in past years.

**DIRECTORATE REPORTS - SUSTAINABLE COMMUNITIES****SC20/44 2017-2021 DELIVERY PROGRAM - SIX-MONTHLY REPORT – JANUARY TO JUNE 2020****EXECUTIVE SUMMARY**

Under the Local Government Act, Council is required to report six-monthly on its progress against the principal activities detailed in the Delivery Program.

The Six-Monthly Progress Reporting (for the period 1 January to 30 June 2020) on the Coffs Harbour City Council 2017-2021 Delivery Program (Year 3) is tabled at this time. This Six-Monthly Progress Report identifies achievements and challenges recorded during the reporting period and provides updates on Council services, projects and key operational activities.

There are 252 Operational Plan actions detailed in the six-monthly report. The majority are recorded as being On Track; 60 are listed as Needing Attention, 4 as Critical and 8 on hold, generally reflecting the impacts of competing operational priorities or external factors such as COVID-19.

The report represents a considerable record of achievement by Council and its workforce in delivering positive outcomes for the Coffs Harbour Local Government Area (LGA) community.

**2020/188 RESOLVED (Cr George Cecato / Cr Tegan Swan)**

That Council adopts the attached Six-Monthly Progress Report (for the period 1 January to 30 June 2020) on the Coffs Harbour City Council 2017-2021 Delivery Program (Year 3) for public release.

The Motion on being put to the meeting was carried unanimously.

**CARRIED**

**SC20/46 DEVELOPMENT APPLICATION NO. 0825/20 - SUBDIVISION - LOT 377 DP 752817 AND LOT 368 DP 752817, 84 HOOD STREET AND 67 MILDURA STREET, COFFS HARBOUR****EXECUTIVE SUMMARY**

This report provides an assessment of Development Application No. 0825/20 for a subdivision at Lots 377 and 368 in DP 752817, 84 Hood Street and 67 Mildura Street, Coffs Harbour.

At its meeting of 12 October 2017, Council adopted the 'Development Applications - Consideration by Council Policy', which outlined:

*That development applications for approval involving substantial aspects of the following elements be referred to Council for determination:*

- Significant public interest and community input;
- A proposed variation to the Local Environmental Plan that varies from the development standard by more than 10%;
- Significant land use; and
- Major environmental issues.

The development application is reported to Council for determination because it proposes to vary a development standard in the Local Environmental Plan by more than 10%.

**2020/189 RESOLVED (Cr George Cecato / Cr Michael Adendorff)**

That Council:

1. Support the request to vary a development standard made pursuant to Clause 4.6 of Coffs Harbour Local Environmental Plan 2013 for the variation to the minimum subdivision lot size under clause 4.1 of Coffs Harbour Local Environmental Plan 2013 in this particular case.
2. Approve Development Application No. 0825/20 for a subdivision at Lots 377 and 368 in DP 752817, 84 Hood Street and 67 Mildura Street, Coffs Harbour, subject to the conditions in Attachment 3.

The Motion on being put to the meeting was carried unanimously.

**CARRIED**

**DIRECTORATE REPORTS - SUSTAINABLE INFRASTRUCTURE****SI20/15 ENGAGEMENT OF CONSTRUCTION PROJECT MANAGEMENT SERVICES FOR THE WEST WOOLGOOLGA SPORTS COMPLEX PROJECT****EXECUTIVE SUMMARY**

Council is currently proceeding at pace with the Detailed Design (Phase 1) of the West Woolgoolga Sports Complex Project prior to transitioning into Construction (Phase 2) in the near future. Due to the compressed nature of the timeframes within which this project has necessarily

been undertaken there will, in the very near future, be some overlap between the two phases.

The detailed design of the Project (Phase 1) has to date been delivered by consultant project manager APP, via an engagement under a contract issued consequent to a tender offered by Council.

The Project's financing is underpinned by significant external grant funding. A number of grant-related conditions have dictated a regime of strict compliance to time-bound delivery targets and a reliance on external (to Council) project resources including the consultant Project Manager. The combination of rigid grant milestones which must be met in order to safeguard compliance with grant commitments, the upcoming overlap of Project phases, and the future necessity to appoint a further external project manager for the upcoming Phase 2 (Construction) present an extreme risk to the Project.

