

# **OBJECTION SUBMISSION**

## **CULTURAL & CIVIC SPACE PROJECT COFFS HARBOUR**

### **DEVELOPMENT APPLICATION SSD-10300**

Submission Date  
30 October 2019

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## INTRODUCTION

We submit this objection to Development Application SSD 10300, lodged by Coffs Harbour City Council for the Cultural and Civic Space Project on the grounds the applicant has failed to satisfactorily address a range of critical issues pertaining to the development.

These issues will have a major, long lasting and detrimental effect on the entire Coffs Harbour Local Government Area and its residents.

While the issues will be addressed in detail within this submission, they may be summarised as being by accumulation, sound grounds to reject the application, not just modify it.

Further, the implications of many significant matters raised within the submission, give cause for a more comprehensive investigation of Council and its activities.

These matters may be summarised, but not limited to:

- Abuse of power,
- misleading and deceptive conduct,
- fabricated reporting of results,
- process manipulation to effect outcomes,
- limited and bias community consultation,
- misinformation or contrived reporting within Council plans and documents,
- loading membership of reference panels with sympathetic parties,
- probity,
- manipulation of the procurement process.
- Primacy of the Central Business District at the expense of the broader community,
- Lack of response to community concerns,
- Council executive who transgress the power and responsibilities of their role,

The close association Council shares with a finite group of commercial and business parties, while generally considered common practice, in the case of Coffs Harbour City Council, demonstrates a bias that is not in the best interests of the much broader community.

## PROJECT BACKGROUND

Coffs Harbour residents have been awaiting a replacement “town hall” facility for over 30 years after the Council traded the property to the Coffs Ex-Services Club.

After decades of debate, Council finally agreed by a majority, to progress with an “entertainment centre” in April 2014, including: performing arts space, library, and art gallery. The Advocate newspaper article of 12 April 2014 reporting on Council’s meeting is attached as **ANNEXURE 1**.

In September 2014 Council commissioned Jetty Research to survey the community (total of 1596 respondents) and in December 2014, a report was submitted to Council. That report's executive summary quotes:

*"Among both samples, there was only limited support for a new purpose-built library or art gallery. There was majority support (again by both samples) for a new performing arts space."* The Jetty Research Report is attached as **ANNEXURE 2**.

By November 2015, the previous approval had been inexplicably changed to reject the performing arts space, leaving only the library and art gallery; contravening community engagement results from Jetty Research.

The ABC news article of 27 November 2015 leads with:

*"There is a new twist to the long-running saga of a performing arts centre for Coffs Harbour"*.

The article quotes the Mayor as saying:

*"What we did was we actually separated the performing centre from the art gallery and the library"* and further, *"When the community have got to make decisions on three things all bowled in together, it becomes that mountain that you can't get over"*. The article is attached as **ANNEXURE 3**.

Council produced a report titled "Cultural Facilities – Council Reports From 2014", which cites: "Item SC 15/48 "Cultural Facility Development" of Council's meeting 26 November 2015 and references the Harry Bailey Memorial Library and Coffs Harbour Regional Gallery, within the Coffs Harbour Central Business District.

The summary also states:

*"The need for expanded facilities has been identified and is outlined in the Cultural Plan 2013-2016 and Library Strategic Plan 2012-2016 and follows on from the community engagement regarding cultural facilities undertaken by Council during 2014"*. That would be the community engagement conducted by Jetty Research. Council has endeavoured to avoiding future acknowledgement of its existence.

In the same 26 November 2015 meeting, Council also addressed Item SC 15/49 "Cultural Strategic Plan 2017-2022 and Performing Arts Centre Feasibility and Cost-Benefit Assessment". The report summary quotes:

*"The proposed new Cultural Strategic Plan 2017-2022 will outline strategies to recognise the central role of arts and culture to the liveability of our region, including economic, social and cultural wellbeing. An important component of the proposed Cultural Strategic Plan is to assess the potential strategic impacts and benefits of a new Performing Arts Centre.."*

This latter comment implies that the performing arts component of the "entertainment centre" approved by Council in April 2014, has been relegated beyond 2017-2022, if at all. This is contrary to the community engagement of September-November 2014.

The Council meeting of 14 April 2016 addressed Item SC16/17 being the "Appointment of the Library and Gallery Advisory Planning Group" with six nominees and three Councillors. According to the Mayor, it was this opportune group who recommended that the Cultural space, excluding the

performing arts element, would benefit from the inclusion of new Council chambers and offices, although the reasoning is difficult to fathom.

The 11 May 2017 Council meeting addresses Item SC17/21 “Cultural Facility Development – Library and Gallery Scope and Precinct Analysis”. The Item summary gives a guide to the deception of the community.

It states:

*“This Council report presents recommendations from the Precinct Analysis for the Library/Gallery mixed project and the additional civic use investigations for the 23-31 Gordon Street site, as resolved by Council in June 2016.*

*These recommendations include confirming a Cultural and Civic Precinct in the CBD and adopting a scope for the Cultural and Civic Space project to include a new central library, regional gallery, customer service (read Council), Council Chambers and Council staff office accommodation.*

*The recommendations have been based on community consultation (false), additional analysis by the project team and advice from the Library Gallery Planning Advisory Group (obsequious) and the City Centre Masterplan Committee (representing CBD property owners who have been paying a Special Rates levy to Council since 2000 and continues until 2022)”.*

The Cultural Facilities – Council Reports from 2014 summary attached as **ANNEXURE 4**.

**At no stage, beyond the September-November 2014 Jetty Research project and up to the June 2016 Council report mentioned above, was the broader community consulted at all, and never regarding the inclusion of the Council chambers and offices.**

In September 2017 Council advertised a Request for Quote (RFQ) for the delivery of concept designs for the project. The RFQ covered a project cost range of \$100,000 to \$249,999. The request process closed mid-November 2017 and three (3) architectural firms/partnerships were shortlisted. We are unable to download the quotation package and further information as it is no longer available on Council’s website. We have requested access to the Council’s “quotation package and further information” as per Council’s advertisement. Council vaguely responded, *“please provide additional information about the documents you are requesting”*. Accordingly, we are restrained from commenting on the scope of the requested services. The advertisement is attached as **ANNEXURE 5**.

Copies of each concept image are attached as **ANNEXURE 6**.

By the first week in February 2019, BVN Architects (“BVN”) were “appointed to design the Coffs Harbour Cultural and Civic Space Project”. We note BVN Architects were not one of the three firms shortlisted to provide Concept designs from the September 2017 RFQ. Refer to BVN’s press release dated 6 February 2019 attached as **ANNEXURE 7**.

Council’s Development Application annexure *“Aboriginal, Community & Stakeholder Consultation”*, albeit remiss in attempting to hide the previous three years of project history, does expose that BVN Architects were evidently involved in the project prior to 5 February 2018.

Council's report notes on the abovementioned date, that "BVN's approach of 'Design for Country' (care, setting, identity)" resolves the respondent's issue. Council's "Aboriginal, Community & Stakeholder Consultation" (Page 1) is attached as **ANNEXURE 8**.

We are unsure if BVN submitted a quotation for the concept project, but certainly, they were not one of the three shortlisted firms.

In fact, we are unable to source any Request for Quotation or Tender submitted by BVN.

Therein lies the question of whether the Council stepped outside procurement policies and procedures? Alternatively, did Council act in bad faith toward not only the three shortlisted architects but against all respondents to the RFQ who may have submitted a quotation on the expectation of a "level playing field"?

Following the release of the shortlisted concept designs, Council arranged for Cost Management firm WT Partnership to cost the three concepts. Having discounted two concepts, obviously based on cost, the consultants costed two further revisions of the final shortlisted concept, driving cost down to \$65Million. A copy of the cost comparison produced by WT Partnership and dated 30 April 2018 is attached as **ANNEXURE 9**.

The three concept designs and the WT Partnership cost modelling were provided to Councillors at the 14 June 2018 Council meeting. This meeting is critical in the project timeline as Council relies on it in the Development Application as the point at which Councillors gave consent to proceed to the Schematic design stage and by extension, committing to the full project. We make this claim given the apparent inability for Councillors to:

- a) track of the volume of project documentation since 2014, and
- b) understand each document and its relevance to the entire process,
- c) critically assess the information and hold Council staff to account.

With the benefit of hindsight and recent Rescission Motions and Notice of Motions, it is evident the Councillors were overwhelmed by the way in which Council has driven the process.

**The significance should not be lost on NSW Planning that the architects, the concepts and the project costings presented to Councillors in June 2018, are not as shown in the Development Application.** As in the case of community consultation, the Council has taken considerable licence in presenting the factual position and has effectively contrived the argument to suit its intended goal.

