

BYRON SHIRE COUNCIL

Ordinary Meeting Minutes
22 March 2012

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BYRON SHIRE COUNCIL

ORDINARY MEETING MINUTES

22 MARCH 2012 (1 of 26)

MINUTES OF THE BYRON SHIRE COUNCIL ORDINARY MEETING HELD ON THURSDAY 22 MARCH 2012 COMMENCING AT 10.58AM AND CONCLUDING AT 5.59PM
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#1203201

PRESENT: Cr J Barham (Mayor), Cr B Cameron, Cr T Heeson, Cr P Morrisey,
Cr S Richardson, Cr R Staples, Cr T Tabart 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)
Shannon McKelvey (Executive Manager Organisational Support)
Greg Ironfield (Acting Executive Manager Society and Culture)
Phil Warner (Executive Manager Water and Recycling)
Melissa Moore/Joylene McNamara (Minute Taker)

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

APOLOGIES: An apology was received from Cr Tucker.

12-132 Resolved that the apology from Cr Tucker be accepted and leave of absence granted.
(Staples/Woods)

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.

TABLING OF PECUNIARY INTEREST RETURNS

There were no Pecuniary Interest Returns tabled.

ADOPTION OF MINUTES FROM PREVIOUS MEETINGS

12-133 Resolved that the Minutes of the following meetings be confirmed:

- Extraordinary Meeting of 23 February 2012
- Ordinary Meeting of 1 March 2012. (Woods/Heeson)

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

- 13.2. Code of Conduct Complaint - Reporting Outcome of Independent Review
- 13.3. Request for reimbursement of legal expenses by a Councillor

EXECUTIVE MANAGERS' REPORTS

Community Infrastructure

- 13.6. Proposed Sites for Installation of Multiple Bicycle Parking Rails
- 13.7. Skinners Shoot Road - Contributions by Residents for the Sealing of Road
- 13.10. Endorsement of Proposed BBTPM Project Reference Group and Constitution
- 13.11. Draft Byron Shire Council Sports Field User Policy
- 13.12. Commitment to the Byron Bay Town Centre Bypass

Corporate Management

- 13.13. Management of Street Camping
- 13.14. Byron Bay War Memorial Swimming Pool - 12 month option - Lease & Management Contract
- 13.15. Broken Head Quarry Community Consultative Committee
- 13.16. Byron Shire Council v Timothy James Freedman

Environment and Planning

- 13.19. Draft LEP 2012 progress update
- 13.21. PLANNING - DA 10.2011.117.1 - Stage 2 Tallowood Estate 27 residential allotments and associated civil infrastructure and access road at Tuckerroo Avenue, Mullumbimby

COMMITTEE REPORTS

Society and Culture

- 14.4. Report of the Public Art Policy Implementation PRG Meeting on 14 February 2012

LATE REPORTS

- 17.1. PLANNING - DA 10.2011.117.1 - Stage 2 Tallowood Estate 27 residential allotments and associated civil infrastructure and access road at Tuckerroo Avenue, Mullumbimby

The remaining Recommendations and Committee Recommendations were adopted as a whole, being moved by Cr Woods and seconded by Cr Cameron. Each recommendation is recorded with a separate resolution number commencing at Resolution No. 12-134 and concluding with Resolution No. 12-167.

GENERAL MANAGER'S REPORTS

Report No. 13.1. Library Services (Richmond Tweed Regional Library)
File No: ADM601000 #1205121

12-134 Resolved:

- 1. That Byron Council reconfirm its commitment to the delivery of library services on a regional basis.
- 2. That Council endorse:

- a) that there is a need for the RTRL to obtain an independent audit of assets and liabilities to be undertaken to establish baseline information which can form the foundation of any future governance arrangements;
 - b) interim governance arrangements for the RTRL (subject to obtaining the necessary approval under s12A of the Library Act) being the continuation of the current model of operation under the 1970s agreements for an interim period of up to 12 months pending finalisation of future permanent governance model;
 - c) a County Council as Byron Shire Council's preferred permanent governance model;
 - d) the key steps (1 to 15) for attempting to establish interim and permanent governance arrangements as outlined in the body of this report (#1196191).
3. That Council request that Lismore City Council schedule an RTRL Committee meeting as a matter of urgency. (Woods/Cameron)
-

COMMUNITY INFRASTRUCTURE – EXECUTIVE MANAGER’S REPORTS

Report No. 13.4. Part Lane Closure Unnamed Lane Kingsley and Carlyle Streets, Byron Bay

File No: ENG655000#1199478

12-135 Resolved:

1. That Council endorse the application to a part closure of the laneway between Carlyle and Kingsley Streets, Byron Bay, adjacent to Parcel No 239708 (Annexure 2(a) #1136868), as per option 2 in Figure 5 of this report.
 2. That Council ascertain market value by retaining a suitably qualified valuer and delegate to the General Manager the authority to enter into a contract for sale of the closed part of the road with the owner of adjoining Parcel No 239708 for a value no less than the highest value placed on the part closed road by the independent valuer.
 3. That, without limiting the delegation to the General Manager to negotiate a contract suitable to the Council, terms and conditions of the contract will include requirements for:
 - i. the applicant to pay all costs associated with the part road closure, including but not limited to:
 - a) Council application fees
 - b) Council's surveyor's fees and survey, valuation and legal costs
 - c) All registration fees
 - d) Legal costs
 - ii. The allotment created by the part road closure to be consolidated into the existing Parcel No 239708.
 - iii. An easement for services to be created over the alignment of the sewer main within the consolidated allotment (as per II above) in favour of Council in accordance with the requirements of Council Policy No 4.20.
 4. That Council authorise the affixing of the Council seal to and the signing of all documents necessary to affect the sale and transfer of the part closed road. (Woods/Cameron)
-

Report No. 13.5. Bangalow Skatepark
File No: BEN353010 238382 #1188871

12-136 Resolved:

1. That the twenty eight (28) letters of support and one (1) objection received from the community regarding the construction of a skatepark at Bangalow sportsfield be noted.
 2. That \$180,000 be allocated from Open Space, Local Parks Bangalow, Section 94 funds for the design and construction of a skatepark at the Bangalow sportsfields.
 3. That pursuant to Part 7 of the Local Government (General) Regulation 2005 the open tendering method be used for the contract for design and construction of a skatepark at the Bangalow sportsfields. (Woods/Cameron)
-

Report No. 13.8. Whian Road, Eureka – Causeway and Road Approaches
File No: ENG654000/#1201842

12-137 Resolved:

1. That Council note if the causeway and / or road project/s for Whian Road are to be included in 2012/13 Works Program, a different project from the Works Program would have to be deferred to a later financial year.
 2. That the consideration of the inclusion of a causeway and / or road project/s for Whian Road in 2012/13 be done in conjunction with the Draft 2012/13 Delivery Program, due to be reported to the Strategic Planning Committee Meeting 29 March 2012.
 3. That if the project is to be included in the 2012/13 Works Program, concept engineering plans and concept estimates be prepared for the various options for an upgrade of the causeway and an upgrade of the roadway between the causeway and Kings Road.
 4. That the road between the causeway and Kings Road be upgraded in stages as funding constraints permit to reduce gravel and fine materials being washed into the creek and is a higher priority than the causeway upgrade.
 5. That Council not reduce any proposed funding in 2012/13 for the Reseal Programme due to the long term and strategic importance of completing this work.
 6. That an update letter be sent to all residents of Whian Road. (Woods/Cameron)
-

**Report No. 13.9. BRSCC Adoption / Recommendations PRG Meeting held
7 December 2011**
File No: BEN353010 #1199848

- 12-138 Resolved** that Council note the minutes of the Byron Regional Sport and Cultural Complex (BRSCC) Project Reference Group (PRG) Meeting held 7 December 2011. (Woods/Cameron)
-

CORPORATE MANAGEMENT – EXECUTIVE MANAGER’S REPORTS

Report No. 13.17. Sewer Easement for Byron Bay Library

File No: BEN400000 #1203538

12139 Resolved:

1. That Council authorise the General Manager and Mayor of Council to sign the Administration Sheet and Section 88B Instrument burdening Lot 457 DP 1087879 on the terms and conditions contained in the draft as shown at Annexure 11(a) (#1203603).
2. That Council authorise the General Manager and Mayor of Council to affix the seal to the Administration Sheet and Section 88B instrument burdening Lot 457 DP 1087879 on the terms and conditions contained in the draft as shown at Annexure 11(a) (#1203603).
(Woods/Cameron)

ENVIRONMENT AND PLANNING – EXECUTIVE MANAGER’S REPORTS

Report No. 13.18. State Environmental Planning Policy No.1 - Variations to development standards for 1 January to 29 February 2012

File No: PLN750100 #1171754

12-140 Resolved that the report be noted. (Woods/Cameron)

Report No. 13.20. PLANNING - Council’s request for exclusion from State Environmental Planning Policy (Rural Lands) 2008

File No: PLN750100 #1200632

12-141 Resolved that Council note the report titled ‘PLANNING - Council’s request for exclusion from State Environmental Planning Policy (Rural Lands) 2008’. (Woods/Cameron)

The motion was put to the vote and declared carried.

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

No Councillors voted against the motion.

ENVIRONMENT AND PLANNING AND COMMUNITY INFRASTRUCTURE – EXECUTIVE MANAGERS’ REPORT

Report No. 13.22. PLANNING - Broken Head Hall, 356 Broken Head Road, Broken Head – Section 94 expenditure

File No: Parcel No 3670 #1199477

12-142 Resolved:

1. That Council assist the Broken Head Hall Committee in redesigning the car park and access to minimise costs.

2. That Council fund the necessary passing lane in Midgen Flat Road from the pre plan Section 94 fund for roads.
3. That Council fund the cost of drafting and registration of the right of carriageway / easement from the Byron Bay / Suffolk Park Community Facilities Plan.
4. That prior to any work commencing in relation to the car park and access, the Hall Committee agree to allow for the creation of a right of carriageway / easement to the car park on the basis that Council will be responsible for the cost of the legal fees associated.
(Woods/Cameron)

The motion was put to the vote and declared carried.

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

No Councillors voted against the motion.

ORGANISATIONAL SUPPORT – EXECUTIVE MANAGER’S REPORT

Report No. 13.23. PLANNING - BSC ats SJ Connelly LEC 10112/2012

File No: COR653000 x 209390D x 80.2012.3.1 x 10.2011.368.1 #1199571

12-143 Resolved that Council resolve to:

1. Defend the appeal;
2. Authorise the General Manager to manage the litigation in accordance with the General Manager’s general delegations.
(Woods/Cameron)

The motion was put to the vote and declared carried.

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

No Councillors voted against the motion.

SOCIETY AND CULTURE - EXECUTIVE MANAGER’S REPORT

Report No. 13.24. Youth Council Minutes - December 2011 and February 2012

File No: ADM308700 #1200588

12-144 Resolved:

1. That Council note the minutes from the 1 December 2011 Youth Council Meeting (#1197765).
2. That Council note the minutes from the 8 February 2012 Youth Council Meeting (#1195107).
3. That Council note that the Youth Council has forward planned its projects for 2012, and that priority projects include:
 - a) Youth employment
 - b) Youth-Police Protocol
 - c) Transport

- d) Youth arts
 - e) Youth infrastructure
4. That Council note that the Youth Council is planning a number of activities for Youth Week in April 2012, including a Youth Employment Forum. (Woods/Cameron)
-

WATER AND RECYCLING - EXECUTIVE MANAGER'S REPORTS

Report No. 13.25. Status of Resolutions: Lot 4 DP841856 Mullumbimby
File No: ENG700000 #1203374

- 12-145 Resolved** that Council note the report. (Woods/Cameron)
-

Report No. 13.26. 2010/11 NEWF Annual Report
File No: ENG450000 #1204255

- 12-146 Resolved** that Council note the report. (Woods/Cameron)
-

COMMUNITY INFRASTRUCTURE - COMMITTEE REPORTS

Report No. 14.1. Report Access Advisory Committee Meeting 16 February 2012
File No: ENG220210 #1201625

- 12-147 Resolved** that Council note the minutes of the Access Advisory Committee (AAC) Meeting held on 16 February 2012.