The purpose of this report is to recommend that Council utilise the provisions of s55 (3) of the Local Government Act 1993 (the Act) for the continued engagement of project management resource APP into Phase 2 of the Project because of the existence of extenuating circumstances, as identified in this report, which meet the requirements of s55 (3) of the Act in this specific case.

This report details the scope and the allowable application of s55 (3) of the Act, and outlines the extenuating circumstances which apply in the case of the procurement of Project Management services for Construction (Phase 2) of the West Woolgoolga Sports Complex Project.

#### **2020/190 RESOLVED (Cr John Arkan / Cr Tegan Swan)**

That Council:

1. Note that Detailed Design (Phase 1) of the West Woolgoolga Sports Complex Project is being delivered under the leadership of a consultant project manager.
2. Note that highly significant risks to the West Woolgoolga Sports Complex Project will arise unless there is continuity of project management leadership into the Construction (Phase 2) of the Project.
3. Note that the specific circumstances as described above, and as expanded upon in the body of this report, constitute 'extenuating circumstances' in accordance with provisions in s55 (3) (i) of the Local Government Act 1993.
4. Note the advice in this report that a satisfactory result would not be achieved by inviting tenders for project management resources.
5. Delegate authority to the General Manager to directly deal with consultant project management provider APP and other parties if required with the aim of concluding an engagement for the Construction (Phase 2) of the West Woolgoolga Sports Complex Project.
6. Note that negotiations with all parties will be conducted in accordance with the Independent Commission Against Corruption "Direct negotiations: Guidelines for managing risk (August 2018)" and the Coffs Harbour City Council Procurement Policy.

**For:** Crs Knight, Adendorff, Arkan, Cecato, Rhoades, Swan and Townley

**Against:** Cr Amos

**CARRIED**

#### **QUESTIONS ON NOTICE**

No questions on notice.



**MATTERS OF AN URGENT NATURE**

No matters of an urgent nature.

**CLOSED SESSION – SECTION 10A**

The Mayor requested a motion to close the meeting to consider Item BS20/50 Coffs Harbour Airport Long Term Lease – Stage 3 Tender for Binding Bids, the time being 7.09pm.

**MOTION****2020/191 RESOLVED (Cr Keith Rhoades / Cr George Cecato)**

That the meeting be closed to the staff, press and public during consideration of the following item for the reasons stated:

**BS20/50 Coffs Harbour Airport Long Term Lease – Stage 3 Tender for Binding Bids**

10A(2)(d)(ii) commercial information of a confidential nature that would, if disclosed confer a commercial advantage on a competitor of the council.

**The Motion on being put to the meeting was carried unanimously.**

**CARRIED**

The Staff and others vacated the Chamber and the public audio-visual was turned off.

**BS20/50 COFFS HARBOUR AIRPORT LONG TERM LEASE - STAGE 3 TENDER FOR BINDING BIDS****EXECUTIVE SUMMARY**

In December 2018 Council resolved to progress the Airport Lease Model for the Coffs Harbour Airport (CHA) to the next stages of due diligence and an expression of interest for non-binding bids.

In May 2019 Council resolved to appoint KPMG as independent expert advisors for the airport lease process. Since their appointment KPMG has undertaken a significant review of all relevant information and reports to date, and provided a gap analysis to inform further due diligence work required to ensure a comprehensive Information Memorandum (IM) could be provided to potential bidders for the airport lease. The IM was used to inform bidders during the Non-Binding Bids stage and in November 2019 Council considered the Non-Binding Bids received and resolved to progress the process to the Tender for Binding Bids stage.

The Tender for Binding Bids was released on 12 June 2020 at 3pm for a period of 21 days. During the tender period Council received a request to extend the deadline for submissions. As a result, the tender close date was extended two weeks with tenders officially closing on 17 July 2020 at 3pm.

Significant analysis of the Binding Bids has been undertaken by Council's Evaluation Panel and Council's Commercial Advisors, KPMG and Legal Advisors, Ashurst and this report brings before Council the outcomes of the Binding Bids evaluation. The lease process has been undertaken in line with the strict requirements of the Airport Lease Probity Plan which has been overseen by external probity advisors O'Connor Marsden (OCM).

**MOTION (Cr George Cecato / Cr Michael Adendorff)**

That Council:

1. Progress the airport lease through negotiation in line with the recommendation contained within the Binding Bids Evaluation Report (Confidential Attachment 2).
2. Receive a further report on the outcome of the negotiations.
3. Resolve that any proceeds received from the long term lease of the airport will not be used to fund the Cultural and Civic Space Project.

