

BYRON SHIRE COUNCIL

Ordinary Meeting Minutes
1 March 2012

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MINUTES OF THE BYRON SHIRE COUNCIL ORDINARY MEETING HELD ON THURSDAY 1 MARCH 2012 COMMENCING AT 10.32AM AND CONCLUDING AT 6.30PM

#1199655

PRESENT: Cr J Barham (Mayor), Cr B Cameron, Cr T Heeson, Cr P Morrissey,
Cr S Richardson (from 11.00am), Cr R Staples, Cr T Tabart, Cr R Tucker and
Cr D Woods

Staff: Graeme Faulkner (General Manager)
Phil Holloway (Executive Manager Community Infrastructure)
Mark Arnold (Executive Manager Corporate Management)
Ray Darney (Executive Manager Environment and Planning)
Catherine Diamond (Executive Manager Society and Culture)
Phil Warner (Executive Manager Water and Recycling)
Melissa Moore/Mila Jones (Minute Taker)

The Mayor opened the meeting and acknowledged that the meeting was being held on Bundjalung Country.

APOLOGIES: There were no apologies.

REQUESTS FOR LEAVE OF ABSENCE

There were no requests for leave of absence.

DECLARATIONS OF INTEREST – PECUNIARY AND NON-PECUNIARY

Cr Woods declared a pecuniary interest in item 8.4 - Revised Report of LPMA land swap issues, the nature of the interest being that she is a resident of the Terrace directly affected by the land swap.

Cr Barham declared a non-pecuniary interest in items 12.9 and 12.10, the nature of the interest being that she lives in the vicinity of the proposed developments.

Cr Heeson declared a non-pecuniary interest in item 13.1.2, the nature of the interest being that he is the event organiser.

TABLING OF PECUNIARY INTEREST RETURNS

There were no Pecuniary Interest Returns tabled.

ADOPTION OF MINUTES FROM PREVIOUS MEETINGS

12-83 Resolved that the Minutes of the following meetings be confirmed:

- Ordinary Meeting of 9 February 2012. (Tucker/Woods)

The motion was put to the vote and declared carried.

RESERVATION OF ITEMS FOR DEBATE AND ORDER OF BUSINESS

The Mayor suspended standing orders to allow for items to be reserved for debate, being:

GENERAL MANAGER'S REPORTS

- 12.2. Draft Amended Code of Meeting Practice Policy- adoption following public exhibition

EXECUTIVE MANAGERS' REPORTS

Community Infrastructure

- 12.3. Byron Bay Traffic and Parking Issues Public Meeting held 29 November 2011

Corporate Management

- 12.5. Request for Tender 2012-0002 for Provision of Block Advertising and Associated Public Advertisements
12.6. 2012 National General Assembly of Local Government
12.7. Internal Audit Committee - appointment of a further external representative

Environment and Planning

- 12.9. PLANNING - 10.2011.191.1 s82A Review - Use of part of the tourist premises for up to 14 functions annually limited to a maximum of 70 guests per function at 6/137 Beach Road, Broken Head
12.10. PLANNING - 10.2011.306.1 - Two lot subdivision and development of a tourist facility (four bedroom tourist accommodation facility with a detached manager's residence – 139 Beach Road, Broken Head

Society and Culture

- 12.13. Companion Card Program – Council Affiliation
12.14. Draft Byron Shire Council Safer Community Compact 2012-2016

Water and Recycling

- 12.17. Bulky Waste Kerbside Collection

COMMITTEE REPORTS

Community Infrastructure

- 13.1.4. Proposed No Parking 1am - 6am, various sites, Suffolk Park
13.1.8. Installation of a speed hump, Brandon Street, Suffolk Park
13.1.9. Request for accessible parking (disabled) bay, Byron Street, Bangalow

Society and Culture

- 13.2. Report of the Tourism Advisory Committee Meeting held on 2 February 2012

CONFIDENTIAL REPORTS

Corporate Management

- 15.1. CONFIDENTIAL Expression of Interest Old Station Master's Cottage
15.2. CONFIDENTIAL Tender Assessment –General Maintenance, Plumbing and Electrical Services

Water and Recycling

- 15.3. CONFIDENTIAL Tender Evaluation 2011-0046 Construction of Sewage Pump Station in Boondoon Crescent Ocean Shores

ITEM DEFERRED FROM EXTRAORDINARY MEETING 23 FEBRUARY 2012

- 16.1. (was 15.2) CONFIDENTIAL Old Byron Bay Beach Resort site, Bayshore Drive, Byron Bay

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The remaining Recommendations and Committee Recommendations were adopted as a whole, being moved by Cr Tucker and seconded by Cr Woods. Each recommendation is recorded with a separate resolution number commencing at Resolution No. 12-84 and concluding with Resolution No. 12-100.

GENERAL MANAGER'S REPORT

Report No. 12.1. Code of Conduct Complaints for the period July to December 2011
File No: HRM101010 #1186155

12-84 Resolved that the report be noted. (Tucker/Woods)

CORPORATE MANAGEMENT – EXECUTIVE MANAGER'S REPORTS

Report No. 12.4 Section 356 Donation - Mullum to Bruns Paddle
File No: ADM481000 #1191218

12-85 Resolved:

1. That Council support the Mullum to Bruns Paddle to be held on 27 May 2012.
 2. That the support involves a donation of \$450 being offset against Council's road closure costs under Policy 4.15 Assistance to Festivals and Community Organisations.
 3. That the organisers of the Mullum to Bruns Paddle be advised they will be responsible for payment of any other costs associated with Council exceeding the amount donated for road closures.
 4. That Council advertise the Section 356 Donation proposed to be made. (Tucker/Woods)
-

Report No. 12.2. Investments – January 2012
File No: FIN252000 #1191438

12-86 Resolved that Council receive and note the record of investments for the month of January 2012. (Tucker/Woods)

ORGANISATIONAL SUPPORT – EXECUTIVE MANAGER'S REPORTS

Report No. 12.11. PLANNING - BSC ats Abramovich LEC 10034/2012
File No: COR653000 x 214180D x 80.2012.2 x 10.2010.274.1 #1191081

12-87 Resolved that this report be noted and the General Manager be authorised to manage the litigation in accordance with the General Manager's general delegations. (Tucker/Woods)

The motion was put to the vote and declared carried.