Further, Council staff produced an Option Analysis paper that was submitted in the 14 June 2018 Council meeting. This document is again contrived to manipulate the response of Councillors. The options given to Councillors are not exhaustive and are easily contradicted as we have done later in the submission. The Option Analysis document is attached as **ANNEXURE 10**.

In bringing the "Project Background" to finality, we submit that Council, save for the 2014 Jetty Research initiative, has intentionally avoided engagement with the community openly. Council knew full well that the inclusion of the Council chambers and offices in the cultural project, particularly as

the performing arts had been excised without any or valid explanation would be widely and resolutely rejected as has been the case over the past six months.

Even in its “*Aboriginal, Community & Stakeholder Consultation*” summary submitted with the Development Application, Council could not be transparent in exposing the distinct lack of community engagement from November 2014 until the present day.

## ENTERTAINMENT VENUE - COMMUNITY NEED FOR CULTURAL

### Community request for cultural/entertainment venue

For four decades or more, the residents have requested and been denied a proper cultural/entertainment venue appropriate to a regional city.

We attach a series of historical articles authored by a veteran community leader and Order of Australia Medal recipient. The documenting demonstrates the community's long-term quest and the frustrations by Council; they are currently being published on social media and are attached as **ANNEXURE 11**.

Council has consistently ignored the community request after selling the former Townhall & Civic Centre to the Coffs Harbour Ex-Servicemen's Club. It has since used all manner of deceptions to portray to the community that it is dealing with the issue. However, the Council's inability to rewrite history exposes what can only be described as a persistent failure to deliver on its own Council approvals, initiatives, investigations, feasibilities and assessments. This begs the question why?

### External influence on Council

We maintain these failures are due to:

- lack of Council commitment,
- ulterior motivations, and
- unhealthy associations (pseudo partnerships) with –
  - the Coffs Harbour Ex Servicemen's Club (a significant financial sponsor) and,
  - vested interest parties including the Chamber of Commerce (source of future conforming Councillors),
  - CBD property ownership group (provider of significant Special Rates to Council since 2000 for preferential treatment, which a reasonable person could confuse as a form of corruption).

From an external viewpoint, the city is controlled by a central influential and wealthy group who orchestrate groups of potential Councillor candidates into like-minded cadres to leverage preference sharing and maintain the balance of voting power (majority) in the Council Chamber.

The evidence for these claims can be verified from the:

- source groups of past Councillor candidates,
- preferential treatment of the CBD zone to the detriment of other centres across the Local Government Area (“LGA”), including Sawtell, Woolgoolga, Park Beach, Coramba and Nana Glen.

More particularly, we point to the recent statement by Mr Raffety, the CEO of the Coffs Harbour Ex-Servicemen’s Club during Council’s 11 July 2019 meeting.

Unbeknown to the broader community, Council had supposedly been working with the club to develop an entertainment centre and were assisting with sourcing Government grants. Council obviously saw this avenue as a deflection and justification for excluding the performing arts space within the Cultural & Civic project.

The failure in this initiative lies in that the club will charge for every use of its facility and has already been known to refuse venue use. In no manner can a commercial club venue be considered in the same context as a publicly owned venue.

## INCLUSION OF COUNCIL CHAMBERS/OFFICES

The community has never been approached directly for consent to the inclusion of Council chambers and offices into what was initially a holistic Cultural precinct.

On 27 May 2016, an article appeared in the Advocate newspaper stating:

*“Plans for a new central library and regional gallery in Coffs Harbour have taken a step forward with the establishment of a planning advisory group” and continues “The planning advisory group will provide advice and feedback on the plans and advise on community engagement and funding options”.*

This advisory group was first appointed at Council’s 14 April 2016 meeting.

Council’s agenda for the 23 June 2016 meeting states:

*“Council endorsed the Terms of Reference of the LGPAG which amounted to the following:*

- *Provide advice and feedback on the detailed facility research and concept planning project, including siting and prioritisation of facility functions;*
- *Advocate on behalf of the community; and*
- *Advise on the planning for community engagement and funding options and activities.”*

The striking points from the above are:

- 1) It is questionable as to whether this particular group had the relevant experience, capacity and competence to undertake the tasks required in respect of technical research and facility planning, and
- 2) The group failed to deliver two of its primary obligations, namely advocating on behalf of the community or advising on community engagement.

Council report “Cultural Facility Development – Library and Gallery Site Selection and Scope”, Council meeting 23 June 2016, with highlighted sections are attached as **ANNEXURE 12**.

The Library Gallery Planning Advisory Group variously included the following people:

Name	Link to Council (CHCC)	Expertise	Planning Experience
Cr Sally Townley	Current Councillor	Environmental Scientist	None known
Rod McKelvy	Former Councillor/Deputy Mayor	Businessman	Bio refers to community advocacy in planning issues, among other matters.
Cr John Arkan	Current Councillor	Small businessman	None know
Heather McKinnon	Board member of Prosper Coffs Harbour Pty Limited, a subsidiary of CHCC Strong association with Coffs Harbour Regional Art Gallery	Solicitor practising in family law	None know
Leonie Henschke	Board member of Prosper Coffs Harbour Pty Limited, a subsidiary of CHCC Member of numerous Council advisory boards Member of CHCC’s Cultural Reference Group Strong association with Coffs Harbour Regional Art Gallery	Writer / Editor	None known
Judith Hibberd	Possibly employed by CHCC	Librarian	None known
Garry Murray	Unknown	Understood to be a Landscape Architect	None known
John Murray	Unknown	Unknown	Unknown
Several of these members later changed for reasons not explained. Replacement members were:			
Mayor Knight	Mayor a primary proponent of the project		Not Known

Cr Tegan Swan	Councillor		Not Known
Kim Towner	Leases jetty foreshore land for Sunday markets	Small business proprietor	Not Known
Raymond Mather	Links to the Art Gallery	Choreographer	Not Known

Whilst these people are probably well-intentioned, it is noted that none have any identifiable expertise or experience in planning, building design, or site feasibility.

It is clear they were chosen by Council due to their respective close association, allegiance or special interest that provides the Council with a false imprimatur to display to the general public. It is an approach designed to create the perception and confidence within the community that their interests are “in safe hands”, which in practice is misleading.

This approach has been used on multiple occasions in Council documents, press releases, Council promotional paraphernalia and media presentations.

### Lack of Independence

Council meeting documents for both the 23 June 2016 and 11 May 2017 meetings indicate that Council injected the involvement of specific Council staff to influence the Library Gallery Planning Advisory Group.

In support of this claim, attached are:

- a) Council website document “Key Dates, Cultural & Civic Space 8 August 2019, with highlighted sections **ANNEXURE 13**.
- b) The council report, Council meeting 11 May 2017, with highlighted sections **ANNEXURE 14**.

The Cultural Facility Development – Library and Gallery Scope and Precinct Analysis (P.1) carried the LGPAP’s recommendation No:2 as:

*“Adopt the scope of the Cultural and Civic Space project to include a new Council Chambers and Council staff office accommodation.”*

The basis for the recommendation is referred to in the Analysis document was resolution No:3 by Council at its 23 June 2016 meeting to *“Investigate mixed-use and civic (includes Council office accommodation) development in addition to a new central library and regional gallery on the 23-31 Gordon Street site..”*

The LGPAP was in no way independent of Council, evidenced the Chair having to be a Councillor.

Similarly, the LGPAP appeared to make a valuable contribution in support of the Council's premises within the Cultural project and yet failed to honour the two key social responsibilities under its Terms of Reference.

### Failure to Deliver on Terms of Reference

Given there were only three Terms of Reference, a failure rate of 66% is unacceptable.

However, in respect of the singular Term of Reference that the Panel did make an effort with, they chose to go beyond the scope, endorsing the inclusion of Council offices. This in our view is obvious bias.

In real terms, the LGPAP can be described as having made a negligible practical contribution to the project, due to its inability to preserve independence.

### Community Engagement

The Library and Gallery Scope and Precinct Analysis includes a reference to "Library/Gallery Project – Community and Stakeholder Consultation".

Between July/August 2016, Council claims 216 "members of the community gave their views" through three avenues:

Community Conversations	<ul style="list-style-type: none"> <li>▪ Participants were: artists, teachers, librarians, library users, gallery volunteers, business operators (<i>likely CBD</i>) and Year 8 students.</li> <li>▪ There were nine sessions of 2 hours duration, involving 72 people.</li> <li>▪ There were <b>no</b> members of the local or broader residential population included.</li> </ul>
Written submission	<ul style="list-style-type: none"> <li>▪ Display stands with Council standardised forms were placed in Council chambers, libraries, theatre and art gallery.</li> <li>▪ Council received 136 submissions of which it states:                         <ul style="list-style-type: none"> <li>• 7 "saw no need for new regional gallery or library",</li> <li>• 11 "gave strong support for a cultural precinct."</li> <li>• Interestingly, the Council gave <b>no</b> indication what the other 118 respondents thought.</li> </ul> </li> <li>▪ In the supporting annexure information "Appendix 2, Word/Phrase Usage Summary – 70 Written Submission re New Gallery/Library", Council appears to have lost 66</li> </ul>

	submissions from that stated in the Analysis document (refer above).
Online forum	<ul style="list-style-type: none"> <li>▪ The forum garnered 13 submissions from 11 participants. <ul style="list-style-type: none"> <li>• Interestingly, the Council gave <b>no</b> indication of what any respondents thought.</li> </ul> </li> </ul>
Total Respondents	We count 221 (72, 136, 13) or 66 if Appendix 2 is the reference source.

