



Byron Shire Council



Minutes

Ordinary Meeting
Thursday, 14 February 2013

BYRON SHIRE COUNCIL

Ordinary Meeting Minutes
14 February 2013

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BYRON SHIRE COUNCIL

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14 FEBRUARY 2013 (1 of 20)

MINUTES OF THE BYRON SHIRE COUNCIL ORDINARY MEETING HELD ON THURSDAY, 14 FEBRUARY 2013 COMMENCING AT 10.54AM AND CONCLUDING AT 5.13PM
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#E2013/7493

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: Ken Gainger (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)
Mila Jones/Joylene McNamara (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

There were no declarations of interest.

TABLING OF PECUNIARY INTEREST RETURNS

In accordance with the Local Government Act 1993 Section 450A(2), Section 449(1) First Returns are tabled being received from designated persons.

An amended Return has been received and is tabled at this meeting from a designated person.

ADOPTION OF MINUTES FROM PREVIOUS MEETINGS

13-1 Resolved that the Minutes of the following meetings be confirmed:

- Ordinary Meeting held 20 December 2012
- Byron Shire Reserve Trust Committee Meeting held on 20 December 2012
(Woods/Wanchap)

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

- 13.4. Request for closure of Council Public Road 1 Rifle Range Road, Bangalow
- 13.5. South Golden Beach Flood Pump and Drain Issues

Corporate Management

- 13.6. Councillor attendance at the 2013 Australian Coastal Councils Conference

Environment and Planning

- 13.7. Coastal Update
- 13.10. PLANNING – S96 10.2011.40.2 various design amendments including the reuse of an existing building (Sun Bistro) at Bayshore Drive Byron Bay
- 13.11. PLANNING - Draft Byron LEP 2012 public submissions report and steps to finalise the draft LEP

Organisational Support

- 13.12. Prescribed Model Code of Conduct and Associated Procedures

CONFIDENTIAL REPORTS

Organisational Support

- 14.1. CONFIDENTIAL – Outstanding Legal Costs Matters

The remaining Recommendations were adopted as a whole, being moved by Cr Woods and seconded by Cr Richardson. Each recommendation is recorded with a separate resolution number commencing at Resolution No. 13-2 and concluding with Resolution No. 13-8.

COMMUNITY INFRASTRUCTURE - EXECUTIVE MANAGER'S REPORTS

Report No. 13.1. Natural Lane, Broken Head - Proposed Pavement Works

File No: #E2013/1908

13-2 Resolved:

1. That Council allocate \$10,000 from Section 94 'Expenditure of Heavy Vehicle (Quarry) Haulage Funds on Road Reconstruction and Maintenance' funds for the geotechnical testing and pavement design for the proposed pavement improvements of Natural Lane, Broken Head.
2. That Council allocate \$133,000 from Section 94 'Expenditure of Heavy Vehicle (Quarry) Haulage Funds on Road Reconstruction and Maintenance' funds for the proposed pavement improvements of Natural Lane, Broken Head.
3. That a further report comes back to Council, should the final cost estimates after the pavement testing and designs have been carried out, be greater than the initial estimate of \$133,000 seeking additional funding from 'Expenditure of Heavy Vehicle (Quarry) Haulage Funds on Road Reconstruction and Maintenance'. (Woods/Richardson)

Report No. 13.2. Confirmed Report and Recommendations Wilsons Creek Project Reference Group meeting held 18 December 2012

File No: #E2013/2560

13-3 Resolved:

1. That Council note the Confirmed Report at Annexure 5(a) (#E2012/27146) of Wilsons Creek Project Reference Group (PRG) meeting held on 18 December 2012.
2. That in relation to Agenda item 5.2 – Consideration and confirmation of draft Constitution, Council not adopt PRG Recommendation WC 5.2.1 but instead adopt:

Management Recommendation 5.2.1

That the draft constitution at Annexure 5(c) (#E2012/26103) be adopted with the following amendments:

1. Item 3 is to include the words “unless extended by Council” at the end of the second sentence.
 2. Item 4 is to include an additional bullet point: “Two alternate community members (first Rob Aungle and second Moana Perrot) attend Project Reference Group meetings in the event that any of the appointed community members are unable to attend and that the alternate community members have voting rights when standing in”.
 3. In Item 7, the word “confidential” is to be written with a capital “C”.
 4. Item 17 to be replaced with the following wording: “Media releases and responses will only be released through Council.” (Woods/Richardson)
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Report No. 13.3. Unconfirmed Report Wilsons Creek Project Reference Group meeting held 15 January 2013

File No: #E2013/2564

- 13-4 Resolved** that Council note the Unconfirmed Report at Annexure 6(a) (#E2013/4232) of Wilsons Creek Project Reference Group (PRG) meeting held on 15 January 2013. (Woods/Richardson)
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ENVIRONMENT AND PLANNING – EXECUTIVE MANAGER’S REPORTS

Report No. 13.8. PLANNING – 10.2012.509.1 Boundary adjustment (SEPP 1) between two lots at 711 Bangalow Road Talofa and 58 St Helena Road McLeods Shoot

File No: Parcel No 215870x208110 #A2012/8228

- 13-5 Resolved** that pursuant to Section 80 of the Environmental Planning & Assessment Act 1979, development application 10.2012.509.1 for boundary adjustment between two lots (SEPP 1) be granted consent subject to the conditions listed in Annexure 4(c) #E2013/3378. (Woods/Richardson)

The motion was put to the vote and declared carried.