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

No Councillors voted against the motion.

Cr Richardson was not present for the vote.

SOCIETY AND CULTURE – EXECUTIVE MANAGER’S REPORTS

Report No. 12.3. Companion Card Program – Council Affiliation

File No: ADM303000 #1195398

12-88 Resolved:

1. That Council note that Council’s proposal to become an Affiliate of the Companion Card Program, and the related proposed changes to Council’s Adopted Fees and Charges 2011/12, were placed on public exhibition from 12 January to 9 February 2012.
 2. That Council note that no submissions were received during the public exhibition period.
 3. That Council adopt the Companion Card Program and update Council’s adopted 2011/12 Fees and Charges accordingly.
 4. That Council make current lessees, new lessees and Section 355 Committees of Council facilities aware of Council’s membership of the Companion Card Program.
 5. That Council encourage sporting, community and cultural organisations to support the Companion Card Program.
 6. That Council’s website be updated to promote Council as a Companion Card Affiliate organisation.
 7. That Council displays the Companion Card sign at the Byron Shire swimming pools in Byron Bay and in Mullumbimby. (Tucker/Woods)
-

Report No. 12.15. Adoption of the Positive Ageing Strategy and Action Plan 2012-2016

File No: ADM300800 #1195358

12-89 Resolved:

1. That Council note that the Positive Ageing Strategy and Action Plan 2012-2016 was placed on public exhibition from 12 January to 9 February 2012.
 2. That Council note that no submissions were received during the public exhibition period.
 3. That Council adopt the Positive Ageing Strategy and Action Plan 2012-16 (#1160476).
 4. That Council receive and note the information about the proposed launch of the Positive Ageing Strategy and Action Plan 2012 - 2016 during Seniors Week 2012.
 5. That members of the Positive Ageing Project Reference Group be invited to the Seniors Week Official Launch and be publicly acknowledged for their contributions. (Tucker/Woods)
-

Report No. 12.16. 2012 Byron Bay Surf Festival - Request for a letter of support

Executive Manager: Society and Culture

File No: ADM900000 #1194678

12-90 Resolved that Council provide a letter of support to the organisers of the 2012 Byron Bay Surf Festival. (Tucker/Woods)

COMMUNITY INFRASTRUCTURE – COMMITTEE REPORT

Report No. 13.1. Report of the Local Traffic Committee Meeting held on 7 February 2012

#1193817/ENG224010

1 ANZAC Day Parades 2012

12-91 Resolved:

1. That Council endorse the ANZAC Day Parades on Wednesday 25 April 2012 for the Return Services League sub branches of Byron Bay, Mullumbimby, Bangalow and Brunswick Heads/Billinudgel.
2. That Council implement the necessary temporary road closures and detours and place advertisements in the local newspaper as required by the Roads Act 1993. (Tucker/Woods)

2 Traffic Control and Road Closures, Bangalow Billy Cart Derby, 20 May 2012

12-92 Resolved:

1. That Council approve the temporary road closure of Byron Street, Bangalow, between 6am and 4pm on Sunday 20 May, 2012 for the staging of the annual Bangalow Billy Cart Derby, subject to the:
 - a) the Traffic Control Plan being implemented by qualified personnel;
 - b) meeting of the advertising requirements of the Roads Act 1993;
 - c) event being notified on Council's website;
 - d) consideration of any submissions received;
 - e) proponent's timely lodgement of current and appropriate levels of insurance and liability cover; and
 - f) written approval of NSW Police.
2. That the Traffic Control Plan, as submitted by organisers, be accepted.
3. That the event organisers, upon receipt of invoice, pay any applicable Council fees and costs including but not limited to the cost of the road closure and advertising. (Tucker/Woods)

3 Traffic Management, Mullum to Bruns Paddle 27 May 2012

12-93 Resolved that Council approve the temporary traffic control measures in Mullumbimby for the Mullum to Bruns Paddle to be held on Sunday 27 May 2012, subject to the proponent's:

- a) use of an accredited designed and implemented Traffic Control Plan;
 - b) meeting of the advertising requirements of the Roads Act 1993;
 - c) letter box drop of residents advising of the event and the proposed traffic management;
 - d) event being notified on Council's website;
 - e) consideration of any submissions received; and
 - f) timely lodgement of current and appropriate levels of insurance and liability cover.
- (Tucker/Woods)
-

5 Westpac Life Saver Rescue Helicopter Ballina to Byron Bay Charity Walk

12-94 Resolved that Council endorse the Westpac Life Saver Rescue Helicopter organised Ballina to Byron Bay Charity Walk as to be held Sunday 20 May 2012, subject to the:

- a) use of an accredited designed and implemented Traffic Control Plan in the event traffic management is required;
 - b) meeting of the advertising requirements of the Roads Act 1993;
 - c) event being notified on Council's website;
 - d) consideration of any submissions received;
 - e) proponent's timely lodgement of current and appropriate levels of insurance and liability cover; and
 - f) attainment (by the event proponent) of NPWS written acceptance of the event.
- (Tucker/Woods)
-

6 Request for No Parking, Kingsley Lane, Byron Bay

12-95 Resolved that the resident's request for the implementation of No Parking within Kingsley Lane, Byron Bay from Tennyson Street to Massinger Street be supported and implemented on the basis that:

