

BYRON SHIRE COUNCIL

Ordinary Meeting Minutes
7 June 2012

INDEX OF ITEMS DISCUSSED

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

Report No. 12.1.	Bangalow Skatepark.....	2
Report No. 12.6.	Local Government Conference 2012.....	3
Report No. 12.8.	PLANNING - State Environment Planning Policy No 1 - Variations to development standards for 16 April 2012 to 18 May 2012	3
Report No. 12.9.	PLANNING – DA 10.2012.159.1 Change of use studio to granny flat at 2 Seaview Street Byron Bay	3
Report No. 12.11.	PLANNING – DA 10.2012.6.1 Subdivision 32 Lots at Parrot Tree Place Bangalow	4
Report No. 12.16.	Native Title in Byron Shire	4
Report No. 12.18.	Water Supply and Sewerage TBL Performance Reports 2010-2011 ..	5
Report No. 12.2.	Proposed Bus Stop Signage, Byron Bay Sightseeing Tour Bus.....	5
Report No. 12.14.	PLANNING – S96 10.2008.159.2 – Delete Conditions Relating to Upgrade Causeway at 825 Main Arm Road, Main Arm.....	6
Report No. 12.5.	Roadworks on Broken Head Road south of Broken Head Reserve Road	7
Report No. 12.10.	PLANNING - Resolution 12-303 - S96 10.2010.320.2 at 56-60 Ruskin Street Byron Bay	7
Report No. 12.15.	PLANNING - Legal Status Report as at 18 May 2012.....	8
Report No. 14.1.	CONFIDENTIAL – Solicitors’ Briefing.....	8
Report No. 12.5.	Roadworks on Broken Head Road south of Broken Head Reserve Road	9
Notice of Motion No. 8.4.	Brunswick Caravan Park Licence renewal 2012	11
Report No. 12.13.	PLANNING - Draft Shire-wide Development Control Plan – Chapters D2 and C6.....	11
Notice of Motion No. 8.1.	Madeira Vine (<i>Anredera cordifolia</i>).....	12
Notice of Motion No. 8.2.	Brunswick Heads Revisited	13
Notice of Motion No. 8.3.	Library Plaque	13
Report No. 12.17.	Draft Safer Community Compact.....	14
Report No. 12.3.	Use of BRSCC Multi Purpose Facility car park in association with Splendour in the Grass Festival	15
Report No. 12.4.	Byron Bay Traffic and Parking Management PRG meeting 9 May 2012.....	16
Report No. 12.7.	Mayoral and Councillor Fees 2012/2013	17
Report No. 12.12.	PLANNING – DA 10.2012.49.1 Subdivision to create vacant Strata title lot at 183-205 Broken Head Road Suffolk Park.....	17
Councillor Question With Notice No. 13.1.	Broken Head Roadworks and HCV tree removal	18
Councillor Question With Notice No. 13.2.	Community Profile.....	18
Urgency Motion No. 1.	Parking for the Old and Gold Festival, Brunswick Heads	18
Urgency Motion No. 2.	Support to the Community campaign regarding reduction of services at Mullumbimby Hospital	19
Mayoral Minute No. 7.1.	Interim arrangements for Acting General Manager	19

BYRON SHIRE COUNCIL

ORDINARY MEETING MINUTES

7 JUNE 2012 (1 of 20)

MINUTES OF THE BYRON SHIRE COUNCIL ORDINARY MEETING HELD ON THURSDAY 7 JUNE 2012 COMMENCING AT 10.34AM AND CONCLUDING AT 6.13PM
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#1237614

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)
Joylene McNamara/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

- 12-412 Resolved** that Cr Staples be granted leave of absence from the Ordinary Meeting of 28 June 2012. (Tucker/Woods)

The motion was put to the vote and declared carried.

DECLARATIONS OF INTEREST – PECUNIARY AND NON-PECUNIARY

Cr Woods declared a non-pecuniary interest in Notice of Motion No. 8.4 Brunswick Caravan Park Licence Renewal 2012. The nature of the interest is that her residence is situated on The Terrace, adjacent from the Caravan Park.

TABLING OF PECUNIARY INTEREST RETURNS

There were no Pecuniary Interest Returns tabled.

