



Byron Shire Council



Minutes

Ordinary Meeting

Thursday, 25 October 2012

BYRON SHIRE COUNCIL

Ordinary Meeting Minutes
25 October 2012

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**MINUTES OF THE BYRON SHIRE COUNCIL ORDINARY MEETING HELD ON THURSDAY,
25 OCTOBER 2012 COMMENCING AT 10.35AM AND CONCLUDING AT 6.02PM**

#E2012/13405

PRESENT: Cr S Richardson (Mayor), Cr B Cameron, Cr C Cubis, Cr D Dey, Cr A Hunter,
Cr S Ibrahim, Cr P Spooner, Cr R Wanchap and Cr D Woods

Staff: Ray Darney (Acting General Manager)
Phil Holloway (Executive Manager Community Infrastructure)
Mark Arnold (Executive Manager Corporate Management)
Sharyn French (Acting 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/Mila Jones (Minute Taker)

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

APOLOGIES: There were no apologies.

REQUESTS FOR LEAVE OF ABSENCE

There were no requests for leave of absence.

DECLARATIONS OF INTEREST – PECUNIARY AND NON-PECUNIARY

Cr Hunter declared a Special Disclosure of Pecuniary Interest, under section 451 (4) and (5) of the Local Government Act 1993, in Notice of Motion No. 8.3. The effect on Cr Hunter of the proposed change is neutral.

Cr Hunter declared a pecuniary interest in Report No. 12.23, the nature of the interest being that he is the applicant appealing Council's decision in the Land and Environment Court which has been finalised.

Cr Cubis declared a pecuniary interest in Notice of Motion No. 8.1, the nature of the interest being that he made the handrail that is a subject of the Motion.

Cr Dey declared a non pecuniary interest in Report No. 12.15, the nature of the interest being that Cr Dey was on-site sewage consultant on the subject property.

ADOPTION OF MINUTES FROM PREVIOUS MEETINGS

12-791 Resolved that the Minutes of the Ordinary Meeting held on 27 September 2012 be confirmed.
(Woods/Richardson)

The motion was put to the vote and declared carried.

RESERVATION OF ITEMS FOR DEBATE AND ORDER OF BUSINESS

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

GENERAL MANAGER'S REPORTS

- 12.1. Communications Advisory Committee
- 12.2. 2012 Community Building Partnership Program Grant Applications

EXECUTIVE MANAGERS' REPORTS

Community Infrastructure

- 12.4. Proposed submission Draft NSW Long Term Transport Master Plan
- 12.5. Proposed Part Closure Road Reserve and Transfer Broken Head Road, Byron Bay
- 12.6. Community Infrastructure Advisory Committee
- 12.7. Establishment S355 Committee Byron Regional Sport and Cultural Complex

Corporate Management

- 12.9. Expression of Interest – Part Brunswick Heads Memorial Hall Leases
- 12.11. Community Garden Ocean Shores - Licence Agreement
- 12.12. Agreement for Lease and Lease of Jones Road Underpass
- 12.13. Section 356 Donation Requests
- 12.14. Investments – September 2012
- 12.16. North Byron Parklands Regulatory Working Group
- 12.17. Public Health Act 2010 and Public Health Regulations 2012

Environment and Planning

- 12.19. Outstanding financial considerations Coastal and Estuary Work Program – New Brighton Beach Scraping Program and Surveying of the Beach Escarpment
- 12.20. Review of Sea Level Rise Planning Benchmarks
- 12.21. PLANNING - Proposed West Byron Voluntary Planning Agreement

Organisational Support

- 12.22. PLANNING – BSC ats Davis LEC 10604/2012
- 12.24. PLANNING – Legal Status Report as at 12 October 2012

Society and Culture

- 12.27. Review of Bundjalung of Byron Bay, Arakwal People's Indigenous Land Use Agreements (ILUA) 1,2 and 3 (response to Resolution 12-339)

Water and Recycling

- 12.29. South Byron STP Site Contamination Investigation

COMMITTEE REPORT

Community Infrastructure

- 13.1. Report of the Local Traffic Committee Meeting held on 3 October 2012
 - 13.1.1. Federal village, proposed speed and bus management measures

CONFIDENTIAL REPORTS

Community Infrastructure

- 14.1. CONFIDENTIAL Extension of Bitumen Spray Sealing Contract 2010-00049

Corporate Management

- 14.2. CONFIDENTIAL Expressions of Interest Byron Bay Tennis Courts Lease

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. 12-792 and concluding with Resolution No. 12-818.

COMMUNITY INFRASTRUCTURE – EXECUTIVE MANAGER’S REPORT

Report No. 12.3. Report on Various Outstanding Resolutions – Community Infrastructure

File No: #E2012/8206

12-792 Resolved that Council note the actions taken in regards to Resolution 08-755 (parts 5, 6, 7 and 8), being:

- a) ongoing routine maintenance of and monitoring of potential land slips along Coolamon Scenic Drive, Montecollum;
 - b) ongoing routine maintenance of and monitoring of potential land slips along Upper Coopers Creek Road;
 - c) ongoing routine repairs as required of and monitoring of movement of the revetment walls along the northern end of Capricornia Canal, Ocean Shores; and
 - d) ongoing upgrade of damaged guard rail as the need arises. (Woods/Cameron)
-

CORPORATE MANAGEMENT – EXECUTIVE MANAGER’S REPORTS

Report No. 12.8. Byron Bay Railway Park Amenities Improvement

File No: #DM1243231

12-793 Resolved:

- 1. That Council endorse Mode Design Concept A (Annexure 29(a) (#DM1221786 pages 1-2) as the preferred plan for Byron Bay Railway Park Amenities Improvement.
 - 2. That Council engage Mode Design to develop Concept A to detailed construction documentation and proceed with the requirement planning approvals.
-

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3. That Council endorse the in-principal recovery of four of the eight existing payphones located on the existing Byron Bay Railway Park Amenities building to allow the improvement modifications to occur, subject to Telstra's community consultation process and final Council approval. (Woods/Cameron)
-

Report No. 12.10. New Byron Bay Library Project - Electrical Easement

File No: #E2012/5359

- 12-794 Resolved** that Council authorise the General Manager to affix the Council seal, in accordance with Clause 400 of Local Government (General) Regulations 2005, to the Deposited Plan Administration Sheet and Section 88B Instrument Lot 456 DP 1087879 at Annexure 20(a) (#E2012/7394). (Woods/Cameron)
-

Report No. 12.15. Compliance Services Status Report as 8 October 2012

File No: #E2012/8305

Cr Dey declared a non-pecuniary interest in this matter at the start of the meeting.