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

No Councillors voted against the motion.

Report No. 13.9. PLANNING – 10.2012.5121 Subdivision (Boundary Adjustment) SEPP 1 at 60 Bougainvillea Drive and 216 Kings Road, Federal

File No: Parcel No 137040x116340/#A2012/8545

- 13-6 Resolved** that pursuant to Section 80 of the Environmental Planning & Assessment Act 1979, development application 10.2012.512.1 for Subdivision (boundary adjustment between two lots), be granted consent subject to conditions listed in Annexure 10(b) #E2013/4310. (Woods/Richardson)

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.

Report No. 13.13. PLANNING - Legal Status Report as at 25 January 2013

File No: #E2013/691

- 13-7 Resolved** that this report be noted. (Woods/Richardson)

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 REPORT

Report No. 13.14. Proposed Fees and Charges Exhibition Space at the Byron Bay Library

File No: #E2013/1517

- 13-8 Resolved:**
1. That Council acknowledge the submissions received during the public exhibition period for the draft Fees and Charges for the Exhibition Space at the Byron Bay Library.
 2. That Council adopt the revised fees and charges for the Exhibition Space at the Byron Bay Library (#E2013/3020).
 3. That Council note that the fees and charges for 2013/14 for the Exhibition Space at the Byron Bay Library will be included in Council's annual Budget/Fees and Charges preparations. (Woods/Richardson)
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PROCEDURAL MOTION

- 13-9 Resolved** that the order of business be changed to deal with items discussed during Public Access, those being 13.10, 13.5, 10.1, 8.1, 8.2, 13.12, 14.1, 8.4, 13.7, 13.11 and 9.1 next on the Agenda. (Woods/Dey)
-

The motion was put to the vote and declared carried.

ITEMS RESERVED FOR DEBATE

ENVIRONMENT AND PLANNING – EXECUTIVE MANAGER’S REPORTS

Report No. 13.10. PLANNING – S96 10.2011.40.2 Various design amendments including the re-use of an existing building (Sun Bistro) at Bayshore Drive Byron Bay

File No: Parcel No 109900/#A2012/6846

Moved: That pursuant to Section 96 of the Environmental Planning & Assessment Act 1979, development application 10.2011.40.2 for design modifications including the re-use of a relocated building (Sun Bistro), be approved by modifying development consent 10.2011.40.1 as listed in Annexure 9(c) #E2013/4290. (Cameron/Woods)

PROCEDURAL MOTION

13-10 Resolved that the matter rest on the table. (Cameron/Dey)

The motion was put to the vote and declared carried.

COMMUNITY INFRASTRUCTURE – EXECUTIVE MANAGER’S REPORTS

Report No. 13.5. South Golden Beach Flood Pump and Drain Issues

File No: #E2013/289

13-11 Resolved:

1. That Council reallocate the following funds (\$145,000) for the construction of approximately 75m of 1200 x 900 box culvert and open drain above the culvert at the western end of the east-west drain leading to the South Golden Beach Flood Pump, together with the rectification of subsidence and erosion issues at this location being:
 - a) \$56,545.72 from Pre-Plan Section 94 Drainage funds from Byron Bay, Suffolk Park and Brunswick Heads;
 - b) \$35,000 from Drainage (North) Maintenance funds; and
 - c) \$53,455 from Infrastructure Levy reserves.
 2. That, to enable mowing and maintenance by adjacent property owners, the following details be included in the construction:
 - a) a new course of block-work to be added at the western 20m or so of the southern wall and the wire fence there relocated onto the top of the wall;
 - b) removal of the black pool-fence over the existing 900mm diameter pipe; and
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- c) entrances for other owners of adjacent properties be considered in consultation with those owners.

3. That Council facilitate a meeting with affected neighbours. (Dey/Richardson)

The motion was put to the vote and declared carried.

PETITION

Correspondence and Petitions No. 10.1. Pine Avenue - Resealing
#E2013/1565

13-12 Resolved:

1. That the petition regarding Pine Avenue – Resealing be noted.
2. That the petition be referred to the Executive Manager Community Infrastructure for information.
3. That the matter be referred to the Community Infrastructure Advisory Committee. (Richardson/Cameron)

The motion was put to the vote and declared carried.

NOTICES OF MOTION

Notice of Motion No. 8.1. Tow Away Areas
#E2013/4553

13-13 Resolved:

1. That Staff write to the appropriate State government departments, including to the local member, requesting that Council be granted powers usually afforded to the Police within the Road Transport (Safety and Traffic Management) Regulation 1999 clause 149. That these powers be those comparable to those already granted to the City of Sydney and in particular, during major entertainment and holiday periods.
2. That staff provide Council with the list of high use problem areas already identified.
3. That Council request that the identification of high use problem areas be considered at the next new Byron Bay Community Consultation forum for discussion. (Woods/Cubis)

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

FORESHADOWED MOTION

Moved: That staff provide advice on the options for paid parking during peak times eg main events Splendour, Blues Fest and New Year's Eve. (Woods/Cubis)

The motion was put to the vote and declared lost.