ADOPTION OF MINUTES FROM PREVIOUS MEETINGS

- 12-413 Resolved** that the Minutes of the Ordinary Meeting of 17 May 2012 be confirmed. (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:

EXECUTIVE MANAGERS' REPORTS

Community Infrastructure

- 12.2. Proposed Bus Stop Signage, Byron Bay Sightseeing Tour Bus
- 12.3. Use of BRSCC Multi Purpose Facility Car Park in association with Splendour in the Grass Festival
- 12.4. Byron Bay Traffic and Parking Management PRG Meeting 9 May 2012
- 12.5. Roadworks on Broken Head Road south of Broken Head Reserve Road

Corporate Management

- 12.7. Mayoral and Councillor Fees 2012/13

Environment and Planning

- 12.10. PLANNING - Resolution 12-303 - S96 10.2010.320.2 at 56-60 Ruskin Street Byron Bay
- 12.12. PLANNING - DA 10.2012.49.1 Subdivision to create vacant Strata title lot at 183-205 Broken Head Road Suffolk Park
- 12.13. PLANNING - Draft Shire-wide Development Control Plan – Chapters D2 and C6
- 12.14. PLANNING - S96 10.2008.159.2 – Delete Conditions Relating to Upgrade Causeway at 825 Main Arm Road, Main Arm

Organisational Support

- 12.15. PLANNING – Legal Status Report as at 18 May 2012

Society and Culture

- 12.17. Draft Safer Community Compact

CONFIDENTIAL REPORTS

- 14.1. CONFIDENTIAL – Solicitors' Briefing

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. 12-414 and concluding with Resolution No. 12-420.

COMMUNITY INFRASTRUCTURE - EXECUTIVE MANAGER'S REPORT

Report No. 12.1. Bangalow Skatepark
File No: ENG650000 #1233801

12-414 Resolved:

1. That Council approves the proposed Bangalow Skatepark footprint as detailed in Annexure 11(a) (#1230512).
2. That Council approves the proposed removal of three mature camphor laurel trees within the footprint as detailed in the Bangalow Skatepark Ecological Assessment Annexure 11(b) (#1232733).

3. That the current budget of \$175,000 be transferred from the 2011/2012 financial year to the 2012/2013 financial year. This is funded by \$115,000 of Section 94 Open Space, Local Parks Bangalow and \$60,000 from the NSW Government's Community Building Partnership Program Project Number 10532. (Woods/Cameron)
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CORPORATE MANAGEMENT - EXECUTIVE MANAGER'S REPORT

Report No. 12.6. Local Government Conference 2012
File No: COR405520 #1233849

12-415 Resolved:

1. That Council determine the number of Councillor Delegates to attend the Local Government Association of NSW Annual Conference to be held in Dubbo from 28 to 30 October 2012 as being three.
 2. That Council note that the appointment of the Delegates and the nomination of the voting delegates will be determined by Council in September 2012 following the General Election of Councillors. (Woods/Cameron)
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ENVIRONMENT AND PLANNING - EXECUTIVE MANAGER'S REPORTS

Report No. 12.8. PLANNING – State Environment Planning Policy No 1 - Variations to development standards for 16 April 2012 to 18 May 2012
File No: PLN750100 #1223676

12-416 Resolved that the report be noted. (Woods/Cameron)

*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.*

Report No. 12.9. PLANNING – DA 10.2012.159.1 Change of use studio to granny flat at 2 Seaview Street Byron Bay
File No: Parcel No 241127 #1219521

12-417 Resolved that pursuant to Section 80 of the Environmental Planning & Assessment Act 1979, development application 10.2012.159.1, for change of use - studio to granny flat (secondary dwelling), be granted consent subject to the conditions listed in Annexure 6(b) #1233131. (Woods/Cameron)

*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.*

Report No. 12.11. PLANNING – DA 10.2012.6.1 Subdivision 32 Lots at Parrot Tree Place Bangalow

File No: Parcel No 230503x237920 #1187981

12-418 Resolved that pursuant to Section 80 of the Environmental Planning & Assessment Act 1979, development application 10.2012.6.1, for 32 lot subdivision, 1 open space lot and drainage reserve, be granted consent subject to the conditions listed in Annexure 5(b) #1232827. (Woods/Cameron)

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.

SOCIETY AND CULTURE - EXECUTIVE MANAGER'S REPORT

Report No. 12.16. Native Title in Byron Shire

File No: ADM300300 #1235296

12-419 Resolved:

1. That Council note that there are three active Native Title claims in Byron Shire recognised by the Native Title Tribunal, involving:
 - a) the Byron Bay Bundjalung (Arakwal) People
 - b) the Widjabul Aboriginal People
 - c) the Numbahjing Clan within the Bundjalung Nation.
2. That Council continue to recognise and formally engage with the Bundjalung of Byron Bay Aboriginal Corporation (Arakwal) as Traditional Owners and as the Aboriginal stakeholder with the largest parcel of land claimed under Native Title within the Byron Shire.
3. That Council also seek to acknowledge the other recognised Native Title Claimants in the Shire (being the Widjabul Aboriginal People and the Numbahjing Clan within the Bundjalung Nation) and attempt to build partnerships with them as appropriate. This process could include:
 - a) inviting relevant recognised Native Title Claimants to participate in ceremonies and events held within their lands
 - b) inviting relevant recognised Native Title Claimants to participate in consultation regarding development and planning relevant to their land claims
 - c) acknowledging all recognised Native Title Claimants on Council's website, signage and stationery, as being part of the wider Bundjalung Nation
 - d) establishing formalised agreements, such as Memoranda of Understanding, between Council and recognised Native Title Claimants where relevant and appropriate.
4. That Council seek advice from the National Native Title Tribunal and/or other expert sources on the specific obligations flowing from the Native Title claims in Byron Shire.
5. That Council continue to build relationships with the Local Aboriginal Land Councils (LALC) (being the Tweed Byron LALC and the Jali LALC) as appropriate. (Woods/Cameron)

