

BYRON SHIRE COUNCIL

Ordinary Meeting Minutes
17 May 2012

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BYRON SHIRE COUNCIL

ORDINARY MEETING MINUTES

17 MAY 2012 (1 of 16)

MINUTES OF THE BYRON SHIRE COUNCIL ORDINARY MEETING HELD ON THURSDAY 17 MAY 2012 COMMENCING AT 10.30AM AND CONCLUDING AT 5.12PM

#1227139

PRESENT: Cr J Barham (Mayor), Cr B Cameron, Cr T Heeson, Cr P Morrissey,
Cr S Richardson, 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)
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 Deputy Mayor opened the meeting at 10.30am and adjourned the meeting to receive a Public Access presentation from Delta Kay and Yvonne Stewart.

12-353 Resolved that Council reconvene the Ordinary Meeting at 10.45am. (Heeson/Cameron)

The motion was put to the vote and declared carried.

APOLOGIES: There were no apologies.

REQUESTS FOR LEAVE OF ABSENCE

Cr Woods advised that she would need to leave the Strategic Planning Committee meeting of 24 May 2012 early due to another commitment.

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

12-354 Resolved that the Minutes of the Ordinary Meeting of 26 April 2012 be confirmed. (Woods/Heeson)

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

13.1. Management Plan Review 2011-2014 for the period January to March 2012

EXECUTIVE MANAGERS' REPORTS

Corporate Management

- 13.5. Budget Review – 1 January 2012 to 31 March 2012
- 13.8. Compliance Services Status Report as at 30 April 2012

Environment and Planning

- 13.10. PLANNING – DA 10.2012.2.1 Alterations/Additions to Existing Tourist Facility “Tallow Beach Houses” at 2 Alcorn Street Suffolk Park

Organisational Support

- 13.11. PLANNING – BSC ats Hultgren LEC 10342/2012

Society and Culture

- 13.13. Native Title Issues in Byron Shire

COMMITTEE REPORTS

Community Infrastructure

- 14.1. Report of the Access Advisory Committee Meeting 19 April 2012

Society and Culture

- 14.2. Report of the Tourism Advisory Committee Meeting held on 13 April 2012

CONFIDENTIAL REPORTS

Corporate Management

- 15.1. CONFIDENTIAL Byron Shire Council Holiday Parks Contract Management

Organisational Support

- 15.2. CONFIDENTIAL Personnel Matters

The remaining Recommendations and Committee Recommendations were adopted as a whole, being moved by Cr Woods and seconded by Cr Heeson. Each recommendation is recorded with a separate resolution number commencing at Resolution No. 12-355 and concluding with Resolution No. 12-362.

COMMUNITY INFRASTRUCTURE – EXECUTIVE MANAGER'S REPORTS

Report No. 13.2. Refuge for the Homeless Lot 4 DP841856 Mullumbimby

File No: ENG091000 #1224925

12-355 Resolved:

1. That Council note consultants BMT WBM advice “*that Lot 4 DP841856 Mullumbimby is unsuitable for use as a camping site for homeless people without significant structural modification*” and that the use of this site for such purpose should not be pursued further.
2. That Council thank BMT WBM for providing flood advice for this matter as a philanthropic initiative at no cost to Council.
3. That Council confirms that the preparation of a flood evacuation plan for Lot 4 DP 841856 Mullumbimby in regard to Part 3 of Council Resolution 12-105 is not required.
(Woods/Heeson)

Report No. 13.3. Report of the Roads and Asset Management PRG Meeting held 24 April 2012

File No: COR710146 #1225226

12-356 Resolved that Council note the unconfirmed Minutes (Annexure 8(a) #1225228) of the Roads and Asset Management PRG meeting held on 24 April 2012. (Woods/Heeson)

CORPORATE MANAGEMENT – EXECUTIVE MANAGER’S REPORTS

Report No. 13.4. Council Resolutions Review for the period January to March 2012

File No: COR405520 #1218583

12-357 Resolved:

1. That Council receive and note the information provided in this report on outstanding Council resolutions.
2. That Council note the completed resolutions in Annexure 2(b) (#1226835). (Woods/Heeson)

Report No. 13.6. Investments – April 2012

File No: FIN252000 #1225600

12-358 Resolved that Council receive and note the record of investments for the month of April 2012. (Woods/Heeson)

Report No. 13.7. 2011/2012 Loan Borrowings

File No: FIN254000 #1227431

12-359 Resolved:

1. That Council note that that loan funds are not required in the 2011/2012 financial year for the projects listed below:

Loan Funded Project	Loan Amount \$
General Fund	
Roundhouse Subdivision Development Costs	985,000
Total General Fund	985,000
Water Fund	
Argyle St Southside Watermain Renewal	150,000
Total Water Fund	150,000
Total Loan Borrowings	1,135,000

BYRON SHIRE COUNCIL

ORDINARY MEETING MINUTES

17 MAY 2012 (4 of 16)

2. That Council refinance \$2,769,765 of outstanding loan principal from the 2008/2009 financial year loan borrowings program, relating to Council loan no 57 and 55, and approve these borrowing as its 2011/2012 loan borrowing program.
 3. That Council delegates authority to the General Manager to negotiate with financial institutions to acquire the refinanced loans listed in recommendation 2 above and accept the best offer made available to Council.
 4. That Council authorise the affixing of the Council seal to all documents that may require it, in regards to the accepted loan borrowings for the 2011/2012 financial year.
(Woods/Heeson)
-

Report No. 13.9. Lease – Road Reserve – 29 Marine Parade Wategos Beach
File No: BEN400000 x 117860 #1227218

12-360 Resolved:

1. That Council grant the Deed of Assignment (Annexure 15(b) #1228584) of the Lease over a portion of road reserve adjoining 29 Marine Parade, Wategos Beach, Byron Bay from the Lessee, Bandora Holdings Pty Limited to the purchaser of the property at 29 Marine Parade, Fibora Pty Limited.
 2. That Council authorise the General Manager to affix the Council Seal to the Deed of Assignment (Annexure 15(b) #1228584) (lease documentation) in accordance with Regulation 400 of the *Local Government (General) Regulations* 2005. (Woods/Heeson)
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ORGANISATIONAL SUPPORT – EXECUTIVE MANAGER’S REPORT

Report No. 13.12. PLANNING – BSC ats Hunter LEC 10382/2012
File No: COR653000 x 80.2012.7.1 x 10.2009.427.2 x 237962D #1224207

- 12-361 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. (Woods/Heeson)

*The motion was put to the vote and declared carried.
Crs Tucker, Woods, Heeson, Staples, Barham, Cameron, Richardson, Morrissey and Tabart voted in favour of the motion.
No Councillors voted against the motion.*

WATER AND RECYCLING – EXECUTIVE MANAGER’S REPORT

Report No. 13.14. Laboratory Building Future Options
File No: ENG500000 #1197240

- 12-362 Resolved** that Council lease the laboratory property located at Lot 6 DP 812667 Centennial Circuit, Byron Bay for a twelve month period. (Woods/Heeson)
-

PROCEDURAL MOTION

- 12-363 Resolved** that the order of business be changed to deal with items discussed during Public Access, those being items 8.2, 13.11, 8.4, 13.8, 9.1 next on the Agenda. (Cameron/Barham)

The motion was put to the vote and declared

NOTICE OF MOTION

Notice of Motion No. 8.2. CCTV Cameras in Byron Bay
COR405527#1224220

Moved:

1. That Council give in principle support to the installation of CCTV cameras in Byron Bay.
2. That staff negotiate with Byron Bay Police and Byron United to determine the hot spots where cameras would prove to be the most efficient.
3. That funding opportunities be sought for the purchase and installation of cameras. (Woods/Tucker)

AMENDMENT

Moved: That Council give in principle support to the installation of CCTV cameras in Byron Bay. (Richardson/Tabart)

PROCEDURAL MOTION

- 12-364 Resolved** that Cr Barham be granted a two minute extension to her speech. (Tabart/Richardson)

The motion was put to the vote and declared carried.

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

*The amendment, upon becoming the substantive motion, was put to the vote and declared lost.
Crs Tucker, Heeson, Staples, Barham, Cameron, Richardson and Tabart voted against the motion.*

PROCEDURAL MOTION

- 12-365 Resolved** that Council change the order of business to deal with items 13.11 and 9.1 next on the agenda. (Barham/Tabart)

The motion was put to the vote and declared carried.