- a) consultation is undertaken for a period of 28 days with the tenants and owners of the residential properties bounded by Tennyson, Kingsley, Massinger and Ruskin Streets;
 - b) no objection is tabled within the consultation period; and
 - c) in the event of any objection being tabled within the consultation period the matter be referred back to the Local Traffic Committee and/or Council as required. (Tucker/Woods)
-

7 Request to change parking from 4P to 2P, Byron Street, Byron Bay

12-96 Resolved that the local trader request, which is that the current 4-hour (4P) time limit applicable within Byron Street, Byron Bay as operational between Fletcher Street and Middleton Street be reduced to 2-hour (2P), be supported and implemented on the basis that:

- a) consultation is undertaken for a period of 28 days with the tenants and owners of the properties adjacent to the proposal;
 - b) no objection is tabled within the consultation period; and
 - c) in the event of any objection being tabled within the consultation period the matter be referred back to the Local Traffic Committee and/or Council as required. (Tucker/Woods)
-

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10 Request to relocate and enforce loading zone, Byron Street, Bangalow

12-97 Resolved:

1. That a 15-minute time limit be introduced within the existing Loading Zone as located on the south side of Byron Street, Bangalow and immediately west of Station Street.
 2. That the request this same Loading Zone be relocated from Byron Street to Station Street, Bangalow be, like any others received, referred to the Bangalow car parking review.
(Tucker/Woods)
-

11 Proposal for right-turn lane entry at Broken Head Road Quarry

12-98 Resolved that Council provide in-principle support of a painted right-turn bay into Broken Head Quarry at the entrance/exit located south of Broken Head Reserve Road subject to it:

- operating in conjunction with a left-turn out only on to Broken Head Road at the same location;
 - ability to meet relevant Australian Standards, AUSTROADS and RMS guidelines and any other Council requirements; and
 - being resubmitted to the Local Traffic Committee as and when required and prior to installation.
(Tucker/Woods)
-

12 Proposed 2012 Meeting Dates

12-99 Resolved that the Local Traffic Committee meeting dates for 2012 be confirmed as follows:

- Wednesday 4 April
 - Wednesday 6 June
 - Wednesday 1 August
 - Wednesday 3 October
 - Wednesday 28 November
(Tucker/Woods)
-

13 Late Item - Reportable crash statistics

12-100 Resolved that Council note the information pertaining to the procedure for reporting of motor vehicle crashes.
(Tucker/Woods)

PROCEDURAL MOTION

12-101 Resolved that the order of business be changed to deal with items discussed during Public Access, those being items 13.1.8, 8.4, 12.9, followed by item 8.5, next on the Agenda.
(Staples/Tucker)

The motion was put to the vote and declared carried.

ITEMS RESERVED FOR DEBATE

COMMUNITY INFRASTRUCTURE – COMMITTEE REPORT

**Report No. 13.1. Report of the Local Traffic Committee Meeting held on
7 February 2012**

#1193817/ENG224010

8 Installation of a speed hump, Brandon Street, Suffolk Park

Moved:

1. That Council not install any additional traffic calming devices in Suffolk Park as the traffic and speed count data and review, as collected from and undertaken in accordance with Resolution 11-662 for Armstrong, Brandon and Alcorn Streets, and for Resolution 11-1067 for Brandon Street, does not support the request at this time.
2. That a representative of the Suffolk Park Progress Association be invited to attend the next Local Traffic Committee meeting and that the data collected in relation to this item be made available to the Suffolk Park Progress Association as soon as possible.(Cameron/Barham)

AMENDMENT

12-102 Resolved:

1. That this item be referred back to the Local Traffic Committee together with the data collected in relation to this item.
2. That a representative of the Suffolk Park Progress Association be invited to attend the next Local Traffic Committee meeting and that the data collected in relation to this item be made available to the Suffolk Park Progress Association as soon as possible.
(Staples/Tucker)

*The amendment was put to the vote and declared carried.
Crs Cameron and Morrissey voted against the amendment.*

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

NOTICE OF MOTION

Notice of Motion No. 8.4. Revised Report of LPMA land swap issues

COR405527 #1198309

Cr Woods left the room at 10.48am in accordance with her earlier declared pecuniary interest in this matter.

12-103 Resolved:

1. That Council receive a revised report on the impact of the LPMA land transfer and land swap issues defined in the report to the Ordinary Meeting 24 June 2010 Report No. 14.4
-

Land Exchange with Land and Property Management Authority (LPMA), specifically the lands at Brunswick Heads.

2. That the revised report includes:
 - a) photographs and maps of the land parcels;
 - b) clarification of the impacts in relation to traffic, residential amenity, safety;
 - c) the relationship to the potential uses of the land as outlined in the LPMA Draft Plan of Management for Brunswick Heads.
 - d) a copy of the Section 68 approval (2006)
 - e) flood study information and particularly impact on dwellings at Riverside Crescent
3. That Council write to the LPMA seeking copy of independent assessment of potential impact on road traffic and safety undertaken by the independent consultant as referred to in the Minister's response to Parliament. (Barham/ Staples)

The motion was put to the vote and declared carried.

Cr Tucker voted against the motion.

Cr Woods was not present for the vote.

Cr Woods returned to the meeting at 11.02am.

ENVIRONMENT AND PLANNING – EXECUTIVE MANAGER'S REPORTS

Report No. 12.9. PLANNING - 10.2011.191.1 s82A Review - Use of part of the tourist premises for up to 14 functions annually limited to a maximum of 70 guests per function at 6/137 Beach Road, Broken Head

File No: 240572 #1195567

12-104 Resolved that pursuant to Section 80 of the *Environmental Planning and Assessment Act 1979*, Development Application 10.2011.191.1 be granted consent subject to the amended conditions in Annexure 20(a)(#1197855), incorporating the following amendments:

Page 1 of 8:

Deferred Commencement Consent

1) Deferred Commencement Consent

This consent does not operate until Council is satisfied that the parking and loading arrangements for the development are satisfactorily provided for.