- 12-148 Resolved** that in relation to Report 4.1 – Election of a Chairperson, Council adopt:

Committee Recommendation AAC 4.1.1:

That the Committee nominate Cr Cameron as Chair.

- 12-149 Resolved** that in relation to Report 4.2 - 2012 Proposed Meeting Schedule, Council adopt:

Committee Recommendation AAC 4.2.1:

That the Access Advisory Committee adopt the following meeting dates as the meeting schedule for 2012.

Thursday 16 February 2012
Thursday, 19 April 2012
Thursday, 21 June 2012
Thursday, 23 August 2012

- 12-150 Resolved** that in relation to Report 4.3 – Review of the Draft Access Advisory Committee Constitution, Council adopt:

Committee Recommendation AAC 4.3.1:

That Council adopt the Draft Access Advisory Committee Constitution (#1190826) with the following amendment:

That section 2 includes an additional point 4 which reads: "to review the current 2008-2013 Disability Access and Inclusion Plan".

12-151 Resolved that in relation to Report 4.4 – Disability Access - Byron Bay, Council adopt:

Committee Recommendation AAC 4.4.1:

1. That, as resources permit, a full audit of public accessible pathways be conducted in all town centres across the shire.
2. That the audit be conducted with participation of people with various access issues and be presented to the Access Advisory Committee with a recommendation of priorities.
3. That a prioritised system for allocating funds for Pedestrian Access Mobility Plan (PAMP) works, which incorporates factors 1-5 on page 17 plus an additional factor 6 being "Known history of hazardous points", be developed and reported back to the next Access Advisory Committee meeting.
4. That staff collate any additional points with access issues suggested by the Committee members for inclusion in the audit.
5. Subject to Roads and Maritime Services (RMS) funds, PAMP funds be prioritised to address access issues at the Intersection of Fletcher and Marvel Streets, as shown in item 4.

12-152 Resolved that in relation to Report 4.5 – Use of Tactile Ground Surface Indicators (TGSI), Council adopt:

Committee Recommendation AAC 4.5.1:

That the Committee recommend to Council that the Access Advisory Committee develop a "Draft Policy on the use of Tactile Ground Surface Indicators (TGSI)" across the shire for consideration by Council and that the following be clarified to inform such a policy.

- a) Seek advice from Telstra regarding their policies and responsibilities.
- b) Contact RMS for advice on their rationale and policy for use of TGSI.
- c) Contact Christine Minkov, Lismore City Council, for advice on TGSI issues.
- d) Contact Jessica Zammit of Blind Citizens Australia regarding TGSI issues.

Committee Recommendation AAC 4.5.2:

That staff contact NOROC Councils in relation to what policies they share.

Committee Recommendation AAC 4.5.3:

The Committee recommend that Council write to Telstra advising of the hazards associated with the Telstra cabinets on Burringbar and Stuart Streets, Mullumbimby, and request that they be moved to more suitable locations as advised by Council so as to reduce hazards effecting vision impaired people.

12-153 Resolved that in relation to Report 4.6 – Public Seating, Council adopt:

Committee Recommendation AAC 4.6.1:

That the Committee recommend to Council that:

1. The request for the removal of a public seat in front of the Commonwealth Bank in Jonson Street Byron Bay not be endorsed, however, that it be moved to the adjacent kerb side utilising funds for the implementation of the Landscape Analysis and Renovation Plan.
2. An audit of public seating across all town centres be carried out as resources permit and the audit be reported back to Council through the Access Advisory Committee.
3. Council progressively increase the quantity of available seats in town centres as resources and funds permit.

12-154 Resolved that in relation to Agenda Item 5 – Other Business, Council adopt:

Committee Recommendation AAC 5.1:

That the Committee recommend that the Environment and Planning division be requested to provide comment to the Committee on options on certain development applications and Part 5 applications for appraisal of mobility and access issues.

Committee Recommendation AAC 5.2:

That the Committee recommend that options include an addition to the DA report template that addresses how access issues are considered including:

- a) How the proposed development integrates with surrounding developments and public space.
- b) Any request for consent conditions which vary the Australian building codes and standards. (Woods/Cameron)

Report No. 14.2. Report Roads and Asset Management PRG Meeting 21 February 2012
File No: COR710146 #1201278

12-155 Resolved that Council note the minutes of the RAM PRG Meeting held on 21 February 2012.

12-156 Resolved that in relation to Agenda Item 6.1 – Set Quarterly Meeting Dates for 2012, Council adopt:

RAM PRG Recommendation 6.1:

That the following meeting dates be scheduled for 2012:

Tuesday 21 February, 12.30-2.30pm
Tuesday 24 April, 12.30-2.30pm
Tuesday 26 June, 12.30-2.30pm
Thursday 23 August, 11.00am-1.00pm

12-157 Resolved that in relation to Agenda Item 6.2 - Whian Road Upgrade, Council adopt:

RAM PRG Recommendation 6.2:

That the RAM PRG notes:

1. That a report will be provided to Council at the 22 March meeting with recommendations on project scope and advice on possible natural disaster funding for the causeway and western approach.
2. That the proposal acknowledges limited funds available and addresses as a priority gravel wash into creek and road safety particularly on western approach.
3. That staff are to provide Whian Road residents with a project update.

12-158 Resolved that in relation to Agenda Item 6.3 – Review of Resolution 11-731, Council adopts:

RAM PRG Recommendation 6.3:

That in relation to Agenda Item 6.3 – Review of Resolution 11-731, Council not adopt RAM PRG Recommendation 6.3 but instead resolves:

Management Recommendation RAM PRG 6.3

That Council note that a revised draft section 94 plan is due to be reported to Council on 29 March 2012 and a response will be provided separately as part of that report.

