

BYRON SHIRE COUNCIL

Extraordinary Meeting Minutes
23 February 2012

INDEX OF ITEMS DISCUSSED

The following items are listed in the order in which they were dealt with.

Report No. 12.10.	Draft Guidelines - Section 355 Management Committees	1
Report No. 12.11.	Heritage House Bangalow Section 355 Committee – Amended fees and charges	2
Report No. 12.12.	Water, Waste and Sewer Advisory Committee membership	2
Report No. 12.16.	Council Holiday Parks Financial Performance 2010/2011	3
Report No. 12.17.	Investments – November and December 2011	3
Report No. 12.19.	Council Resolutions Review for the period October to December 2011 ..	3
Report No. 12.22.	Evaluation of Trial Beach Scraping Episode, New Brighton Beach	4
Report No. 12.30.	PLANNING - BSC ats Bowen LEC 41265/2012.....	5
Report No. 12.31.	Request to join the steering committee for a proposed Byron Shire Local Tourism Organisation	5
Report No. 15.2.	CONFIDENTIAL Old Byron Bay Beach Resort site, Bayshore Drive, Byron Bay.....	6
Report No. 12.33.	Revised status report on the implementation of the Disability Access and Inclusion Plan 2008-2013.....	7
Report No. 12.13.	PLANNING - Public submission on the exhibition of the Draft Air Space Policy	8
Urgency Motion No. 1.	Draft Sports Field User Agreement	9

BYRON SHIRE COUNCIL

EXTRAORDINARY MEETING MINUTES

23 FEBRUARY 2012 (1 of 9)

MINUTES OF THE BYRON SHIRE COUNCIL EXTRAORDINARY MEETING HELD ON THURSDAY 23 FEBRUARY 2012 COMMENCING AT 10.02AM AND CONCLUDING AT 12.35PM

#1196073

PRESENT: Cr B Cameron, Cr T Heeson, Cr P Morrissey, Cr S Richardson (arrived 11.05am), Cr R Staples, Cr T Tabart, Cr R Tucker and Cr D Woods

Staff: Phil Warner (Acting General Manager)
Ralph James (Acting Executive Manager Corporate Management)
Ray Darney (Executive Manager Environment and Planning)
Catherine Diamond (Executive Manager Society and Culture)
Phil Holloway (Executive Manager Community Infrastructure)
Mila Jones (Minute Taker)

APOLOGIES: There was an apology received from Cr Barham. Cr Richardson will arrive at 11.00am.

12-58 Resolved that the apology from Cr Barham be accepted and a leave of absence granted.
(Staples/Tucker)
The motion was put to the vote and declared carried.

REQUESTS FOR LEAVE OF ABSENCE

There were no requests for leave of absence.

DECLARATIONS OF INTEREST – PECUNIARY AND NON-PECUNIARY

There were no declarations of interest.

CORPORATE MANAGEMENT – EXECUTIVE MANAGER'S REPORTS

Report No. 12.10. Draft Guidelines - Section 355 Management Committees
File No: ADM252000 #1185008

12-59 Resolved:

1. That the draft Section 355 Committee Guidelines as shown at Annexure 25 (#1098905) be placed on exhibition for a period of 28 days and allowing a further 28 days for the receipt of submissions.
2. That all Section 355 Committees be provided with copies of the draft Guidelines and asked to provide any submissions on the Guidelines by the end of the exhibition period.
3. That the draft Section 355 Committee Guidelines be reported back to Council with any submissions received prior to adoption. (Tucker/Woods)

The motion was put to the vote and declared carried.

Report No. 12.11. Heritage House Bangalow Section 355 Committee – Amended fees and charges

File No: ADM252000 #1183300

12-60 Resolved:

1. That the fees and charges for the remainder of 2011/12 for Heritage House Bangalow be as follows:

Bangalow Heritage House	1187.1	Commercial	Community
Meeting Room or Verandah Only (includes casual use of the kitchen for morning/afternoon tea (urn, fridge, crockery, cutlery etc) Per hour		8.00	7.00
Half Day (4 hours) (Community only)		N/A	20.00
Per Day (8 hours) (Community only)		N/A	35.00
Grounds only per day (7am to 5pm)		200.00	100.00
Meeting Room, Verandah and Grounds Per Hour		150.00	150.00
Use of Kitchen (per booking - flat rate)		250.00	250.00
Bond		500.00	500.00
Key deposit		50.00	50.00

Please note: The hiring of Heritage House Bangalow is subject to the Hirer reaching a suitable agreement with Bangalow Historical Society Inc. who are the permanent, principal tenant.