To satisfy Council of the above, a detailed concept plan for parking arrangements on the road reserve fronting the subject property providing for angle parking spaces similar to the recently constructed parking spaces adjacent to land known as Broken Head Reserve together with a sealed driveway to Council's standards for the right of carriageway on the eastern boundary and a bus drop off zone to the west of the existing driveway access for the site must be submitted to Council for approval.

Upon Council's endorsement of the concept plan abovementioned, Council will give notice to the applicant of the date from which the consent operates.

Page 3 of 8:

7) Developer Contributions to be paid

PAYMENTS WILL ONLY BE ACCEPTED BY CASH OR BANK CHEQUE.

Page 5 of 8:

The following conditions are to be complied with at all times

18) Bus Service

The applicant shall ensure that a bus service is provided for each function of capacity and/or frequency to ensure patrons are transported from outside accommodation to this function centre.

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22) No live amplified music

No live amplified music, no third party-provided speakers, DJ's, are permitted at any time during any function.

25) Loading - hours of operation

Loading and unloading at the premises is not to occur between the hours of 10pm and 8am on any day.

28) Restricted hours of operation

The hours of operation are to be limited to between 8am to 9pm for the 14 functions per year.
All functions must cease at 9.00pm.

(Delete sentence reading: "Any alteration to the above hours of operation will require the further consent of Council.")

Page 7 of 8:

Signs require consent:

Council's Byron Local Environmental Plan (LEP) requires development consent for most forms of advertising signs and structures. The Council has adopted a policy relating to outdoor advertising that sets out standards for various forms of advertising. Information is available from Council's Local Approvals Branch. (Tucker/Woods)

AMENDMENT

Moved:

That Council refuse the Development Application 10.2011.191.1 s82A Review for the following reason:

1. Pursuant to section 79C (1)(a)(i) of the *Environmental Planning and Assessment Act 1979* the proposed development constitutes prohibited development pursuant to Clause 9(2) and the development control table of the 2(t) Tourist Area Zone within Byron Local Environmental Plan 1988.
2. Pursuant to section 79C (1)(b) and 79C(1)(c) of the *Environmental Planning and Assessment Act 1979* the proposed development is likely to result in unacceptable noise and disturbance for neighbouring residents/occupants.
3. Pursuant to section 79C (1)(a)(iii) of the *Environmental Planning and Assessment Act 1979* the proposed development does not provide sufficient onsite parking or a service vehicle area to accord with Chapter 1 Part G of Byron Development Control Plan 2010.

4. Pursuant to Section 78A(1) of the *Environmental Planning and Assessment Act 1979* the proposed development application has not been accompanied by evidence that the owner of the land on which the development is to be carried out provides consents to the application (owners of Strata Plan 81554). (Morrisey/Cameron)

The amendment was put to the vote and declared lost.

Crs Cameron, Tabart and Morrisey voted for the amendment.

Crs Tucker, Woods, Heeson, Staples, Barham, Richardson voted against the amendment.

The motion (Tucker/Woods) was put to the vote and declared carried.

Crs Tucker, Woods, Heeson, Staples, Barham, Richardson and Tabart voted for the motion.

Crs Cameron and Morrisey voted against the motion.

NOTICE OF MOTION

Notice of Motion No. 8.5. Refuge for the homeless - Mullumbimby

COR405527 #1199556

12-105 Resolved that Council:

1. Receive a report by Ordinary Meeting 22 March 2012 documenting progress and constraints on actioning outstanding Council resolutions regarding investigating a primitive camping ground at Lot 4 DP 841856 Mullumbimby;
2. Allocate an additional \$5,000 (making a total of \$10,000) to conduct a site specific study of Lot 4 DP 841856 in relation to flood levels, flow velocities, depths and water surface levels and for Council to run spot surveys from the corner of Mill St and Station St along the access road and along the more elevated portion to determine ground levels (RL's) to assist in planning for future access and egress. (\$5,000 was allocated in Res 10/808 and has not been spent to date).
3. Prepare a flood evacuation plan for Lot 4 DP 841856 in relation to using the land as a Primitive Camping Site.
4. Identify possible grant funding and/or consideration of an allocation in the 2012/13 budget process to transfer Lot 4 DP 841856 from the Sewer Fund to the General Fund for the purpose of primitive camping subject to the flood study in point 2. Valuation was completed as per Res 09/137.
5. Consult with the Northern Rivers Social Development Council in relation to regional funding opportunities. (Morrisey/Cameron)

12-106 Resolved that Cr Staples be granted a one minute extension to his speech. (Barham/Woods)

The motion was put to the vote and declared carried.

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

Crs Tucker, Woods and Heeson voted against the motion.

MAYORAL MINUTE

There was no Mayoral Minute.

NOTICES OF MOTION

Notice of Motion No. 8.1. Reduce single-use plastic bag use in Byron Shire

COR405527 #1198136

12-107 Resolved:

1. That Council acknowledge the efforts taken by many local businesses and residents to reduce the number of single-use plastic bags used throughout Byron Shire- especially the *Say No To Plastic Bag Campaign*. This is to be included in Council's weekly newspaper notice as well as on the Council website.
2. That Council acknowledge that single-use plastic bags are a major litter problem in our parks and waterways, and can result in the deaths of many turtles, Cetaceans, birds, as well as other animal species. This is to be included in Council's weekly newspaper notice as well as on the Council website.
3. That Council write to the State and Federal Government urging them to introduce legislation that would ban single-use plastic shopping bags.
4. That Council contact local retailers to encourage them to voluntarily and in a staged approach, reduce and ultimately eliminate single-use plastic shopping bags from the Byron Local Government Area.
5. That Council ensure all Council owned or controlled business and commercial activities eliminate the availability of single-use plastic shopping bags
6. That, Byron Shire Council Policy 7.1 *Business and Commercial Activities*, be amended to reflect this change and any relevant Council procedures (eg where it affects purchasing). (Richardson/Barham)

The motion was put to the vote and declared carried.