12-159 Resolved that in relation to Agenda Item 6.4 – Herbicide Use, Council adopts:

RAM PRG Recommendation 6.4:

That a report be provided to Council which includes:

1. Information relating to Roadsides:
 - a) Current policies/practices regarding roadside vegetation control (chemical, mechanical)
 - b) Current expenditure (in-house and contract) on roadside vegetation control (chemical, mechanical)
 - c) Types of herbicide used and method of application
 - d) Cost of notification processes for chemical use
 - e) Cost of maintaining Council's Chemical Sensitivity Register
2. Information relating to Open Spaces:
 - a) Current policies/practices regarding open spaces vegetation control (chemical, mechanical)
 - b) Current expenditure (in-house and contract) on open spaces vegetation control (chemical, mechanical)
 - c) Types of herbicide used and method of application
 - d) Cost of notification processes for chemical use
 - e) Cost of maintaining Council's Chemical Sensitivity Register
3. Information relating to Drainage Reserves:
 - a) Current policies/practices regarding drainage reserves vegetation control (chemical, mechanical)

- b) Current expenditure (in-house and contract) on drainage reserves vegetation control (chemical, mechanical)
 - c) Types of herbicide used and method of application
 - d) Cost of notification processes for chemical use
 - e) Cost of maintaining Council's Chemical Sensitivity Register
4. Information relating to Buildings:
- a) Current policies/practices regarding vegetation control (chemical, mechanical) around buildings
 - b) Current expenditure (in-house and contract) on vegetation control (chemical, mechanical) around buildings
 - c) Types of herbicide used and method of application
 - d) Cost of notification processes for chemical use
 - e) Cost of maintaining Council's Chemical Sensitivity Register
5. Information relating to Water and Recycling services:
- a) Current policies/practices regarding vegetation control (chemical, mechanical) relating to water and recycling services
 - b) Current expenditure (in-house and contract) on vegetation control (chemical, mechanical) relating to water and recycling services
 - c) Types of herbicide used and method of application
 - d) Cost of notification processes for chemical use
 - e) Cost of maintaining Council's Chemical Sensitivity Register (Woods/Cameron)
-

ENVIRONMENT AND PLANNING - COMMITTEE REPORT

Report No. 14.3. Biodiversity and Sustainability Advisory Committee Minutes of 24 February 2012

File No: COR250000 #1201617

12-160 Resolved that Council note the minutes of the Biodiversity and Sustainability Advisory Committee meeting held on 24 February 2012.

12-161 Resolved that in relation to Report No 4.1 - 2011 Sustainability Services and Natural Resources Annual Report (COR250000 #1187172), Council adopt:

Committee Recommendation 4.1

- a) That the Biodiversity and Sustainability Advisory Committee recommend to Council that the 2011 Sustainability Services and Natural Resource Services Annual Reports, be noted.
- b) That a report be received on BSC paper use and type, origin and delivery of reduction quota (SOE report).
- c) That a report be received on investigating a broader sustainable householder recognition program.
- d) That a report be received on public access to Council held environment / biodiversity information including map layers and a fee / incentives / cooperation mechanism.

12-162 Resolved that in relation to Report 4.2 - Options for Suffolk Park Community Garden Site (COR250000 x 241304 x 149770 #1184264), Council adopt:

Committee Recommendation 4.2

- a) That Council support the establishment of a Suffolk Park Community Garden.
-

- b) That, provided all licence conditions are satisfied, Council enter into a licence agreement for the purposes of establishing a Suffolk Park community garden at Lot 15, DP 1158538 Dengha Place, Suffolk Park.
- c) That, should Lot 15, DP 1158538, Dengha Place prove unviable, Council enter into a licence agreement for the purposes of establishing a Suffolk Park community garden at Lot 52, DP 811498, Beech Drive, Suffolk Park, provided all licence conditions are satisfied.
- d) That a report be received regarding Section 94 update on community gardens.

12-163 Resolved that in relation to Report 4.3 – Update on 'wild dog' management projects (PLN656600 #1194947), Council adopt:

Committee Recommendation 4.3

- a) That the Biodiversity and Sustainability Committee recommend to Council that the information presented in this report, 'Update on wild dog management projects', be noted.
- b) That TV and radio advertising be considered as a component of the educational program.

12-164 Resolved that in relation to Report 4.4 - Tree removal assessment process and notification (COR250000 #1193931), Council adopt:

Committee Recommendation 4.4

- a) That the information contained in this report, 'Tree removal assessment process and notification' be noted.
- b) That a new display section in the foyer be establish to include relevant environmental information relating to Development Application / enquiries eg DA tree preservation order fact sheet.

12-165 Resolved that in relation to Report 4.5 - Comprehensive survey of rural roadside vegetation (COR250000 #1193274), Council adopt:

Committee Recommendation 4.5

That Council note the report presenting the Byron Shire Roadside Vegetation Survey.

12-166 Resolved that in relation to Report 4.6 - 2012 Proposed Meeting Schedule for the Biodiversity & Sustainability Advisory Committee (COR250000 #1193304), Council adopt:

Committee Recommendation 4.6

That the Biodiversity and Sustainability Advisory Committee meets on the following dates during 2012:

- Friday 18 May 2012
- Friday 17 August 2012
- Friday 30 November 2012
- Or as required

(Woods/Cameron)

CORPORATE MANAGEMENT - CONFIDENTIAL REPORT

Report No. 16.1. **CONFIDENTIAL Expression of Interest Byron Bay Herb Nursery**
File No: BEN400000 #1199358

12-167 Resolved:

1. That Council grant a new lease over the property known as Pt Lot 2 DP 706286 and Pt Lot 4 DP 1004514 to Katia Project Inc trading as Byron Bay Herb Nursery based on the draft lease agreement at Annexure 13(c) #998184 on the following basic conditions:
 - a) Lease term of five years;
 - b) A lease fee of \$135.00 per annum exclusive of GST and increased annually in accordance with CPI;
 - c) All lease preparation costs are met by the tenant.
2. That Council authorise the General Manager to affix the Council Seal to the Lease of Pt Lot 2 DP 706286 and Pt Lot 4 DP 1004514 in accordance with Regulation 400 of the *Local Government (General) Regulations 2005*.
3. That the report and Annexures of the closed part of the meeting remain confidential until after such time as the lease is executed. (Woods/Cameron)

PROCEDURAL MOTION

12-168 Resolved that the order of business be changed to deal with items discussed during Public Access, those being 8.2, 13.2, 13.3, 13.7, 8.4, 13.13 next on the Agenda. (Woods/Tabart)

The motion was put to the vote and declared carried.