2. That in accordance with the Local Government Act 1993 Section 610(f) the proposed amendment to the fees and charges for Heritage House Bangalow be advertised for a period of 28 days to allow for public submissions and:
 - a) that if any submissions are received on the proposed amendments to the fees and charges they be reported back to Council prior to adoption; or
 - b) that in the event that no submissions are received on the proposed amendment to the fees and charges they be adopted after the close of the exhibition period.
3. That the reimbursement amount for out of pocket expenses for Heritage House Bangalow be increased from \$1,000 to \$2,000. (Tucker/Woods)

The motion was put to the vote and declared carried.

Report No. 12.12. Water, Waste and Sewer Advisory Committee membership

File No: ADM250000 #1182823

- 12-61 Resolved** that Council appoint Madeleine Green and Suzie Mylecharane as community representatives and appoint Julia Sherry as the alternative delegate for the Water, Waste and Sewer Advisory Committee. (Staples/Woods)

*The motion was put to the vote and declared carried.
Crs Tucker, Woods and Tabart voted against the motion.*

BYRON SHIRE COUNCIL

EXTRAORDINARY MEETING MINUTES

23 FEBRUARY 2012 (3 of 9)

Report No. 12.13. PLANNING - Public submission on the exhibition of the Draft Air Space Policy

File No: PLN106000 #1153177

Moved: That the report be noted. (Tucker/Woods)

AMENDMENT

Moved:

1. That Council adopt the Air Space Policy with the following amendment.
2. That leasing fees for air space development that provides for commercial floor area be imposed and calculated on the basis of a market valuation for the commercial use, in accordance with Council's adopted Fees and Charges.
3. That Council advise all premises owners that have existing and / or approved air space structures of the commencement of this Policy. (Morrisey/Staples)

12-62 Resolved that the matter rest on the table. (Staples/Tucker)

The motion was put to the vote and declared carried.

Report No. 12.16. Council Holiday Parks Financial Performance 2010/2011

File No: BEN200000 #1183987

12-63 Resolved that the report be noted. (Tucker/Woods)

The motion was put to the vote and declared carried.

FORESHADOWED MOTION

12-64 Resolved that Council, for the 2012/2013 Financial Year, report the First Sun and Suffolk Park Holiday Parks as discrete budget programs. (Tucker/Woods)

The motion was put to the vote and declared carried.

Report No. 12.17. Investments – November and December 2011

File No: FIN252000 #1171314

12-65 Resolved that Council receive and note the record of investments for the month of November and December 2011. (Tabart/Staples)

The motion was put to the vote and declared carried.

Report No. 12.19. Council Resolutions Review for the period October to December 2011

File No: COR405520 #1177651

12-66 Resolved:

1. That Council receive and note the information provided in this report on outstanding Council resolutions.
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2. That Council note the completed resolutions in Annexure 4(b) (#1188926) but that resolution 10-1118, regarding the establishment of the Access Committee, not be considered completed at this stage. (Cameron/Staples)

The motion was put to the vote and declared carried.

ENVIRONMENT AND PLANNING – EXECUTIVE MANAGER’S REPORT

Report No. 12.22. Evaluation of Trial Beach Scraping Episode, New Brighton Beach
File No: PLN360100 #1173715

12-67 Resolved:

1. That Council note that, overall, the Trial Beach Scraping Episode at New Brighton Beach reduced coastal hazard threat by increasing dune volume and resulted in minimal environmental harm, but that the works were not sufficient to fully offset coastal hazards and /or future climate change and that such works are unlikely to be a long term coastal management solution at this location.
2. That Council commences the implementation of a beach scraping program at New Brighton in 2013/2014 to attempt to maintain, in the short term, a preferred dune profile, volume, beach accessibility and recreational amenity; noting that:
 - a) the proposed program will not remove the immediate coastline hazard threat to infrastructure and private property from a design storm event (100 year ARI), but is likely to modestly reduce the severity of this threat;
 - b) adequate funding arrangements need to be established, as such a further report is to be tabled for Council’s consideration, by no later than October 2012, canvassing options for funding the program including the option to apply for a special rate increase;
 - c) prior to the implementation of any scraping works, it needs to be established that appropriate physical conditions are met;
 - d) an adaptive management approach is to underpin the program, and will be used to inform the ongoing viability of the works as well as other issues such as the scheduling of works and amount of sand to be scraped each episode. (Tucker/Woods)

AMENDMENT

Moved:

1. That Council note that, overall, the Trial Beach Scraping Episode at New Brighton Beach reduced coastal hazard threat by increasing dune volume and resulted in minimal environmental harm, but that the works were not sufficient to fully offset coastal hazards and /or future climate change and that such works are unlikely to be a long term coastal management solution at this location.
2. That Council commences the implementation of a beach scraping program at New Brighton in 2013/2014 to attempt to maintain, in the short term, a preferred dune profile, volume, beach accessibility and recreational amenity; noting that:

- a) the proposed program will not remove the immediate coastline hazard threat to infrastructure and private property from a design storm event (100 year ARI), but is likely to modestly reduce the severity of this threat;
- b) adequate funding arrangements need to be established, as such a further report is to be tabled for Council's consideration, by no later than October 2012, canvassing options for funding the program including the option to apply for a special rate increase;
- c) prior to the implementation of any scraping works, it needs to be established that appropriate physical conditions are met;
- d) each beach scraping episode is to be accompanied by a scientifically robust physical monitoring program.
- e) an adaptive management approach is to underpin the program, and will be used to inform the ongoing viability of the works as well as other issues such as the scheduling of works and amount of sand to be scraped each episode. (Staples/Tabart)

The amendment was put to the vote and declared lost.

Crs Tucker, Woods, Heeson and Morrissey voted against the amendment.

The motion was put to the vote and declared carried.

Crs Cameron and Tabart voted against the motion.

ORGANISATIONAL SUPPORT – EXECUTIVE MANAGER'S REPORT

Report No. 12.30. PLANNING - BSC ats Bowen LEC 41265/2012

File No: COR653000 x 80.2012.1.1 x 10.2011.42.1 #1186039

12-68 Resolved that the report be noted. (Tucker/Woods)

Cr Richardson arrived at 11.05am.

The motion was put to the vote and declared carried.

Crs Tucker, Woods, Heeson, Staples, Cameron, Richardson, Tabart and Morrissey voted in favour of the motion.

No Councillors voted against the motion.

SOCIETY AND CULTURE - EXECUTIVE MANAGER'S REPORTS

Report No. 12.31. Request to join the steering committee for a proposed Byron Shire Local Tourism Organisation

File No: ADM900040 #1186600

Moved: That this item be deferred until the Tourism Advisory Committee has decided on how they wish to handle this matter. (Woods/Heeson)

AMENDMENT

12-69 Resolved:

1. That Council note that local tourism stakeholders have established a Steering Committee to discuss the possible establishment of a Local Tourism Organisation for Byron Shire, and have requested Council participation in an associated Stakeholder Reference Group.

BYRON SHIRE COUNCIL

EXTRAORDINARY MEETING MINUTES

23 FEBRUARY 2012 (6 of 9)

2. That Council nominate two Councillors, being Crs Cameron and Richardson to represent Byron Shire Council on the Local Tourism Organisation Stakeholder Reference Group.
(Richardson/Tabart)

The amendment was put to the vote and declared carried.

Crs Tucker, Woods and Heeson voted against the amendment.

The amendment upon becoming the substantive motion was put to the vote and declared carried.

Crs Tucker, Woods and Heeson voted against the motion.

Report No. 12.33. Revised status report on the implementation of the Disability Access and Inclusion Plan 2008-2013

File No: ADM303000 #1184913

Moved:

1. That Council receive and note the revised status report on the implementation of the Disability Access and Inclusion Plan 2008-2013.
2. That Council note the progress made towards achieving the actions in the Disability Access and Inclusion Plan (DAIP) 2008-2013.
3. That Council note that a further report will be prepared in relation to resolution 11-1001, referring to subsequent resolutions relating to the Disability Access and Inclusion Plan.
(Woods/Tucker)

12-70 Resolved that the matter rest on the table. (Woods/Tucker)

The motion was put to the vote and declared carried.

ENVIRONMENT AND PLANNING - CONFIDENTIAL REPORT

Report No. 15.2. CONFIDENTIAL Old Byron Bay Beach Resort site, Bayshore Drive, Byron Bay

File No: 134370, 134390, 161600, 179310, 109870, 109880, 93630, 93730, 134330,134350, 179260 #1185651

12-71 Resolved:

1. That pursuant to Section 10A(2)(c) and (d) of the Local Government Act, 1993, Council resolve into Confidential Session to discuss the following report, namely Old Byron Bay Beach Resort Site, Bayshore Drive, Byron Bay.
2. That the reasons for closing the meeting to the public to further consider this item be that it contains advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege.
3. That on balance it is considered that receipt and discussion of the matter in open Council would be contrary to the public interest, as it could compromise the position of Council in current or future litigation and present a risk to public funds. (Woods/Staples)

The motion was put to the vote and declared carried.