Cr Tucker voted against the motion.

Notice of Motion No. 8.2. Traffic: The Psychology of Transport Behaviour Seminar

COR405527 #1198147

- 12-108 Resolved** that Council appoint Crs Richardson and Barham to attend the Traffic: The Psychology of Transport Behaviour Seminar, in Brisbane on 16 April 2012. (Richardson/Barham)

The motion was put to the vote and declared carried.

Crs Tucker, Woods and Heeson voted against the motion.

The meeting adjourned for lunch at 12.35pm and resumed at 1.20pm.

Notice of Motion No. 8.3. Fees and charges increases

COR405527 #1198273

12-109 Resolved:

1. That to provide open and transparent processes and ensure that public attention is drawn to increases, and that explanation be given as to why these changes are proposed,

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Council receive notes in the agenda report that recommends the setting of Fees and Charges that:

- a) identify and explain any increases that exceed a CPI level, or
- b) explain if a statutory increase is involved, or
- c) provide any other justification for the increase

2. That Council consider a colour coded system in relation to Fees and Charges. (Barham/Staples)

The motion was put to the vote and declared carried.

PETITIONS

There were no petitions tabled.

SUBMISSIONS AND GRANTS

There were no submissions or grants tabled.

DELEGATES' REPORTS

There were no delegates' reports.

GENERAL MANAGER'S REPORT

Report No. 12.2. Draft Amended Code of Meeting Practice Policy- adoption following public exhibition

File No: COR050504 #1150026

Moved:

1. That Council does not adopt the Draft Amended Code of Meeting Practice.
2. That the Disputes Resolution Committee be retained.
3. That a Project Reference Group (PRG) be formed to provide recommendations as to responsibilities and objectives for the Committee. (Tabart/Richardson)

12-110 Resolved that Cr Barham be granted a one minute extension to her speech.(Tabart/Richardson)

The motion was put to the vote and declared carried.

*The motion (Tabart/Richardson) was put to the vote and declared lost.
Crs Tucker, Woods, Heeson, Cameron and Morrissey voted against the motion.*

FORESHADOWED MOTION

12-111 Resolved that Council adopt the Draft Amended Code of Meeting Practice provided at Annexure 25(a) (#1170146). (Tucker/Woods)

AMENDMENT

Moved:

1. That Council defer adoption of the Draft Code of Meeting Practice.
2. That Policy 3.34 Role and Protocol of Dispute Resolution Committee be revised by a project reference group to be appointed.
3. That revisions are to include but not be limited to:
 - a) membership to include all councillors; and
 - b) delegated powers to be reviewed. (Staples/Tabart)

The amendment was put to the vote and declared lost.

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

The motion (Tucker/Woods) was put to the vote and declared carried.

Crs Staples, Barham, Richardson and Tabart voted against the motion.

COMMUNITY INFRASTRUCTURE – EXECUTIVE MANAGER’S REPORT

**Report No. 12.3. Byron Bay Traffic and Parking Issues Public Meeting held
29 November 2011**

File No: ENG658730 #1187686

Moved:

1. That the meeting notes at Annexure 19(a) (#1198962) be noted as the official record of the 29 November 2011 public meeting as held in Byron Bay.
2. That Council’s Transport Advisory Committee develop a Byron Bay town centre plan and vision that:
 - a) considers the proposed actions and is consistent with and incorporates the principles and rationale as detailed within Table 1 of this report;
 - b) is guided by the concepts of accessibility, mobility, amenity and have regard for various road users, events and existing urban form and heritage in efforts to help develop a town centre that remains attractive, safe, unique and a desirable place to visit; and
 - c) is consistent with Council endorsed aims, such as Council’s urban design principles and relevant resolutions including but not limited to those cited within this report, namely Resolutions 11-336 (4); 11-1052 (e); and 10-834 Parts 2(a) and 2(e); and
 - d) that a Byron Bay Town Centre Traffic and Parking Management (BBTPM) Project Reference Group be convened to assist with a town centre plan and vision that is to provide actions for consideration including but not limited to, those proposed within Table 1.
3. That Council’s Transport Advisory Committee provide a report to Council by August 2012 that incorporates the town centre vision and plan and considers how best to promote and provide alternative transport options within and to Byron Bay in particular:
 - i. recommends actions required to improve walking, cycling and bus travel within Byron Bay;
 - ii. have regard to Council’s adopted Transport Policy and provide update on the progress of a shire-wide Integrated Transport Strategy, the development of which,

following the disbanding of the Transport Strategy (Stage 2) PRG, is an undertaking now charged to the Committee. (Cameron/Barham)

12-112 Resolved that Cr Cameron be granted a two minute extension to his speech. (Barham/Tabart)

The motion was put to the vote and declared carried.