- 12-795 Resolved** that this report be noted. (Woods/Cameron)
-

Report No. 12.18. Proposed New Year's Eve 2012 Alcohol Prohibition for Byron Bay and Brunswick Heads

File No: #E2012/6497

12-796 Resolved:

1. That Council prohibit alcohol within the designated areas in Byron Bay and Brunswick Head as shown in Attachment A and B Location Plans for New Year's Eve 2012 - 2013, for a period of 18 hours between 12 noon on Monday 31 December 2012 to 6am Tuesday 1 January 2013, under combined provisions (sections 632, 642-8) of the Local Government Act 1993.
 2. That Council undertake the necessary public exhibition, advertising, installation of temporary signs (under S632 (2)(e) of the Local Government Act)(Annexure 15) and consultation to apply to the carrying and consumption of alcohol prohibition for the New Years Eve period. (Woods/Cameron)
-

ORGANISATIONAL SUPPORT – EXECUTIVE MANAGER'S REPORT

Report No. 12.23. PLANNING - BSC ats Hunter LEC 10381/2012

File No: 80.2012.7.1 x 10.2009.427.2 #E2012/12191

Cr Hunter declared a pecuniary interest in this matter at the commencement of the meeting.

- 12-797 Resolved** that this report be noted. (Woods/Cameron)

The motion was put to the vote and declared carried.

Crs Ibrahim, Dey, Cubis, Woods, Richardson, Cameron, Wanchap, Spooner and Hunter voted in favour of the motion.

No Councillors voted against the motion.

SOCIETY AND CULTURE - EXECUTIVE MANAGER'S REPORTS

Report No. 12.25. Public Art Policy Implementation Project Reference Group Meeting held on 21 August 2012

File No: #E2012/2118

12-798 Resolved that Council note the minutes of the Public Art Policy Implementation Project Reference Group meeting held on 21 August 2012 (#E2012/1432). (Woods/Cameron)

12-799 Resolved that in relation to Agenda Item 4.1 – Update on the Development of Public Art Guidelines and Criteria - Council adopt:

PRG Recommendation PAPI 4.1.1

That Council adopt the Public Art Guidelines and Criteria (#DM1258949) with amendments as follows:

- a) Page numbers and clause numbers referred to throughout the Public Art Guidelines and Criteria are corrected.
- b) Section 4.2 is amended to read "Public Art Assessment Panel (PAAP) convenes on a bimonthly basis".
- c) Appendix 7 is amended:
 - To include "Type of artwork proposed"
 - To include the question "Do you have public liability insurance?"
 - By deleting "asset custodian"
 - By deleting "project/task number"
 - By amending the fourth tick box at bottom of page to read "photos or drawings providing visual samples of proposed work".
 - To include a statement saying "PAAP meet on a bimonthly basis and your application will be considered at the next available PAAP meeting."
- d) Include in the Appendix a form letter to respond to artists who propose artwork for the shire and who are not successful.
- e) By deleting Section 9.1.
- f) Public Art Process Flowchart on page 4 is amended to read "Has this artwork been received as a gift?" If yes, "Public Art Asset Registration pro forma to be sent to artist for completion then returned to PAAP for consideration."
- g) Include in the process and the Appendix a "Certificate of Final Completion" which is to be provided at the end of the warranty period. The warranty period will depend on the artwork.
- h) Appendix 1 is amended to include:
 - S94 or S94A tick boxes in Section 7 – Procurement Process
 - Installation costs in Section 2 – Project Brief – Paid by Artist or Council
 - Maintenance costs in Section 2 – Project Brief – Paid by Artist or Council

- Council's Infrastructure Costs in Section 5 – Risk Assessment
- i) Section 11 Risk Assessment and Appendix 8 Public Art Risk Assessment is amended to include Council's infrastructure costs and maintenance costs.
- j) Appendix 8 Public Art Risk Assessment is amended to include:
 - are concrete pads and/or barriers required
 - is the infrastructure sound
 - will ongoing safety checks be required to make sure the artwork is stable
 - has an environmental hazard check been done to include earthquakes, wind and floods
 - is an engineers assessment required
- k) Appendix 9 to is amended so that the parks are bordered in white so they can be seen clearly when the maps are printed in black and white.

Management Recommendation PAPI 4.1.2

The Public Art Guidelines and Criteria (#DM1258949) is amended as follows:

- a) Section 4.5.3 and Section 4.5.4 to be combined.
- b) The Public Art Process Flow Chart to be updated to include artworks on loan to Council, and remove "Is the procurement of the artwork being managed by an organisation other than council or part of a larger capital infrastructure project?"
- c) The Public Art Commission Structure Diagram to include a fourth tier titled 'Council – Referral to Council for decision making'.
- d) Insert a paragraph in Section 7.4 that reads "The process for donating/receiving gifts for the library is outlined in the Department of Regional Australia, Local Government Act, Arts and Sport's *Cultural Gifts Program* (for more information see www.arts.gov.au/tax_incentives/cgp). The responsibility for arranging two valuations of the gift (as per the Cultural Gifts Program Guidelines) will be the responsibility of the donor."
- e) Section 8 point (b) is amended to read "Contributions and/or donations to an appropriate value from developers for public art projects to be designed and installed on publicly owned land".
- f) In section 11 "Risk Assessment" add two more considerations – "what are the infrastructure costs for Council" and "what are the maintenance costs for Council".
- g) Appendix 1 is amended to include:
 - Signage (Artist Statement) in Section 1 – Project Description.
 - A new section titled "Operational Considerations" to include "Operational Impacts" and "Operational Costs".
- h) Appendix 3 Concept Design Agreement to include "Locale – Artists working in the local region on artworks which reflect the local community, cultural heritage and environment." as an assessment criteria.
- i) Appendix 7 Public Art Asset Registration Pro Forma to include "Type of Artwork Proposed", "Do you have Public Liability Insurance" and delete "Asset Custodian" and "Project/Task Number for Procurement".

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- j) Appendix 8 Public Art Risk Assessment is amended to adapt to the proposed corporate risk management template.
- k) An explanatory paragraph is added to Appendix 9 which reads "Not all parks indicated are Council owned or managed lands, nor suitable for Public Art." (Woods/Cameron)

12-800 Resolved that in relation to Agenda Item 4.2 – Public Art Assessment Panel (PAAP) Terms of Reference - Council adopt:

PRG Recommendation PAPI 4.2.1

That Council adopt the Public Art Assessment Panel (PAAP) Terms of Reference document (#DM1256273) with amendments as follows:

- a) Add the following to Section 4 "Each member of the Public Art Assessment Panel will have a corresponding alternate".
- b) Modify Section 3 to read "The PAAP will be elected for the term of Council."
- c) Modify Section 11 to read "The PAAP will meet bimonthly, or more often as a project requires, to make decisions and develop strategies to ensure the successful completion of a project." (Woods/Cameron)

12-801 Resolved that in relation to Agenda Item 4.3 - Updated Public Art Register - Council adopt:

PRG Recommendation PAPI 4.3.1

That Council recommends that any outstanding art provided by Public Art Policy Implementation Project Reference Group members to Council staff is to be added to the Public Art register (#DM1129380). (Woods/Cameron)

Report No. 12.26. Finalisation of the 1998 Aboriginal Heads of Agreement

File No: #E2012/810

12-802 Resolved:

1. That Council adopt the revised 2012 Review of the 1998 Aboriginal Heads of Agreement at Annexure 17(b) (#E2012/815) finalising the 1998 Heads of Agreement.
2. That Council refer unresolved matters to the Arakwal Memorandum of Understanding Advisory Committee for consideration in the development of the new Memorandum of Understanding (as per Resolution 12-337). (Woods/Cameron)

WATER AND RECYCLING - EXECUTIVE MANAGER'S REPORTS

Report No. 12.28. Draft Policy - Waste Disposal Fees for Not-for-Profit Groups

File No: #E2012/10209

12-803 Resolved that Council publically exhibits the Draft Policy - Waste Disposal Fees for Not-for-Profit Groups for 28 days and if there are no submissions it be adopted. (Woods/Cameron)

Report No. 12.30. Transfer and Classification of Lot 35 DP1169053 - Tallowood Ridge Estate, Mullumbimby

File No: #E2012/10710

12-804 Resolved:

1. That Council accepts ownership of Lot 35 DP1169053 for the purposes of facilitating the operation and the existing physical location of the Sewerage Pump Station.
2. That Council authorise the General Manager to sign and/or affix the Council Seal to all documentation, in relation to transfer Lot 35 DP1169053 to Council.
3. That Council give notice for not less than 28 days of the following proposed resolution pursuant to Section 34 of the Local Government Act 1993:

“That Lot 35 DP1169053 Tallowood Ridge Estate, Mullumbimby be classified
“Operational” under the Local Government Act 1993.” (Woods/Cameron)

Report No. 12.31. Reticulated/Town Drinking Water Quality Management Policy

File No: #E2012/10593

- 12-805 Resolved** that the draft Drinking Water Quality Policy be placed on public exhibition for a period of 28 days and, if there are no submissions, the policy be adopted. (Woods/Cameron)
-

COMMUNITY INFRASTRUCTURE - COMMITTEE REPORT

Report No. 13.1. Report of the Local Traffic Committee Meeting held on 3 October 2012

#E2012/10364

2. Removal of 5t load limit, Sherrington’s Bridge, The Pocket

File No: F161 / #E2012/10364

- 12-806 Resolved** that the load limit on Sherrington’s Bridge, The Pocket be removed. (Woods/Cameron)
-

3. Reclaim the Night street march, Byron Bay

File No: F161 / #E2012/10364

12-807 Resolved:

1. That the Reclaim the Night street walk, scheduled to commence at 7pm Friday 26 October 2012 be endorsed.
 2. That the organisers be responsible for implementing a Traffic Control Plan, with qualified personnel throughout the event, and be advised Council’s fee for holding an on-road event will apply.
 3. That public liability insurance be in place for the sum of at least \$10 million.
-

4. That the concurrence of the Police be sought by the organisers, independent of the Local Traffic Committee endorsement.
 5. That the event be advertised in accordance with the Roads Act charged at cost to the organisers.
 6. That the event be notified on Council's website.
 7. That in the event Council staff and materials are required for the event, costs be recorded and invoiced to the organisers as appropriate. (Woods/Cameron)
-

4. Byron Bay New Year's Eve Traffic Management and Road Closures
File No: F161 / #E2012/10364

12-808 Resolved:

1. That the following temporary road closures, effective from 6am on 31 December 2012 for the purposes of New Year's Eve activities in Byron Bay, be endorsed:
 - a) Jonson Street, between Lawson Street and Bay Street;
 - b) Fletcher Street, between Lawson Street and Bay Street; and
 - c) Middleton Street, between Lawson Street and Bay Street.
 2. That the temporary road closures be advertised in accordance with the requirements of the Roads Act. (Woods/Cameron)
-

5. Street Parade, Mullumbimby Music Festival, Sunday 25 November 2012
File No: F161 / #E2012/10364

12-809 Resolved:

1. That the Mullumbimby Music Festival Street Parade scheduled for Sunday 25 November 2012 be endorsed, including the temporary road closure of:
 - Dalley Street, Mullumbimby between Tincogan Street and Burringbar Street which is effective between 11am and 12noon;
 - Burringbar Street, Mullumbimby between Station Street and Dalley Street which is effective between 10.45am and 11.15am;
 - Lane 7, between Dalley Street and east of the Fire Station driveway, and Lane 2, from Lane 7 to Tincogan Street, with both in effect from 4pm Thursday 22 November 2012 through to 8am Monday 26 November 2012.
 2. That the organisers be responsible for implementing a Traffic Control Plan, including the use of signed detours, as designed and implemented by those with appropriate accreditation and be advised Council's fee for holding an on-road event will apply.
 3. That public liability insurance be in place for the sum of at least \$10 million.
-

4. That the concurrence of NSW Police and NSW Fire be sought by the organisers, independent of the Local Traffic Committee endorsement.
 5. That the event be advertised in accordance with the Roads Act charged at cost to the organisers.
 6. That the event be notified on Council's website.
 7. That in the event Council staff and materials are required for the event, costs be recorded and invoiced to the organisers as appropriate. (Woods/Cameron)
-

6. Twilight Markets road closure, Mullumbimbi Street, Brunswick Heads

File No: F161 / #E2012/10364

12-810 Resolved:

1. That the temporary road closure of Mullumbimbi Street between Park Street and The Terrace, Brunswick Heads from 12 noon to 12 midnight on Wednesday 19 December 2012 be approved for the holding of the annual Twilight Markets.
 2. That the organisers be responsible for implementing a Traffic Control Plan, including the use of signed detours, as designed and implemented by those with appropriate accreditation and be advised Council's fee for holding an on-road event will apply.
 3. That public liability insurance be in place for the sum of at least \$10 million.
 4. That the concurrence of the Police be sought by the organisers, independent of the Local Traffic Committee endorsement.
 5. That the event be advertised in accordance with the Roads Act charged at cost to the organisers.
 6. That the event be notified on Council's website.
 7. That in the event Council staff and materials are required for the event, costs be recorded and invoiced to the organisers as appropriate. (Woods/Cameron)
-

7. Proposed double barrier line, Lighthouse Road, Byron Bay

File No: F161 / #E2012/10364

12-811 Resolved that double barrier lines be installed on Lighthouse Road, Byron Bay as follows:

1. between the existing centre line marking from the eastside of Massinger Street through to the east side of Paterson Street;
 2. commencing at the end of the existing centre line marking north-east of Tallow Beach Road and continue to 5m south of the property driveway at 130 Lighthouse Road;
 3. commencing on the north-east side of Lee Lane, continue through to the existing centre line marking plus the installation of No Stopping signage through to the south side of the intersection at Brooke Drive;
-

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4. provide guide posts or bollards along the western side of Lighthouse Road, at site 2 in Figure 8, to delineate the edge of the road and the informal parking area.
(Woods/Cameron)
-

8. Mobile Library Request to change parking limit, Byron Street, Bangalow
File No: F161 / #E2012/10364

- 12-812 Resolved** that the bus zone on the north side of Byron Street, Bangalow immediately west of Market Street, and which applies to school zone times only, be amended so as to include 8am and 11am Saturday.
(Woods/Cameron)
-

