



# Byron Shire Council



## Minutes

Ordinary Meeting  
Thursday, 13 June 2013

# BYRON SHIRE COUNCIL

Ordinary Meeting Minutes  
13 June 2013

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# BYRON SHIRE COUNCIL

ORDINARY MEETING MINUTES

13 JUNE 2013 (1 of 23)

<b>MINUTES OF THE BYRON SHIRE COUNCIL ORDINARY MEETING HELD ON THURSDAY, 13 JUNE 2013 COMMENCING AT 10.37AM AND CONCLUDING AT 5.59PM</b>
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#E2013/35655

PRESENT: Cr S Richardson (Mayor), Cr B Cameron, Cr C Cubis (arrived at 3.17pm),  
Cr D Dey, Cr A Hunter, Cr S Ibrahim, Cr P Spooner and Cr D Woods

Staff: Ken Gainger (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)  
Peter Rees (Manager Operations Water) (part attendance)  
Joylene McNamara/Mila Jones (Minute Taker)

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

APOLOGIES:

There was an apology received from Cr Wanchap.

**13-257 Resolved** that the apology from Cr Wanchap be accepted and leave of absence granted.  
(Woods/Dey)

*The motion was put to the vote and declared carried.*

REQUESTS FOR LEAVE OF ABSENCE

There were no requests for leave of absence.

DECLARATIONS OF INTEREST – PECUNIARY AND NON-PECUNIARY

*Cr Spooner declared a pecuniary interest in Report No. 12.11. The nature of the interest being that his employer, Byron Bay Community Association, is applying for an Artisan Market Licence for Railway Park.*

*Crs Hunter, Cameron and Dey declared a special disclosure of interest under sections 451(4) and (5) in Reports 12.19 and 12.21.*

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## TABLING OF PECUNIARY INTEREST RETURNS

*There were no Pecuniary Interest Returns tabled.*

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## ADOPTION OF MINUTES FROM PREVIOUS MEETINGS

**13-258 Resolved** that the Minutes of the following meetings be confirmed:

- Strategic Planning Committee Meeting held on 28 March 2013
- Ordinary Meeting held on 9 May 2013 (Richardson/Hunter)

*The motion was put to the vote and declared carried.*

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**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. Review of Council Delegations
- 12.2. General Manager's Performance Review Committee

**EXECUTIVE MANAGERS' REPORTS**

**Community Infrastructure**

- 12.3. 2012/13 Community Infrastructure Budget Review
- 12.6. Whian Road - Proposed Works
- 12.7. Byron Regional Sport and Cultural Complex Section 355 Management Committee – Community Member Nominations

**Corporate Management**

- 12.8. Review of Policy 5.39 Motor Vehicles on Beaches
- 12.10. Markets Licences - Community Land
- 12.11. Market Licence - Artisan Market on Railway Park

**Environment and Planning**

- 12.17. Biodiversity and Sustainability Advisory Committee - Expressions of Interest for Community Membership
- 12.18. PLANNING – Planning Proposal for an amendment to the draft LEP 2012 to rezone land and permit additional uses at Lot 101 DP 1140936, Ewingsdale Road, Ewingsdale
- 12.19. PLANNING - Draft Byron LEP 2012 Submissions Analysis - Rural Zones and Controls
- 12.20. PLANNING - 10.2012.583.1 13-17 Centennial Circuit Byron Bay
- 12.21. PLANNING - Draft Byron LEP 2012 Submissions Analysis – Flood Planning Controls and Related Matters

**COMMITTEE REPORTS**

**Community Infrastructure**

- 13.1. Report of North Byron Coastal Creeks Floodplain Risk Management Committee meeting held on 7 May 2013

**Water and Recycling**

*Note: 13.3. Report of the Planning Review Committee Meeting held on Wednesday 15 May 2013 was reserved for debate later in the meeting at resolution 13-310*

- 13.4. Report of the Water Waste and Sewer Advisory Committee 16 May 2013

*The remaining Recommendations and Committee 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. 13-259 and concluding with Resolution No. 13-272.*

*The motion was put to the vote and declared carried.*

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**COMMUNITY INFRASTRUCTURE – EXECUTIVE MANAGER’S REPORTS**

**Report No. 12.4. Deacon Street Wetlands and Low Flow Funding**  
**File No: #E2013/31245**

**13-259 Resolved** that Council transfer the amount of \$75,000 from the 2012/13 Capital Works Project from 44162 Katya Court Stormwater Upgrade to 44129 Deacon Street Wetlands and Low Flow Pipe. (Woods/Richardson)