WATER AND RECYCLING - EXECUTIVE MANAGER'S REPORT

Report No. 12.18. Water Supply and Sewerage TBL Performance Reports 2010-2011
File No: ENG850000 #1233938

- 12-420 Resolved** that Council note the report and the associated NSW comparative Water Supply and Sewerage Triple Bottom Line Performance Reports for 2010-11. (Woods/Cameron)

PROCEDURAL MOTION

- 12-421 Resolved** that the order of business be changed to deal with items discussed during Public Access, those being 12.2, 12.14, 12.5, 12.10, 12.15, 8.4, 8.2 next on the Agenda. (Woods/Tucker)

The motion was put to the vote and declared carried.

ITEMS RESERVED FOR DEBATE

COMMUNITY INFRASTRUCTURE – EXECUTIVE MANAGER'S REPORT

Report No. 12.2. Proposed Bus Stop Signage, Byron Bay Sightseeing Tour Bus
File No: ENG650000 #1232130

Moved:

1. That Council support the design and colour scheme of the Green shuttle bus sign as presented in public access for bus stop signage and all wording to be developed with Council staff and the proprietor .
2. That all costs associated with the manufacture, supply, erection and ongoing maintenance of the approved signs be met by the proponent, the Magic Bus proprietor.
3. That Council, as the Roads Authority, maintains the right to remove, relocate or replace the signage as and when required, for example on the grounds of safety or regulatory or policy requirements, and that any costs incurred be met by the Magic Bus operators.
4. That the sign locations be available for use by other operators, with their business name and service details lodged with the Byron Bay Visitor Information Centre, whose telephone number, subject to their agreement, will appear on the signage. (Richardson/Cameron)

AMENDMENT

12-422 Resolved:

1. That Council support the erection of generic tour and shuttle bus stop signage as shown at (B) is recommended at Annexure 2 (#1235035).
2. That all costs associated with the manufacture, supply, erection and ongoing maintenance of the approved signs be met by the proponent, the Magic Bus proprietor.

3. That Council, as the Roads Authority, maintains the right to remove, relocate or replace the signage as and when required, for example on the grounds of safety or regulatory or policy requirements, and that any costs incurred be met by the Magic Bus operators.
4. That the sign locations be available for use by other operators, with their business name and service details lodged with the Byron Bay Visitor Information Centre, whose telephone number, subject to their agreement, will appear on the signage. (Staples/Morrissey)

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

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

ENVIRONMENT AND PLANNING – EXECUTIVE MANAGER’S REPORT

Report No. 12.14. PLANNING – S96 10.2008.159.2 – Delete Conditions Relating to Upgrade Causeway at 825 Main Arm Road, Main Arm

File No: Parcel No 49280 #1087040

12-423 Resolved:

1. That the determination of development application 10.2008.159.2 for Section 96 – to delete condition relating to the upgrade of the causeway (rural subdivision comprising of an 8 lot Torrens title subdivision and a 14 lot community title subdivision incorporating a neighbourhood allotment) be refused.
2. That Council facilitate a meeting with applicants and community representatives and Councillors to have a without prejudice discussion to consider future development and infrastructure provision (causeway). (Cameron/Staples)

12-424 Resolved that Cr Tucker be granted a two minute extension to his speech. (Woods/Richardson)

The motion was put to the vote and declared carried.

AMENDMENT

Moved:

1. That the determination of development application 10.2008.159.2 for Section 96 – to delete condition relating to the upgrade of the causeway (rural subdivision comprising of an 8 lot Torrens title subdivision and a 14 lot community title subdivision incorporating a neighbourhood allotment) be deferred.
2. That Council facilitate a meeting with applicants and community representatives and Councillors to have a without prejudice discussion to consider future development and infrastructure provision (causeway). (Richardson/Barham)

*The amendment was put to the vote and declared lost.
Crs Barham and Richardson voted in favour of the amendment.
Crs Tucker, Woods, Heeson, Staples, Cameron, Tabart and Morrissey voted against the amendment.*

FORESHADOWED AMENDMENT

Moved: That Condition 7(e) be amended to read:

- (e) The upgrade of the causeway on Main Arm Road at Blind Mouth Creek to Austroad standards. The upgrade is to include provision for 2 way traffic and increased flood immunity. The works to be completed as part of stage 2.
(Tucker/Woods)

The foreshadowed amendment was put to the vote and declared lost.

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

Crs Tucker and Woods voted in favour the foreshadowed motion.

The motion was put to the vote and declared carried.