ITEMS RESERVED FOR DEBATE

ORGANISATIONAL SUPPORT – EXECUTIVE MANAGER’S REPORT

Report No. 13.11. PLANNING – BSC ats Hultgren LEC 10342/2012

Executive Manager: Organisational Support

File No: COR653000x80.2012.6.1x10.2006.648.3x10.2007.415.2x146800D x
239424D #1222293

12-366 Resolved:

1. That this matter be deferred to receive legal advice on the prospects of success in defending the appeal.
2. That a further report to clarify of issues of contention as raised by the applicant, including DA consent conditions, and a description of the relationship between various DA’s and lots of land be provided with the legal advice as a late report to the Ordinary Meeting of 28 June 2012. (Richardson/Tabart)

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.

NOTICE OF RESCISSION MOTION

Notice of Rescission Motion No. 9.1. Arakwal Application for Exemption from Section 64 Charges

ENG700000 #1224269

Moved: That Council rescind Resolution No. 12-279 from its Ordinary Meeting held on 12 April 2012 which reads as follows:

12-279 Resolved that Council:

1. *Grant the Arakwal Corporation an exemption from the water and sewer section 64 development contribution charges associated with DA 10.2011.150.1 Lot 435 DP 729107, Bangalow Road, Byron Bay.*
2. *Request that Rous Water consider a similar exemption for the DA 10.2011.150.1 Lot 435 DP 729107, Bangalow Road, Byron Bay.*
(Barham/Richardson)
(Woods/Heeson)

The Rescission Motion was put to the vote and declared lost.

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

NOTICE OF MOTION

Notice of Motion No. 8.4. Compliance Action - Mr Anderson

COR405527 #1226785

12-367 Resolved:

1. That a mediated process be undertaken and the results be reported to Council.
2. That application be made to vacate the hearing date if both parties agree.
(Tabart/Richardson)

The motion was put to the vote and declared carried.

Crs Tucker, Woods, Cameron and Morrissey voted against the motion.

The meeting adjourned for lunch at 12.28pm and reconvened at 1.09pm.

FORESHADOWED MOTION

- 12-368 Resolved** that Report 15.2 from the Council Meeting of 11 August 2011, excluding the legal advice, be declassified to allow it to be made publicly available. (Cameron/Barham)

The motion was put to the vote and declared carried.

PROCEDURAL MOTION

- 12-369 Resolved** that Council change the order of business to deal with Report No 15.2 next on the agenda. (Tucker/Woods)

The motion was put to the vote and declared carried.

ORGANISATIONAL SUPPORT – CONFIDENTIAL REPORT

Report No. 15.2. CONFIDENTIAL Personnel Matters

12-370 Resolved:

1. That pursuant to Section 10A(2)(a) of the Local Government Act, 1993, Council resolve into Confidential Session to discuss the following report, namely 'CONFIDENTIAL Personnel Matters'.
2. That the reason for closing the meeting to the public to consider this item be that it relates to personnel matters concerning particular individuals (other than councillors).
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 prejudice Council and individual personnel. (Tucker/Woods)

The motion was put to the vote and declared carried.

The General Manager and Executive Managers Corporate Management, Society and Culture, Community Infrastructure, and Environment and Planning were not in the Chambers for this item.

12-371 Resolved that Council move into committee to discuss this report. (Staples/Woods)

The motion was put to the vote and declared carried.

COMMITTEE MEETING

12-372 Resolved that the meeting move out of committee and back into the Ordinary Meeting. (Woods/Staples)

The motion was put to the vote and declared carried.

12-373 Resolved that the vote be recommitted. (Staples/Woods)

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

12-374 Resolved that the meeting move out of confidential session. (Cameron/Heeson)

The motion was put to the vote and declared carried.

The General Manager and Executive Managers Corporate Management, Society and Culture, Environment and Planning and Community Infrastructure returned to the meeting at 2.22pm.

CORPORATE MANAGEMENT – EXECUTIVE MANAGER’S REPORT

Report No. 13.8. Compliance Services Status Report as at 30 April 2012

File No: COR652000 #1224802

12-375 Resolved that the report be noted. (Barham/Staples)

The motion was put to the vote and declared carried.

12-376 Resolved:

1. That pursuant to Section 10A(2)(b) of the Local Government Act, 1993, Council resolve into Confidential Session to discuss the following report, namely Compliance Services Status Report as at 30 April 2012.
2. That the reasons for closing the meeting to the public to consider this item be that: includes information involving the hardship of a ratepayer. (Staples/Barham)

The motion was put to the vote and declared carried.

12-377 Resolved that Council move out of confidential session. (Staples/Woods)

The motion was put to the vote and declared carried.

MAYORAL MINUTE

There was no Mayoral Minute.