NOTICE OF MOTION

Notice of Motion No. 8.2. Lighting - New Brighton Oval
COR405527#1204337

12-169 Resolved:

1. That Council approve the use of lighting for 2 nights per week, being Tuesdays and Thursdays for the month of April to allow training to occur for the New Brighton Soccer Club with lights off by 8.30pm
2. That a review of the Review of Environmental Effects (REF) be done to determine any negative impacts on fauna and amenity during the month.
3. That Council ensure the floodlights in the canteen are removed immediately.
4. That if immediate impacts on fauna are made known then the use ceases. (Woods/Barham)

AMENDMENT

Moved: That Council consult with the community surrounding the sports fields as part of the Review of Environmental Factors on their views on increasing the lighting on that sports field. (Morrisey/Cameron)

The amendment was put to the vote and declared lost.

Crs Woods, Heeson, Barham, Richardson and Tabart voted against the amendment.

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

Crs Staples, Cameron and Morrisey voted against the motion.

ITEMS RESERVED FOR DEBATE

GENERAL MANAGER'S REPORTS

Report No. 13.2. Code of Conduct Complaint - Reporting Outcome of Independent Review

File No: COR403040 #1204540

12-170 Resolved:

1. That Council endorse the recommendation in the Report of the Conduct Reviewer: Sole Reviewer into allegations of a breach of the Code of Conduct, by Kath Roach, SINC Solutions Pty Ltd, dated 2 March 2012 at Annexure 29(a) (#1205806).
2. That no further action be taken in this matter. (Tabart/Richardson)

12-171 Resolved that Cr Tabart be granted a two minute extension to his speech. (Richardson/Woods)

The motion was put to the vote and declared carried.

AMENDMENT

Moved: That Council receive and note the Report of the Conduct Reviewer: Sole Reviewer into allegations of a breach of the Code of Conduct, by Kath Roach, SINC Solutions Pty Ltd, dated 2 March 2012 at Annexure 29(a) (#1205806). (Morrisey/Woods)

12-172 Resolved that Cr Cameron be granted a two minute extension to his speech. (Woods/Tabart)

The motion was put to the vote and declared carried.

The amendment was put to the vote and declared lost.

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

The motion (Tabart/Richardson) was put to the vote and declared carried.

Report No. 13.3. Request for reimbursement of legal expenses by a Councillor

File No: COR403000 #1185601

Moved: That Council approve the Mayor's request for reimbursement of legal expenses, less the amount of \$60, being for unrelated matters. (Tabart/Richardson)

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12-173 Resolved that the motion rest on the table. (Morrisey/Richardson)

The motion was put to the vote and declared carried.

12-174 Resolved that documents at Annexure 34(a), pages 1 to 12, and document #1181534 (General Manager's response to the Mayor's letter of 14 September) be released from confidentiality, with the deletion of any identification of staff members. (Barham/Cameron)

The motion was put to the vote and declared carried.

12-175 Resolved that the motion (Tabart/Richardson) be lifted from the table. (Morrisey/Woods)

The motion was put to the vote and declared carried.

12-176 Resolved that Council approve the Mayor's request for reimbursement of legal expenses, less the amount of \$60, being for unrelated matters. (Tabart/Richardson)

*The motion was put to the vote and declared carried.
Cr Morrisey voted against the motion.*

COMMUNITY INFRASTRUCTURE – EXECUTIVE MANAGER'S REPORTS

Report No. 13.7. Skinners Shoot Road - Contributions by Residents for the Sealing of Road

File No: ENG650000 / #1186238

12-177 Resolved:

1. That the revised cost estimates for the construction and sealing of Skinners Shoot Road south of Yagers Lane of \$147,800 for a 5m pavement and 4m seal, excluding driveway accesses and piped culverts, be noted.
2. That the maintenance issues created by the narrower seal on sections of the roadworks done by Essential Energy be noted.
3. That Council write to Skinners Shoot residents and to advise of:
 - a) the revised cost estimates and seek a response from residents paying their portion.
 - b) the option to submit a section 138 Application under the Roads Act for execution of works and transfer of final works to Council.
4. That Council confirm the proposed upgrade must be a continuous sealed pavement of Skinners Shoot Road south of Yagers Lane comprising a 5m pavement and 4m seal, excluding driveway accesses and piped culverts. (Morrisey/Staples)

The motion was put to the vote and declared carried.

NOTICE OF MOTION

Notice of Motion No. 8.4. Establishment of Aquamation Facility
COR405527#1205815

Moved:

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1. That Council agree in principle to: the establishment of an Aquamation facility within Mullumbimby Cemetery and the provision of the land required at a peppercorn rent to the Byron Community Centre to operate along similar lines currently existing between Council and the Centre in relation to the Fletcher Street project, which also meets a social and community need.
2. That Council seek to have Mullumbimby Cemetery vested with Council as is the case with other cemeteries.
3. That Council provide a report on the full requirements necessary to expedite the implementation of the proposal by the end of May. (Richardson/Tabart)

The meeting adjourned for a lunch break at 12.39pm and resumed at 1.22pm.

AMENDMENT

12-178 Resolved:

1. That Council contact the Department of Lands to request them to grant permission for the lodging of any development application over land required for development of an Aquamation or cremation facility at Mullumbimby Cemetery.
2. That Council seek to have Mullumbimby Cemetery vested with Council as is the case with other cemeteries.
3. That Council receive a report on the financial implications and other considerations regarding the establishment of any such facility on private and public land. (Staples/Woods)

The amendment was put to the vote and declared carried.

Crs Barham, Richardson and Tabart voted against the amendment.