COMMUNITY INFRASTRUCTURE – EXECUTIVE MANAGER’S REPORT

Report No. 12.5. Roadworks on Broken Head Road south of Broken Head Reserve Road

File No: ENG073030 #1232958

12-425 Resolved that Report 12.5 rest on the table. (Barham/Tabart)

The motion was put to the vote and declared carried.

ENVIRONMENT AND PLANNING – EXECUTIVE MANAGER’S REPORT

Report No. 12.10. PLANNING - Resolution 12-303 - S96 10.2010.320.2 at 56-60 Ruskin Street Byron Bay

File No: Parcel No 121850x121860x79980 #1229600

Moved: That pursuant to Section 80 of the Environmental Planning & Assessment Act 1979, development application 10.2010.320.2, for s96 change the development from Strata title to Torrens title subdivision (urban subdivision to create six strata lots, construction of three new dwellings, carry out alterations and additions to an existing dwelling, two swimming pools and tree removal), be approved subject to the conditions listed in Annexure 1(b) #123698. (Tucker/Woods)

Cr Richardson left the meeting at 12.00pm.

The motion was put to the vote and declared tied.

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

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

The Mayor used her casting vote and declared the motion lost.

Cr Richardson returned to the meeting at 12.04pm.

FORESHADOWED MOTION

12-426 Resolved that the application be refused for the reasons being referred to in Annexure 1(a) as follows:

1. Pursuant to section 79C(1)(a)(iii) of the NSW Environmental Planning and Assessment Act 1979 the proposed modified development does not comply with clause B 5.1 of
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Chapter 1 of Byron Development Control Plan 2010 having regard to the proposed lot sizes.

2. Pursuant to section 79C(1)(b) of the NSW Environmental Planning and Assessment Act 1979 the proposed modified development will create a circumstance whereby the social and built character of the locality is at risk having regard to the development possibilities that proposed Torrens Title subdivision of the land would generate in comparison to the existing strata subdivision
3. Pursuant to section 79C(1)(e) (iii) of the NSW Environmental Planning and Assessment Act 1979 the proposed modified development is not in the public interest having regard to the circumstance that approval to the modification application would effect a strategic change to the application of planning provisions relating to lot size without due strategic investigation and public participation
4. Pursuant to section 79C(1)(e) of the NSW Environmental Planning and Assessment Act 1979 the proposed modified development is not in the public interest regard to the qualitatively different planning outcome that would result from the proposed modified development and the unacceptability of that outcome. (Staples/Barham)

The motion was put to the vote and declared carried.

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

ORGANISATIONAL SUPPORT - EXECUTIVE MANAGER'S REPORT

Report No. 12.15. PLANNING - Legal Status Report as at 18 May 2012

File No: COR653000 #1230020

- 12-427 Resolved** that this report be noted. (Woods/Tucker)

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.

The meeting adjourned at 12.30pm for lunch and reconvened at 1.07pm.

PROCEDURAL MOTION

- 12-428 Resolved** that the order of business be changed to deal with Report 14.1 next on the Agenda. (Staples/Woods)

The motion was put to the vote and declared carried.

ORGANISATIONAL SUPPORT - CONFIDENTIAL REPORT

Report No. 14.1. CONFIDENTIAL – Solicitors' Briefing

File No: COR653000 #1232857

- 12-429 Resolved:**

1. That pursuant to Section 10A(2)(g) of the Local Government Act, 1993, Council resolve into Confidential Session to discuss the following report, namely Solicitors' Briefing.

2. That the reasons for closing the meeting to the public to consider this item are that the report and the briefing contain 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 disclosure of the confidential information could compromise the indemnity extended to Council under this insurance and could compromise the position of Council in litigation. (Barham/Staples)

The motion was put to the vote and declared carried.

CONFIDENTIAL SESSION

The Council was addressed by Solicitors from DLA Piper (Samantha Kelly) and HWL Ebsworth (Kirston Gerathy) on a special briefing in relation to the contents of Report 14.1.

- 12-430 Resolved** that the report and briefing be noted and the report and briefing remain confidential as they contain privileged information that relates to current litigation as well as threatened future litigation. (Tucker Woods)

The motion was put to the vote and declared carried.

- 12-431 Resolved** that Council move out of confidential session. (Tucker/Woods)

The motion was put to the vote and declared carried.

PROCEDURAL MOTION

- 12-432 Resolved** that Report No. 12.5 be lifted off the table. (Barham/Woods)

The motion was put to the vote and declared carried.