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**Report No. 12.5. 2012 Community Building Partnership Program Successful Grant Applications**  
**File No: #E2013/31009**

**13-260 Resolved:**

1. That the successful grant applications from the 2012 Community Building Partnership Grant Funding Program be noted as follows:
    - a) shade structures for Mullumbimby Skate Park with approved grant funding of \$6,252.00;
    - b) sportsfield lighting for Jeff Schneider Fields (western field) at the Bangalow Recreation Ground with approved grant funding of \$55,760.00.
  2. That funding be allocated from Section 94 Funds for the provision of capital works and project management in accordance with Council resolution 12-821 as follows:
    - a) \$6,252 for shade structures at Mullumbimby Skate Park from the 2012 Section 94 Plan for Open Space and Recreation, Mullumbimby Parks, Shade Structures and Seating at Mullumbimby Skate Park;
    - b) \$55,760 for the provision of sportsfield lighting for Jeff Schneider Fields from the 2012 Section 94 Plan for Open Space and Recreation, Bangalow Parks, Additional Sportsfield Lighting.
  3. That the installation of the New Brighton change rooms be endorsed for future funding applications within the 2013 Community Building Partnership program and considered for inclusion in the development of the Delivery and Operational Plans for Open Space and Recreation in the 2014 / 2015 Integrated Planning Document. (Woods/Richardson)
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**CORPORATE MANAGEMENT – EXECUTIVE MANAGER’S REPORTS**

**Report No. 12.9. Byron Bay War Memorial Swimming Pool - Lease/Management Agreement**  
**File No: #E2013/19151**

**13-261 Resolved:**

1. That Council, in accordance with resolution 13-145, grant the Lease/Management Agreement over part Road Reserve and part Council owned Operational Land (part Lot 4
-

DP 827049 and part Lot 5 DP 827049), Byron Bay Swimming Pool Complex, to Fishheads@Byron Pty Ltd in accordance with the terms and conditions contained at Annexure 14(a)(#E2013/17509) for a period of 24 months commencing 1 July 2013 and terminating on 30 June 2015, subject to concurrent Crown Ministerial consent in relation to part Crown Reserve R82000.

2. That Council enter into the Deed of Release from Fishheads@Byron Pty Ltd at Annexure 14(c) (#S2013/4783) in satisfaction of resolution 13-145 item 4.
3. That Council affix the Council Seal to the Lease/Management Agreement and the Deed of Release with Fishheads@Byron Pty Ltd in accordance with Regulation 400 of the Local Government (General) Regulations 2005. (Woods/Richardson)

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**Report No. 12.12. Investments – April 2013**

**File No:** #E2013/26961

- 13-262 Resolved** that the report listing Council's investments and overall cash position as at 30 April 2013 be noted. (Woods/Richardson)

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**Report No. 12.13. Section 355 Management Committee - Terms of Reference, Payments made to Committee Members and other matters**

**File No:** #E2013/8594

**13-263 Resolved:**

1. That the report be noted.
2. That with regard to the Brunswick Heads Memorial Hall Section 355 Management Committee Council formally accept the resignation from Robin Baker from the Section 355 Management Committee and officially thank her for her contribution on this Committee.
3. That with regards to the Brunswick Valley Community Centre Section 355 Management Committee the following payment be made to its member for this term of Council as follows:
  - a) 5% per annum of the centre's bookings, payable on a quarterly basis to the Committee member who holds the position of Bookings Officer
4. That with regards to the Cook Pioneer Section 355 Management Committee the following payments be made to its members for this term of Council as follows:
  - a) \$80 per month to the Committee member cleaning the Centre.
  - b) \$2,500 per annum to the Mullumbimby Senior Citizens (honorarium payment for their management of the Cook Pioneer Centre).
5. That with regards to the Ocean Shores Community Centre section 355 Management Committee the following payments be made to its members for this term of Council as follows:
  - a) Up to \$300 per month to the Committee member who holds the position as Bookings Officer