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

Notice of Motion No. 8.2. Review of E Zone Procedures

#E2013/5405

13-14 Resolved that Council contact all affected landowners by mail upon clarification from the Minister or during the second exhibition period regarding E Zones (ie E2 E3 E4) and inform them of the following:

1. Current zoning
2. List of permitted uses with and without consent under the current zoning
3. Proposed future zoning, including split zones, with a map
4. List of permitted uses with and without consent under the proposed zoning
5. Any proposed overlays or similar covenants
6. Limitations of existing use rights

Items 2, 4 and 6 could be in a document covering all such affected landholders. Items 1, 3 and 5 are specific to each parcel. (Woods/Cubis)

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

FORESHADOWED MOTION

13-15 Resolved that Council advise the Minister Brad Hazzard that it believes that Parsons Brinckerhof has a conflict of interest as independent assessors of Byron Shire's proposed E2, E3 and E4 Zonings as they were Council's paid consultant (\$100,000 plus) who developed Byron Shire's Local Environment Study. (Woods/Cubis)

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

ORGANISATIONAL SUPPORT - EXECUTIVE MANAGER'S REPORT

Report No. 13.12. Prescribed Model Code of Conduct and Associated Procedures

File No: #E2013/4320

13-16 Resolved that Council:

1. Note the advice of the Division of Local Government that amendments to the Local Government Act 1993 and Local Government (General) Regulations 2005 will come into effect as at 1 March 2013 and their direction to Council that it update its Code of Conduct and associated procedures.
 2. Adopt Policy "Code of Conduct" (#E2013/4326) to commence 1 March 2013, in compliance with s440 of the Local Government Act 1993.
 3. Adopt policy "Procedures for Administration of the Code of Conduct" (E2013/4582) to commence 1 March 2013, in compliance with s440AA of the Local Government 1993 as amended.
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4. Revoke the "Conduct Review Committee Constitution" (#DM850115).
5. Confirm the current membership of Council's panel of conduct reviewers to continue until such time as a panel is reconvened in accordance with Council's new Procedures for the Administration of the Code of Conduct.
6. Request a further report on the selection process for a panel of conduct reviewers under Council's new Procedures for the Administration of the Code of Conduct and the potential for sharing with other Councils, a panel of conduct reviewers.
7. That upon adoption, both Policies, "Code of Conduct" and "Procedures for Administration of the Code of Conduct" be placed on public exhibition for a period of 28 days and if there are any submissions, the Policy be brought back to Council. (Woods/Cubis)

The motion was put to the vote and declared carried.

PROCEDURAL MOTION

- 13-17 Resolved** that the order of business be changed to deal with Report No. 14.1 after Report No. 13.11. (Woods/Cubis)

The motion was put to the vote and declared carried.

NOTICE OF MOTION

Notice of Motion No. 8.4. Joining Bike and Pedestrian Paths - Suffolk Park
#E2013/5810

13-18 Resolved:

1. That a workshop be held with Councillors to review the Council's 2008 Bike Plan and to develop a priority list for works.
2. That this workshop be undertaken by April 2013, and during a Strategic Planning Committee meeting including options to link beach side Suffolk Park to Broken Head Road.
3. That regarding potential bike path implementation of Suffolk Park cycleways, the Suffolk Park Progress Association be invited to supply surveys, preferred routes and designs for consideration.
4. That staff clarify the nature and location of the public access through Beach Break development that links with Kalamajere Avenue and that this access be cleared for public use. (Cubis/Richardson)

The motion was put to the vote and declared carried.

The meeting adjourned at 12.28pm for lunch and reconvened at 1.10pm.

PROCEDURAL MOTION

- 13-19 Resolved** that Report No. 13.10 be lifted off the table. (Richardson/Cubis)

The motion was put to the vote and declared carried.

ENVIRONMENT AND PLANNING – EXECUTIVE MANAGER’S REPORTS

Report No. 13.10. PLANNING – S96 10.2011.40.2 Various design amendments including the re-use of an existing building (Sun Bistro) at Bayshore Drive Byron Bay

File No: Parcel No 109900 #A2012/6846

13-20 Resolved that pursuant to Section 96 of the Environmental Planning & Assessment Act 1979, development application 10.2011.40.2 for design modifications including the re-use of a relocated building (Sun Bistro), be approved by modifying development consent 10.2011.40.1 as listed in Annexure 9(c) #E2013/4290 and including the following new condition:

- 24(a) The signage illumination is to be limited to the hours of operation of the Bistro
(Cameron/Woods)

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.

FORESHADOWED MOTION

Moved:

1. That Council write to the Office of Liquor, Gaming and Racing to request that a Community Impact Statement be required for the Licence application for this development, if not already approved.
2. That, noting the high level of community interest in this development, Council write to the land owner requesting that they not relocate the building before obtaining the Licence, in case the Licence application fails.
(Cameron/Dey)

The motion was put to the vote and declared lost.