Evidently, from the above group, Council appears only capable of extracting an assumed favourable reaction from the 72 attending Community Conversation as they were “like-minded” attendees.

It would appear the 118 quoted respondents for written submission were not consistent with Council’s objective, as they either disliked the new library/gallery concept or preferred a cultural centre, that is not in accord with Council.

The balance of written submissions and the online forum respondents would appear to be negative to the Council's agenda, given there is no detail of their contributions.

### False Council Interpretation

Council interpreted the results in its 11 May 2017 Analysis as providing:

- *“considerable agreement across all forms of engagement..”*
- *Strong support for a Cultural precinct and enhanced cultural facilities with the LGA, in particular in the CBD..”*
- *“Feedback around the need for a civic heart..”*
- *“There was very strong commentary about the importance of these facilities to youth.”*

Clearly, Council has taken considerable licence in:

- ❖ the manner in which it conducts its consultation process,
- ❖ those it invites, and
- ❖ how it treats (or does not address) responses from respective contributors.

The inability to marry tabled reference data with summaries reported to Councillors shows a pattern of hiding “non-compliant” feedback at best and intentional deception at worst.

### Failure of the Library Gallery Planning Advisory Panel to Consult

It is evident from a lack of reference to the Library Gallery Planning Advisory Panel during the consultation process that the Panel failed to honour two of its reported three Terms of Reference.

Those failures relating to:

- Advocating for the community, and
- Advising on engagement with the community.

## Summation

There is, without a doubt, a determined fabrication for the justification of the new Council Chambers and offices within what was meant to be a Cultural building.

The use of “Advisory” panel members with no professional expertise, relevant experience or competence in the subject matter, but in some cases vested interests, smacks of misleading the community as to the integrity of the process. This is compounded by the subversive involvement of knowledgeable Council staff to guide and influence the “Advisory” panel.

That is not to ignore the fact, that it was not in the Terms of Reference of the Library Gallery Advisory Panel to consider the need for new Council premises.

Similarly, the "Advisory" panel appears to have had little to no involvement in two of the three core responsibilities with its terms of reference; advocating for the community and advising/planning for community engagement.

The community engagement process was equally contrived. The sampling of a supposed 216 people is insignificant. Moreover, a large proportion of those consulted in these two hour sessions, were from groups aligned to the arts community with strong interest in new facilities and teenagers.

## QUESTIONABLE NECESSITY FOR NEW COUNCIL SPACE

In April 2014 when Councillors voted to investigate a new entertainment centre on the back of resolutions reaching back to 2012, including an art gallery, library and performing arts facilities, there was no mention of:

- the need for expanded council office accommodation
- the pending end of the useful life of the existing office building
- any suggestion that Council wished for new premises.

Whilst the decision was not to undertake the development of an entertainment centre; it was the precursor to what has become the current Cultural & Civic Space project. Therefore, the April 2014 Council meeting should be recognised for its importance.

However, in a contrived manner, the Council was later able to eject the performing arts space and introduce a “civic” element. The importance of the term “civic” is that it resonates strongly with the

senior sector of the Coffs Harbour community who recall the former Civic centre and Townhall which for approximately 30 years was the epicentre of balls, functions and longstanding memories.

In the context of the subject project and the predictable likelihood of community backlash, the intent and process of Council have been devious.

Any review of Council documents from 2015 that would generally come to the attention of the public, will find **no mention of “Council Chambers or Council Offices”**.

Even promotional banners produced by Council and affixed to barrier fencing in 2016 only refer to the library and art gallery. Refer photograph attached as **ANNEXURE 15**.

To clear the path for inclusion of the Council Chambers/Offices, Council separated the performing arts space from the new library and gallery project on dubious grounds in November 2015. ABC News posted 27 November 2015 quotes the Mayor stating:

*“What we did was we actually separated the performing arts centre from the art gallery and library. The art gallery and library are one little bundle; the performing arts centre is another little bundle. When the community have got to make decisions on three things all bowled in together, it becomes that mountain you can't get over.”*

Obviously, the Mayor did not consider the planned addition of the Council premises recreated the three facilities, or possibly she did note the hypocritical approach. Hence Council's effort to keep that agenda from the public until it was considered too late for a reaction. The ABC article is attached as **ANNEXURE 3**.

The 26 November 2015 meeting of Council included Item SC15/49 "Cultural Strategic Plan 2017-2022 and Performing Arts Centre Feasibility and Cost-Benefit Assessment". The purpose of this Item was to effectively push the performing arts space (first genuinely sponsored by Council in April 2014) well into the future and the “short term” memory of the public. The relevant section (pages 506-509) of the Council meeting notes are attached as **ANNEXURE 16**.

## DAVENPORT CAMPBELL & ASSOCIATES – CONSULTANT REPORT (Workspace Requirements)

Council meeting 11 May 2017 includes Item SC17/21-Attachment 1 being a report from Davenport Campbell & Associates consultants. The Executive Summary of the report together with mapping calculations for staff growth are attached as **ANNEXURE 17**.

The report scopes Council's forecast workspace requirements through to 2030. It notes the consultant's advice that:

*“for the future location, we have outlined what the desired Net Lettable Area (NLA) should be to accommodate the determined projected growth options.”*

## Growth calculations by 2030 (10 years)

	Growth % and staff number	Req'd NLA
A	Under 1.75% growth to 292 staff and fixed seating for all staff	2920sq.m
B	Under 3.0% growth to 351 staff and fixed seating for all staff	3510sq.m
C	Under 5.0% growth to 468 staff and fixed seating for all staff	4680sq.m

### Note:

- We expect the public service will be unable to sustain a flexible hybrid model of fixed and part-time seating.
- Similarly, we consider that a remote work model, as proposed in the Development Application, will be equally unsustainable.

## Current Spatial Use

Currently, Council occupies 2818sq.m in the present administration building with additional space in Rigby House.

## Proposed Spatial Use

Council space within the proposed Cultural & Civic building (administration, co-working, customer service and executive), excluding the Chambers, is 3353sq.m

From the above data, the Council will exceed the maximum occupied space within ten years at 3.0% growth. The probability of this event is considered high.

The consequences of this event are that Council will, within a 5-7 year timeframe either remove the library and/or the art gallery, replacing it with administration workspace, or need to seek additional independent office space.

Our conclusion is that the Cultural & Civic building if intended as a shared space (library, gallery and council), is redundant before being built.

If Council honestly contends that the project will attract the financial visitation forecast and hence deliver the claimed economic stimulus, then the Council space contributes nothing to that result.

Council should find alternate office space solutions.

The impact of including the Council space contradicts the claimed benefits, save for appeasing Council's desire for contemporary offices at the unjustifiable expense and best interests of the community.

## Existing Council Chambers and Office Building

Previous Council had the foresight to future proof the design and engineering of the existing Council chambers and administration building to carry an additional upper floor. Council's then competency went as far as to purchase an oversupply of original bricks to ensure continuity of building appearance.

Current Council argues this approach is not financially viable, quoting spurious figures of \$20-22 million, which has been publicly disputed by both local engineers, builders and valuers. It is absurd to suggest that the addition of a single floor approximating 1000sq.m and an internal refit would cost equivalent to 20% of the entire proposed project.

Council further argues the internal design is not conducive to an efficiency and functional workspace. However, the Council has historically undertaken interior redesign and is therefore responsible for the current situation, if indeed Council could be believed in this regard.

## Potential Additional Floor Space

Spacial calculations determined by Davenport Campbell & Associates on behalf of Council indicates the current Council administration building has 2818sq.m of net lettable space. Considering the ground floor houses chambers and a public entrance area, we would estimate the net lettable area of an additional top floor to be approximately 1000sq.m. This area is equivalent to 35% of the total proposed "Council Administration Space" of 2818sq.m allocated in the proposed new architectural plans. Additional capacity for customer service, co-working and executive offices equals a further 535sq.m.

The total assigned Council workspace in the Cultural & Civic building is only 3353sq.m, equivalent to only a 19% increase over existing Council space.