- b) \$50 per month to the Committee member who holds the position as Treasurer.
  - 6. That with regards to the South Golden Beach Community Hall Section 355 Management Committee the terms of reference be amended to read as follows:
    - *To promote optimum usage of the Hall.*
    - *To care for, enhance and maintain the facility, through responsible day to day management.*
    - *To ensure the safety of the patrons of the Hall.*
  - 7. That with regards to the Suffolk Park Hall Section 355 Management Committee the following payments be made to its members for this term of Council as follows:
    - a) \$65 per week to the Committee member who holds the position of Bookings Officer
    - b) \$90 per month to the Committee member who holds the position of Treasurer
    - c) \$50 per month to the Committee member who holds the position of Secretary
    - d) \$20 per hour to the Committee member who manages the cleaning and gardening at the Hall. (Woods/Richardson)
- 

**Report No. 12.14.      Mayoral and Councillor Fees 2013/2014**  
**File No:                    #E2013/18935**

**13-264 Resolved:**

- 1. That Council fix the fee payable to each Councillor under section 248 of the Local Government Act 1993, for the period from 1 July 2013 to 30 June 2014 at \$17,490.
  - 2. That Council fix the fee payable to the Mayor under section 249 of the Local Government Act 1993, for the period from 1 July 2013 to 30 June 2014 at \$38,160.
  - 3. That Council in accordance with its current practice not determine a fee payable to the Deputy Mayor. (Woods/Richardson)
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**Report No. 12.15.      Swimming Pools Act 1992– Inspection Program**  
**File No:                    #E2013/28651**

**13-265 Resolved:**

- 1. That Council endorse the Swimming Pools Act 1992– Inspection Program at Annexure 9 (#E2013/31688).
  - 2. That the Swimming Pools Act 1992– Inspection Program be placed on public exhibition for a minimum of 28 days.
  - 3. That any submissions received as a result of the public exhibition be presented to Council for consideration in determining the adoption of the Swimming Pools Act 1992– Inspection Program. In the event that there are no submissions received during the exhibition period, then the Swimming Pools Act 1992– Inspection Program be adopted. (Woods/Richardson)
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**Report No. 12.16. Change of company shareholders under sub-licence agreement  
Surfing Byron Bay Pty Ltd**

**File No:** #E2013/23949

**13-266 Resolved** that Council agrees to depart from Policy 5.52 'Commercial Activities on Coastal and Riparian Crown Reserves' and consent to the change in company shareholders of Surfing Byron Bay Pty Ltd as follows:

- Brenda Miley 1 share
- Craig Wachholz 1 share
- Serena Adams 2 shares

and the sub-licence continues under its current provisions for the remainder of its term expiring on 31 August 2017. (Woods/Richardson)

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#### SOCIETY AND CULTURE - EXECUTIVE MANAGER'S REPORT

**Report No. 12.22. Proposal to rename the Byron Bay Library Community and Exhibition Space**

**File No:** #E2013/28110

**13-267 Resolved** that Council adopt the name 'Lone Goat Gallery' for the existing Byron Bay Library Community and Exhibition Space. (Woods/Richardson)

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#### WATER AND RECYCLING - EXECUTIVE MANAGER'S REPORT

**Report No. 12.23. NSW Office of Water TBL Performance Reports Water and Sewerage 2011-12**

**File No:** #E2013/25205

**13-268 Resolved** that Council note the report and the associated NSW comparative Water Supply and Sewerage Triple Bottom Line Performance Reports for 2011-12. (Woods/Richardson)

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**Report No. 13.2. Report of Belongil Creek Floodplain Risk Management Committee Meeting held on 7 May 2013**

**File No:** #E2013/26395

**13-269 Resolved** that Council note the minutes of the Belongil Creek Floodplain Risk Management Committee (BCFRMC) meeting held on 7 May 2013 (Annexure 2(a), #E2013/28210).

**13-270 Resolved** that Council adopt the Belongil Creek Floodplain Risk Management Committee constitution (Annexure 2(e), #E2013/31376).