Crs Dey, Cameron, Wanchap and Spooner voted in favour of the motion.

Crs Ibrahim, Cubis, Woods, Richardson and Hunter voted against the motion.

Report No. 13.7. Coastal Update

File No: #E2013/3559

13-21 Resolved that Council note:

1. That resolution 06-721, which applied to the preparation of the Draft Byron Shire Coastal Zone Management Plan (2010) does not apply to the preparation of the draft Coastal Zone Management Plan for the Byron Bay Embayment which is being prepared in accordance with resolutions 11-276 and 11-634.
 2. That the ‘management options evaluation’ stage of preparing the draft Coastal Zone Management Plan for the Byron Bay Embayment will include consideration of a range of potential actions to manage the risks from coastal hazards, including but not limited to: building and infrastructure setbacks (planning and development controls), coastal
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- protection works (short-term or long-term), beach nourishment and emergency management, as detailed in Table 3 of the statutory 'Guidelines for Preparing Coastal Zone Management Plans' (DECCW 2010).
3. That representations have been made by private landowners with respect to the implementation of protective coastal management actions in the Byron Bay Embayment, these private landowners have been advised that Council will determine its strategy for managing the risks from coastal hazards in the Byron Bay Embayment as part of the coastal zone management plan process.
 4. That staff prepare a report providing Council information regarding:
 - a) Council initiated Development Applications for interim coastal protection works (utilising rocks) within the Belongil 7(f1) & 7(f2) coastal zones under the provisions of Section 39(3) of the Coastal Protection Act.
 - b) Factors to be considered within a Review of Environmental Effects, and any specific issues which are likely to be a barrier to the use of rock revetment protection.
 - c) Application to the Coastal Panel under s129 of the Infrastructure SEPP for rock revetment protection works as an interim coastal protection measure subject to completion of our Coastal Zone Management Plan.
 5. That Council urgently secures all suitable rocks available at the Ewingsdale highway site for future use in protection works (estuary, coastal, waterways, road works and the like) conditional on existing budget allocations or alternately report back to Council on potential fund sources. (Ibrahim/Wanchap)

AMENDMENT

Moved:

1. That Council note:
 - a) That resolution 06-721, which applied to the preparation of the Draft Byron Shire Coastal Zone Management Plan (2010) does not apply to the preparation of the draft Coastal Zone Management Plan for the Byron Bay Embayment which is being prepared in accordance with resolutions 11-276 and 11-634.
 - b) That the 'management options evaluation' stage of preparing the draft Coastal Zone Management Plan for the Byron Bay Embayment will include consideration of a range of potential actions to manage the risks from coastal hazards, including but not limited to: building and infrastructure setbacks (planning and development controls), coastal protection works (short-term or long-term), beach nourishment and emergency management, as detailed in Table 3 of the statutory 'Guidelines for Preparing Coastal Zone Management Plans' (DECCW 2010).
 - c) That representations have been made by private landowners with respect to the implementation of protective coastal management actions in the Byron Bay Embayment, these private landowners have been advised that Council will determine its strategy for managing the risks from coastal hazards in the Byron Bay Embayment as part of the coastal zone management plan process.
2. That in relation to the temporary beach access works at Border, Don and Manfred Street sites at Belongil, Council:

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- a) resolve to request a report on the potential for use of rock or other hard materials as temporary works at those sites, with the report to include information on:
 - i) the level of financial contribution and indemnity that individual landowners have confirmed that they prepared to make with regard to construction and ongoing maintenance of any alternative temporary works;
 - ii) relevant approval processes and statutory requirements;
 - iii) any financial, legal and risk implications.

- b) Council reconfirm:
 - i) that there is currently nothing preventing private landowners at Belongil, or anywhere else in the Shire, from lodging development applications for permanent or temporary coastal protection works of any type or design;
 - ii) Council again encourages landowners to pursue the options that are available to them to seek development consent to carry out, fund and maintain their own private works;
 - iii) Council reconfirm that the current 'coastal litigation' (by which various Belongil landowners are suing Council for a variety of claims) is a factor that must not be taken into consideration when it is making decisions in many of its different capacities, for example the litigation is an irrelevant consideration which will not influence the decisions Council makes as a planning or consent authority.

- c) Council reconfirm that it is committed to preparation of a Coastal Zone Management for the Byron Bay Embayment (CZMP (BBE)) pursuant to the statutory requirements, for example under the Coastal Protection Act, and in particular Council confirms that:
 - i) to prepare its draft CZMP (BBE), Council will follow all the processes required by the Coastal Protection Act;
 - ii) Council cannot and will not predetermine the outcome of those processes or the content of the CZMP (BBE);
 - iii) nothing Council does at any time up to adoption of the CZMP (BBE) can be interpreted as a representation as to what policy position Council may take in relation to coastal zone management on any part of the coastline at any time in the future. (Richardson/Dey)

The amendment was put to the vote and declared lost.