NOTICES OF MOTION

Notice of Motion No. 8.1. Submission to the Report on 'The Review of the NSW Livestock Health and Pest Authority (LHPA) Model'

COR405527 #1224636

12-378 Resolved that Council endorse and forward the attached submission to the Report on 'The Review of the NSW Livestock Health and Pest Authority (LHPA) Model', initiated by the NSW Government prior to the closing date of 23 May 2012 with the following amendment:

- Remove the word "also" from line 35 page 6. (Morrisey/Staples)

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

Notice of Motion No. 8.3. Byron Bay Writers' Festival Support 2012

COR405527 #1226841

12-379 Resolved:

1. That Council offers support to the Byron Bay Writers' Festival 2012 and become an Event Sponsor and provide promotional material for display.
2. That the support involve the use of Council signage and associated materials for traffic management and staff assistance in placing those materials in position with respect to the Traffic Management Plan and identified as a donation of \$1,500.
3. That Council advertises this sponsorship support as a S356 donation. (Barham/Richardson)

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

*The Meeting adjourned at 3.10pm for a break and reconvened at 3.30pm.
Cr Tucker left the Chambers at 3.35pm and returned at 3.40pm.*

PETITIONS

There were no petitions tabled.

SUBMISSIONS AND GRANTS

There were no submissions or grants tabled.

DELEGATES' REPORTS

There were no delegates' reports tabled.

GENERAL MANAGER'S REPORT

Report No. 13.1. Management Plan Review 2011-2014 for the period January to March 2012

File No: FIN451010 #1218542

- 12-380 Resolved** that Council receive and note the quarterly report and associated Annexures on the 2011-2014 Management Plan Review for the period 1 January to 31 March 2011.
(Richardson/Cameron)

The motion was put to the vote and declared carried.

CORPORATE MANAGEMENT - EXECUTIVE MANAGER'S REPORT

Report No. 13.5. Budget Review - 1 January 2012 to 31 March 2012

File No: FIN451010 #1216309

12-381 Resolved:

1. That Council authorise the itemised budget variations as shown in Annexure 3(b) (#1226044) which includes the following results in the 31 March 2012 Quarterly Review of the 2011/2012 Budget:
 - (a) General Fund - \$31,200 increase in accumulated surplus
 - (b) Water Fund - \$913,300 increase in reserves
 - (c) Sewerage Fund - \$378,200 decrease in reserves
2. That Council transfer \$20,000 to the Structural Change reserve.
3. That Council transfer \$332,200 to the Legal Services reserve funded by a reduction in the General Fund Legal Budget allocations of \$332,200.
4. That Council allocate \$50,000 in the 2011/2012 budget for the purposes of Land Acquisition and Site Investigations into the proposed sports fields at Billinudgel with \$50,000 funding provided from Section 94 Open Space – Ocean Shores catchment.
5. That Council adopt the revised working fund surplus of \$193,400 for the 2011/2012 financial year.
(Cameron/Staples)

The motion was put to the vote and declared carried.

ENVIRONMENT AND PLANNING - EXECUTIVE MANAGER'S REPORT

Report No. 13.10. PLANNING – DA 10.2012.2.1 Alterations/Additions to Existing Tourist Facility "Tallow Beach Houses" at 2 Alcorn Street Suffolk Park

File No: Parcel No 228110 #1187437

- 12-382 Resolved** that pursuant to Section 80 of the Environmental Planning & Assessment Act 1979, development application 10.2012.2.1, for alterations and additions to existing strata titled tourist facility "Tallow Beach Houses", be granted consent subject to the conditions listed in Annexure 6(b) #1224944 with an additional condition 10 that section 94 contributions be paid prior to the issue of the development consent. (Staples/Cameron)

The motion was put to the vote and declared carried.

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

SOCIETY AND CULTURE - EXECUTIVE MANAGER'S REPORT

Report No. 13.13. Native Title Issues in Byron Shire

File No: ADM300300 #1204873

- 12-383 Resolved** that Council receive a report to the Ordinary Meeting of 7 June 2012 for additional information to include a larger scale map to identify the areas. (Heeson/Woods)

The motion was put to the vote and declared carried.