BYRON SHIRE COUNCIL

EXTRAORDINARY MEETING MINUTES

23 FEBRUARY 2012 (7 of 9)

CONFIDENTIAL SESSION

Moved: That this item be deferred to the next Ordinary Meeting on 1 March 2012.

(Cameron/Staples)

The motion was put to the vote and declared lost.

Crs Tucker, Woods, Heeson, Richardson and Tabart voted against the motion.

12-72 Resolved that the vote be recommitted.

(Staples/Woods)

The motion was put to the vote and declared carried.

12-73 Resolved that this item be deferred to the next Ordinary Meeting on 1 March 2012.

(Cameron/Staples)

The motion (Cameron/Staples) was put to the vote and declared carried.

Crs Tucker, Heeson and Richardson voted against the motion.

PROCEDURAL MOTIONS

12-74 Resolved that the meeting move out of confidential.

(Tucker/Staples)

The motion was put to the vote and declared carried.

12-75 Resolved that Report 12.33 be lifted from the table.

(Tucker/Woods)

The motion was put to the vote and declared carried.

SOCIETY AND CULTURE – EXECUTIVE MANAGER'S REPORTS

Report No. 12.33. Revised status report on the implementation of the Disability Access and Inclusion Plan 2008-2013
continued

File No: ADM303000 #1184913

12-76 Resolved:

1. That Council receive and note the revised status report on the implementation of the Disability Access and Inclusion Plan 2008-2013.
2. That Council note the progress made towards achieving the actions in the Disability Access and Inclusion Plan (DAIP) 2008-2013.
3. That Council note that a further report will be prepared in relation to resolution 11-1001, referring to subsequent resolutions relating to the Disability Access and Inclusion Plan.

(Woods/Tucker)

The motion was put to the vote and declared carried.

FORESHADOWED MOTION

12-77 Resolved that the access for the CWA Hall in Brunswick heads from the Council owned land to the Hall be referred to the next Access Advisory Committee meeting. (Woods/Cameron)

The motion was put to the vote and declared carried.

PROCEDURAL MOTION

12-78 **Resolved** that Report 12.13 be lifted from the table. (Tucker/Woods)

The motion was put to the vote and declared carried.

CORPORATE MANAGEMENT – EXECUTIVE MANAGER’S REPORT

**Report No. 12.13. PLANNING - Public submission on the exhibition of the Draft Air
continued Space Policy**

File No: PLN106000 #1153177

Moved: That the report be noted. (Tucker/Woods)

AMENDMENT

12-79 **Resolved:**

1. That the objectives of the Policy be amended by retaining objectives 2 and 6 and deleting the four other objectives of the draft Policy. Therefore the Objectives reads:

To recognise that airspace structures enable private interests to profit from the usage of public space and that it is appropriate for Council to charge for that usage and to recognise that airspace structures can also provide a public benefit.

To provide for leasing arrangements for airspace structures, eg balconies, that provide for commercial floor space.

2. That Council adopt the Air Space Policy as amended above.
3. That leasing fees for air space development that provides for commercial floor area be imposed and calculated on the basis of a market valuation for the commercial use, in accordance with Council's adopted Fees and Charges.
4. That Council advise all premises owners that have existing and/or approved air space structures of the commencement of this Policy. (Morrisey/Staples)

The amendment was put to the vote and declared carried.

*Crs Staples, Cameron, Richardson, Tabart and Morrisey voted in favour of the amendment.
Crs Tucker, Woods and Heeson voted against the amendment.*

The amendment upon becoming the substantive motion was put to the vote and declared carried.

*Crs Staples, Cameron, Richardson, Tabart and Morrisey voted in favour of the motion.
Crs Tucker, Woods and Heeson voted against the motion.*

FORESHADOWED MOTION

12-80 **Resolved** that a further report come to Council examining options for calculation of fees for air space areas subject to leases/licenses. (Staples/Woods)

The motion was put to the vote and declared carried.

Cr Morrisey voted against the motion.

URGENCY MOTION

1. Draft Sports Field User Agreement

- 12-81 Resolved** that the Draft Sports Field User Agreement be discussed as a matter of urgency. The urgency being that user groups wish to use the site immediately eg Byron Bay Little Athletics.
(Tucker/Woods)

The motion was put to the vote and declared carried.

- 12-82 Resolved** that Council endorse the draft Sports Field User Agreement to facilitate interim use of the BRSCC, pending Council's consideration of the draft Sports Field User Policy.
(Tucker/Cameron)

The motion was put to the vote and declared carried.

There being no further business the meeting concluded at 12.35pm.

I hereby certify that these are the true and correct Minutes of this Meeting
as confirmed at Council's Ordinary Meeting on 22 March 2012.

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Mayor Jan Barham