**13-271 Resolved** that in relation to Report 4.2 - Flood Modification Measures and Future Development Discussion papers – Belongil Creek Floodplain Risk Management Committee, Council adopt:

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Committee Recommendation BCFRMC 4.2.1

1. That measures 3 and 4 from Annexure 2(c) #E2013/23048 be included in the proposed floodplain management scheme within the final Belongil Creek floodplain management plan and measure 2 be a fall-back option.
  2. That the recommendations from section 5.1 in Annexure 2(d) #E2013/23026 be included in the proposed floodplain management scheme within the final Belongil Creek floodplain management plan.
  3. That an action item which details the section of Childe Street and Council's Lot 1 Manfred Street regarding creek bank erosion and road reserve be included in the final Belongil Creek floodplain management plan.
  4. That Council consider running an additional mitigation scenario which alters the existing railway bridge over Belongil Creek to improve flows at this section of the creek and consider the flood affects of such a scenario. (Woods/Richardson)
- 

**COMMUNITY INFRASTRUCTURE – CONFIDENTIAL REPORT**

**Report No. 14.1. CONFIDENTIAL Tender Assessment - Hire of Plant and Trucks  
1505/0321**

**File No:** #E2013/30853

**13-272 Resolved:**

1. That Council award the panel contract for the Hire of Plant and Trucks for contract 1505/0321 to the companies listed in the Confidential Annexure 10 (#E2013/32874) in accordance with the tender documents and the tender submissions.
  2. That Council make public its decision including the name of the successful tenderers in accordance with Clause 179(b) of the Local Government (General) regulation 2005. (Woods/Richardson)
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**PROCEDURAL MOTION**

**13-273 Resolved** that the order of business be changed to deal with Notice of Motion No 8.5 next on the Agenda. (Woods/Dey)

*The motion was put to the vote and declared carried.*

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**NOTICE OF MOTION**

**Notice of Motion No. 8.5. Gasfield Free Signposts**  
#E2013/33623

**13-274 Resolved** that Council:

1. Support the erection of signs on each trunk road into the towns of Brunswick Heads, Mullumbimby and Bangalow
-

2. Liaise with and advise the Gasfield Free groups of each town on suitable locations, sizing and wording for the signs using a generic template
3. Assist the groups to order the signs
4. Erect the signs once provided by the groups with all costs paid for by the groups
5. Offer the same service to other Gasfield Free groups in the Shire, if they so wish and once their surveys are complete. (Dey/Cameron)

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

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**MAYORAL MINUTE**

*There was no Mayoral Minute.*

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**NOTICES OF MOTION**

**Notice of Motion No. 8.1. Parliamentary Inquiry into Tourism in Local Communities**  
#E2013/33656

**13-275 Resolved** that Council:

1. Make a formal submission to the NSW Parliamentary "Inquiry into Tourism in Local Communities";
2. Base the submission on work done previously by Council including the Tourism Advisory Committee on the costs and impacts of tourism, possible solutions to challenges as well as various recent Councillor workshops;
3. Include comment by the Mayor; and
4. Request to be a submitter at a hearing likely to be held for this region in September. (Dey/Spooner)

*The motion was put to the vote and declared carried.*

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**Notice of Motion No. 8.2. Rifle Range Road intersection with Lismore Road, Bangalow**  
#E2013/33672

**13-276 Resolved** that Council receive a report within 3 months on issues and possible solutions to challenges arising at the intersection of Rifle Range Road and Lismore Road, Bangalow including issues of: Bus-stop safety and shelter, pedestrian access and crossings, communication within the Bangalow community, Council and relevant State authorities, relocating the transition of speed limits, bicycle access and bikeways, road condition and drainage problems. (Dey/Richardson)

*The motion was put to the vote and declared carried.*

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**Notice of Motion No. 8.3. New Brighton and South Golden Beach Erosion Issues**  
#E2013/33534

*This Notice of Motion was withdrawn.*

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**Notice of Motion No. 8.4. Manfred Street, Belongil Beach Erosion Issues**  
#E2013/33523

*This Notice of Motion was withdrawn.*

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**PETITIONS**

**Correspondence and Petitions No. 9.1. Broken Head – move bus stop to front of  
Beaches of Byron**

#E2013/29572

**13-277 Resolved:**

1. That the petition regarding moving the bus stop at Broken Head be noted.
2. That Council note that the petition was referred to the Local Traffic Committee at their meeting held 5 June 2013. (Dey/Richardson)

*The motion was put to the vote and declared carried.*

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The Mayor tabled a petition containing 38 signatures, which states:

1. Declare Byron Bay a Nuclear Free Zone

*"I wish to add my name to those who want Byron Bay to be declared a Nuclear Free Zone.....  
Australian Uranium is helping to destroy the planet and now the State Government has lifted a  
monitorium (sic) on Uranium exploration in NSW...."*

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2. Requesting Non-Chemical Means of Weed Control in Byron Shire

The Mayor tabled a petition containing 150 signatures, which states:

*"We, the undersigned, request that Byron Shire Council replace its use of glyphosate products  
with non-chemical weed control..."*

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**SUBMISSIONS AND GRANTS**

*There were no submissions or grants tabled.*

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**DELEGATES' REPORTS****Delegates Report No. 11.1. National Mainstreet Australia Conference 2013**

#E2013/31568

**13-278 Resolved** that the report be noted.

(Richardson/Woods)

*The motion was put to the vote and declared carried.*

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11.2. Marsden's Planning Law Conference, Sydney

Cr Ibrahim advised the following:

*I attended the Marsden's Planning Law Conference in Sydney on Friday 7 June, 2013. I am happy to speak about it briefly. It was very interesting, Minister Hazzard opened the conference and I found that he was unashamedly and unequivocally clear about what the intent and object of the new legislation, the new Act will be and that will be to encourage economic development.*

*The bulk of what he spoke about was really around that issue and that was the primary goal of the government. The people that attended were several mayors, councillors from all over the State. What was interesting for me was the extent to which it became obvious that by Economic Development, what they really mean was "Sydney Economic Development". The stakeholders, developers who are seeking to open massive Greenfield developments and perhaps understandably concerned about the lack of consistency and predictability from how Council's will deal with these enormous projects. Of course there were some Council areas that were crying out and putting a hand up saying they did want economic development, they did want to expand, and more housing as opposed to Port Macquarie and others, that are saying it's not really our prime objective as a local government.*

*His predecessor, Mr Craig Knowles spoke and one of the things that came up which is really important and will affect us is this question of going back to the community and getting community clarity and consultation about what the rules of engagement are going to be in the new Act. A lot of people were concerned about how to confirm that the entire demographic of the community has in fact been consulted rather than vocal groups within the community and having the principal say and of the silent majority knowing nothing or having little to say about it. Everyone agreed that once the new regimes are in place, councils and local residents' capacity to influence decisions are going to be greatly restricted.*

*The other concern was that a lot of councils said they have already spent 10 years developing their LEP and have already spent years producing strategic planning documents and now they are going to want them to go back again to the community, whatever that means, and get their feedback yet again.*

*Just finally, apart from the Gosford decision around holiday letting, an interesting point was about CCTV and a matter that a Council was recently taken to court by a self-represented litigant who won on several matters against the use of CCTV. But it was really about how that was explained, its purpose, and what's come out of it, that if we are going to put up CCTV cameras, we are going to need to be very, very explicit as to what the purpose is. It is not enough to say "monitoring" or "crime prevention/reduction". It is going to need to be very, very clear as to what the exact purpose for the collection of that information is and where that*

*information is going and how it's going to be stored – in exactly the same way when we ask people to fill out forms. It was very informative and thanks for your time.*

### 11.3. Rous Water Meeting

Cr Dey advised the following:

*I attended a Rous Water Meeting on 15 May and the next one is next week. Just the major items discussed at the meeting – one was the Local Government Reform. It was an interesting meeting of Council and that session was just run by receiving comments from the eight councillors. Generally each of the eight councillors were not very impressed with the fourth level of government model, call it “County Council” or whatever. I have reiterated this view a few times. Each of the Councillors, including the one who was a Mayor, was expressly of the idea that just assembling the mayors of six shires to become elected representatives of the whole six shires, wasn't a very democratic model. Everybody agreed and a way of tweaking that would be to have not just the mayors on those central bodies and instead have two councillors who were selected by the Council which may include their mayor, or may not.*

*The only other news from Rous came out yesterday where we were told the appeal against Rous' approvals to fluoridate the water in three of their four shires has been lost. At this stage, the fluoridation of those shires' water supplies will go ahead.*

### 11.4. North Coast Energy Forum

Cr Dey advised the following:

*I attended the North Coast Energy Forum on 31 May 2013 in Lismore. That was a whole day's exercise – it was very informative. We have had discussions back here recently - a debrief from that Forum. The most interesting item that came out of it was Lismore City Council's intention to become electricity independent within ten years. So, as an organisation, the intent of Lismore City Council is that it will have its own electricity supply. They acknowledge that it's a very brave intent – and I'm impressed!*

### 11.5. High Speed Rail

Cr Hunter advised the following:

*I forwarded a message to the Councillors on the report from the presentation on the High Speed Rail that I attended last Friday. Just for Council's information, generally, it was a two hour presentation and I hadn't got into the details of it before. They are basically talking about 1,700kms of rail between Melbourne and Sydney. The year 2068 is the year it's modelled on. It didn't hold that much interest for me given that timeframe because I think it's going to take that long to get the land much less anything else!*

*Basically one line into the Gold Coast and one into Canberra – 20 rail stations but not every train will stop at every station. They are competing with air – it's dependent on Sydney not getting another airport. If that happens, it will take a fair bit out of it – I'm not too sure which would be the cheapest. \$111 billion dollars is what they are saying this one will cost. I was interested to ask what sort of noise levels there would be because there is no level crossings on the line anywhere – it is all either underground or overpasses or whatever and there is a 250 metre buffer zone either side of it. So it is a 500 metre wide strip through the guts of the country. It's out there and I think we need to watch this space for any movement yet but I was interested in the concept to think that at least they're throwing some visionary out there for discussion but I don't think it's going to manifest itself into anything tangible. The report is available on line if you would like to go onto the website.*

*The Mayor left the Chambers at 11:53 am and the Deputy Mayor assumed the Chair.  
The Mayor returned to Chambers at 11.56am.*

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**ITEMS RESERVED FOR DEBATE**

**GENERAL MANAGER'S REPORTS**

**Report No. 12.1.      Review of Council Delegations**

**File No:                #E2013/31454**

**13-279 Resolved:**

1. That Council revoke its previous delegations and adopt:
  - a) Instrument of Delegation to the Mayor as set out in #E2013/35845 with the following changes:
    - i) insert the words " must be reported to the next available Council meeting" as a condition for the following delegations:
      - making a decision on Council's behalf where the Mayor considers an urgent decision is required
      - making variations if required to the General Manager's Performance Agreement
      - authorising Councillor attendance at conferences and training;
    - ii) additional condition in relation to Councillor training that the allocation of funds be made in a fair and equitable manner
    - iii) delete "a Councillor or" from the Meetings delegation.
  - b) Instrument of Delegation to the General Manager at Annexure 17(b) (#E2013/31395).
2. That Council reconfirm its delegation of its functions for noxious weeds under the Noxious Weeds Act, 1993 to Far North Coast Weeds trading under Far North Coast County Council until such time as the delegation is revoked or re-delegated.
3. That with regard to the delegations of Council's Special Purposes Committees as stated in the Code of Meeting Practice it:
  - a) confirm the delegations to the Byron Shire Reserve Trust Committee as detailed in this report.
  - b) note Resolution 13-241 Point 3. 9 May 2013 with regard to the Strategic Planning Committee.
  - c) note Resolution 13-241 Point 5. 9 May 2013 with regard to the Planning review Committee.
  - d) amend the adopted Code of Meeting Practice to reflect b) above.
4. That Council note that Delegations of Authority were adopted and confirmed for all its Section 355 Committees on the 27 September 2012.
5. That Council reconfirm its acceptance of delegation of functions from other agencies as set out at Annexure 17(c) (#E2013/31451). (Dey/Richardson)

*The motion was put to the vote and declared carried.*

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**Report No. 12.2. General Manager's Performance Review Committee**  
**File No: #E2013/34148**

**13-280 Resolved** that Council establish a General Manager's Performance Review Committee comprising the Mayor, Deputy Mayor, and two other Councillors being:

Cr Ibrahim with Cr Hunter as alternate and Cr Cameron with Cr Dey as alternate.  
(Woods/Richardson)

*The motion was put to the vote and declared carried.*

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### COMMUNITY INFRASTRUCTURE – EXECUTIVE MANAGER'S REPORTS

**Report No. 12.3. 2012/13 Community Infrastructure Budget Review**  
**File No: #E2013/32086**

**13-281 Resolved:**

1. That the budget adjustments for 2012/13 as outlined in Table 2 of this report be approved.
2. That the actions by Community Infrastructure to reduce the impact on the local roads maintenance budget be endorsed.
3. That the submission of natural disaster financial assistance claims by Community Infrastructure to the Roads and Maritime Service and the Department of Finance and Services - NSW Public Works for the January and February 2013 Natural Disasters be noted.
4. That finalisation of the disaster claims are not yet complete from DSTA.