The General Manager left the Chamber, the time being 7.12pm.

The Director Sustainable Communities assumed his chair.

The General Manager returned to the meeting, the time being 7.15pm.

**AMENDMENT****(Cr John Arkan / Cr Tegan Swan)**

1. That Council defer progress of the airport lease and delay negotiation contained within the Binding Bids Evaluation Report (Confidential Attachment 2), until current available state/federal funds available to regional airports are known.
2. That Council continue to progress the development of Enterprise Park including relevant rezoning requirements and community consultation undertaken.

Cr Rhoades moved a Motion that the Amendment be put.

**MOTION OF DISSENT****MOTION (Cr Paul Amos)**

Cr Amos moved a motion of dissent against the ruling of the Chair.

**For:** Crs Amos and Arkan

**Against:** Crs Knight, Adendorff, Cecato, Rhoades and Swan (Townley - Abstained)

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

**AMENDMENT PUT****2020/192 RESOLVED (Cr Keith Rhoades)**

That the amendment be put.

**For:** Crs Knight, Adendorff, Cecato and Rhoades

**Against:** Crs Amos, Arkan, Swan and Townley

The **MOTION** on being put to the meeting resulted in a tied vote. The Mayor used her casting vote and the **MOTION** was declared **CARRIED**.

**CARRIED**

**AMENDMENT****(Cr John Arkan / Cr Tegan Swan)**

1. That Council defer progress of the airport lease and delay negotiation contained within the Binding Bids Evaluation Report (Confidential Attachment 2), until current available state/federal funds available to regional airports are known.
2. That Council continue to progress the development of Enterprise Park including relevant rezoning requirements and community consultation undertaken.

**For:** Crs Amos, Arkan and Swan**Against:** Crs Knight, Adendorff, Cecato, Rhoades and TownleyThe **AMENDMENT** on being put to the meeting was **LOST**

Cr Amos gave notice of a Foreshadowed Motion.

**MOTION PUT****2020/193 RESOLVED (Cr Denise Knight)**

That the motion be put.

**For:** Crs Knight, Adendorff, Amos, Cecato, Rhoades, Swan and Townley**Against:** Cr Arkan**CARRIED****MOTION****2020/194 RESOLVED (Cr George Cecato / Cr Michael Adendorff)**

That Council:

1. Progress the airport lease through negotiation in line with the recommendation contained within the Binding Bids Evaluation Report (Confidential Attachment 2).
2. Receive a further report on the outcome of the negotiations.
3. Resolve that any proceeds received from the long term lease of the airport will not be used to fund the Cultural and Civic Space Project.

**For:** Crs Knight, Adendorff, Cecato and Rhoades**Against:** Crs Amos, Arkan, Swan and TownleyThe **MOTION** on being put to the meeting resulted in a tied vote. The Mayor used her casting vote and the **MOTION** was declared **CARRIED**.**CARRIED**

The Motion was Carried, therefore the Foreshadowed Motion lapsed and was not considered.

**FORESHADOWED MOTION****(Cr Paul Amos)**

That Council:

1. postpone the lease of the airport,
2. negotiate management for the airport for two years, and
3. progress the Enterprise Park.

**OPEN MEETING**

The Mayor requested an appropriate motion to enable the meeting to resolve into Open Meeting, the time being 8.27pm

**MOTION**

**2020/195 RESOLVED (Cr Keith Rhoades / Cr Michael Adendorff)**

That Council move into Open Session.

**The Motion on being put to the meeting was carried unanimously.**

**CARRIED**

**MOTION**

**2020/196 RESOLVED (Cr Keith Rhoades / Cr Michael Adendorff)**

That the resolution of the Closed Session be adopted.

**For:** Crs Knight, Adendorff, Cecato and Rhoades

**Against:** Crs Amos, Arkan, Swan and Townley

The **MOTION** on being put to the meeting resulted in a tied vote. The Mayor used her casting vote and the **MOTION** was declared **CARRIED**.

**CARRIED**

The General Manager read to the meeting the resolution of the Closed Session.

**CLOSE OF MEETING**

The Meeting closed at 8.31pm.

Confirmed: 10 September 2020

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Denise Knight  
Mayor