9. Christmas Eve Carnival street closure, Byron Street, Bangalow
File No: F161 / #E2012/10364

12-813 Resolved:

1. That the Bangalow Christmas Eve Carnival, scheduled for Monday 24 December 2012 and includes the temporary closure of Byron Street between Granuaille Road and Market Street between the hours of 5.30pm and 10.00pm, be endorsed.
 2. That the organisers be responsible for implementing a Traffic Control Plan, including the use of signed detours, as designed and implemented by those with appropriate accreditation and be advised Council's fee for holding an on-road event will apply.
 3. That public liability insurance be in place for the sum of at least \$10 million.
 4. That the concurrence of the Police be sought by the organisers, independent of the Local Traffic Committee endorsement.
 5. That the event be advertised in accordance with the Roads Act charged at cost to the organisers.
 6. That the event be notified on Council's website.
 7. That in the event Council staff and materials are required for the event, costs be recorded and invoiced to the organisers as appropriate.
(Woods/Cameron)
-

10. Request for No Parking, Bangalow Road, Byron Bay
File No: F161 / #E2012/10364

12-814 Resolved:

1. That No Stopping be signed on the eastside of Bangalow Road, Byron Bay between Seaview Street and the south side of the property driveway at number 13 Bangalow Road.
 2. That a report come back to the local traffic Committee on the feasibility of shifting the centre line along Bangalow Road in this vicinity by up to 1.0m eastward.
(Woods/Cameron)
-

11. Proposed No Right Turn signage, Station Street, Mullumbimby

File No: F161 / #E2012/10364

12-815 Resolved:

1. That a No Right Turn (R2-6A (R)) replace the existing Left Turn arrow sign (R2-14A (L)) on Station Street, Mullumbimby opposite the Woolworths exit.
 2. That the existing Give Way sign at the corner of the exit driveway from the car park be replaced with the No Right Turn (R2-6A (R)). (Woods/Cameron)
-

12. Comparison of traffic data, Repentance Creek Road and Mafeking Road

File No: F161 / #E2012/10364

- 12-816 Resolved** that the details regarding traffic volume, speed and crash data for Mafeking Road and Repentance Creek Road be noted. (Woods/Cameron)
-

13. Request for Speed Zone Review, Coolamon Scenic Drive, Mullumbimby

File No: F161 / #E2012/10364

12-817 Resolved:

1. That Council request the RMS to conduct a speed zone review of Coolamon Scenic Drive, west side of Mullumbimby, from the existing 50km zone to the intersection of Coolamon Scenic Drive and Myocum Road.
 2. That Council request the RMS to conduct a speed zone review of Coolamon Scenic Drive, northeastern side of Mullumbimby, from the existing 50km zone. (Woods/Cameron)
-

CORPORATE MANAGEMENT - LATE REPORT

Report No. 15.1. 2011/2012 Draft Financial Statements

File No: #E2012/13581

12-818 Resolved:

1. That Council suspend standing orders to allow for a presentation from Council's External Auditor, Kevin Franey, of Thomas Noble and Russell.
 2. That Council adopt the Draft 2011/2012 Financial Statements.
 3. That Council to approve the signing of the "Statement by Councillors and Management" in accordance with Section 413(2)(c) of the Local Government Act 1993 and Clause 215 of the Local Government (General) Regulation 2005 in relation to the 2011/2012 Draft Financial Statements.
 4. That Council exhibit the Financial Statements and Auditor's Report and call for public submissions on those documents with submissions closing on 16 November 2012 in accordance with Section 420 of the Local Government Act 1993.
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5. That the Audited Financial Statements and Auditors Report be presented to the public at the Ordinary Meeting of Council scheduled for 8 November 2012 in accordance with Section 418(1) of the Local Government Act 1993. (Woods/Cameron)
-

PROCEDURAL MOTION

- 12-819 Resolved** that the order of business be changed to deal with items discussed during Public Access, those being 12.5, 12.2, 8.7, 8.1, 12.16, 12.9, 8.2, next on the Agenda. (Woods/Richardson)
- The motion was put to the vote and declared carried.*
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COMMUNITY INFRASTRUCTURE – EXECUTIVE MANAGER’S REPORT

Report No. 12.5. Proposed Part Closure Road Reserve and Transfer Broken Head Road, Byron Bay

File No: #E2012/6793

12-820 Resolved:

1. That Council endorse the closure of the road reserve between Lot 320 DP755695 and Lot 438 DP729107 and its extension to the north adjoining the western alignment of Broken Head Road.
2. That Council require the applicants of the road closure to pay the fee as published in Council's Fees and Charges 2012- 2013 for a road closure, in the sum of \$495.00.
3. That all costs, including but not necessarily limited to, legal services, fees for Crown Lands, fees for plan registrations, survey, valuations etc be met by all three parties equally, being Council, Arakwal Corporation and Mr John Morgan, for the road closure and that Council's costs come from the Roads Maintenance Budget.
4. That Council receive a peppercorn compensation of \$1 upon sale of land for closure of road.
5. That any service relocations and works associated with affecting the access arrangements for Lot 320 not be at any cost to Council and be solely a matter between the owners of Lot 320 and Lot 438 and any relevant service authority.
6. That Council authorise the General Manager and the Mayor to sign and seal all relevant documents to affect the road closure and transfer of lands to the adjoining land holders. (Wanchap/Ibrahim)

AMENDMENT

Moved:

1. That Council endorse the closure of the road reserve between Lot 320 DP755695 and Lot 438 DP729107 and its extension to the north adjoining the western alignment of Broken Head Road, subject to the following:
 - a) That Council require the applicants of the road closure to pay the fee as published in Council's Fees and Charges 2012- 2013 for a road closure, in the sum of \$495.00.
-

- b) That all Council's costs, including but not necessarily limited to, legal services, fees for Crown Lands, fees for plan registrations, survey, valuations etc be met by the applicants for the road closure.
- c) That any service relocations and works associated with affecting the access arrangements for Lot 320 not be at any cost to Council and be solely a matter between the owners of Lot 320 and Lot 438 and any relevant service authority.
- d) That Council authorise the General Manager and the Mayor to sign and seal all relevant documents to affect the road closure and transfer of lands to the adjoining land holders. (Woods/Cubis)

The amendment was put to the vote and declared lost.

Crs Ibrahim, Dey, Richardson, Cameron, Wanchap, and Spooner voted against the amendment.

The motion (Wanchap/Ibrahim) was put to the vote and declared carried.

Cr Woods voted against the motion.