(Cameron/Ibrahim)

*The motion was put to the vote and declared carried.*

*The meeting adjourned at 12.30pm for a lunch break and reconvened at 1.19 pm.*

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### PROCEDURAL MOTION

**13-282 Resolved** that the order of business be changed to deal with Report No 12.20 next on the Agenda.  
(Woods/Cameron)

*The motion was put to the vote and declared carried.*

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### ENVIRONMENT AND PLANNING – EXECUTIVE MANAGER'S REPORT

**Report No. 12.20. PLANNING - 10.2012.583.1 13-17 Centennial Circuit Byron Bay**  
**File No: #E2013/33799**

**13-283 Resolved:**

1. That Council authorise the General Manager to offer conditions of consent as per #E2013/32314 (Annexure 16(b)) and, if they are accepted by the applicants, to finalise the
-



Class 1 appeal LEC 10245/2013 by way of consent orders based on those conditions of consent by amending:

- Condition 2(b) – Changing maximum number of attendees from 330 to 400 and update s94 Contribution table accordingly
  - Condition 2(b) – that the 11.00pm closing time for 100 persons be changed to a 1.00am closing time
  - After Condition 6 and 7 – Include a note that states "The intention of Condition 6 and 7 is not to affect in any way the existing building consents"
  - Condition 12 – Delete the words "The issue of an occupation certificate..." and replace with the words "Use of this development consent..."
2. That if the conditions of consent are not agreed to by the applicants, Council authorise the General Manager to manage the litigation in accordance with General Delegations including, if necessary, defending the Council's determination. (Ibrahim/Woods)

AMENDMENT

Moved:

1. That Council authorise the General Manager to offer conditions of consent as per #E2013/32314 (Annexure 16(b)) and, if they are accepted by the applicants, to finalise the Class 1 appeal LEC 10245/2013 by way of consent orders based on those conditions of consent.
2. That if the conditions of consent are not agreed to by the applicants, Council authorise the General Manager to manage the litigation in accordance with General Delegations including, if necessary, defending the Council's determination. (Richardson/Dey)

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

*Crs Dey, Richardson and Cameron voted in favour of the amendment.*

*Crs Ibrahim, Woods, Spooner and Hunter voted against the amendment.*

*The motion was put to the vote and declared carried.*

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

*No Councillors voted against the motion.*

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**COMMUNITY INFRASTRUCTURE – EXECUTIVE MANAGER'S REPORTS**

**Report No. 12.6. Whian Road - Proposed Works**

**File No:** #E2013/13054

Moved:

1. That Council undertake works along Whian Road in accordance with Plan No. 2125 (6m concept), starting at the western side of the causeway and extending in a westerly direction for a length depending on the available funds.
2. That Council carry forward the current remaining 2012/13 budget of \$93,500 for the Whian Road upgrade to incorporate with an additional budget proposed for the 2013/14 Budget. (Cameron/Richardson)

**13-284 Resolved** that this matter rest on the table.

(Richardson/Woods)

*The motion was put to the vote and declared carried.*

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**Report No. 12.7. Byron Regional Sport and Cultural Complex Section 355 Management Committee – Community Member Nominations**

**File No:** #E2013/17145

**13-285 Resolved:**

1. That two Expressions of Interest shown at Confidential Annexure 4 (#E2013/28772) be appointed to the Byron Regional Sport and Cultural Complex (BRSCC) Section 355 Management Committee.
2. That in relation to additional community representation on the s355 Management Committee, Council delegate to the Mayor and General Manager to seek the recruitment of additional members representing Cultural and Sporting Associations at the Complex.
3. That the BRSCC s355 Management Committee also comprise a business representative and an additional cultural representative and that the Constitution be amended accordingly. (Richardson/Woods)

*The motion was put to the vote and declared carried.*

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**PROCEDURAL MOTION**

**13-286 Resolved** that Report No 12.6 be lifted off the table. (Richardson/Woods)

*The motion was put to the vote and declared carried.*

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**COMMUNITY INFRASTRUCTURE – EXECUTIVE MANAGER’S REPORTS**

**Report No. 12.6. Whian Road - Proposed Works**

*continued*

**File No:** #E2013/13054

**13-287 Resolved:**

1. That Council undertake works along Whian Road in accordance with Plan No. 2125 (6m concept), starting at the western side of the causeway and extending in a westerly direction for a length depending on the available funds.
2. That Council carry forward the current remaining 2012/13 budget of \$93,500 for the Whian Road upgrade to incorporate with an additional budget proposed for the 2013/14 Budget. (Cameron/Richardson)