COMMUNITY INFRASTRUCTURE – EXECUTIVE MANAGER’S REPORT

Report No. 12.5. Roadworks on Broken Head Road south of Broken Head Reserve
continued **Road**
File No: ENG073030 #1232958

- 12-433 Resolved:**

That Council note the report in relation to the road reconstruction works on Broken Head Road south of Broken Head Reserve Road including:

- i) the poor condition of the road pavement of Broken Head Road south of Broken Head Reserve Road and Council’s duty of care as a roads authority to maintain and improve the condition of its community assets and not create a foreseeable risk of harm to road users.
 - ii) that Council proceed with the rehabilitation of the road using s94 funds but not finalise the widening and further vegetation removal aspects.
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BYRON SHIRE COUNCIL

ORDINARY MEETING MINUTES

7 JUNE 2012 (10 of 20)

- iii) make enquiries to Roads and Maritime Services if the grant funding can be used for rehabilitation works for a greater distance along the same road.
- iv) Council receive a report on environmental repair required for the areas that are being cleared and consideration of additional biodiversity enhancement and mitigation works eg fauna around underpass, aerial corridor connections etc. (Barham/Richardson)

12-434 Resolved that Cr Barham be granted a two minute extension to her speech. (Staples/Richardson)

The motion was put to the vote and declared carried.

AMENDMENT

Moved:

1. That Council note the report in relation to the road reconstruction works on Broken Head Road south of Broken Head Reserve Road including;
 - i) the poor condition of the road pavement of Broken Head Road south of Broken Head Reserve Road and Council's duty of care as a roads authority to maintain and improve the condition of its community assets and not create a foreseeable risk of harm to road users.
 - ii) the negative financial impacts to Council and the community of the potential loss of the Roads and Maritime Services (RMS) REPAIR Program grant and the corresponding increase in the infrastructure backlog be noted.
2. That Council recommence reconstruction works. (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.

Crs Tucker, Woods and Heeson voted against the motion.

FORESHADOWED MOTION

12-435 Resolved:

1. That pursuant to Section 10A(2)(g) of the Local Government Act, 1993, Council resolve into Confidential Session to discuss the following report, namely the memo from the Executive Manager Community Infrastructure, CONFIDENTIAL Independent review of the REF for roadworks on Broken Head Road south of Broken Head Reserve Road (#1240139).
2. That the reasons for closing the meeting to the public to consider this item are that the report and the briefing contain advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege. (Richardson/Tucker)

The motion was put to the vote and declared carried.

Crs Heeson, Staples, Barham and Cameron voted against the motion.

CONFIDENTIAL SESSION

- 12-436 Resolved** that Council receive and note the confidential independent review received 7 June 2012 under the cover of memo #1240139. (Staples/Tabart)

The motion was put to the vote and declared carried.

- 12-437 Resolved** that Council move out of confidential session. (Staples/Woods)

The motion was put to the vote and declared carried.

The meeting adjourned at 3.05pm for a break and reconvened at 3.18pm.

The General Manager left the meeting and the Executive Manager Water and Recycling took the Chair.

NOTICE OF MOTION

Notice of Motion No. 8.4. Brunswick Caravan Park Licence renewal 2012
COR405527 #1235760

Cr Woods left the chambers at 3.18pm in accordance with her earlier declared non-pecuniary interest in this matter.

- 12-438 Resolved** that upon receipt of any application for licence renewal of Crown managed holiday parks, determination of the application be by Council and the report provide clarification of the renewal that was given in 2006 for the Brunswick Holiday Parks after the dismissal of Byron Shire Council by providing the layout plan prior to 2006 and the approved 2006 licence layout. (Barham/Richardson)

The motion was put to the vote and declared carried.

Cr Woods was not present for the vote.

Cr Woods returned to the meeting at 3.29pm.

PROCEDURAL MOTION

- 12-439 Resolved** that the order of business be changed to deal with Report No. 12.13 next on the Agenda. (Staples/Tucker)

The motion was put to the vote and declared carried.

ENVIRONMENT AND PLANNING – EXECUTIVE MANAGER’S REPORT

Report No. 12.13. PLANNING - Draft Shire-wide Development Control Plan – Chapters D2 and C6

File No: PLN458040 #1225968

- 12-440 Resolved:**

1. That Council adopt the content of Chapter D2 and Chapter C6 of the draft Shire-wide Development Control Plan (Annexures 7(a) #1228227 and 7(b) #1228007) together with
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the following amendments, for staff to revise to ensure consistency with relevant legislation and draft planning instruments in readiness for future public exhibition.

2. That the following items be reviewed and reported back to Council:

Annexure 7(a)

- a) D 2.2.6 Element – Access Road Construction and Dedication Standards and D2.4.1, 3rd paragraph
- b) page 8 of 27 D2.2.4 Element – Screening the Underfloor Space of Buildings – review and refine wording in Prescriptive Measures for screening
- c) D2.5.7 Element – Recycling and Waste – requirements for garbage bin arrangements and enclosures – propose deleting this section
- d) D2.3.2 Element – Recycling and Waste management – propose deletion
- e) Add a section at D2.1.1 to promote sustainable food and agriculture production
- f) D2.2.3 Element – Setbacks from Boundaries add a (j) to Performance Criteria - consideration for food and agricultural production.
- g) Eliminate the phrase "in terms of" wherever it appears eg D2.3.1 under Performance Criteria it could say "...in a manner which provides convenient access..."
- h) D2.7.1 Element – Studios last paragraph under Performance Criteria – query where it states "only one studio is permitted for each dwelling", can there be two studios if there is a dual occupancy or should it be one studio per property.