AMENDMENT

12-113 Resolved:

1. That the meeting notes at Annexure 19(a) (#1198962) be noted as the official record of the 29 November 2011 public meeting as held in Byron Bay.
2. That Council convene a Byron Bay Town Centre Traffic and Parking Management (BBTPM) Project Reference Group that is to meet May, June and July with the last report to Council by August 2012 to provide definitive actions for Council to adopt, including but not limited to, those proposed within Table 1.
3. That in conjunction with the PRG undertaking within Recommendation 2, Council's Transport Advisory Committee:
 - a) develop a Byron Bay town centre plan and vision that:
 - i. considers the proposed actions and is consistent with and incorporates the principles and rationale as detailed within Table 1 of this report;
 - ii. is guided by the concepts of accessibility, mobility, amenity and have regard for various road users, events and existing urban form and heritage in efforts to help develop a town centre that remains attractive, safe, unique and a desirable place to visit; and
 - iii. is consistent with Council endorsed aims, such as Council's urban design principles and relevant resolutions including but not limited to those cited within this report, namely Resolutions 11-336 (4); 11-1052 (e); and 10-834 Parts 2(a) and 2(e); and
 - iv. is reported back to Council in conjunction with the last BBTPM PRG report in August 2012.
 - b) provide a report or reports to Council that consider how best to promote and provide alternative transport options within and to Byron Bay in particular:
 - i. recommends actions required to improve walking, cycling and bus travel within Byron Bay;
 - ii. outlines the potential role of rail services, including an update on the role and progress of the Council funded and initiated Regional Rail Taskforce and, when available, the NSW government feasibility study into the return of rail services;
 - iii. have regard to Council's adopted Transport Policy and provide update on the progress of a shire-wide Integrated Transport Strategy, the development of which, following the disbanding of the Transport Strategy (Stage 2) PRG, is an undertaking now charged to the Committee. (Staples/Woods)

*The amendment was put to the vote and declared carried.
Crs Barham, Cameron, Richardson and Tabart voted against the amendment.*

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

CORPORATE MANAGEMENT – EXECUTIVE MANAGER’S REPORTS

Report No. 12.5. Request for Tender 2012-0002 for Provision of Block Advertising and Associated Public Advertisements

File No: ADM130000 #1192737

12-114 Resolved:

1. That pursuant to clause 166(a) of the Local Government (General) Regulation 2005, Council use the open tendering method for its weekly block advertising contract and that the term of the contract be for a period of three years.
2. That the General Manager appoint an independent assessment panel (including at least two persons external to Council on a minimum three person panel) to recommend on tenders submitted for Council’s weekly block advertising, based on the following criteria and weighting:

Short Description	Recommended Weighting
Price	30%
Circulation	30%
Innovative Work Practices eg website circulation	25%
Time Performance	5%
Social and economic impact on local economy	10%

3. That Council notes that the General Manager will determine the matter in accordance with his delegation, following the recommendation from the independent assessment panel (including at least two persons external to Council on a minimum three person panel) and that following the determination a memorandum be provided to Councillors advising of the outcome of the tender process. (Staples/Barham)

PROCEDURAL MOTION

Moved: That Council move into confidential session in accordance with Section 10A(2) of the Local Government Act 1993 due to the commercial in confidence nature of the discussion. (Barham/Tabart)

*The motion was put to the vote and declared lost.
Crs Tucker, Woods, Heeson, Staples, Cameron and Morrisey voted against the motion.*

*The motion (Staples/Barham) was put to the vote and declared carried.
Crs Tucker, Woods, Heeson and Morrisey voted against the motion.*

Report No. 12.6. 2012 National General Assembly of Local Government

File No: COR403000 #1193925

Moved:

1. That Council authorise Cr Heeson and Cr Staples to attend the 2012 National General Assembly of Local Government to be held at the National Convention Centre in Canberra between 17 to 20 June 2012.
2. That Council determine which Councillor will be the voting delegate.
3. That Council note that any motions for the National General Assembly will need to be submitted as a Notice of Motion for endorsement by Council, either before or at the Ordinary meeting scheduled on 12 April 2012. (Staples/Woods)

The motion was put to the vote and declared carried (but was subsequently lost with the following recommittal of the vote).

12-115 Resolved that the vote be recommitted. (Woods/Tucker)

The motion was put to the vote and declared carried.

The motion (Staples/Woods) was put to the vote and declared lost.

12-116 Resolved:

1. That Council authorise Cr Heeson and Cr Staples to attend the 2012 National General Assembly of Local Government to be held at the National Convention Centre in Canberra between 17 to 20 June 2012.
2. That Council determine that Cr Staples will be the voting delegate.
3. That Council note that any motions for the National General Assembly will need to be submitted as a Notice of Motion for endorsement by Council, either before or at the Ordinary meeting scheduled on 12 April 2012. (Staples/Woods)

The motion was put to the vote and declared carried.

Report No. 12.7. Internal Audit Committee - appointment of a further external representative

File No: ADM302500 #1191871

The Mayor left the chambers at 3.35pm. The Deputy Mayor took the Chair.

12-117 Resolved:

1. That the resignation from Sally Tansley be accepted and she be officially thanked for her contribution as a member on this Committee.
-

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2. That Council appoint the persons identified as candidate 2 and 3 in Confidential Annexure 22(a) (#1191978) as the two new external representatives to the Internal Audit Committee. (Tabart/Staples)

The Mayor returned to the chambers at 3.39pm and resumed the Chair.

- 12-118 Resolved** that Cr Tabart be granted a one minute extension to his speech. (Barham/Woods)

The motion was put to the vote and declared carried.

AMENDMENT

Moved:

1. That the resignation from Sally Tansley be accepted and she be officially thanked for her contribution as a member on this Committee.
2. That Council appoint the persons identified in Confidential Annexure 22(a) (#1191978) as the two new external representatives to the Internal Audit Committee. (Tucker/Woods)

The amendment was put to the vote and declared lost.

Crs Staples, Barham, Cameron, Richardson, Tabart and Morrissey voted against the amendment.

The motion was put to the vote and declared carried.

The meeting adjourned at 3.45pm for a break and reconvened at 4.00pm.

PROCEDURAL MOTION

- 12-119 Resolved** that the order of business be changed to deal with 13.2. next on the Agenda. (Richardson/Barham)

The motion was put to the vote and declared carried.