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

CORPORATE MANAGEMENT – EXECUTIVE MANAGER’S REPORTS

Report No. 13.13. Management of Street Camping

File No: ENG655090 #1196990

12-179 Resolved:

1. That Council define “camping”, for the purposes of the regulation of the activity “Camping in public streets and reserves”, as “Where any place is used as recreation, or on an outing or vacation the use of that place by a person or persons lodged in a tent or any temporary structure or other means of shelter or accommodation.”
2. That Council resolve that it will not permit camping (as defined) on roads and road-related areas in the Shire.
3. That Council adopt as an additional 2012 Compliance Priority (High priority) “2.8 Camping in public streets and reserves.”

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4. That Council endorse the erection of "No Camping" signage in the locations set out in this report.
5. That Council remove all reference to 'sleeping' in Council signage.
6. That Council write to the State Government and the Local MP, requesting:
 - a) consideration of empowering local governments with the ability to use wheel clamping of vehicles to ensure payment of Council issued fines.
 - b) consideration of repealing section 632(2A)(b).
7. That Council provide a report on the creation and management of a facility for temporary vehicle camping to be held at the Byron Regional Sports and Cultural Centre and other places. (Richardson/Cameron)

12-180 Resolved that Cr Richardson be granted a two minute extension to his speech. (Barham/Tabart)

The motion was put to the vote and declared carried.

12-181 Resolved that Cr Barham be granted a one minute extension to her speech.(Richardson/Tabart)

The motion was put to the vote and declared carried.

*The motion (Richardson/Cameron) was put to the vote and declared carried.
Cr Barham voted against the motion.*

*The meeting adjourned at 2.14pm to open the Byron Shire Reserve Trust Committee Meeting.
Resolutions 12-182 to 12-186 were used during that Meeting.*

The Ordinary Meeting resumed at 2.38pm.

PROCEDURAL MOTION

12-187 Resolved that Council change the order of business to deal with item 13.14 next on the agenda. (Woods/Staples)

The motion was put to the vote and declared carried.

CORPORATE MANAGEMENT – EXECUTIVE MANAGER’S REPORTS

Report No. 13.14. Byron Bay War Memorial Swimming Pool - 12 month option - Lease & Management Contract

File No: BEN400000/ #1197603

12-188 Resolved

1. That Council grant the 12 month option to extend the Lease and Management Contract to the current Managers being Fishheads@Byron Pty Limited on the same basis of the existing deed and agreement and lease, with the following changes:
 - a) a 12 month period commencing 1 July 2012 and terminating on 30 June 2013,

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- b) the Rent and Management Fee be indexed where necessary.
2. That Council resolve to authorise the General Manager to affix the Council Seal to the 12 month Lease and Management Contract in accordance with Regulation 400 of the Local Government (General) Regulations 2005. (Woods/Staples)

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

MAYORAL MINUTE

Mayoral Minute No. 7.1. Authorisation of works under Mayoral delegation

COR405000 #1202292

12-189 Resolved that the report be noted. (Barham/Woods)

The motion was put to the vote and declared carried.

NOTICES OF MOTION

Notice of Motion No. 8.1. Engineering solutions as philanthropic initiatives – Refuge for the Homeless, Byron Shire

COR405527 #1205406

12-190 Resolved:

1. That Council request consultants BMT WBM consider conducting appropriate flood studies or provide any other assistance they may choose for the purposes of creating a low key primitive camping site, as a refuge for the homeless, at Lot 4 DP 841856 as a philanthropic initiative in Byron Shire at no cost to Council.
2. That Council request the NSW Minister for Transport and John Holland Rail P/L for a Formal Access Agreement for use of the rail corridor between Byron Shire Council Chambers north to Brunswick River as part of an evacuation plan for a proposed primitive camping ground at Lot 4 DP 841856 which expressly states the potential for return of Rail Services.
3. That Council request support for this Formal Access Agreement from the NSW Government via Don Page MP. (Morrisey/Richardson)

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

Notice of Motion No. 8.3. Installation of Air-Conditioning of the Mullumbimby Civic Hall

COR405527#1205741

12-191 Resolved that this item be deferred to meeting of 12 April to allow for a staff to prepare a report. (Richardson/Barham)

The motion was put to the vote and declared carried.

Notice of Motion No. 8.5. Amendments to Busking Policy
COR405527#1205834

12-192 Resolved that Council amend the Busking Policy (5.57), in the following ways:

1. Change Condition 4.3.10 to read- The use of percussion instruments for busking is permitted in designated sites as shown in maps in annexure 3 and 4 of the Policy;
2. Create a new 4.3.11 to read- The use of 'electronically amplified sound equipment' by groups of 3 or more for busking are permitted in designated sites as shown in maps in annexure 3 and 4 of the Policy;
3. Adjust current Conditions 4.3.11-23 accordingly;
4. Change Condition 5.2. Designated Sites (4 designated sites), to read, Designated Sites (3 designated sites).

(Richardson/Barham)

The motion was put to the vote and declared carried.

Notice of Motion No. 8.6. Request for support by Southern Cross University
COR405527#1203154

12- 193 Resolved that Council write to Southern Cross University identifying prior history of collaboration and support offered by Byron Shire Council and commend them for proceeding to establish courses to meet the needs of the region by way of their Regional EIF Stage 2 application and acknowledge Councils' community economic development strategy references to the importance of education. (Barham/Richardson)

The motion was put to the vote and declared carried.
Cr Heeson voted against the motion.

Notice of Motion No. 8.7. Bay Rollers use of the Byron Regional Sport and Cultural Complex

COR405000 #1203121

12-194 Resolved that Council receive a report on the impacts of the use of the Byron Region Sport and Cultural Complex by the Bay Rollers – Roller Derby squad. (Barham/Richardson)

The motion was put to the vote and declared carried.