This modest increase in space gives no physical capacity for future staff expansion, beyond compressing the co-locations of desks.

**The impact of this realisation is to reinforce that the Council cannot support any growth within the calculations of Davenport Campbell & Associates without future internal changes and potential renovations.**

Alternatively, as we have already surmised, Council will insidiously migrate to occupy space made available to the library and gallery.

## Staff Accommodation

Notwithstanding the easy and time-efficient opportunity for Council to add a new top floor to the current administration building, Council maintains it still requires additional staff workspace.

Yet the transition of the library and art gallery to the proposed Cultural building will free up the ground floor of Rigby House which Davenport Campbell & Associates advise as 1400sq.m in their report's Executive Summary.

### Net Potential Space – Administration Building and Rigby House

From its current use, the Council has an easy and cost-effective opportunity to create approximately 2500sq.m of staff workspace in addition to its current level of 2818sq.m

The combined potential staff workspace:

<b>Existing</b> net space – 2 floors	2818sq.m
<b>New</b> net space -1400sq.m Rigby House -1000sq.m extra flr Castle St	2400sq.m
<b>Total potential space</b>	<b>5218sq.m</b>

The total potential workspace available by Council simply occupying the vacated library/art gallery space in Rigby House plus the additional floor in the Castle Street building is approximately 5218sq.m.

That increase is equivalent to an 85% increase over the existing space occupied by Council.

It is also a 1865sq.m or 55.6% greater space than allocated for Council administration within the new Civic component of the subject project.

Based on these cost-efficient alternatives, the proposed relocation of Council offices within the new Cultural space project makes no sense and more importantly demonstrates the absurdity of claims that the site is suitable for the proposed project.

Further, the calculations demonstrate the forced inclusion of the Council component is unsustainable in the short-medium term and is irrational.

We reiterate that the only viable option for Council would be as predicted, the assimilation of either library or gallery space. This would equate to a majority Civic component, reaffirming the fallacy of a Cultural Precinct. It would also grossly misrepresent the on-site parking allocation, according to Council already erroneous assessment. Evidence supporting this hypothesis is offered later in the submission under "Council's Hidden Agenda".

### Summation

**It is clear from the Davenport Campbell analysis of Council's future net lettable area demand, that Council will absorb all potential Civic space in the subject project within five years.**

Alternatively, adding a top floor on the current Council administration building and utilising the vacated space in Rigby House, avails Council of maximum workspace for a decade to 2030 and likely well beyond based on Davenport Campbell's analysis.

On any of the following levels, there is no reasonable justification for the incorporation of a Council occupied area within the proposed Cultural building, and they include:

- Future workspace demand,
- Financial development commitment,
- Critically insufficient on-site parking,
- Project 30-year term debt,
- Forced property asset sales,
- The burden of future generations,
- False Economic benefit,
- The revitalisation of CBD (same people will work and visit the same facilities/no net difference),
- Community consent.

Council's manufactured rationale for the inclusion of its chambers and office space within the Cultural building is fundamentally flawed, benefits no party other than Council executive and staff, and should be soundly rejected.

## COUNCIL'S HIDDEN AGENDA

It is our contention that the occupation of the entire building has been Council's concealed intention from the outset.

The general evidence is in Council's manipulation of the process from April 2014, the artificially engineered advisory group, the "guiding" influence of Council staff and blatant manipulation and misrepresentation of the community engagement process.

Especially noting the deception perpetrated on the community in respect of the long-awaited performing arts space, that faded into oblivion from November 2015, under the guise of the questionable Cultural Strategic Plan 2017-22.

Only now, in the last year of its targeted three year Cultural Strategic Plan 2017-22 schedule, is Council conveniently intimating that the performing arts centre Feasibility and Cost-Benefit Assessment, will commence. That is more than five and a half years since the April 2014 Council resolution.

There is no other reasonable explanation to progress planning for the Cultural & Civic Space project and yet profoundly delay the only component, being the performing arts space, that the wider community truly supports.

## Critical Evidence

In the 11 May 2017 Council meeting under Item SC17/21, the minutes note that on two occasions, Councillors sought to include Amendments to the motion that includes the following statement:

***“That Council commit to allocated \$150,000 in next year’s budget to undertake studies, concept designs and preliminary budgets associated with the development of City Hill as a comprehensive cultural precinct. Such studies and designs to allow for, in the medium-term, the future relocation of the library and art gallery into that precinct.”***

There is no question that the possibility of Council dislodging the library and art gallery from the Cultural & Civic Space building is live.

We contend there is ample superficial evidence and according to the above proposed amendments (x2), sufficient primary evidence that Council has every intention of occupying the entire Cultural & Civic building. A copy of the relevant Council minutes are attached as **ANNEXURE 18**.

By any measure, this act would constitute an abuse of power and a reprehensible way to treat the LGA community and as such should be stopped at this point by disallowing the Council facilities within the building.

## DEVELOPMENT APPLICATION CRITICISM

### Development Application Structure and Content

#### Structure

The Development application has been structured to present a focus of need for the subject project in its entirety.

There is no dispute within the community as to the requirement for improved art gallery and more specifically contemporary library facilities. That said, Council has acted opportunistically and unconscionably in leveraging out the performing arts component (included up to November 2015) and unjustifiably injecting new chambers and administration offices for itself.

Review of the documented timelines exposes a litany of steps where Council has acted to distort the course of Council’s original April 2014 approval for investigations into an entertainment centre incorporating performing arts space, library and art gallery. Whilst we hold numerous examples, for expediency, we have included sufficient documented cases to enable the respective State Government Departments to acknowledge the persistent extent of manipulation and misconduct.

**We contend that the Council's approach since 2014 has been engineered to deliver it a spectacular new office complex. Given the immediate inadequacy to accommodate Council future growth**

**within the proposed Cultural & Civic space, it is without question the objective of Council to replicate the removal/replacement of cultural facilities in favour of Council needs.** If nothing else, the Council and its staff have proven themselves to be highly consistent and predictable.

## Content

Reading through the supporting Development Application reports, it is apparent a number are not particularly independent assessments. Moreover, it could be suggested the content of reports are tailored to align with the Council's required outcome.

A case in point is the Cultural Strategic Plan 2017-2022, compiled on a partnership approach between Council and a consultancy. The content, whilst appealing, lacks substance and grossly exaggerates the extent of community consultation and the derived results.

Other reports produced by Council have little meaningful relevance as the audience is principally State and Federal Government/agencies, and the purpose to primarily support grant applications or compliance. At a base level, the reports are wish lists and motherhood statements. In a practical sense, rarely are the objectives achieved, especially with the timeframe.

An example is the Coffs Harbour Economic Development Strategy 2017-2022, the Executive Summary of which states the City's primary areas of focus are:

1. the digital economy,
2. food manufacturing and agribusiness, and
3. the visitor economy.

That said, retail, retirement/aged care and tourist accommodation are the mainstays of employment.

The report's Strategic Planning Approach refers to (among other points):

- Champion business...to stimulate economic growth and local jobs,
- Attract people to work, live and visit,
- Effectively manage the planning and provision of regional public services and infrastructure

In reality, Council's conduct contradicts these objectives, through restricting business zoning along the Pacific Highway and main corridors to protect the primacy of the CBD and restricting the development of the City Hill cultural precinct for over 20 years.

Similarly, consistent failure to engage with the community in a proper and transparent manner is the best way to ensure new business owners and residents avoid the locality. The current project being a case study, as social media, local and state news is awash with critically bad promotion, all due to Council's intransigence. Ignoring significant community discontent is hardly a means to attract new residents or businesses.

In further evidence undermining the integrity of Council documents, the Strategic Planning Approach 2017-2022 advised:

*“..the 2014-2017 strategy action plans were too numerous (175 of which less than 50% were delivered)”.*

The fact is, in the case of Coffs Harbour LGA, Council is the principal inhibitor to economic growth.

The failed CBD primacy policy has achieved negligible practical impact, save for profiting from the diversion of Special Rates to Council revenue rather than fully injected into the precinct. The policy is also restraining business growth in other zones.

In evidence, we attached as **ANNEXURE 19**, an article on local media website [www.coffsc Coast Outlook.com.au](http://www.coffsc Coast Outlook.com.au) dated 30 October 2019 titled “*Can the Coffs Harbour City Council be trusted ‘to honour its word’? – Coffs Outlook August 2017*”. The article details the Council’s surreptitiously taking CBD Special Rate contributions into revenue and not for the intended purpose of rejuvenation of the CBD. This situation caused former Deputy Mayor/Councillor Mr McKelvy to resign as Chair of the CBD Masterplan Committee. Even Council’s long-term staunch supporter and CEO of the Coffs Harbour Ex-servicemen’s Club, Mr Rafferty was highly critical of Council.