SOCIETY AND CULTURE – COMMITTEE REPORT

Report No. 13.2. Report of the Tourism Advisory Committee Meeting held on 2 February 2012

File No: ADM900020 #1195283

Moved:

1. That Council note the minutes of the Tourism Advisory Committee meeting held on 2 February 2012 (#1179139).
2. That in relation to Report No. 5.4 – Public Exhibition Summary – Proposed Identity for Byron Shire, Council adopt:

Committee Recommendation TAC 5.4.1

3. That the Tourism Advisory Committee proudly proposes that Council support the proposed identity (Ordinary Agenda 13 October 2011, Annexure 18(b) #1136785), particularly the images and text that comprise the identity, and refer the project back to

the TAC for recommendations for its implementation and possible application, to achieve the desired outcomes of the Tourism Management Plan. (Cameron/Richardson)

AMENDMENT

12-120 Resolved:

1. That Council note the minutes of the Tourism Advisory Committee meeting held on 2 February 2012 (#1179139).
2. That in relation to Report No. 5.4 – Public Exhibition Summary – Proposed Identity for Byron Shire, that Council supports the proposed identity (Ordinary Agenda 13 October 2011, Annexure 18(b) #1136785), particularly the images and text that comprise the identity, and refer the project back to the TAC for recommendations for its implementation and possible application, to achieve the desired outcomes of the Tourism Management Plan. (Tucker/Woods)

*The amendment was put to the vote and declared carried.
Crs Barham and Tabart voted against the amendment.*

*The amendment upon becoming the substantive motion was put to the vote and declared carried.
Crs Barham and Tabart voted against the motion.*

FORESHADOWED MOTION

- 12-121 Resolved** that the Tourism Advisory Committee be asked to review the confidential nature of Annexures 2(a) and 2(b) of its Agenda of 2 February 2012 and recommend to Council its proposed status for these documents. (Tucker/Cameron)

The motion was put to the vote and declared carried.

ENVIRONMENT AND PLANNING – EXECUTIVE MANAGER’S REPORT

Report No. 12.10. PLANNING - 10.2011.306.1 - Two lot subdivision and development of a tourist facility (four bedroom tourist accommodation facility with a detached manager’s residence – 139 Beach Road, Broken Head

File No: 240562 #1196104

- 12-122 Resolved** that Council defer determination of DA 10.2011.306.1 to allow the applicant to amend the proposal and demonstrate the environmental impacts. (Tucker/Woods)

AMENDMENT

Moved: That Pursuant to Section 80 of the Environmental Planning & Assessment Act 1979, Development Application No. 10.2011.306.1, for a two lot subdivision and tourist facility (four bedroom tourist accommodation facility and a detached manager’s residence), be refused for the following reasons.

1. Pursuant to the provisions of Section 79C(1)(b) of the *Environmental Planning and Assessment Act 1979*, the proposed development is likely to have an unacceptable impact on the natural environment, principally the loss of at least 0.5ha of breeding and foraging habitat for the Common Planigale (*Planigale maculate*), a threatened species under the *Threatened Species Conservation Act 1995*.

2. Pursuant to the provisions of Section 78A(8) of the *Environmental Planning and Assessment Act 1979*, the development is likely to result in a significant affect on the local population of a threatened species the Common Planigale (*Planigale maculate*), and a species impact statement has not been submitted in accordance with Division 2 of Part 6 of the *Threatened Species Conservation Act 1995*.
3. Pursuant to the provisions of Section 79(c)(1)(a)(i) of the *Environmental Planning and Assessment Act 1979*, the proposed development has not demonstrated compliance with the Aims, Objectives and Guiding Principles of Clause 2 of the Byron Local Environmental Plan 1988 and the Objectives of the 7(b) Coastal Habitat Zone.
4. Pursuant to the EPA and TSC Acts the lack of a Species Impact Statement and the likelihood of other unknown impact on threatened populations
5. The prohibited works within the 7b zone eg. road, APZ
6. Lack of adherence to Clause 2A in relation to insufficient information to assess the impacts of the development in relation to BCS
7. SEPP 1 objection not supported due to negative impact on biodiversity
8. Lack of adherence to Clause 36 (Development adjoining wetland) due to the likely to have significant negative effects. (Barham/Tabart)

The amendment was put to the vote and declared lost.

Crs Barham, Richardson and Tabart voted in favour of the amendment.

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

The motion was put to the vote and declared carried.

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

Crs Barham, Richardson and Tabart voted against the motion.

SOCIETY AND CULTURE – EXECUTIVE MANAGER'S REPORTS

Report No. 12.13. 2011 New Year's Eve Report

File No: ADM402120 #1183437

- 12-123 Resolved** that this report be deferred until all community and other stakeholder feedback is tabled. (Richardson/Tabart)

AMENDMENT

Moved:

1. That Council note the positive feedback from the community and other stakeholders, including Police and St John's Ambulance, regarding New Year's Eve 2011.
2. That Council resolve New Year's Eve 2012 retain the same format as for 2011, remaining a community-focused, low-key event which provides family-friendly entertainment and showcases local arts and creativity.
3. That Council resolve to include additional, child-focused entertainment from 4.00pm to approximately 9.00pm.

4. That Council support the following operational recommendations for ongoing improvement for New Year's Eve management:
- a) review area and advertisement of Alcohol Free Zones
 - b) develop and promote a 'no glass in the parks and beaches' campaign
 - c) develop a child-friendly entertainment programme, which could include pantomimes and/or the Spaghetti Circus, and other local artists suitable for family entertainment
 - d) investigate the cost of including a fireworks show at 9.00pm for families
 - e) investigate cost effective and safe alternative methods/systems to supply water and electricity to stallholders across Apex Park
 - f) review the New Year's Eve waste management plan from the perspective of encouraging people to put litter in the bins provided
 - g) liaise with Police as to the location of alcohol check points and increase the number of waste disposal units at each site
 - h) contact bus companies to ensure patrons are picked up and dropped off in compliance with alcohol-free zones
 - i) consider having rangers on duty until 12.00am on 1 January
 - j) develop a procedure for effectively dealing with unlicensed vendors.
5. That Council allocate an additional \$7,000 from the New Year's Eve Reserve (5013.21) bringing the total 2012/13 New Year's Eve budget to \$35,000 to implement the operational recommendations in point 4.
6. That Council continue to work with Byron United and others in the community in the development of, and fund-raising for, New Year's Eve 2012. (Woods/Tucker)

The amendment was put to the vote and declared lost.