Notice of Motion No. 8.8. Copyright issues in relation to development application information

COR405000#1203317

12- 195 Resolved :

That Council receive a report that:

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- a) Clarifies the justification and determination for not making available to the community the opportunity to make copies and/or view development application information as it is currently practised by Byron Shire Council.
- b) Define opportunities for making information available and expanding the openness, accountability and transparency of information on-line and in hard copy.
- c) Provide information on how individuals can access information on their own properties including historical records, development approvals and information for prospective purchasers or real estate agents to provide for pre-sale due diligence. (Barham/Morrissey)

The motion was put to the vote and declared carried.

PETITIONS

1. Support of the Bay Rollers using the Byron Regional Sports Complex

The Mayor tabled a petition containing a total of 870 signatures which states:

"..The Bay Rollers request to use the Byron Regional Sports Complex for the purposes of training and competing."

2. Object to the location of the Camphor Laurel root in Apex Park, Byron Bay

The Mayor tabled a petition containing 232 signatures which states:

"..object to the location of the Camphor Laurel root in Apex Park Byron Bay....because it interferes with the natural beauty of the beachfront and the bay from the Mountains to Julian Rocks and the Lighthouse..."

PROCEDURAL MOTION

- 12-196 Resolved** that Council change the order of business to deal with item 17.1 next on the agenda.
(Barham/Richardson)

The motion was put to the vote and declared carried.

LATE REPORT – COMMUNITY INFRASTRUCTURE

Report No. 17.1. BRSCC Multi Purpose Facility Rectification of Flooring Defects
File No: 24.2008.5.1 BEN353010 #1208839

- 12-197 Resolved** that Council, in relation to the rectification of floor defects at the BRSCC Multi Purpose Facility:

1. note the defects details which are provided in this report
 2. accept the sprung timber floors provided in the Function Rooms subject to evidence of suitable audit recommended by the ATFA report and rectification of the works in accordance with that report
-

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3. accept the replacement of the existing sprung timber floor in the sports hall with the laminated timber Helsinki 10 system proposed by the contractor
4. note the timeframe for rectification works has been advised as being 7 – 8 weeks.
5. The delay in this matter has been informal advice from the contractor to be rectified by early June 2012. (Barham/Staples)

The motion was put to the vote and declared carried.

The meeting adjourned at 4.10pm for an afternoon tea break and resumed at 4.30 pm.

PROCEDURAL MOTION

- 12-198 Resolved** that Council change the order of business to deal with item 13.12 next on the agenda. (Barham /Staples)

The motion was put to the vote and declared carried.

Report No.13.12. Commitment to the Byron Bay Town Centre Bypass
File No: ENG658070 #1204784

12-199 Resolved:

That in regard to a second rail crossing in Byron Bay Town Centre, Council endorse:

1. Stage 1, the option known as the mini-bypass, ie a connection between Butler Street and the Jonson and Marvell Street intersection with a second rail crossing located immediately south of the Byron Bay railway station platform;
2. That Council makes a submission to the Local Member Mr Don Page MP to seek funding for Stage1.
3. That Council organise the necessary engineering, geotechnical, land and ecological investigations and survey so as to complete a fully designed and costed engineering plan for the construction of the mini-bypass by making available \$50,000 via 80% sourced from s94 funds (ie \$40,000) for the Byron Bay Town Centre Traffic Management works program and that the 20% balance (ie \$10,000) be provided from Council's reserve within the general fund.
4. That Council make submissions to the State Government to classify any new second rail crossing alignment as a regional road.
5. That Council consider a trial of the second rail crossing. (Staples/Barham)

- 12-200 Resolved** that Cr Staples be granted a 2 minute extension of time to his speech. (Barham/Woods)

The motion was put to the vote and declared carried.

AMENDMENT

Moved:

1. That Council write to the Local Member Mr Don Page MP, thanking him for his support in seeking a solution to the traffic congestion in Byron Bay.
2. That Council withhold from formally seeking support until the final recommendations of the Transport Advisory Committee (TrAC) and Byron Bay Traffic and Parking Management (BBTPM) PRG have been tabled at Council.
3. That, depending upon the recommendations of the TrAC and BBTPM PRG, Council consider requesting support for a package of traffic and parking management initiatives.
(Richardson/Cameron)

The amendment was put to the vote and declared lost.

Crs Woods, Heeson, Staples, Barham and Morrisey voted against the amendment.

The motion was put to the vote and declared carried.

Cr Tabart, Richardson and Cameron voted against the motion.

PROCEDURAL MOTION

- 12-201 Resolved** that Council change the order of business to deal with deferred item 12.15.3 and 13.19 next on the agenda. (Barham/Cameron)

The motion was put to the vote and declared carried.

ITEM DEFERRED FROM THE ORDINARY MEETING OF 1 MARCH 2012

CONFIDENTIAL REPORT - WATER AND RECYCLING

**Report No. 15.3. CONFIDENTIAL Tender Evaluation 2011-0046 Construction of Sewage
(was 15.3) Pump Station in Boondoon Crescent Ocean Shores**
File No: ENG702535 #1195670

12-202 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 Confidential – Tender 2011-0046 - Construction of Sewage Pump Station in Boondoon Crescent Ocean Shores.
 2. That the reasons for closing the meeting to the public to consider this item be that:
 - (a) information that would, if disclosed, confer a commercial advantage on a person with whom council is conducting (or proposes to conduct) business.
 - (b) commercial information of a confidential nature that would, if disclosed:
 - (i) prejudice the commercial position of the person who supplied it, or
 - (ii) confer a commercial advantage on a competitor of the council, or
 - (iii) reveal a trade secret.
 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 disclosure of the confidential information
-

could compromise the commercial position of the tenderers, could adversely affect Council's ability to contract with preferred tenderers or could affect Council's ability to attract competitive tenders in the event that fresh tenders are invited. (Morrissey/Barham)

12-203 Resolved:

1. That Council award the Lump Sum Price Tender – Tender 2011-0046 - Construction of Sewage Pump Station in Boondoon Crescent Ocean Shores to J & M Bashforth & Sons (Alternative) for the value of \$860,079.66 (inclusive of GST).
2. That Council delegate to the General Manager the authority to administer this contract to the contract value plus the contingency value nominated in this report.
3. That Council authorise the affixing of the Council seal to all documents that may require it, in regards to the Contract.
4. That Council approve the increase in the project budget to the value nominated in this report with the funds sourced from the Section 64 fund.
5. That Council makes public its decision including the name and amount of the successful tenderer in accordance with Clause 179(b) of the Local Government (General) Regulation 2005.
6. That the report remains confidential until the contract is finalised. (Staples/Woods)

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

12-204 Resolved to move out Confidential Session. (Barham/Woods)

The motion was put to the vote and declared carried.