COMMUNITY INFRASTRUCTURE - COMMITTEE REPORT

Report No. 14.1. Report of the Access Advisory Committee Meeting 19 April 2012

File No: ENG220200 #1224907

- 12-384 Resolved** that Council note the unconfirmed minutes (Annexure 7(a) #1225098) of the Access Advisory Committee (AAC) meeting held on 19 April 2012. (Staples/Cameron)

- 12-385 Resolved** that in relation to Report No. 4.1 – Proposed Pedestrian Improvements at the intersection of Jonson and Bay Streets, Council adopt:

Committee Recommendation AAC: 4.1.2

Options for reconfiguration of the parking spaces to the immediate east of the Byron Bay swimming pool be developed, with particular consideration to improved parking for people with a disability. (Staples/Cameron)

- 12-386 Resolved** that in relation to Report No. 4.4 – Access to the CWA Hall in Council adopt:

Committee Recommendation AAC: 4.4.1

1. Council receive a report on options for improving the safety of the access in the road reserve adjacent to the CWA Hall.
-

2. Council seek advice from the CWA committee about wheel chair access at the main entrance to the hall. (Staples/Cameron)

12-387 Resolved that in relation to Agenda Item 5 – Other Business, Council adopt:

Committee Recommendation AAC: 5.1.1

That Mr Max Brown be appointed to the Access Advisory Committee as a community member and that the constitution be amended accordingly. (Staples/Cameron)

12-388 Resolved that in relation to Agenda Item 5 Other Business, Council adopt:

Committee Recommendation AAC: 5.2.1

1. Where Building Code of Australia (BCA) access requirements are not strictly satisfied in applications before Council or where alternative access solutions are being proposed that advice from the Access Advisory Committee be sought.
2. Further advice be provided to the Committee from Council's Planning department regarding proactive provision of information to developers as to how they will consider broader access issues, e.g. integration into surrounding streetscapes. (Staples/Cameron)

*The motions were put to the vote and declared carried.
Cr Tucker voted against the motions.*

SOCIETY AND CULTURE - COMMITTEE REPORT

Report No. 14.2. Report of the Tourism Advisory Committee Meeting held on 13 April 2012

File No: ADM900020 #1221240

12-389 Resolved that Council note the minutes of the Tourism Advisory Committee (TAC) meeting held on 13 April 2012 (#1213133). (Tucker/Woods)

12-390 Resolved that, in relation to Council resolutions 12-121 and 12-120, Council adopt the following TAC recommendation with references to the Committee removed where necessary:

Committee Recommendation TAC 4.3.2

That, in recognition of Resolution No. 12-120, the timeframe for the Identity/Brand Project Reference Group be extended to September 2012 to allow development of recommendations for identity implementation and possible application. (Tucker/Woods)

12-391 Resolved that, in relation to Report No. 5.1 – Byron Shire and Northern Rivers Regional Visitor Services Strategies, Council note Committee Recommendation TAC 5.1.1:

Committee Recommendation TAC 5.1.1

That the Tourism Advisory Committee note that the Stafford Group report (Byron Shire Visitor Services Strategy) is to be sent to Byron United, Byron Bay Visitors Centre, the Bangalow, Mullumbimby and Brunswick Heads Chambers of Commerce, potential partners and stakeholders (National Parks, Bundjalung of Byron Bay Aboriginal Corporation (Arakwal),

Cape Byron Reserve Trust, Marine Parks) and the Byron Community Centre for comment and any feedback for the purpose of finalising the report. (Tucker/Woods)

AMENDMENT

Moved:

1. That Council note the minutes of the Tourism Advisory Committee (TAC) meeting held on 13 April 2012 (#1213133).
2. That, in relation to Council resolutions 12-121 and 12-120, Council:
 - A. not adopt TAC recommendations 4.3.1.1 and 4.3.1.2 but adopt instead:

Committee Recommendation TAC 4.3.1

1. That Council note the recommendations of the Tourism Advisory Committee and resolve to:
 - (a) make as much of Annexure 2(a) of its Agenda of 2 February 2012 (#1190736) public as would be permissible under the Government Information (Public Access) Act 2009; and
 - (b) maintain confidentiality of Annexure 2(b) of its Agenda 2 February 2012 (#1190728).
- B. adopt the following TAC recommendation with references to the Committee removed where necessary:

Committee Recommendation TAC 4.3.2

That, in recognition of Resolution No. 12-120, the timeframe for the Identity/Brand Project Reference Group be extended to September 2012 to allow development of recommendations for identity implementation and possible application.