High and long-term CBD vacancy factors, business failures and few renovated buildings, particularly along the Pacific Highway, indicate the policy is counterproductive. However, true to form Council persists whilst it receives income.

## COMMUNITY CONSULTATION

Given the extent and historical lack of proper and just community consultation, we have referenced pertinent examples throughout the submission, as they relate to specific topics.

In the case of Council, we specifically highlight the comments of the Independent Pricing and Regulatory Tribunal (IPart) in June 2014, which are included later in this report. Not only is Ipart critical, but it also demonstrates that the Council ignored the advice and continues to exhibit the same reprehensible conduct to this date.

### Original Inclusion of Performing Arts Space

As stated previously, the Council approved the investigation of an entertainment centre including performing arts space in April 2014.

Through various machinations, Council has successfully pushed the performing arts centre into the Cultural Strategic Plan 2017-2022 and obscurity. The Strategic Plan (P.5) indicates the Council would undertake a Feasibility and Cost-Benefit Analysis as:

*“Stage 2 of this process, if Council proceeds with the project”.*

Council has failed to provide us with any reliable documentary evidence that the Feasibility is or ever was intended to proceed.

Having said that and reaffirming our opinion of Council’s Reports, the Coffs Harbour Economic Development Strategy 2017-2022, (P.14), quotes:

*“The study into the viability of a Performing Arts Space in the LGA will also be supported, as this could potentially generate community and economic benefits.”*

The above comment is followed by a table of “Strategic Actions”. A pertinent section of the table is copied below:

Strategic Actions		Role	2017/18	2018/19	2019/20	2020/21	2021/22
S1.3	Support feasibility study of Performing Arts Space	Provider	•	•	•		

Note: We assume to the “dots” suggest the study would be undertaken within these years.

As the 2019/20 is almost halfway through, it is a fair assumption that the study will not be proceeding. Again, this raises questions as to the legitimacy of Council “Strategic Plans” and the transparency of the Council’s actions.

### Contrary to the Objectives of the B3 Commercial Core Zoning

The subject project includes unnecessary Council office space in substitution of the performing arts space. This fails to meet the objective to *“provide suitable land use that serves the needs of the local and wider community”*.

Compounding the above, the unnecessary inclusion of Council offices effectively doubles that space within the constrained locality. This compromises the objective to *“encourage appropriate employment opportunities in accessible locations”*.

The proposed building is substantial in size, eclipsing surrounding structures and therefore out of character with the precinct. It shows no respect for existing building sizes, street setbacks and the design of smaller adjoining buildings, several of which are new premises. The restricted scope of surrounding lots minimises the potential for any similar size development in the future.

The building’s bulk and unsafe aspects of the open access arcade fails to meet the objective to *“ensure that the design of new commercial buildings make a positive contribution to the streetscape through opportunities for improved pedestrian links, retention and creation of view corridors and the provision of a safe public domain”*.

The building design incorporates a walk-through arcade, including numerous hiding spaces enabling criminal activity, vagrancy, and preventing proper surveillance.

Given the scale of the building, it fails to provide appropriate external climate protection for the public.

### Breach of Council's Own Planning Controls

Council has placed a height restriction of 28 metres on the zone, subject to the 2013 Coffs Harbour Local Environmental Plan (LEP). The argument for varying the LEP lacks justification and fails to address the requirement for *"orderly and economic use and development of land"*.

It is incumbent on Council to honour its own regulations, without exception, save for opening the flood gates on variations based on the preferential treatment Council gained.

Despite the bulk of the building, its constricted site and proposed facilities prevent the building from incorporating design elements that would provide financial support for the public asset. Initiatives such as shops, restaurants, bar, entertainment or accommodation are all examples.

### Restricted Central Business District

The Central Business District (CBD) is a highly restricted zone with few major buildings. It is also a precinct the Council has artificially supported for decades, which evidences failed policy.

The location of the subject project within the CBD is another unsubstantiated example of artificial support.

- The significant facilities incorporated within the proposed building already exist within 300m walk for the subject site,
- The same users of those facilities will also be unchanged,
- The charge for those facilities will remain free,
- There is limited potential pedestrian traffic from the new project to *"reinvigorate"* the CBD.

### Traffic and Parking Congestion

The CBD is already a congested zone with limited dual carriageway in both directions and over utilised parking during business hours. Congestion at major traffic intersections is significant, restricting time for those vehicles seeking to turn across oncoming traffic.

The addition of new Council offices, creating approximately 4220sq.m of vacant office space in the existing Council administration building and ground floor of Rigby House will reflect in a potential 400 new employees injected into the CBD. All will require parking, exacerbating the current confined availability now and exponentially increasing vehicle movements.

Access to the subject site from the Pacific Highway and the Jetty Foreshores are both dependent solely on Gordon Street via smaller or singular lane streets that also serves a multitude of shops and businesses.

Access from the subject site to the Pacific Highway again is limited via Castle Street only to the north and via Park Avenue, three blocks to the south. Park Avenue is already highly congested catering to the only Woolworths Supermarket in the CBD, Council multi-storey parking station and commuter bus interchanges.

There is no scope to correct or redesign future significant issues that will be created from artificially locating the subject project in a totally unsuitable location.

## Emergency

In the case of a large scale emergency such as fire, emergency services would have to compete with traffic congestion for access, personal safety would be compromised, adjoining buildings would likely be compromised and large scale public pandemonium could be expected.

## On-Site Parking

As with building height, Council has sought to step beyond its own planning controls without suitable justification.

Based on independent consulting advice, we have calculated on-site project parking requirements at one space per 40sq.m GFA as:

Location	Area Sq.metres	Vehicle Spaces Required
Council administration offices	2818	71
Co-working space	156	4
Customer service area	229	6
Executive space	150	4
<b>Total</b>	<b>3353</b>	<b>85</b>

The project plans provide for only 74 parking spaces within the basement on the subject site, leaving a shortfall of 11 spaces.

Council's parking study refers to the availability of 111 parking spaces, utilising 37 spaces in the existing Council administration premises in Castle Street. This proposition is fallacious in that on building completion; Council proposes to move its entire workforce into the new building. In doing so Council relinquishes use of the parking area, that would be required by new tenants.

In any event, this proposal should be considered inadequate as it encumbers one property title with the responsibility of an entirely separate property, with no commonality of ownership.

Under no circumstances, would Council consider such a proposition for a standard development application and accordingly should be denied on the basis of equity.

There is clearly insufficient on-site parking for the subject project, in an already constricted zone with insufficient public parking space. If appropriate on-site parking cannot be provided, the building size should be minimised, or the application rejected.

### Vehicle Parking Relevant to the Cultural Land Use

It appears that the Council obtained a parking study for the purpose of identifying the additional parking requirements associated with the project's cultural facilities and not thoroughly covered by the Council's Development Control Plan (DCP).

There appears to be no calculation or comparison with similar developments to justify the amount of parking required. The comparison of similar developments is a requirement of the Council's DCP for parking studies.

In respect of the existing library and gallery location, Council suggests the project rely on public parking to obviate the need for on-site allocation in the subject project. However, the current library and gallery location are within a commercial building with underground parking. We suggest that staff for both Library and gallery use that existing on-site parking, thereby reducing the use of external public parking or the surrounding road network. This situation will not be available on the subject project.

### Long term projections

We note Council produced modelling for the projection of long term use. The suggestion is that approximately 77% of likely visitors travel by car. Yet Council's projection is for 70%, being a significant and unlikely reduction without a considerable change in vehicular use.

It is suggested the long-term parking requirements be considered on no variation in vehicular use. This is particularly relevant given the Council's robust expectation of visitation. Similarly, we believe the Council's view of surplus available parking in short to medium term is questionable and likely to be fully utilised from the opening of the project.

As the local movement to green transport options is highly unlikely, we suggest the Council adopt modelling more consistent with current experience and build in a redundancy element.

**It is our belief that the optimistic view of future parking requirements relates more to the Council's effort to limited on-site parking and supports the claim that the site will be significantly overdeveloped under the present design.**

Either the site has the capacity to accommodate or address all existing statutory requirements or not. Maximising the site as Council has done through the inclusion of unjustified office space, has corresponding consequences that cannot be managed through contriving a compliant report.

The more the various anomalies are investigated and tested, the more the project presents as a case study for producing widespread community problems, that will be exacerbated by population growth and Council's concentration of facilities and conveniences within the CBD. It is a flawed approach, compounding an already failed 19 year old policy of "primacy of the CBD".

### Knowledge of Alternate Council Parking Investigation

Council had previously requested DeGroot Benson Engineers to investigate if Council's multi-level public parking space in Castle Street, could carry an additional level.

Those investigations found the carpark building is structurally sound and had the capacity to support a further level. The consultants' calculated the additional level would provide a net 162 extra car spaces.