ENVIRONMENT AND PLANNING – EXECUTIVE MANAGER'S REPORTS

Report No. 13.19. Draft LEP 2012 progress update
File No: PLN559000 #1199515

12-205 Resolved:

1. That Council apply for new timeframes for the Acceleration Funding due to the delay in the issuance of a Section 65 Certificate.
2. That Council apply for an amendment to the Acceleration Budget to provide for an officer to manage the input of public submissions.
3. That Council apply for further funding (up to \$100,000) from the Plan First fund to facilitate the implementation of E services for DA's including lodgement, public access and transparency for all documents. (Barham/Richardson)

The motion was put to the vote and declared carried.

PROCEDURAL MOTION

- 12-206 Resolved** that Council change the order of business to deal with Report 13.10 next on the agenda. (Cameron/Staples)

The motion was put to the vote and declared carried.

COMMUNITY INFRASTRUCTURE – EXECUTIVE MANAGER'S REPORT

Report No. 13.10. Endorsement of Proposed BBTPM Project Reference Group and Constitution

File No: ENG658070 #1205085

12-207 Resolved:

1. That Council endorse the Byron Bay Traffic and Parking Management (BBTPM) PRG Constitution at Annexure 15 (#1205303) with the following amendments
 - a. Clause 10 to read 'a majority of Councillors, invited members and community representatives'.
 - b. Clause 16, para 2, the last sentence to be deleted.
 - c. Clause 16, para 3, the last sentence to be deleted.
2. Staff be authorised to:
 - a. advertise and report back on the proposed PRG membership and meeting dates by 26 April 2012; and
 - b. directly seek a single representative of Byron United, Butler Street residents and the local Emergency Services, each of whom are to be offered the first opportunity to fulfil or decline the three (3) invited member positions recommended within the Constitution.
3. That Councillors Cameron, Richardson and Tabart be the Council representatives, noting three meetings are to occur as per resolution 12-113, ie during May, June and July 2012. (Cameron/Staples)

The motion was put to the vote and declared carried.

PROCEDURAL MOTION

- 12-208 Resolved** that Council change the order of business to deal with Report 13.16 next on the agenda. (Barham/Cameron)

The motion was put to the vote and declared carried.

CORPORATE MANAGEMENT – EXECUTIVE MANAGER'S REPORT

Report No. 13.16. Byron Shire Council v Timothy James Freedman

File No: 240572G #1203314

- 12-209 Resolved** that Council discontinue the proceedings pending in the Local Court at Byron Bay (Byron Shire Council v Timothy James Freedman). (Barham/Staples)
-

12-210 Resolved that Cr Cameron be granted a 2 minute extension to his speech. (Tabart/Woods)

The motion was put to the vote and declared carried.

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

PROCEDURAL MOTION

12-211 Resolved that Council change the order of business to deal with item 13.11 next on the agenda. (Barham/Staples)

The motion was put to the vote and declared carried.

COMMUNITY INFRASTRUCTURE – EXECUTIVE MANAGER'S REPORT

Report No. 13.11. Draft Byron Shire Council Sports Field User Policy

File No: COR050505 #1203798

12-212 Resolved:

1. That the revised draft policy – Draft Byron Shire Council Sports Field User Policy be placed on public exhibition for a minimum period of 28 days.
2. That the Draft Casual Fees and Charges be placed on public exhibition for a minimum period of 28 days.
3. That the Costing Methodology for Shire Wide Sportsfields be endorsed to form the basis of the Draft Byron Shire Council Sports Field User Policy methodology for assigning Seasonal and Licence Fees.
4. That, in the event that no submissions are received during the public exhibition period, the Draft Byron Shire Council Sports Field User Policy be adopted, along with the Draft Fees and Charges.
5. That dot points be replaced by numbering in the Policy. (Barham/Staples)

The motion was put to the vote and declared carried.

The meeting closed at 5.59pm with the balance of the items listed below being referred to the Ordinary Meeting to be held on 12 April 2012.

PETITIONS

- 9.1. Tree Planting Along Bangalow Road
 - 9.2. Planting of trees on the western side of Prince Street, Mullumbimby
-

ITEMS DEFERRED FROM THE ORDINARY MEETING HELD 1 MARCH 2012

Community Infrastructure – Committee Report

12.13.1. Report of the Local Traffic Committee Meeting held on
(was 13.1) 7 February 2012
#1193817/ENG224010

12.13.4 Proposed No Parking 1am - 6am, various sites, Suffolk Park
12.13.9 Request for accessible parking (disabled) bay, Byron Street, Bangalow

Corporate Management

12.15.1. CONFIDENTIAL Expression of Interest Old Station Master's Cottage
(was 15.1)
12.15.2. CONFIDENTIAL Tender Assessment –General Maintenance, Plumbing and
(was 15.2) Electrical Services

ITEMS RESERVED FOR DEBATE AT FROM THIS AGENDA 22 MARCH 2012

Community Infrastructure

13.6. Proposed Sites for Installation of Multiple Bicycle Parking Rails

Corporate Management

13.15. Broken Head Quarry Community Consultative Committee

Environment and Planning

13.21. PLANNING - DA 10.2011.117.1 - Stage 2 Tallowood Estate 27 residential
allotments and associated civil infrastructure and access road at Tuckerroo Avenue,
Mullumbimby

Society and Culture

14.4. Report of the Public Art Policy Implementation PRG Meeting on 14 February 2012

I hereby certify that these are the true and correct Minutes of this Meeting
as confirmed at Council's Ordinary Meeting on 12 April 2012.

.....
Mayor Jan Barham