GENERAL MANAGER'S REPORT

Report No. 12.2. 2012 Community Building Partnership Program Grant Applications
File No: #E2012/12658

12-821 Resolved:

- 1. That Council, in relation to the 2012 Community Building Partnership Grant Funding round, endorse:
 - a) the New Brighton change room facilities
 - b) the embellishment of parks, Byron Bay
 - c) civic improvements Byron Bay town centre
 - d) Byron Bay Town Centre Upgrade
 - e) shade structures for Mullumbimby Skate Park
 - f) sports field lighting for Jeff Schneider Fields (western field) at Bangalow recreation Grounds
- 2. That Council authorise the General Manager to provide the necessary information and make necessary submissions to access the \$300,000 available funding.
- 3. That Council allocate the required matching capital works and project management funding for the projects listed in part 1 above from Section 94 Funds and Special Rate Variation funding.
- 4. That Council give approval to the Byron Bay Cycle Club to submit a grant application for the 2012 Community Building Partnership Program for the construction of a cycle track on Council owned land at the Byron Regional Sporting and Cultural Centre. (Richardson/Spooner)

The motion was put to the vote and declared carried.

Crs Wanchap voted against the motion.

NOTICE OF MOTION

Notice of Motion No. 8.7. Sangsurya - BSC ats Kruger LEC 10692/2012
#E2012/11509

12-822 Resolved:

1. That the Acting General Manager convene a meeting involving Councillors, relevant staff and the applicant's representative on or before 2 November 2012 to explore the options to resolve the outstanding issues on the site
2. That Council writes to the applicant and:
 - a) Requests the applicant to discontinue the current appeal
 - b) Requests the applicant applies for a spot-rezoning of their particular property to make the development a permissible use on their property
 - c) That if these requests are agreed to, Council makes the application for rezoning a highest priority
 - d) That if these requests are agreed to, Council agrees to a discontinuance on the basis that each party pay their own costs.
 - e) That while the applicant is pursuing the above spot rezoning, Council suspend any current Compliance action.
 - f) That the Acting General Manager convene a meeting involving Councillors, relevant staff and the applicant's representative on or before 2 November 2012 to explore the options to resolve the outstanding issues on the site.
3. That the outcome of the meeting and requests be brought to Council as a late report to the 8 November Council meeting. (Woods/Cubis)

The motion was put to the vote and declared carried.

MAYORAL MINUTE

There was no Mayoral Minute.

NOTICE OF MOTION

Notice of Motion No. 8.1. Helen Street Footbridge Repairs
#E2012/11521

Cr Cubis declared a pecuniary interest in this matter at the start of the meeting.

12-823 Resolved:

1. That the following repair works be undertaken on the Helen Street footbridge, though not during school holidays:
-

- a) bolts re-tightened throughout, including replacement if too long;
 - b) deck screws re-tightened to finish at least 2mm below timber surface;
 - c) timber removed where it has sprung away from deck boards and corresponding divot filled (with epoxy or similar); and
 - d) timber removed where it has sprung away from kerb logs.
2. That on-going maintenance along the lines of item 1 and maintenance of the timber be included in the annual Management Plan and Budget.
 3. That staff undertake a review of hand rail options and report back to Council on options and costs.
 4. That staff investigate costings of a water access system and if costs are \$2,000 or less it be installed, otherwise the matter be reported back to Council. This be funded from Open Space and Recreation/Parks Maintenance Budget.
 5. That staff contact the Department of Public Works to confirm that aspects of the defects were completed, including the bolt re-tightening, and report back to Council.

(Dey/Spooner)

The motion was put to the vote and declared carried.

The meeting adjourned for lunch at 12.33pm and reconvened at 1.18pm.

CORPORATE MANAGEMENT – EXECUTIVE MANAGER’S REPORTS

Report No. 12.16. North Byron Parklands Regulatory Working Group

File No: #E2012/8825

Moved:

1. That Council nominate the following three community representatives for appointment to the North Byron Parklands Regulatory Working Group (RWG) for two years from today, being Denise Nessel, Paul Arrowsmith and Christine Cherry, with Robert Rosen as alternate.
2. That Council advise the Chairperson of the North Byron Parklands Regulatory Working Group (RWG) and Billinudgel Property Pty Ltd of the nominations.
3. That Council thank all the Community members for submitting an application for nomination to North Byron Parklands Regulatory Working Group (RWG).
4. That Council add one further Council appointment to the RWG that being a staff Ecologist or other appropriate staff person.

(Dey/Cameron)

AMENDMENT

12-824 Resolved:

1. That Council nominate the following three community representatives for appointment to the North Byron Parklands Regulatory Working Group (RWG) for two years from today, being Paul Arrowsmith, Simon Millichamp and Christine Cherry, with Denise Nessel and Robert Rosen as alternates.

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2. That Council advise the Chairperson of the North Byron Parklands Regulatory Working Group (RWG) and Billinudgel Property Pty Ltd of the nominations.
3. That Council thank all the Community members for submitting an application for nomination to North Byron Parklands Regulatory Working Group (RWG).
(Richardson/Wanchap)

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

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

Report No. 12.9. Expression of Interest – Part Brunswick Heads Memorial Hall Leases
File No: #E2012/7681

12-825 Resolved:

1. That Council does not call for expressions of interest to lease a shop space at part Lot 10 Section 7 DP 758171 known as Brunswick Heads Memorial Hall pursuant to Section 55(3)(e) of the Local Government Act 1993, the reasons being:
 - a) the land being leased is categorised Community Land.
 - b) the proposed lessee, Brunswick Valley Red Cross, is a not-for-profit organisation.
 - c) the proposed lessee, Brunswick Valley Red Cross, provides value to the community.
2. That Council offer the lease for the two premises to the Brunswick Valley Red Cross.
3. That notice of Council's intention to grant the two (2) leases over Community Land be notified and exhibited in accordance with Section 47 of the Local Government Act for a period of 28 days.
(Ibrahim/Woods)

The motion was put to the vote and declared carried.

NOTICES OF MOTION

Notice of Motion No. 8.2. Safeguarding the Shire from Coal Seam Gas Mining
#E2012/11895

12-826 Resolved:

1. That Council rejects the NSW Government's Strategic Regional Land Use Policy and its failure to rule out coal and CSG development on productive agricultural land and in sensitive environmental areas as promised at the last election.
2. That Council reaffirms its moratorium position, recognising the failure of industry and governments to make the scientific case that this industry can operate without harming water, land, food production, tourism and community health.
3. That Council call for a new planning system to include a power for local councils to veto mining and CSG development through creating mining no-go zones in Local Environment Plans.

4. That Council, to the extent that is legally possible, prohibit CSG mining or exploration activities in road reserves under Council's management or ownership and on Council-owned land.
5. That Council write to NOROC requesting it seek legal advice as to the legality of prohibiting CSG mining or exploration activities on land under Councils' ownership.
6. That Council supports recommendations from the NSW Upper House Enquiry into Coal Seam Gas Mining being included into the new NSW Code of Practice on coal seam gas mining that is being developed.
7. That the local MP and Minister for Local Government, Mr Don Page, be informed of the notice of motion and resolution, and a letter be sent requesting a response.

(Richardson/Dey)

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

*The Ordinary meeting adjourned at 2.14pm to allow Reserve Trust Committee Meeting. The Ordinary meeting reconvened at 2.16pm. Resolution **12-827** was used during that meeting.*

Notice of Motion No. 8.3. Flood Maps

#E2012/11861

Cr Hunter declared a Special Disclosure of Pecuniary Interest, under section 451 (4) and (5) of the Local Government Act 1993, in Notice of Motion No. 8.3. The effect on Cr Hunter of the proposed change is neutral.