Council seems to have conveniently omitted that advice. We have attached the DeGroot Benson report as **ANNEXURE 20**.

### More Suitable Locations

Council has the option of more suitable locations within or on the fringe of the CBD precinct that are underutilised, provide space for a more appropriately sized development without compromise and permit future expansion.

Brelsford Park has been previously identified by the Council as an alternate site. It is in close proximity to the CBD and avoids all-access, traffic and parking issues. This site is underutilised and represents a significantly better option than the subject site.

Failure to seriously consider the Brelsford Park site reflects the biased assessment approach adopted by the Council, which lacks transparency and probity.

## PROCUREMENT ISSUES – PROBITY & TRANSPARENCY

In September 2017 Council issued a Request for Quotation No: RFQ-898-QO – Architectural Design Services. Quotations were to close 17 November 2017. A copy of the RFQ advertisement was previously attached as **ANNEXURE 5**.

We are being hampered by Council in our request for a copy of the quotation package for the RFQ.

It would appear, however, that Council had already made the decision to go with an Architectural firm they had clandestinely appointed via what seems to be the pre-approved State Government procurement list. That being BVN Architects.

Given the uninvited appointment of BVN Architects, it appears that the RFQ for concept designs was again, a manipulation of due process. Our reasoning being, the RFQ and shortlisting of three concept designs never involved BVN Architects and nor, it appears, were they subsequently asked to provide concept designs.

Council has suggested BVN was "informed" by the three shortlisted concept designs, however that would seem highly unlikely given the substantial stature and reputation of BVN Architects. A simple web search clearly indicates it is incongruous to expect BVN required any assistance.

We suggest the concept design initiative was a stunt to show the public that the Council was actively trying to get the very best option for an iconic building in order to engender community support.

### Potential misleading of Councillors

Similarly, the Council appears to have used the same tactic on Councillors. In this instance, the Council engaged quantity surveyors to cost the three concept plans, then selecting one primary concept tested three further revised plans/configurations to reduce the project cost to \$65 million.

In the critical Council meeting of 14 June 2018, Council provided Councillors with the:

- 1) concept designs,
- 2) professional project cost assessment from WT Partnership, and
- 3) Council's option analysis summary.

This information was provided to enable Councillors to vote on proceeding the project to the schematic plan stage, but not the entire project.

Council's report provided to Councillors became the Concept Business Case that Council has submitted as an annexure to the Development Application.

The three abovementioned documents were previously attached as **ANNEXURES 6,9 and 10**.

### Issues with the information provided to Councillors

There are, however, a number of issues within Council's Report to Councillors advocating for approval:

- 1) Neither the three shortlisted architects nor their concept plans are those that Council intended to proceed with. Hence the concept plans were irrelevant.

- 2) The project costing analysis produced by WT Partnership and provided to Councillors was based on the three shortlisted concept designs and hence, equally erroneous.
- 3) The option comparison provided to Councillors (being page 24 of the “Concept Business Case” submitted as an annexure to the Development Application) is incorrect as it too relied on the WT Partnership analysis based on the three shortlisted concept designs.
- 4) The option comparison produced by Council is also suspect as it gives no supporting evidence for its predicted cost of removing levels from the Cultural building, renovations to Castle Street building, no inclusion of extra level on Castle Street building.
- 5) The options submitted by Council staff were not exhaustive. In simple terms, we have, within this submission, offered a feasible hybrid approach that would solve the majority of issues we have identified.
- 6) There is no indication in the meeting report that Council advised Councillors that BVN Architects had been clandestinely selected by Council through the State Government procurement panel and without reference to or the consent of Councillors.

Similarly, the level of concept review, engagement of cost consultants, public promotion including front-page newspaper coverage, appears to have been a “smokescreen” to imply due diligence.

### False role of the Library Gallery Planning Advisory Panel

To influence Councillors, Council also advises:

*“LGPAG engagement throughout the year and, most recently on 30 May 2018 when the group unanimously supported progression of the Base Option and recommended scope inclusions”.*

Yet there are two critical issues with this statement, being the LGPAG:

- were given the same deceptive information as Councillors, and
- the LGPAG had no term of reference placing any duty or task to approve or support the progression of any option,

### Base Option – Building cost from QS / Option Analysis Summary

The limited building options, previously attached as **ANNEXURE 10**, provided to Councillors are simplistic yet inaccurate. Council gives no indication as to the verification source of the costs, suggesting they are making their own contribution to the assessment. Further, it appears the Council has limited the options to influence the Councillors decision.

- 1) Comparison of the cost for the basement parking of \$9.11 million to the saving made from the removal of two upper levels (option 2) being \$15 million, would seem a considerable variance, with either one or the other exaggerated.
- 2) Option 2 implies Council would not be able to utilise the ground floor (formerly occupied by gallery/library) of Rigby House for administration surplus/growth.
- 3) Removal of the Council administration space in the new building significantly reduces underground parking based on one space per 40sq.m of GFA, hence reducing cost.
- 4) Rigby House could still be sold, with Council leasing back required administration space.
- 5) The council could add an additional level and undertake a reasonable renovation of the current administration building. The building could then be sold on a sale and leaseback to Council.
- 6) An enlarged, renovated CBD building, tenanted long term by government, would achieve a higher sale price (per sq.m) than the sale of the existing building “as is”, in vacant possession.
- 7) The improved sale proceeds would offset all the extension/renovation costs.
- 8) A combination of initiatives outlined above would negate the suggested loss of \$17 million in property sales.
- 9) The net financial benefit for the community would be significant, reducing debt, repayments or loan term.

### Example – Simple Cost-Effective Option

In simple terms, due to the lack of source information provided by Council (using Council figures), we could offer the following quick alternate option. We expect this was not pursued by Council as it did not address their primary goal, being the relocation of Council chambers and all administration into the new project building.

Building cost (QS) plus entrance cover (65.58+1.17)	66.75
Remove top 2 levels	15.00
Reduce basement parking 50%	4

Remove Castle Street parking cost as the building remains tenanted	0.66
Extra level and renovation of Castle St	Net off by the sale of improved building & leaseback by government tenant
Sale of 4 buildings – increase in renovated Castle St building offset by cost. Net same result as per CHCC	20
T2S contribution assuming this actually exists in cash	10.5
<b>Net cost estimate</b>	<b>24.59</b>

Note: Lease cost of Castle Street and Rigby House properties would be offset by the reduced debt repayment/term.

### Summary of critical comments

- The Councillors were voting on incorrect concept plans and incorrect cost assessments that were not reflective of the ultimate schematic design to be delivered by an entirely different architect.
- Council failed to assess, or more likely failed to disclose all project options to the Councillors.
- The Councillors had been misled as to the intended appointment of BVN Architects. Alternatively, Councillors were complicit in understanding the information they were voting on, was irrelevant and the process a sham.
- The Concept Business Case (P.7) misleads Councillors on the extent of community, describing it as *“Extensive and broad stakeholder consultation and engagement in relation to the project took place between January-April 2018.”*
- Similarly, we might suggest the community was misled as Council’s above comment continues to state: *“Multiple opportunities were provided for the community and stakeholders to give feedback on the project and the three concept designs through surveys and focus groups.”*
- The Concept Business Case is flawed as it is not representative of the final proposed Cultural & Civic Space project as submitted in the Development Application, fails to describe community engagement truthfully and fails to appropriately acknowledge the “Major Risk –

Reputation Risk” which Council identifies in respect of community support. Council rated the “Impact” as high and “Likelihood” as possible.

- Given that 33% of the voting public signed a Petition to State Government and continue to express widespread public disapproval, which is ignored and mocked by Council, it makes a mockery of the entire process.

## COMMUNITY PETITION

In reaction to Council’s “railroading” of the project Development Application, the community group Citizen’s Voice Coffs Coast formed under leadership of the former State Government member Andrew Fraser and included a number of local business people (including the General Manager of the largest property owner, by value, in the LGA) and concerned residents.

The group supports the four Councillors who opposed the Project.

To provide the community with a genuine opportunity for engagement, a petition seeking that Council pause the project and consult better with the community was hosted by 62 local businesses situated throughout the LGA.

Within two weeks the Petition had surpassed the 10,000 signatures required to table the Petition in Parliament. Despite reaching this target, the Petition remained in the public domain until the Petition was debated in Parliament on 24 October 2019. By that time 14,368 residents had signed the Petition, representing approximately 33% of the voting public.

The level of public interest in opposition to the subject project is highly significant in the context of a regional location and a milestone event for Coffs Harbour. The depth of feeling and discontent in the community is not abating and has potential political ramifications as State Government is being viewed by the community as acting in concert with the Council.

Council’s response to the Petition, calling the petitioners a “Noisy Minority”, was disgraceful.