Crs Ibrahim, Cubis, Woods, Wanchap and Hunter voted against the amendment.

The motion was put to the vote and declared carried.

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

PROCEDURAL MOTION

- 13-22 Resolved** that Council change the order of business to deal with Report 9.1 next on the Agenda. (Woods/Cubis)

The motion was put to the vote and declared carried.

NOTICE OF RESCISSION MOTION

Notice of Rescission Motion No. 9.1. Crown Holiday Parks administered by North Coast Accommodation Services

#E2012/28378

- 13-23 Resolved** that Council rescind Resolution 12-947 from its Ordinary meeting held on 6 December 2012 which reads as follows:

12-947 Resolved:

1. That Council receive and note this Report.
2. That Council confirm that there has been a constructive effort to consult with North Coast Accommodation Trust as to the conditions of approval imposed by Resolution 12-627, noting Council's correspondence dated 20 August 2012 and 23 October 2012 and the meeting between representatives of the NCAT and Council held on 12 November 2012.
3. That Council confirm that it has considered the implications of the conditions of approval imposed by Resolution 12-627 on the current operation of the Holiday Parks and that following that consideration:
 - a) supports the previously required fore-shore buffer zones being integrated within the NCHP Plans of Management.
 - b) notes the community view and reaffirms the terms and effect of Resolution 12-627 particularly that the foreshore area of each park must remain in public hands for unimpeded public access.
 - c) accepts that in implementing the resolution where foreshore access is limited by encroachment of Caravan Park infrastructure, including private vans, the relocation of that infrastructure should be planned now but executed as and when the long-term permanent resident vacates or chooses to relocate to an alternative suitable site within the park (ie residents personally occupying a permanent site as of Parks hand-over date in 2007 should remain undisturbed and their structure be relocated on their leaving the site, or before if the resident so asks, at Parks expense).
 - d) That Council's licensing conditions as per Resolution 12-627 of 9 August 2012 is amended to include:
 - i) Part Lot 7005 – The operational boundary of the caravan park is to be aligned with the existing picket fence on the western side of Massy Greene adjoining site 88 through to the high water mark.
4. That Council advise the Division of Local Government in terms of 2 and 3 above.
5. That Council advise the North Coast Accommodation Trust and the Division of Local Government of its preference to also extend public foreshore area to retain the land north of the old Fin's Building adjoining Part Lot 102 DP 851964 so as to integrate the foreshore into that RTA foreshore pathway. This land is the northern part of DP 804961.
6. That Council requests the North Coast Accommodation Trust and the Division of Local Government defer the development within the foreshore parklands known as the Terrace and Banner Park, pending further consultation with stakeholders, Council and NCAT/NCHP. These parklands are Part of Lot 416 DP728666.

(Richardson/Cubis)
(Richardson/Spooner)

The motion was put to the vote and declared carried.

13-24 Resolved that Cr Woods be granted a two minute extension of time to her speech.

(Richardson/Ibrahim)

The motion was put to the vote and declared carried.

13-25 Resolved:

1. That Council receive and note this Report.
2. That Council confirm that there has been a constructive effort to consult with North Coast Accommodation Trust as to the conditions of approval imposed by Resolution 12-627, noting Council's correspondence dated 20 August 2012 and 23 October 2012 and the

meeting between representatives of the NCAT and Council held on 12 November 2012.

3. That Council confirm that it has considered the implications of the conditions of approval imposed by Resolution 12-627 on the current operation of the Holiday Parks and that following that consideration:
 - a) supports the previously required foreshore buffer zones being integrated within the NCHP Plans of Management.
 - b) notes the community view and reaffirms the terms and effect of Resolution 12-627 particularly that the foreshore area of each park must remain in public hands for unimpeded public access.
 - c) requires that within three years, Park Management implements a 3m foreshore buffer zone in Terrace Park. For all parks, all foreshore buffer zones are to remain outside the operational area of the caravan parks for public use and all caravan park infrastructure, including permanent sites are to be relocated, with a minimum 10m building setback from the riverbank at NCHP's expense. All buffer and setback measurements are to be taken from the top of the riverbank and will be reviewed periodically. Alternate accommodation is to be provided ON A SITE IN THE SAME PARK for long term residents whose vans cannot be relocated or fails to comply with current legislation.
All short term sites and camp sites are required to maintain a minimum 3m setback from foreshore buffer zone boundary in all caravan parks. New Plans of Management are to retain approx 30% sites for permanent residents in all caravan parks and precincts considered for long term sites. All new license conditions are required to be included in Plans of Managements.
 - d) that Council's licensing conditions as per Resolution 12-627 is amended to include Part Lot 7005 – The operational boundary of the caravan park is to be aligned with the existing picket fence on the western side of Massey Greene adjoining site 88 through to the high water mark.
4. That Council advise the Division of Local Government in terms of 2 and 3 above.
5. That Council advise the North Coast Accommodation Trust and the Division of Local Government of its preference to:
 - a) extend public foreshore area to retain the land north of the old Fin's Building adjoining Part Lot 102 DP 851964 so as to integrate the foreshore into that RTA foreshore pathway. This land is the northern part of DP 804961.
 - b) support NCHP's requests for the inclusion of additional lands (Old Pacific Hwy & Fins Building) within Ferry Holiday Park.
6. That Council requests the North Coast Accommodation Trust and the Division of Local Government defer the development within the foreshore parklands known as the Terrace and Banner Park, pending further consultation with stakeholders, Council and NCAT/NCHP. These parklands are Part of Lot 416 DP728666.
7. That Council reiterates the need to ensure the protection and appropriate management of all native vegetation including the stand of cypress pines within the Terrace Park to standards in accordance with applicable legislation.
8. That Council reiterates the need to retain and appropriately sign public vehicular access to the public boat ramp at Ferry Reserve. (Richardson/Dey)