- 12-828 Resolved** that Council hold a workshop as soon as can be arranged with staff to discuss the flood maps in the LEP and sea level rise benchmarks. (Woods/Cubis)

The motion was put to the vote and declared carried.

The Mayor suspended standing orders at 2.21pm to receive a presentation on the 2011/2012 Draft Financial Statements by Mr Franey, TNR.

The Mayor resumed standing orders at 3.09pm.

Notice of Motion No. 8.4. Additional Councillor to Joint Regional Planning Panel

#E2012/11946

Moved: That Council nominate Cr Wanchap as one of two elected representatives and the second councillor replace the Manager of Land and Natural Environment.

(Wanchap/Dey)

AMENDMENT

- 12-829 Resolved** that Council nominate Cr Wanchap as an alternate delegate to the Joint Regional Planning Panel. (Woods/Cubis)

The amendment was put to the vote and declared carried.

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

Notice of Motion No. 8.5. Local Preference Policy

#E2012/11715

12-830 Resolved:

1. That Council receive a staff report on any relevant matters to consider in the development and adoption of a Local Preference Policy in relation to the favouring of local content and residents:
 - for the acquisition goods and services generally,
 - as an evaluation criteria within tender documents for the acquisition of goods and services, and
 - as an evaluation criteria within tender documents for the granting of leases, licenses and other estates.

2. That the report to be informed by reference to:
 - a) Relevant State & Federal Legislation, Regulation & Guidelines. For example, Local Government Act 1993, Local Government Regulation 2005, Trade Practices Act 1974, Fair Trading Act 1987, Tendering Guidelines for NSW Local Government;
 - b) Existing Byron Shire Council Policies, including Byron Shire Council Ethical Catering Policy (Policy No: 10/005); Byron Shire Council Procurement and Purchasing Policy (Policy No 2.6); Byron Shire Council Community Economic Development Policy (Policy 10/003);
 - c) Local Preference Policies already enacted by other NSW local Councils such as, Wyong Shire Council Local Preference Policy, Kiama Municipal Council Local Preference Purchasing Policy, Shoalhaven City Council Local Preference Policy; and
 - d) Any other factors that Staff consider necessary to assist in the development of a Local Preference Policy for the Byron Shire Council.

3. That the report considers the effect of the following Policy Statement and Policy Objectives being incorporated into a Local Preference Policy:

Policy Statement:

To ensure that Council achieves the best 'overall value - for - money' in its procurement of goods and services, while (where possible) giving preference to local suppliers, and non local suppliers using local content, to support the Shire's economic development.

Policy Objectives:

- i) Council is committed to obtaining the best possible value for residents through the implementation and management of a fair and appropriate procurement system that seeks to maximize overall community benefit for the Shire.
 - ii) Council recognises its role in the local community as a purchaser of goods and services. Given that role it is also important that Council considers the positive effect it can have in encouraging and facilitating the local economy through the level of local content contained in offers for the supply of goods and services. This includes
-

the 'multiplier' effect of spending dollars locally.

- iii) Through the provisions of a local preference policy, Council aims to support the viability of small businesses within the Byron Shire so as to encourage the generation of local employment opportunities.
 - iv) In accordance with this policy, Council will apply a preference to offers for the provision of goods and services that demonstrate a level of local content.
 - v) To act transparently and publicly document objective criteria that may be considered in the assessment of procurement decisions.
4. The staff report to be presented to Council for consideration by February 2013.

(Spooner/Richardson)

The motion was put to the vote and declared carried.

Notice of Motion No. 8.6. Creation of Quarterly Liaison Meetings

#E2012/12069

12-831 Resolved:

- 1. That regular liaison meetings for Councillors and Senior Staff initially be held quarterly in February, May, August and November.
- 2. That the agenda for these informal meetings be developed by the Mayor in consultation with the General Manager and opportunity be made available for Councillors and staff to request items for discussion. (Richardson/Woods)

The motion was put to the vote and declared carried.

PETITIONS

There were no petitions tabled.

SUBMISSIONS AND GRANTS

There were no submissions or grants tabled.

DELEGATE'S REPORT

1. Rous Water Meeting

Cr Woods advised Councillors:

"We [Crs Woods and Dey] went to Rous Water for our first meeting last week, week before last. It was very good. Interestingly enough one of the points that I took up on at that was the effect of fringe benefits tax on budgets and I asked a question of that of staff. I have received a response but I'd like us to review that down the track. It does have an impact and I think there is a way we can alleviate it but I just wanted to alert us to that.

Cr Dey might have more to add about the meeting but it was pretty basic, pretty standard administrative stuff for the first meeting."

Cr Dey also advised Councillors:

"Col Sullivan is the Chair and Susan Meehan from Ballina is the Deputy.

We went through an audit process very similar by the same company as this. We were also given in our papers called a delivery report which is part of the IP&R process which was quite good. It had a series of traffic lights. You got a green traffic light if everything was ok, a red traffic light if everything was really bad and an orange if it was sort of maybe. And that was quite interesting but not totally informative.

The only other thing to inform is there is the case of the flouridation where people have taken Rous to court in an attempt to prevent flouridation in the other three shires whom Rous provides to and that's interesting in that it shows up in all the books and all the documents. It gets a red light on the delivery report because Rous is unable to deliver the flouridation project and shows up in the management plan and budgeting. In other words the money is being set aside to go ahead with the flouridation process and it's stalled while the case takes its process."

GENERAL MANAGER'S REPORT

Report No. 12.1. Communications Advisory Committee

File No: #E2012/10001

12-832 Resolved:

1. That Council note this report.
2. That Council reforms the Communications Advisory Committee until the next Local Government elections in 2016.
3. That Crs Spooner, Richardson and Hunter are appointed as the Councillor representatives of the Communications Advisory Committee. (Spooner/Richardson)

The motion was put to the vote and declared carried.

The meeting adjourned at 4.03pm for a break and reconvened at 4.20pm.

URGENCY MOTION

1. Wilson's Creek Landslip

12-833 Resolved that the matter of the Wilson's Creek landslip be discussed as a matter of urgency. The urgency of the matter is that there is no time to go to Tender as it needs to be fixed now. (Richardson/Woods)

The motion was put to the vote and declared carried.

12-834 Resolved:

1. That pursuant to Section 55 (3) of the Local Government Act 1993, there are extenuating circumstances which apply to the "Wilson's Creek Landslip Emergency Works Proposal" such that a satisfactory result would not be achieved by inviting tenders for the following reasons:

- i) Coffey Geotechnics have recommended that Council provide emergency soil nail support to the road in accordance with their advice dated 24 October 2012 (E2012/14844)
 - ii) It is considered more of a benefit to the community to complete the works without the tender process, than to risk not completing the proposed emergency work as soon as possible.
2. That Council delegate authority to the General Manager to negotiate agreement with suitable contractors to complete the Proposed Natural Disaster Contract Restoration Works subject to funding approval from Roads and Maritime Services.
- (Richardson/Woods)

The motion was put to the vote and declared carried.