This bombastic response reflects an arrogance that Council Executive and the Mayor continue, highlighting the deplorable and regrettable state of public administration in the LGA.

**Further, it reinforces that the community is not supportive of the subject project, and on that significant basis and Council’s appalling response, the project application should be refused.**

## COMPARISON TO COUNCIL’S CONSULTATION PROCESS & SUPPORT

The Coffs Harbour community have tangibly and profoundly evidenced its personal objection to the Cultural and Civic Space project, based on the inclusion of the Council facilities.

This included:

- Large numbers attending Council meetings,
- Two public meetings conducted in the city area and attended by over 650 residents,
- Public support for those Councillors heeding public opinion and rejecting the project,
- Huge public media outcry,
- Articles on websites such as [www.coffsc Coast Outlook.com.au](http://www.coffsc Coast Outlook.com.au),
- Petition signed by 14,368 residents,
- Overwhelming response to submission of objections to NSW Planning

By comparison Council has only been able to muster the following tangible responses, which we note according to the “Executive Summary of the Cultural & Civic Space Project – Review of Community Consultation & Stakeholder Engagement” (annexed to the Development Application), that Council has undertaken “*extensive and broad community and stakeholder consultation between January and April 2018*”.

To be fair, we recognise that Council has been consulting with selected parties since 2014 and as such, we will include those numbers, however only on the basis of evidencing tangible consultation. We do not recognise any validity in Council measuring the likes of select words or phrases from interactions.

Source	Detail	Attended	Positive	Negative/ Ambivalent
Cultural Strategic Plan 2017-2022	Focus groups (7) Online survey	44 771	Unknown Unknown	Unknown Unknown
Council Conclusion:	“This level of involvement represents a very large sample of the Coffs Harbour LGA population (75,000) giving their views on these issues”			
Cultural & Civic Space Concept Designs Community Consultation and Stakeholder Engagement Jan-April 2018	“Invited” Focus groups (23)  Concept design survey Library/gallery planning survey City Centre Masterplan	153 (disc 80 CHCC staff)  236 475 63	Unknown  Unknown 442 Unknown	Unknown  Unknown 33 Unknown
Jetty Research 2014 Entertainment Centre	Online survey Community paper survey	401 1195	175 490	Not clearly Defined
<b>Total</b>		<b>3338</b>	<b>1107</b>	<b>Unclear</b>
Percentage in favour	Based on concise data		33.1%	

Note: We have been unable to source information from consultation said to have been conducted in 2016.

## Summation

There is an overwhelming disparity between the community response to the Cultural & Civic Space project, compared to those engaged by Council. More specifically, of those engaged by Council only 33.1% of respondents are definitively supportive of the project.

It should be noted that the period of engagement by Council spans 2014-2019 (five years), whilst the community reaction commenced six months ago.

In reviewing Council's documents pertaining to community engagement, we note the prolific use of generalisations, limited quantitative data, significant use of interpreted qualitative information and by extension, a propensity for exaggeration.

Fundamentally, the negative community reaction to the inclusion of the Council premises within the Cultural project has been overwhelming and persistent.

## SALE OF PUBLIC PROPERTIES - COUNCIL CHAMBERS, RIGBY HOUSE, MUSEUM, 169-171 ROSE AVE, COFFS HARBOUR (older style multi-tenanted office buildings)

Council advises that it requires to sell four public properties, supposedly valued at \$20 million to sufficiently reduce project debt reliance to an affordable \$46 Million.

This, by extension, implies the Council is not in the sound financial position it states. Further, it was on 2015 fiscal year that Council sought three consecutive annual rate increases totalling 25.7%. In addition, Council forced redundancy of a large number of executive and senior staff.

### General Manager – Discretion to accept lower sale prices

The General Manager sought and obtained Council approval that he may accept, without further reference to Council, offers greater than 90% of the valuation amounts.

It is our understanding that the sale of certain public buildings may not be sold under a delegated authority at a price/s less than professional valuation.

Council has also advanced the sale process by proceeding with the appointment of selling agents, despite the Development Application far from being decisioned.

Given our analysis of Council's historical misconduct and propensity to manipulate processes, we contend Council is seeking to force the issue of incorporation of Council premises and potentially the entire project, through the sale of existing Council premises.

**We believe it entirely responsible for the State Government to demand Council suspend the sale of any public buildings until the Development Application assessment is concluded.**

## REVIEW OF CREATIVE COFFS, CULTURAL STRATEGIC PLAN 2017-2022

This document is typical of the nice but meaningless plans produced by the Council, with little or no intention of follow-through. Fatherhood statements abound, an example of which is:

*“Coffs Harbour City Council is committed to the vitality of the cultural life of the area and appreciates how important it is to the health and economic success both now and into the future”.*

Yet, two years into the plan Council has honoured only a few of its objectives.

The plan's introduction refers to:

*“The Policy and the Plan present goals and strategies that will be achieved through:*

- *Engaging the community broadly in the participation of cultural activity;*
- *Promoting the Coffs Harbour LGA as a place for creative expression and recreational opportunities;*
- *Building a new source of income generation, future growth and prosperity from the cultural economy and creating access to a wide variety of cultural products and services;*
- *Guiding Council's cultural investment and activity and informing its planning, programming and funding priorities.”*

By 2019, none of the above has been pursued.

In fact, Council's absolute avoidance of developing the “City Hill” cultural precinct, due to its 19-year myopic focus of revitalising the CBD, is clear evidence that Council cannot be taken on face value.

The precinct of 11 hectares was gifted to Council for a token \$200,000 by the Federal Government and reserved for cultural and art facilities. Whilst the precinct sits on the fringe of the CBD zone and abuts a major arterial road linking the city to the southern suburbs and the airport; Council staunchly refuses to undertake any development, despite the availability of both State and Federal grant funding.

## Report Consultation

Section 2 “*What the community told us*” encapsulates Council's approach to community consultation, and the scant regard Council has for the views of residents.

The report states:

*“It draws upon interviews, group discussions, meetings with the Cultural Reference Group and responses to the online survey.”*

According to the report, the contracted consultants engaged with 44 people in seven focus group discussions, being an average of only 6.3 people per session.

A further 857 people responded to the online survey, of which 90% or 771, resided in the LGA.

We note this abovementioned result equates to less than 50% of the community response generated by Jetty Research's Sept-Nov 2014 engagement program.

Bearing in mind the LGA has an approximate population of 75,000, the 771 locals who responded online equates to 1.03% of the population.

Despite the minimal response, the report surprisingly considered:

*“This level of involvement represents a very large sample of the Coffs Harbour LGA population giving their views on these issues” (p.24).*

Under Section 5. “*Encourage connections, collaboration and partnerships*”, Council’s Position Statement includes:

*“Our community has told us that there is fragmentation in the sector, and they see the Council bringing vital resources and expertise to assist create an environment of collaboration, information sharing and open communication.”*

We maintain that Council’s actions have been diametrically opposite to this statement in the context of the wider arts community and specifically in respect of the performing arts sector, which has been victimised for Council’s own operational advantage and benefit. Council has a clear bias toward the CBD zone and has used its influence to divide the cultural and arts sectors. This was achieved through selective sharing with aligned parties. Whereas there is a pattern of misinformation and a distinct lack of transparency when it comes to communicating with the wider community.

We consider the Strategic Plan to be an unprofessional and entirely concocted document, produced in part to justify Council objectives in respect of the Cultural & Civic space project, and lacking credibility.

The “Strategic Plan” is included as an addendum to Council’s Development Application to NSW Planning; however, it has limited credibility, evidenced by no tangible outcomes emanating from the content in two and a half years.

This situation makes a mockery of Council’s stated advocacy for local Culture and Arts.

## PERFORMING ARTS CENTRE FEASIBILITY AND COST-BENEFIT ASSESSMENT

Section 1.2 of the “*Creative Coffs – Cultural Strategic Plan 2017-2022*” (P.5) states:

*“At its meeting of 26 November 2015, Council resolved to support the development of a new Cultural Strategic Plan 2017-2022 and undertake a Performing Arts Centre Feasibility and Cost-Benefit Assessment. Stage 1 of this planning process was carried out by Council staff, the Cultural Reference Group and consultant Positive Solutions.” The Cultural Strategic Plan and Cultural Policy were the outcomes.”*

It is further stated:

*“Stage 2 of this process, if Council proceeds with the project, will progress the Performing Arts Centre Feasibility and Cost-Benefit Assessment as listed in Strategy 2.5:..”.*

Without notice to the Community, Council has not progressed the Feasibility or Cost-Benefit Assessment.

Despite numerous web searches, there is no evidence of the Feasibility and Cost-Benefit Assessment having been completed or even undertaken.