Crs Staples, Barham, Cameron, Richardson, Tabart and Morrissey voted against the amendment.

The motion was put to the vote and declared carried.

Crs Staples, Barham, Cameron, Richardson, Tabart and Morrissey voted against the motion.

FORESHADOWED MOTION

- 12-124 Resolved** that Council thank Byron United for its substantial contribution to the 2011 New Year's Eve organisation and management. (Tucker/Woods)

The motion was put to the vote and declared carried.

Report No. 12.14. Draft Byron Shire Council Safer Community Compact 2012-2016

File No: ADM306600 #1194871

12-125 Resolved:

1. That the draft Safer Community Compact 2012 - 2016 (#1196451) be placed on public exhibition for a minimum period of 28 days with the the following amendments:
 - removal of 1.4.1 and removal of references to CCTV in Action Plan 8.5 (1st paragraph in Project and Rationale).
2. That submissions received on the draft Safer Community Compact 2012 - 2016 be reported to Council for consideration prior to adoption.

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3. That, in the event that no submissions are received during the public exhibition period, the draft Safer Community Compact 2012 - 2016 be adopted.
4. That a report be prepared for Council on the progress of the implementation of actions identified in the Safety Audits for Brunswick Heads, Byron Bay and Ocean Shores, and that the report include what has been undertaken/completed; what is outstanding; and what is included in the ongoing schedule of works. (Barham/Richardson)

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

FORESHADOWED MOTION

- 12-126 Resolved** that Council lodge an application for funding under Proceeds of Crime Act of up to \$150,000 to provide lighting/safety/anti-graffiti (Crime prevention through environmental design) as identified in safety audits. (Barham/Richardson)

The motion was put to the vote and declared carried.

WATER AND RECYCLING – EXECUTIVE MANAGER’S REPORT

Report No. 12.17 Bulky Waste Kerbside Collection
File No: ENG450000 #1145206

- 12-127 Resolved** that, in lieu of the annual urban kerbside collection of bulky waste, Council commence a bulky waste service at the Myocum Landfill from 1 July 2012 for properties within the Shire that allows annually, as a one-off, 150 kilograms of permissible bulky waste to be received free of charge. (Staples/Barham)

AMENDMENT

Moved: That, in lieu of the annual urban kerbside collection of bulky waste, Council commence a bulky waste service at the Myocum Landfill from 1 July 2012 for properties with a waste service that allows annually one cubic metre of permissible bulky waste and one cubic metre of metal items to be received free of charge. (Tucker/Woods)

PROCEDURAL MOTION

- 12-128 Resolved** that the meeting be extended past 6.00pm to complete Report 16.1 (was Report 15.2 in the Ordinary Meeting Agenda of 9 February 2012). (Barham/Staples)

The motion was put to the vote and declared carried.

*The amendment was put to the vote and declared lost.
Crs Staples, Barham, Cameron, Richardson, Tabart and Morrissey voted against the amendment.*

The motion was put to the vote and declared carried.

ITEM DEFERRED FROM THE EXTRAORDINARY MEETING HELD 23 FEBRUARY 2012

ENVIRONMENT AND PLANNING - CONFIDENTIAL REPORT

Report No. 16.1 **CONFIDENTIAL Old Byron Bay Beach Resort site, Bayshore Drive, (previously 15.2.)** **Byron Bay**
Executive Manager: Environment and Planning
File No: 134370, 134390, 161600, 179310, 109870, 109880, 93630, 93730, 134330,134350, 179260 #1185651

12-129 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. (Tucker/Woods)

*The motion was put to the vote and declared carried.
Crs Staples and Cameron voted against the motion.*

CONFIDENTIAL SESSION

12-130 Resolved:

1. That Council withdraw from seeking joint legal advice and advise the applicant that in Council's view the applicant should brief counsel directly, and be responsible for all associated costs.
2. That Council note the report to date in relation to DA 87/0208 on Lots 1 and 2, 6-13 DP 243218 and other lots as depicted in Annexure 22(a), #1186124, Bayshore Drive, Byron Bay.
3. That Council note that this matter commenced in October 2010 and is a deviation from Council's current policy of not participating by way of obtaining joint legal advice to be used by an applicant to determine a position in relation to development consent commencement. (Cameron/Tucker)

The motion was put to the vote and declared carried.

12-131 Resolved that Council move out of confidential session. (Tucker/Woods)

The motion was put to the vote and declared carried.

The meeting closed at 6.28pm. The remaining items listed below were deferred to the Ordinary Meeting to be held on 22 March 2012.

COMMITTEE REPORT

Community Infrastructure

- 13.1. Report of the Local Traffic Committee Meeting held on 7 February 2012
 - 13.1.4 Proposed No Parking 1am - 6am, various sites, Suffolk Park
 - 13.1.9 Request for accessible parking (disabled) bay, Byron Street, Bangalow

CONFIDENTIAL REPORTS

Corporate Management

- 15.1. CONFIDENTIAL Expression of Interest Old Station Master's Cottage
- 15.2. CONFIDENTIAL Tender Assessment –General Maintenance, Plumbing and Electrical Services

Water and Recycling

- 15.3. CONFIDENTIAL Tender Evaluation 2011-0046 Construction of Sewage Pump Station in Boondoon Crescent Ocean Shores

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