COMMUNITY INFRASTRUCTURE – EXECUTIVE MANAGER’S REPORTS

Report No. 12.4. Proposed submission Draft NSW Long Term Transport Master Plan
File No: #E2012/9566

- 12-835 Resolved** that the matter rest on the table. (Woods/Cameron)

The motion was put to the vote and declared carried.

Report No. 12.6. Community Infrastructure Advisory Committee
File No: #E2012/11248

12-836 Resolved:

1. That Council note this report.
2. That Council adopt the draft Community Infrastructure Advisory Committee Constitution (Annexure 28 #E2012/11644).
3. That Council appoint Cr Dey, Cr Cameron and Cr Hunter as its representatives to the Community Infrastructure Advisory Committee.
4. That advertising for membership of the Community Infrastructure Advisory Committee take place to include three community representatives. (Woods/Richardson)

The motion was put to the vote and declared carried.

Report No. 12.7. Establishment S355 Committee Byron Regional Sport and Cultural Complex
File No: #E2012/11157

12-837 Resolved:

1. That Council confirm the establishment of the Byron Regional Sport and Cultural Complex Section 355 Management Committee.
-

2. That Council adopt the Delegation of Authority under Section 377 of the Local Government Act 1993, as shown in Annexure 22(a) (#E2012/11213) for the Section 355 Management Committee.
3. That Crs Cubis and Richardson be appointed as the Councillor representatives for the Section 355 Management Committee, with Cr Woods appointed as the alternate delegate.
4. That advertising for membership of the Byron Regional Sport and Cultural Complex Section 355 Management Committee take place, including appropriate consultation with peak user groups, comprised as follows:
 - 2 x representatives from the Byron Bay Sporting Association
 - 1 x community representative
 - 1 x cultural representative
5. That one non voting representative from the Multi Purpose Facility management be included in the Section 355 Management Committee. (Cubis/Richardson)

The motion was put to the vote and declared carried.

CORPORATE MANAGEMENT – EXECUTIVE MANAGER’S REPORTS

Report No. 12.11. Community Garden Ocean Shores - Licence Agreement
File No: #DM1255371

12-838 Resolved:

1. That Council note the establishment of the initial licence agreement via a competitive expression of interest process.
2. That notice of Council’s intention to grant a licence over Community Land be notified and exhibited in accordance with Section 47 of the Local Government Act for a period of 28 days.
3. That if no submissions are received during the public exhibition period, Council authorise the General Manager to grant a licence to Mullumbimby Community Gardens Inc over Shara Community Gardens, substantially in the form contained at Annexure 23(b)(#DM1255448) on the following terms:
 - a) Commencement date 4 April 2012
 - b) 3-year term
 - c) Nil licence fee
4. That on granting a licence, Council authorise the General Manager to execute and affix the Council Seal to the licence documentation in accordance with clause 400 of Local Government (General) Regulations 2005.
5. That if submissions are received during the public exhibition period, that a further report to Council be considered prior to granting a licence agreement. (Richardson/Woods)

The motion was put to the vote and declared carried.

Report No. 12.12. Agreement for Lease and Lease of Jones Road Underpass

File No: #E2012/10990

Moved:

1. That Council grant and execute a Deed of Agreement for Lease to Billinudgel Property Pty Ltd substantially in the form at Annexure 26(a) (#E2012/12516) subject to s149 consent from the Department of Planning;
2. That Council grant and execute a Lease to Billinudgel Property Pty Ltd substantially in the form at Annexure 26(b) (#E2012/11443) subject to s149 consent from the Department of Planning; on the following conditions:
 - a) Lease term of 10 years
 - b) A lease fee of \$2,000 per annum exclusive of GST and increased annually in accordance with CPI
 - c) All lease preparation costs be met by the tenant
3. That Council authorise the General Manager to execute and affix the Council Seal to the Deed of Agreement for Lease and Lease in accordance with Regulation 400 of the Local Government (General) Regulations 2005. (Dey/Cameron)

AMENDMENT

12-839 Resolved:

1. That Council grant and execute a Deed of Agreement for Lease to Billinudgel Property Pty Ltd substantially in the form at Annexure 26(a) (#E2012/12516) subject to s149 consent from the Department of Planning;
2. That Council grant and execute a Lease to Billinudgel Property Pty Ltd substantially in the form at Annexure 26(b) (#E2012/11443) subject to s149 consent from the Department of Planning; on the following conditions:
 - a) Lease term of 99 years
 - b) A lease fee of \$2,000 per annum exclusive of GST and increased annually in accordance with CPI
 - c) All lease preparation costs be met by the tenant
3. That Council authorise the General Manager to execute and affix the Council Seal to the Deed of Agreement for Lease and Lease in accordance with Regulation 400 of the Local Government (General) Regulations 2005. (Woods/Cubis)

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

*The amendment upon becoming the substantive motion was put to the vote and declared carried.
Cr Cameron voted against the motion.*

Report No. 12.13. Section 356 Donation Requests

File No: #E2012/8130

Moved:

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1. That Council reimburse the Bangalow Anglican Church, Development and Construction Application Fees paid, totalling \$630.00 from job number 2341.16 Contributions – Community Facilities.
2. That Council advertise the Section 356 Donation proposed to be made in 1. above.
(Hunter/Woods)

AMENDMENT

12-840 Resolved:

1. That Council reimburse the Bangalow Anglican Church, Development and Construction Application Fees paid, totalling \$630.00 from job number 2341.16 Contributions – Community Facilities.
2. That Council approve the waiving of Durrumbul Hall hiring fees for “*Lock the Road*’ event of 17 November 2012 by the Durrumbul Hall Section 355 Committee.
3. That Council advertise the Section 356 Donation proposed to be made in 1. above.
(Richardson/Dey)

*The amendment was put to the vote and declared carried.
Crs Cubis, Woods and Hunter voted against the amendment.*

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

Report No. 12.14. Investments – September 2012

File No: #E2012/10845

- 12-841 Resolved** that Council receive and note the record of investments for the month of September 2012. (Hunter/Woods)

The motion was put to the vote and declared carried.

PROCEDURAL MOTION

- 12-842 Resolved** that Report No. 12.4. be lifted from the table. (Cameron/Richardson)

The motion was put to the vote and declared carried.

COMMUNITY INFRASTRUCTURE – EXECUTIVE MANAGER’S REPORT

Report No. 12.4. Proposed submission Draft NSW Long Term Transport Master Plan
continued

File No: #E2012/9566

12-843 Resolved:

1. That Council endorse and authorise staff to make the submission as detailed at Annexure 33 (#E20112/12203) with the following amendments, in regard to the Draft NSW Long Term Transport Master Plan.