3. That, in relation to Report No. 5.1 – Byron Shire and Northern Rivers Regional Visitor Services Strategies, Council note Committee Recommendation TAC 5.1.1:

Committee Recommendation TAC 5.1.1

1. That a Visitor Services Project Reference Group be created, to include discussion of the outcomes of the draft Byron Shire Visitor Services Strategy report, to meet for the first time from 10am-1.00pm on 3 May.
2. That the Tourism Advisory Committee note that the Stafford Group report (Byron Shire Visitor Services Strategy) is to be sent to Byron United, Byron Bay Visitors Centre, the Bangalow, Mullumbimby and Brunswick Heads Chambers of Commerce, potential partners and stakeholders (National Parks, Bundjalung of Byron Bay Aboriginal Corporation (Arakwal), Cape Byron Reserve Trust, Marine Parks) and the Byron Community Centre for comment and any feedback for the purpose of finalising the report.
4. That, in relation to the new timeline for the Tourism Levy and Governance Framework project, Council adopt the following TAC recommendation with references to the Committee removed where necessary:

Committee Recommendation TAC 6.1.1

That, noting resolution 11-938, the General Manager appoint a consultant by July 2012 (consistent with delegations) to undertake community and business consultation in regards to a possible tourism levy. (Richardson/Cameron)

The amendment was put to the vote and declared lost.

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

*The motions (Tucker/Woods) were put to the vote and declared carried.
Cr Cameron voted against the motions.*

CORPORATE MANAGEMENT - CONFIDENTIAL REPORT

Report No. 15.1. CONFIDENTIAL Byron Shire Council Holiday Parks Contract Management

File No: BEN204000 #1226581

12-392 Resolved:

1. That pursuant to Section 10A(2)(c) of the Local Government Act, 1993, Council resolve into Confidential Session to discuss the following report, namely Byron Shire Council Holiday Park Contract Management.
2. That the reasons for closing the meeting to the public to consider this item be that the report contains information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business.
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 existing Holiday Park Managers, could adversely affect Council's ability to contract with the Holiday Park Managers or could affect Council's ability to attract competitive tenders in the event a future tender is invited. (Tucker/Woods)

The motion was put to the vote and declared carried.

CONFIDENTIAL SESSION

12-393 Resolved:

1. That Council not call for tenders at this stage for the management contract for the Suffolk Park Holiday Park and First Sun Holiday Park for the reasons:
 - a) the proposed contract is for a period of 13 months and therefore exempt from the requirement to call tenders pursuant to s.55(3) of the *Local Government Act* 1993; and
 - b) pursuant to s.55(3) of the *Local Government Act* 1993, there are extenuating circumstances which prevent the calling of tenders at this time, and that a satisfactory result would not be achieved by inviting tenders for the following reasons:
 - i. the specialised nature of holiday park management means that there are limited persons with sufficient experience and skill;

- ii. a tenure of 13 months would be unlikely to result in commercially acceptable tenders.
2. That Council extend the existing management contracts for Suffolk Park Holiday Park and First Sun Holiday Park under the same terms and conditions therein from the period 1 June 2012 to 30 June 2013, subject to the receipt of the written agreement from the existing Holiday Park Managers.
3. That Council by 30 June 2013, undertake a tender process for the operation of the Suffolk Park Holiday Park and First Sun Holiday Park on a combined basis, under a generic single management contract, and that this process be undertaken in accordance with the procurement process required by Section 55 of the Local Government Act 1993.
4. That the report of the closed part of the meeting remain confidential until management contracts are finalised. (Tucker/Woods)

The motion was put to the vote and declared carried.

URGENCY MOTION

1. Road Widening Works along Broken Head Road

- 12-394 Resolved** that Council consider an urgency motion regarding the road widening works along Broken Head Road, the urgency being that works are currently being undertaken. (Richardson/Barham)

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

- 12-395 Resolved** that Council cease all road widening works currently being undertaken along Broken Head road and receive a report that provides information relating to these works as defined in the REF (May 2012) that considers:

1. The data that has defined the area as high risk and the requirements of the funding program
2. The options for mitigating any identified risks in association with the road including signage and speed reduction, as per Resolution 09-87
3. An independent review of the REF by a local ecologist
4. The options to transfer the funds to another project
5. The investigation of the area approximately 500 metres further north as a potential for road widening works. (Richardson/Barham)

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

There being no further business the meeting concluded at 5.12pm.

BYRON SHIRE COUNCIL

ORDINARY MEETING MINUTES

17 MAY 2012 (16 of 16)

I hereby certify that these are the true and correct Minutes of this Meeting
as confirmed at Council's Ordinary Meeting on 7 June 2012.

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Mayor Jan Barham