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

ENVIRONMENT AND PLANNING – EXECUTIVE MANAGER’S REPORT

Report No. 13.11. PLANNING - Draft Byron LEP 2012 public submissions report and steps to finalise the draft LEP

File No: #E2013/1687

13-26 Resolved:

1. That Council note the Draft Byron LEP 2012 Consultation Report as attached in Annexure 13(a) (#E2013/6532).
2. That Council adopt the process to complete the draft Byron LEP 2012 as per Table 1 of this report as amended to include investigation, ground truthing (as appropriate) and responding to submissions where mapping errors are noted.
3. That Council, prior to formal consideration of the Minister's report on 'Northern Councils E-Zones Review', hold a workshop between Council staff, Councillors and the participants of the Environmental Values on Rural Lands Workshop as per Council resolution 12-1001, Part 5:

That Council involve representatives from the rural and environmental organisations that attended this workshop in future discussion/ consultation activities with Council as Council further considers the findings of the Ministerial Review and how this will inform the draft Byron LEP.

4. That staff convene a meeting with Councillors, local planning consultants, agriculture representatives, tourism and environmental representatives to consider planning strategy issues in the LEP and future planning in the Shire, made up of the following:
 - 9 councillors
 - Relevant senior staff
 - 6 local planning consultants
 - 3 agriculture
 - 3 tourism
 - 3 environmental (Hunter/Woods)

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.

ORGANISATIONAL SUPPORT - CONFIDENTIAL REPORT

Report No. 14.1. CONFIDENTIAL – Outstanding Legal Costs Matters

File No: #E2012/24694

13-27 Resolved:

1. That pursuant to Section 10A(2)(b) and 10A(2)(c) of the Local Government Act, 1993, Council resolve into Confidential Session to discuss the following report, namely

Outstanding Legal Costs Matters.

2. That the reasons for closing the meeting to the public to consider this item be that the report contains:
 - (a) information concerning financial circumstances of individual residents and/or ratepayers;
 - (b) information which if disclosed could confer a commercial advantage on debtors against whom Council may resolve to attempt to recover debts.
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 Council in future debt recovery action and proceedings. (Dey/Woods)

CONFIDENTIAL SESSION

13-28 Resolved that Council consider the nine reports separately. (Dey/Richardson)

The motion was put to the vote and declared carried.

Moved: That the vote be recommitted.

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

13-29 Resolved:

1. That Council note that recovery of the balance of the fine owed by Edward Hutton (current balance \$36,986.28) arising from proceedings LEC 40262/02 continues to be pursued by the State Debt Recovery Office and that no further action is required from staff or Council, saving for accounting for any payments made towards the fine.
2. That Council, pursuant to clause 213(5)(c) of the Local Government (General) Regulations 2005, write off the costs order debt (\$18,308.27 including recovery costs and some interest) owed by Michael Fletcher arising from proceedings LEC 50035/05 due to all avenues for recovery having been exhausted.
3. That Council note that further recovery of \$20,000 fine owed by Michael Fletcher arising from proceedings LEC 50035/02 is being pursued by the State Debt Recovery Office and that no further action is required from staff or Council, save for accounting for any payments that may be made towards the fine.
4. That Council, pursuant to clause 213(5)(c) of the Local Government (General) Regulations 2005, write off the \$7,000 debt owed by Chris Lonergan and Associates for a costs order issued in LEC 10450/2002 due to that particular trading entity having ceased and all avenues for recovery against other entities having been exhausted.
5. That Council note that recovery of the balance of the \$21,000 debt (being approximately \$3,400 as at November 2012) owed to Council pursuant to Court Orders issued in LEC 41428/09 is continuing and will do so until the debt and associated additional costs and interest have been paid in full.
6. That Council resolve to expend no further resources on assessment or attempted recovery of the unfixed costs order against arising from proceedings BSC v Vos LEC 50128/98.