Given the initiative was first raised in November 2015, it would be fair to assume that Council has manipulated the situation and effectively "buried" the concept of the Performing Arts Centre, without alerting the community.

It would be fair to say that the Council's actual view of Culture and Arts is inconsistent with how it is presented in the Cultural Strategic Plan.

Similarly, it is not inconceivable that given this belligerent behaviour, that Council would be predisposed to manipulating the strategy to supplant new Council offices within the Cultural & Civic Space project.

## PRACTICE OF INUNDATING COUNCILLORS WITH INFORMATION

For a number of years Council's executive has employed a practice of delivering Councillors upwards of 1000 pages of information on the Tuesday preceding Thursday evening Council meetings.

During the previous Council term, both Councillors, Palmer and Innes complained about the volume of documents, advising they would not be reading the full content.

The opportunity presents for Council staff to hide pertinent information within the enormous reports to mask attention by Councillors. Former Councillors Cowling and Degens will corroborate these claims if the Department requires.

It is this practice that has allowed the Council's executive to manipulate/frustrate the path of projects such as the:

- Entertainment Centre approved in Council Meeting 10 April 2014,
- Performing Arts Centre from Council meeting 26 November 2015,
- Inclusion of Council Chambers and Offices in Council meeting 11 May 2017

## COUNCIL TRANSPARENCY

The information contained in this submission includes numerous examples of Council acting in a Machiavellian manner, that in the corporate sector, would raise the spectre of statutory penalty.

The dishonesty in misrepresenting the extent and bias of community consultation is one example.

This deception extends to the Department as Council has submitted with the Development Application, it's "*Aboriginal, Community & Stakeholder Consultation*" report. The apparent commencement date of the consultation is 17 January 2018 to 17 June 2019. The report is an annexure to the Development Application.

Clearly from content provided within this submission, the period of "engagement" has spanned many more years but has essentially been wasted.

Similarly, the Council has a lax attitude to truthfully reporting the outcomes of community consultation. Referring to the abovementioned report, (P.9), Item date 1 February 2019, under the Resolution column, it is advised:

*"Council decision based on Community input to proceed with 23-31 Gordon Street (23/2/17). This refers to Council meeting of the same date, under Item SC17/06 "Creative Coffs – Cultural Strategic Plan 2017-2022" (P.7), Council's Executive Summary states":*

*"Considerable stakeholder consultation occurred in the formation of the draft plan and..policy..".*

It is pertinent to note *"the public exhibition resulted in twelve submissions."*

We suggest that this consultation was in respect of the Cultural Strategic Plan and not the Cultural & Civic Space project. Further, the Cultural Strategic Plan makes no mention of its community consultation involving submissions; rather it refers to focus meetings and an online survey

Further examples of misleading or purposely ambiguous information are:

1. Council web advertising and facebook posts,
2. Council's promotional banners attached to security fencing at the subject site, which misleads the community by omitting reference to Council office (potential or factual).

3. Council's final media blitz including improved website, Heart of Coffs Facebook page, multiple full and half-page advertisements and an LGA wide brochure mail out with 2019/20 rates notices.

Examples are attached as **ANNEXURE 21**.

## Council Reports, Strategic Plans, Consultancies and Reference Panels

The most egregious examples of the Council's deceptive methodology are the engagement of supposed independent consultants or "reference panels" to undertake mock community engagement and produce reports that do not reflect the actual state of affairs.

The Library Gallery Advisory Planning Panel and Cultural Strategic Plan 2017-2022 are prime instances.

The Library Gallery Advisory Planning Panel had no experience in planning and limited competency in community consultation. In fact, the two of three stated Terms of Reference for the Panel involved:

- a) advocating for the community, and
- b) advising on the engagement with the community.

We can find no publicly available evidence that the Panel met either of these responsibilities.

Commentary in respect of the quality and accuracy of the Cultural Strategic Plan 2017-2022 has been made elsewhere with this report under "Review of Creative Coffs, Cultural Strategic Plan 2017-2022" and deserves no further addition.

## View of Independent Pricing and Regulatory Tribunal (IPart) – Council's failure to properly inform the community

The following information dated June 2014, from an independent statutory body, demonstrates Council's persistent approach to misleading the community, through ambiguity and limited detail.

In 2014 Council approached IPart requesting annual property rate increases totalling 25.7% over three consecutive years.

In its June 2014 determination, IPart concluded under Section 3 "How did we reach our decision", Point 2, that:

*"However, the evidence indicates that the extent of the rate rise in percentage terms was communicated ambiguously and that the community could possibly have interpreted that the council sought rate increases of 5 % per annum over the 3-year period from 2014/15 to 2016/17. Overall, we consider the council did not satisfactorily meet the requirements of this criterion."*

- Under Section 3.1 “Awareness of Extent of Proposed Rate Rises” IPart makes the following series of statements:  
*“We consider the council has not made the community completely aware of the impact on rates of the special variation and hence we have determined a permanent special variation for one year.”*
- *“However, the awareness campaign did not clearly communicate the extent of the rate rise in percentage terms; with written material headlining a 5% per annum rise in total, sewerage and general fund rates over three years. This understated the impact of the general fund on ratepayers ..”*
- *“We consider the presentation of the special variation to the community by the council did not clearly communicate the full impact on residential rate increases in percentage terms. It is possible that the community is not properly aware of the extent of the proposed rate rises.”*

The relevance of the IPart determination is that it independently demonstrates that the Council will use licence to manipulate, at best, or mislead the community and other parties, in order to achieve its objectives.

The manner in which Council communicated with ratepayers in the case of rate increases in 2014 was deceptive. Five years on, there is no difference in Council’s communication with the broader “unaligned” section of the community, in respect of the Cultural & Civic Space project.

A copy of IPart’s June 2014 Determination, pages 4 (Section 3) and 7 (Section 3.1) are attached as **ANNEXURE 22**.

## Abuse of Power

Council has demonstrated a persistent practice of misleading the community and an authoritarian approach to community involvement under the current General Manager, which has been exacerbated under the current Mayor, who appears dependent on, and acquiesces to the General Manager.

There is sufficient information in this submission to establish patterns of misconduct, particularly in respect of the subject Development Application. Whilst it may not be in the purview of this Department to consider this claim, we suggest it is in the better interests of Government and the community, that the matter is raised with the appropriate State Government Department.

Council is an institution acting on behalf of a Local Government Area and its residents. It does not exist for its own benefit or that of executives and staff.

## Illegality – Misleading and Deceptive Conduct

Research indicates that Councils are not immune to legal action for misleading and deceptive conduct.

In 2014 the Independent Pricing and Regulatory Tribunal rebuked Council for its:

- ambiguity,
- failure to make the community aware of pertinent information,
- failure to clearly communicate to ratepayers in Council's awareness campaign,
- failure to clearly communicate the full impact or make properly aware of the extent of the proposed rate rises.

The same misconduct is evidenced within this submission as having been consistently practised by Council from 2014 to date, despite the IPart reprimand.

This suggests the misconduct is intentional and habitual. As it relates to the context of the subject project and Development Application, we contend it represents misleading and deceptive conduct, misuse of ratepayer's funds and abuse of power.

There is every potential for the abovementioned conduct, Council's influence over supposedly independent panels and consultancies, the misuse of ratepayer's funds and public property, could result in a class action against Coffs Harbour City Council.

That being said, it should be the responsibility of the State Government to address that questionable behaviour, particularly where it acts contrary to the best interests of the community.

## CONCLUSION

Coffs Harbour City Council has for decades conducted its affairs with scant regard to the better interests of the wider community.

It is also not free from past scandal that involved the Independent Commission Against Corruption and Councillors in 1993.

Whilst we do not suggest the same of the current Council, we raise serious concerns regarding the propensity for Council's current questionable conduct, manipulation and bias associations. The propensity to disregard proper process, probity and governance when serving its own interest, is alarming.

In respect of the subject project, a reasonable person would consider that Council has intentionally manipulated:

- due process,

- consultants,
- community engagement,
- advisory panels,
- information provided to Councillors, and
- failed to disclose its true agenda.

It is apparent, given Council's staunch and domineering focus on the specific site, that it has a specific agenda, pursued since 2012. That being, a contemporary new administration complex, delivering nothing tangible to the community, but creating a mountainous debt that Council cannot without manipulation afford, but will unfairly burden the community for the 1.5 generations.

Council meeting minutes from May 2017 identify this very objective. Council's stubborn opposition to considering the City Hill Cultural precinct for the location of the proposed "cultural facility" and the removal of the performing arts facility, further substantiates our claim.

Notwithstanding the above, Council has in its process, breached a majority of the "Guiding Principles for Councils".

We sincerely trust that the Department take heed of our submission, undertake a full investigation and save our LGA from the compounding problems that would ensue as a result of this erroneously conceived and poorly executed project.