Annexure 7(b)

- a) C6.2.7 Element – Management and restoration of the riparian zone, under point 4, does this conflict with any other chapters?

3. That formatting be changed to insert numbers rather than dot points. (Tucker/Staples)

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.

PROCEDURAL MOTION

- 12-441 Resolved** that the order of business be changed to deal with Notices of Motion in order. (Barham/Staples)

The motion was put to the vote and declared carried.

NOTICES OF MOTION

Notice of Motion No. 8.1. Madeira Vine (*Anredera cordifolia*)

COR405527 #1235680

- 12-442 Resolved** that Byron Shire Council write to Far North Coast Weeds recommending that Madeira Vine (*Anredera cordifolia*) be declared as a noxious weed to at least a Class 4 level.

(Staples/Cameron)

The motion was put to the vote and declared carried.

Notice of Motion No. 8.2. Brunswick Heads Revisited

COR405527 #1235020

- 12-443 Resolved** that Council write to DoPI requesting a review of the principal certifying authority's decision to accept a breach of a condition of consent of DA 10.2010.637.1 – roof colour not in accordance with condition 11, section C3.1 of Council's DCP 2002 (white colours not permissible). (Tabart/Barham)

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

Notice of Motion No. 8.3. Library Plaque

COR405527 #1230270

Moved: That Council approve the provision of a plaque stating that Mr Freeman be recognised for his contribution of land at Suffolk Park that has enabled a land swap to occur to provide for the new library site. (Woods/Tucker)

AMENDMENT

- 12-444 Resolved** that Council refer the question of selecting persons worthy of recognition via plaques etc at the new library site to the Library (Stage 2) PRG including Mr Freeman and note the Anudhi Wentworth plaque on the current library. (Staples/Cameron)

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

*The amendment upon becoming the substantive motion was put to the vote and declared carried.
Crs Tucker, Woods, Heeson and Morrisey voted against the motion.*

PETITIONS

There were no petitions tabled.

SUBMISSIONS AND GRANTS

There were no submissions or grants tabled.

DELEGATES' REPORTS

There were no Delegate's reports tabled.

PROCEDURAL MOTION

12-445 Resolved that the order of business be changed to deal with the remaining reports in the order of 12.17, 12.3, 12.4, 12.7, 12.12, Mayoral Minute and urgency motions next on the agenda.

(Barham/Tabart)

The motion was put to the vote and declared carried.

SOCIETY AND CULTURE – EXECUTIVE MANAGER’S REPORT

Report No. 12.17. Draft Safer Community Compact

File No: ADM306600 #1229615

12-446 Resolved:

1. That Council note that the Draft Safer Community Compact (#1208497) was placed on public exhibition on 22 March 2012 for 28 days.
2. That Council note the four submissions received through the public exhibition process.
3. That Council adopt the Safer Community Compact (#1230022), incorporating the following amendments made after the review of submissions:
 - a) Action 8.2 now acknowledges Byron Youth Service, Street Cruise and the Mobile Youth Outreach Service.
 - b) Action 8.3 notes the work done by Byron Youth Service, Project U-Turn and Intra Youth Service and suggests working in partnership with these organisations to cause a positive outcome through this action.
 - c) Action 8.4 references the work done by the Schoolies Safety Response Working Group and community volunteers and recommends a similar approach could be possible for other events or at peak tourist times within the Shire.
4. That Council supports, in principle, the use of CCTV as part of a suite of preventative measures based on detailed information and encourage business initiatives to complete an audit of current CCTV and video security coverage in Byron Bay.
5. That Council supports business initiatives to:
 - a) develop cooperative protocols and processes for the possibility of sharing of surveillance and the extension of CCTV coverage
 - b) develop an operational plan for any CCTV project and an overview of how this project would fit alongside other crime prevention measures
 - c) upon completion of 5b), seek Council in-principle support
 - d) seek funding for the implementation of CCTVs (Richardson/Tabart)

12-447 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.

AMENDMENT

Moved:

1. That Council note that the Draft Safer Community Compact (#1208497) was placed on public exhibition on 22 March 2012 for 28 days.
-

2. That Council note the four submissions received through the public exhibition process.
3. That Council place the revised Draft Safer Community Compact (#1230022) on public exhibition for another 28 day period, incorporating the following amendments made after the review of submissions:
 - a) Inclusion of a new Section 1.4.1 *Safety Audit Recommendations for CCTV in Byron.*
 - b) Action 8.5 was altered to incorporate the previous recommendation of including CCTV as a crime prevention measure.
 - c) Action 8.2 now acknowledges Byron Youth Service, Street Cruise and the Mobile Youth Outreach Service.
 - d) Action 8.3 notes the work done by Byron Youth Service, Project U-Turn and Intra Youth Service and suggests working in partnership with these organisations to cause a positive outcome through this action.
 - e) Action 8.4 references the work done by the Schoolies Safety Response Working Group and community volunteers and recommends a similar approach could be possible for other events or at peak tourist times within the Shire. (Tucker/Heeson)

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 Tucker and Barham voted against the motion.