BYRON SHIRE COUNCIL

ORDINARY MEETING MINUTES

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7. That for the Vaughan/Dansar debts (arising in SC 30051/02, LEC 10683/01 and related cases) Council wait for completion of the Supreme Court proceedings before seeking legal advice on debt recovery.
8. That Council note the information in the report regarding the unfixed costs orders arising in the BSC v Wain and BSC v Wengarin Pty Ltd LEC 50116/1998 and 50119/1998 and that the debt remains outstanding.
9. That Council note, in the one outstanding matter where costs were awarded against Council, in the matters BSC v Vaughan LEC 30164/97, 40596/99 and 40428/01, that the maximum amount of Council's theoretical liability for disbursements is \$14,715.03 but that Council is not required to pay any amount unless proof of the claimed expenditure is produced and that no further action is required of Council.
10. That Council resolve that the report of the closed part of the meeting remain confidential until all costs matters referred to in the report have been finalised. (Dey/Woods)

The motion was put to the vote and declared carried.

13-30 Resolved that the meeting move out of confidential session. (Woods/Cameron)

The motion was put to the vote and declared carried.

MAYORAL MINUTE

Storm Event: January 2013

13-31 Resolved:

1. That Council wholeheartedly thank staff for meritorious efforts during the recent storm event and landslip occurrences.
2. That a workshop be convened at the earliest convenience for the reappraisal and further development of disaster and severe disruption response processes and protocols.
3. That Council write to Justine Elliot MP, requesting that the area be declared a Federal Disaster Area to enable applications for Commonwealth disaster assistance for affected residents, particularly those affected by recent landslip events.
4. That a letter be provided to affected residents outlining the scope and nature of the Upper Coopers Creek and Wanganui road landslips, in order to assist residents with insurance matters. (Richardson)

The motion was put to the vote and declared carried.

NOTICE OF MOTION

Notice of Motion No. 8.3. Sponsorship support for 'The Economics of Happiness Conference 2013', 15-17 March to be held in Byron Bay.

#E2013/5882

13-32 Resolved:

1. That Council sponsors "The Economics of Happiness Conference 2013" by promoting the event across Council's print and internet communication platforms.

2. That staff negotiate with the organisers of the event to include sponsorship, in particular the use of Council's logo, in marketing or advertising across the events promotional material and during the event. This is to occur in accordance of the relevant policy (11/002). (Richardson/Wanchap)

The motion was put to the vote and declared carried.

PETITION

Correspondence and Petitions No. 10.2. Fair and Equitable Resolution of DA 10.2012.225.1

#E2013/1569

- 13-33 Resolved** that the petition regarding Fair and Equitable Resolution of DA 10.2012.225 be noted. (Richardson/Woods)

The motion was put to the vote and declared carried.

DELEGATES' REPORTS

1. VIA Byron

Cr Cubis provided a verbal report on VIA Byron and their launch in particular to some of the public interest, which was that their \$160,000 campaign was targeting 35yr+ and it was most definitely for VIA Byron to push tourism across the Shire not just in Byron Bay.

2. Brunswick Heads Chamber of Commerce

Cr Woods attended Brunswick Heads Chamber of Commerce meeting and advised as follows:

Cameron Arnold was also in attendance who spoke about "To Brunswick" and making sure they felt they were included as does Ocean Shores. The fact that the \$160,000 campaign requires \$80,000 from business community to actually get it across the line so if they don't get the \$80,000 then they won't have the \$80,000 from the Government. He did impart some very interesting information to me last night and he said that he was really concerned about the nature of the visitors to Byron at the moment and that we are getting a lot of young people from Sydney, and I don't think I'm being terrible when I say this – they're different to what we have had before, there are a lot of men, young men on steroids and he said he is quite concerned about what's going on about the feel of the kinds of visitors we are getting, so I guess what I'm looking for is for that discussion to occur with VIA Byron and the community forum, we really want to try hard and lift the tone of Byron and it worries me that he said that last night – I mean here is a guy that is right across tourism and it worried me that he said he was concerned. He is part of VIA Byron and is part of a lot of tourism groups and said they are coming here and causing trouble.

3. Far North Coast Weeds

Cr Cameron advised the following:

In 2012 County Councils recognised their excellence and the Chair went down to receive a state wide award for excellence and more recently, the three counties together as you probably know, Rous, Far North Coast and Richmond River were all managed together on a cooperative basis across the region and now are being looked at as a model for best

practice particularly with regard to IP&R reporting, something that consumes a lot of resources as we know for us as well, and I think that is a great tick for us across the region. We are all waiting of course to find out what is going to happen with the 2036 Agenda but we can point to some really good examples of regional cooperation and high level best practice.

4. Local Emergency Management Committee

Cr Cameron advised the following:

I have been really impressed with the way that is operating and I agree with the Mayor that we can look at what we can do better. The one thing that has probably really stuck out for me is that while we are often very well co-ordinated at that level amongst agencies, our response is delayed by our ability to get that on-the-ground information. If we don't actually know what is happening on the ground then we don't know how people are affected quickly enough and then it is very hard to respond even though people might be well co-ordinated.

5. Mullumbimby Chamber of Commerce

Cr Cameron advised the following:

It's continuing to build, coming off a very low base – it really is, it just didn't exist 2 years ago – it had floundered completely. It seems to me that it's getting going again because its not operating purely as a business group, it is operating as a business and community group. At least half the members are community type organisations like community gardens, museum, keep it local mob and that is really refreshing and together they are planning on having a festival later in the year around early September which will help kick things along. The group has also joined VIA Byron and have developed their own branding and community identity in the same way that Byron Shire has going for Magical Mullum but they are also developing their own branding for the Chamber.