2. That a new point 1 on page 2 be added (with subsequent alteration to numbering) as follows:

Council, representing the community, notes a fundamental flaw in the transport planning process outlined in the Draft NSW Long Term Transport Master Plan (LTTMP) in that there is no ongoing funding for any significant public transport infrastructure projects in the Northern Rivers prior to or during the term of the LTTMP.

There are also no projects put forward for inclusion in the LTTMP or Regional Transport Plans, only a suggestion that any such infrastructure development projects not be considered until Regional Transport plans are completed. By comparison there are many ongoing projects in the Greater Sydney area that are funded and continuing without a requirement for such projects to be considered by the LTTMP and subsequent Regional Transport Plans.

This represents a gross inequity in application of taxpayer funds for public transport developments and ignores the reality of the Northern Rivers as a growth area, as the fifth largest market for tourism in the nation and our location in what will become the busiest transport corridor in the nation within a few years. Council believes that the LTTMP and Regional Transport Plans should not be used to delay the urgent need for public transport development and calls on the NSW Government to identify funding for priority public transport projects and delivery timelines that are independent of the LTTMP and Regional Transport Plans.

3. That a new point 1 on page 3 be added (with subsequent alteration to numbering) as follows.

The NSW Government immediately identifies equitable funding for priority public transport projects and delivery timelines that are independent of the LTTMP and Regional Transport Plans.

4. That the reference to "1 to 14" in current point 1 on page 3 be changed to "1 to 15).
(Cameron/Richardson)

The motion was put to the vote and declared carried.

CORPORATE MANAGEMENT – EXECUTIVE MANAGER’S REPORT

Report No. 12.17. Public Health Act 2010 and Public Health Regulations 2012
File No: #E2012/10611

12-844 Resolved:

1. That Council note this Report.
2. That information on page 123 line 30(a) read "Proposed application fee be \$100 (maximum permitted under clauses 11, 19, 31)".
3. That Council publicly advertise for 28 days the proposed changes to fees and charges identified in this report and if no submissions are received that the fees and charges be adopted.
(Ibrahim/Cameron)

The motion was put to the vote and declared carried.

PROCEDURAL MOTION

- 12-845 Resolved** that the order of business be changed to deal with Report No. 14.1 followed by 14.2 next on the agenda. (Woods/Hunter)

The motion was put to the vote and declared carried.

COMMUNITY INFRASTRUCTURE - CONFIDENTIAL REPORT

Report No. 14.1. CONFIDENTIAL Extension of Bitumen Spray Sealing Contract 2010-00049

File No: #E2012/6406

12-846 Resolved:

1. That pursuant to Section 10A(2) and (d) of the Local Government Act, 1993, Council resolve into Confidential Session to discuss the following report, namely Extension of Bitumen Spray Sealing Contract 2010-00049.
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 the 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. (Woods/Cameron)

The motion was put to the vote and declared carried.

CONFIDENTIAL SESSION

12-847 Resolved:

1. That Council extend the Bitumen Spray Sealing Contract, 2010-00049, to RPQ Spray Seal Pty Ltd by twelve (12) months to 16 November 2013.
2. That Council makes public its decision including the name of the successful tenderer in accordance with Clause 179(b) of the Local Government (General) Regulation 2005. (Richardson/Woods)

The motion was put to the vote and declared carried.

- 12-848 Resolved** that Council move out of confidential session. (Woods/Cameron)

The motion was put to the vote and declared carried.

CORPORATE MANAGEMENT - CONFIDENTIAL REPORT

Report No. 14.2. CONFIDENTIAL Expressions of Interest Byron Bay Tennis Courts Lease

File No: #DM1260588

12-849 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 the Expression of Interest to lease Byron Bay Tennis Courts and Shed.
2. That the reasons for closing the meeting to the public to consider this item be that the report contains commercial information of a confidential nature, that would if disclosed, prejudice the commercial position of the person who supplied it.
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 proponent responding to the call for expressions of interest and could adversely affect Council's ability to attract competitive offers in the event that fresh expressions of interest are called. (Woods/Cameron)

The motion was put to the vote and declared carried.

CONFIDENTIAL SESSION

Moved:

1. That Council decline to grant a lease to any of the Respondents for the following reasons:
 - a) lack of submission information provided to Councillors;
 - b) lack of information regarding ongoing maintenance requirements;
 - c) lack of finalisation of the Byron Shire Council Sportsfield User Policy.
2. That the draft Byron Shire Council Sports Field User Policy is finalised to establish Council's position for establishing formal management arrangements for tennis court facilities located on Council owned or managed land.
3. That in the interim, Council continues its arrangement with Cavanbah Tennis Club Inc as informal managers of the facility until such time as a formal tenure arrangements are in place in accordance with the new Policy. (Richardson/Spooner)

AMENDMENT

12-850 Resolved:

1. That Council grant a new lease over the property known as Byron Bay Tennis Courts and Shed being part Lot 444 Section 28 DP 758207 to Andrew Bates Tennis based on the call for expression of interest and the draft lease agreement at Annexure 5(b) (#2012/2114) on the following basic conditions:
 - a) Lease term of five years
 - b) A lease fee of \$18,000.00 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 part Lot 444 Section 28 DP 758207 in accordance with Regulation 400 of the *Local Government (General) Regulations 2005*.
3. That Community Land Lease Agreement income budget for Byron Bay Tennis Courts account #1188.001 be pro-rata increased from \$ 5,200 to \$18,000 per annum at the next quarterly budget review.
4. That the Report and Annexures of the closed part of the meeting remain confidential until after such time as a lease is executed. (Cameron/Woods)

*The amendment was put to the vote and declared carried.
Crs Ibrahim, Dey, Richardson and Spooner voted against the amendment.*

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

Crs Ibrahim, Dey, Richardson and Spooner voted against the motion.

12-851 Resolved that Council move out of confidential session. (Richardson/Woods)

The motion was put to the vote and declared carried.

The meeting closed at 6.02pm with the following items being deferred to the Ordinary Meeting of 8 November 2012.

EXECUTIVE MANAGERS' REPORTS

Environment And Planning

- 12.19. Outstanding financial considerations Coastal and Estuary Work Program – New Brighton Beach Scraping Program and Surveying of the Beach Escarpment
- 12.20. Review of Sea Level Rise Planning Benchmarks
- 12.21. PLANNING - Proposed West Byron Voluntary Planning Agreement

Organisational Support

- 12.22. PLANNING – BSC ats Davis LEC 10604/2012
- 12.24. PLANNING - Legal Status Report as at 12 October 2012

Society and Culture

- 12.27. Review of Bundjalung of Byron Bay, Arakwal People's Indigenous Land Use Agreements (ILUA) 1,2 and 3 (response to Resolution 12-339)

Water and Recycling

- 12.29. South Byron STP Site Contamination Investigation

COMMITTEE REPORT

Community Infrastructure

- 13.1. Report of the Local Traffic Committee Meeting held on 3 October 2012
 - 13.1.1. Federal village, proposed speed and bus management measures
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I hereby certify that these are the true and correct Minutes of this Meeting as confirmed at Council's Ordinary Meeting on 8 November 2012.

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Mayor Simon Richardson