COMMUNITY INFRASTRUCTURE – EXECUTIVE MANAGER’S REPORTS

Report No. 12.3. Use of BRSCC Multi Purpose Facility car park in association with Splendour in the Grass Festival

File No: BEN353010 #1226783

Moved:

1. That Council hire the car parking, associated lighting of the car park and external southern toilet facilities at the BRSCC Multi Purpose Facility from 26 July to 29 July 2012 to the organisers of the Splendour in the Grass festival at a fee of \$1,500 per day.
2. That the organisers of the Splendour in the Grass festival reimburse Council for the costs associated with cleaning of the southern amenities building during the period 26 July to 29 July 2012.
3. That the organisers of the Splendour in the Grass festival reimburse Council for the costs associated with usage of electricity at the car park and the southern amenities building during the period 26 July to 29 July 2012.
4. That the organisers of the Splendour in the Grass festival provide security for the BRSCC Facility during the period of their use, ie 26 July to 29 July 2012.
5. That 25 designated car parking spaces be retained for users of the sports fields.
6. That the Splendour in the Grass Festival include in their TCP that cars are not to be admitted onto the Facility until queues on Ewingsdale Road reach a predetermined length. (Tabart/Barham)

AMENDMENT

12-448 Resolved:

1. That Council hire the car parking, associated lighting of the car park and external southern toilet facilities at the BRSCC Multi Purpose Facility from 26 July to 29 July 2012 to the organisers of the Splendour in the Grass festival at a fee of \$1,500 per day.
 2. That the organisers of the Splendour in the Grass festival reimburse Council for the costs associated with cleaning of the southern amenities building during the period 26 July to 29 July 2012.
 3. That the organisers of the Splendour in the Grass festival reimburse Council for the costs associated with usage of electricity at the car park and the southern amenities building during the period 26 July to 29 July 2012.
 4. That the organisers of the Splendour in the Grass festival provide security for the BRSCC Facility during the period of their use, ie 26 July to 29 July 2012.
 5. That 25 designated car parking spaces be retained for users of the sports fields.
(Woods/Tucker)
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PROCEDURAL MOTION

12-449 Resolved that the motion be put. (Cameron/Woods)

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

*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.*

Report No. 12.4. Byron Bay Traffic and Parking Management PRG meeting 9 May 2012
File No: COR710240 #1234974

12-450 Resolved:

1. That Council note the Unconfirmed Report (Annexure 15 #1235240) of the Byron Bay Traffic and Parking Management PRG meeting held 9 May 2012.
 2. That in order to progress the matters raised within the attached Byron Bay Traffic and Parking Management PRG minutes Council endorse staff to investigate and report back to the PRG on the following matters:
 - a) options for better utilisation of Middleton Street.
 - b) potential options for pedestrian management around the Jonson Street and Lawson Street roundabout.
-

- c) the potential use of crown land for a Tennyson Street extension, including land classifications and a preliminary planning assessment.
- d) consult with Byron Farmers Market organisers to gauge if there is any benefit in introducing traffic control at Butler Street on market days.
- e) potential to provide direct access from Lawson Street to the Lawson Street north car park, be it via the First Sun Caravan Park or directly into the car park itself.

(Staples/Tabart)

The motion was put to the vote and declared carried.

CORPORATE MANAGEMENT – EXECUTIVE MANAGER’S REPORT

Report No. 12.7. Mayoral and Councillor Fees 2012/2013

File No: COR403010 x COR405010 #1228068

12-451 Resolved:

1. That Council fix the fee payable to each Councillor under section 248 of the Local Government Act 1993, for the period from 1 July 2012 to 30 June 2013 at \$17,060.
2. That Council fix the fee payable to the Mayor under section 249 of the Local Government Act 1993, for the period from 1 July 2012 to 30 June 2013 at \$37,230.
3. That Council fix the fee payable to the Deputy Mayor under section 249 of the Local Government Act 1993, for the period from 1 July 2012 to the next term of Council pro rata.
4. That Council not fix the fee payable (\$10,250.00) to the Deputy Mayor under section 249 of the Local Government Act 1993, from the next term of Council.

(Richardson/Tabart)

The motion was put to the vote and declared carried.

ENVIRONMENT AND PLANNING – EXECUTIVE MANAGER’S REPORT

Report No. 12.12. PLANNING – DA 10.2012.49.1 Subdivision to create vacant Strata title lot at 183-205 Broken Head Road Suffolk Park

File No: Parcel No 3160/3140 #1195370

- 12-452 Resolved** that pursuant to Section 80 of the Environmental Planning & Assessment Act 1979, development application 10.2012.49.1, for Strata subdivision, be granted consent subject to the conditions listed in Annexure 8(b) #1231422. (Staples/Morrissey)

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.