6. Local Traffic Committee Meeting

Cr Dey advised that:

Within the Local Traffic Committee Meeting a week ago, I raised the issue of the taxi rank in Byron because the police and I have just been looking through the email provided where Cr Cubis asks for the three letters from the police and they have asked explicitly that the taxi rank be moved south to separate two communities – one that is waiting for taxis and one that is digesting a pie in Jonson Street. I took that to the traffic committee – it wasn't well received by the other delegates, the RMS and the police officer who was there at the time. Those two have since met with other people in their organisations and have reneged and should be supported. What will happen is that report will come to us at our next meeting here, and from that, I will try to launch the idea that we actually commence the process of moving the taxi rank – its not about moving the signs as such. You have to go through a process of investigating where it is to go and if it is going outside somebody's property it has to be investigated, so there is quite a few processes that would have been launched from the Local Traffic Committee last week. We can launch them here from Council because it is our staff that carries them out (I think), so that we can take a report then to the Local Traffic Committee meeting in April and get the taxi rank moved say by the middle of the year so that will not only help the issue but also greatly appease the police. That inter relates with the Byron Liquor Accord.

7. Byron Liquor Accord

Cr Dey advised that:

The Byron Liquor Accord met last week. Cr Spooner and I were there and that was one of the issues that was raised again and there has been a bit of press about how long it is taking to get it done but I hope that we will get it done by the middle of the year with Councillor support.

8. Mullumbimby Showground Trust

Cr Dey advised that:

I am also on the Showground Trust and am the Deputy delegate, Cr Woods is the main delegate and that met on Monday. Had the meeting interrupted by helicopter flights but the main meeting that was going on was the Showground is creating a Plan of Management so the trust has commissioned people to create a plan of management for the Showground in Mullumbimby which means we will find out what is going on and find out what people want to happen. One of the things that the Trust wants to happen is to have primitive camping at the showground here but that would be quite a change in favour of goings on and we will be able to look at all that in due course later in the year.

9. Arakwal National Park Management Committee

Cr Wanchap advised:

I'm on the Arakwal National Park Management Committee and quite enjoying it actually. I was at loggerheads with them for many years because of their aerial spraying of the Cape but we haven't gotten around to that yet but I am keeping that up my sleeve.

We did go for a walk along a tick track through from the Kings Beach car park through to the beach which was very interesting. They are having an open day on Saturday, an information day at the Broken Head Park to tell people about what they are doing. There is quite a bit of contention that is building now about the carpark being closed and there is a report now, a draft Plan report for the management of Broken Head which is now on display and I guess that I recommend that people go and have a look at it to see what is going to happen once they close that carpark up there. Already there is quite a bit of danger caused by cars parking all the way along Seven Mile Beach Road and if they close the carpark it may question the ability of service cars and trucks to get through if there is a fire. The management plan of Broken Head is on display now on the National Parks website to have a look at. There is a beautiful track that goes through which they made me climb through all these obstacles along the ridge which they are going to open which means you would be able to access Kings Beach by walking along this track.

COMMUNITY INFRASTRUCTURE – EXECUTIVE MANAGER’S REPORT

Report No. 13.4. Request for closure of Council Public Road 1 Rifle Range Road, Bangalow

File No: #E2013/4477

13-34 Resolved that Council does not proceed with the closure of Council public road, 1 Rifle Range Road, Bangalow due to future possible expansion of transport links, bus stops, pedestrian safety and cycleways. (Cameron/Wanchap)

The motion was put to the vote and declared carried.

CORPORATE MANAGEMENT - EXECUTIVE MANAGER'S REPORT

Report No. 13.6. Councillor attendance at the 2013 Australian Coastal Councils Conference

File No: #E2012/26220

13-35 Resolved that Council appoint Crs Wanchap and Richardson as delegates to attend the 2013 Australian Coastal Councils Conference to be held 25 to 27 March 2013. (Wanchap/Richardson)

The motion was put to the vote and declared carried.

PROCEDURAL MOTION

The Mayor considered the matter arising in relation to Wilsons Creek Road Repair and ruled it a matter of great urgency.

13-36 Resolved that the business be dealt with at the meeting. (Dey/Cameron)

The motion was put to the vote and declared carried.

Matter of Urgency – Wilsons Creek Road Repair

13-37 Resolved:

1. That Council maintain its commitment to the rock buttress option but, in recognition that the micropile option may have equal or superior merit, staff investigate the micropile option which was presented by Coffeys Geotech in January 2013 (#E2013/4001), including cost, time, feasibility, environmental impact and community benefit; and
2. That subject to the micropile option being found the more advantageous option, Council defer action on Resolution 12- 1029 and develop the micropile option. (Dey/Cameron)

The motion was put to the vote and declared carried.

There being no further business the meeting concluded at 5.13pm.

I hereby certify that these are the true and correct Minutes of this Meeting as confirmed at Council's Ordinary Meeting on 28 February 2013.

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Mayor Simon Richardson