FORESHADOWED MOTION

- 12-453 Resolved** that Council takes steps to ensure that formal public pedestrian and cycle access is available to the east of the site from Broken Head Road. (Staples/Barham)

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.
No Councillors voted against the motion.*

QUESTIONS WITH NOTICE

Councillor Question With Notice No. 13.1. Broken Head Roadworks and HCV tree removal

COR405527 #1235672

Cr Barham asks the following question:

Can reasons be given why the \$560,000 roadworks project at Broken Head, co-funded by the RMS under the REPAIR program was not subject to tender and therefore reporting to Council?

Response Executive Manager Community Infrastructure:

A report regarding Broken Head Road road works is included in the Agenda for the Ordinary Meeting 7 June 2012.

Advice will be provided regarding this Question with Notice within that report.

Councillor Question With Notice No. 13.2. Community Profile

COR405527 #1235675

Cr Barham asks the following question:

When will the results of the 2006 Census be reported to Council in the Community Profile format that provides the trends and analysis as per the 2001 Community Profile document?

Response Executive Manager Society and Culture:

The revised Draft 2006 Community Profile will be reported to Council at the Ordinary Meeting on 28 June 2012.

URGENCY MOTIONS

1. Parking for the Old and Gold Festival, Brunswick Heads

12-454 Resolved that the matter of overflow parking for the Brunswick Heads Old and Gold Festival and the Vintage Car Rally in July be discussed as a matter of urgency. The urgency being that the event is being held this weekend on 9 June 2012. (Woods/Tucker)

The motion was put to the vote and declared carried.

12-455 Resolved that Council approve the use of Memorial Park in Brunswick Heads for overflow parking for the Old and Gold Festival on 9 June 2012 and also on the day of the Vintage Car Rally in July. (Woods/Tucker)

The motion was put to the vote and declared carried.

2. Support to the Community campaign regarding reduction of services at Mullumbimby Hospital

12-456 Resolved that Council discuss as a matter of urgency, Council providing support to the community campaign regarding reduction of services at Mullumbimby Hospital, particularly a meeting at the Civic Hall on 18 June. The nature of the urgency is that this is before Council's next Ordinary Meeting where this could be addressed as a Notice of Motion. (Cameron/Barham)

The motion was put to the vote and declared carried.

12-457 Resolved:

1. That Council provide a s356 donation to the Save Mullumbimby Hospital Group (SOH) to cover hire of the Mullumbimby Civic Hall for a public meeting to be held 18 June 2012 at 7.00pm.
2. That Council write a letter to the convenor of the meeting that supports SOH's call to suspend plans for a video link to replace night time Accident and Emergency and to consult with the community. Copies of the letter to be sent to Don Page MP, Janelle Saffin MHR and Justine Elliot MHR.
3. That the donation be advertised. (Cameron/Barham)

The motion was put to the vote and declared carried.

MAYORAL MINUTE

Mayoral Minute No. 7.1. Interim arrangements for Acting General Manager

HRM405300 #1238952

12-458 Resolved that Council thank Graeme Faulkner for his service to Byron Shire Council and wish him well for his future. (Barham)

The motion was put to the vote and declared carried.

12-459 Resolved that the meeting be extended past 6.00pm to complete this item. (Barham/Staples)

The motion was put to the vote and declared carried.

12-460 Resolved:

1. That Council consider the issue of interim arrangements for the balance of this term of Council and the options for the period beyond the September 8 Local Government Elections and pursuant to Section 10A(2)(a) and (c) of the Local Government Act 1993, Council resolve into Confidential Session to discuss.
2. That the reasons for closing the meeting to the public to consider this item be that the item contains information:
 - a) about personnel matters concerning particular individuals (not being Councillors); and

BYRON SHIRE COUNCIL

ORDINARY MEETING MINUTES

7 JUNE 2012 (20 of 20)

- b) that could, if disclosed, confer a commercial advantage on a person with whom the council might propose 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 information could cause Council to breach its obligations in relation to protection of personnel information and/or compromise the commercial position of Council in future negotiations. (Barham)

The motion was put to the vote and declared carried.

12-461 Resolved that Council appoint Mr Warner, Executive Manager Water and Recycling, as Acting General Manager for the period from 22 June 2012 to 1 July 2012. (Barham)

The motion was put to the vote and declared carried.

12-462 Resolved that the meeting move out of confidential session. (Tucker/Woods)

The motion was put to the vote and declared carried.

There being no further business the meeting concluded at 6.13pm.

I hereby certify that these are the true and correct Minutes of this Meeting
as confirmed at Council's Ordinary Meeting on 28 June 2012.

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Mayor Jan Barham