*The motion was put to the vote and declared carried.*

*The meeting adjourned at 2.00pm in order to open the Byron Shire Reserve Trust Committee Meeting and reconvened at 3.13pm.*

*Resolutions 13-288 to 13-295 were used during the Byron Shire Reserve Trust Committee Meeting.*

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**CORPORATE MANAGEMENT – EXECUTIVE MANAGER’S REPORTS**

**Report No. 12.8. Review of Policy 5.39 Motor Vehicles on Beaches**

**File No:** #E2012/5859

**13-296 Resolved:**

1. That Council endorse the Draft Amended Policy No. 5.39 Motor Vehicles on Beaches (Annexure 1 #E2012/9224) with a change to Objectives to read:

*To regulate the use of motor vehicles on beaches in the Byron Shire Council area so as to protect:*

- a) the environment, and*
- b) beach users (who are part of the environment).*

2. That the Draft Amended Policy No. 5.39 Motor Vehicles on Beaches then be placed on public exhibition for a minimum of 28 days.
3. That any submissions received as a result of the public exhibition be presented to Council for consideration in determining the adoption of the Policy No. 5.39 Motor Vehicles on Beaches. In the event that there are no submissions received during the exhibition period, then the Draft Amended Policy No. 5.39 Motor Vehicles on Beaches be adopted.

(Dey/Cameron)

*Cr Cubis arrived at 3.17pm.*

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

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**Report No. 12.10. Markets Licences - Community Land**

**File No:** #E2013/30750

**13-297 Resolved:**

1. That Council, in accordance with resolution 12-693, offer a temporary community market licence to existing farmer’s market managers for each farmer’s market currently operating on Council owned land, commencing 1 April 2013 and ending 31 March 2014 under the terms and conditions contained at Annexure 13 (#E2013/30492).
2. That Council apply the adopted 2012/13 fees and charges for a Temporary Commercial Approved Activity on Council owned or controlled land of \$220.00 application fee and licence fee per day of \$145.00 for greater than 21 market days per annum. (Ibrahim/Dey)

*The motion was put to the vote and declared carried.*

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**Report No. 12.11. Market Licence - Artisan Market on Railway Park**

**File No:** #E2013/24764

*Cr Spooner left the meeting at 3.29pm in accordance with his earlier declared pecuniary interest in this matter.*

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**13-298 Resolved:**

1. That Council not call for expressions of interest or a similar competitive process until such time as the draft Market Policy is adopted.
2. That Council grant a temporary licence to the Byron Bay Community Association Inc for the use of Railway Park to conduct weekly Saturday Artisan Markets commencing the first Saturday in October, 5 October 2013, and ending 12 April 2014 under the terms and conditions contained at Annexure 12(b) (#E2013/31141).
3. That Council apply the 2012/13 fees and charges for a Temporary Commercial Approved Activity on Council owned or controlled land of \$220.00 application fee and licence fee per day of \$145.00. (Woods/Cameron)

*The motion was put to the vote and declared carried.*

*Cr Spooner returned to the meeting at 3.31pm.*

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**ENVIRONMENT AND PLANNING – EXECUTIVE MANAGER’S REPORTS**

**Report No. 12.17. Biodiversity and Sustainability Advisory Committee - Expressions of Interest for Community Membership**

**File No:** #E2013/31908

**13-299 Resolved** that Council choose six community members from the Expressions of Interest at CONFIDENTIAL Annexure 11 #E2013/34738 for the Biodiversity and Sustainability Advisory Committee and change the Constitution to reflect the new membership number (from two to eight).

The members are as follows:

- Donovan Adcock
- Joanna Immig
- Luke McConell
- Samala Heart
- Kate Smillie
- Andy Baker (Cameron/Richardson)

AMENDMENT

Moved: That this matter be deferred until the Ordinary Meeting of 27 June 2013.

(Woods/Ibrahim)

*The amendment was put to the vote and declared tied.*

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

*The Mayor used his casting vote and declared the amendment lost.*

*The motion was put to the vote and declared carried.*

**Report No. 12.18. PLANNING – Planning Proposal for an amendment to the draft LEP 2012 to rezone land and permit additional uses at Lot 101 DP 1140936 Ewingsdale Road Ewingsdale**

**File No:** #E2013/30242

**13-300 Resolved:**

1. That Council forward the planning proposal contained in Annexure 18(a) #E2013/24674, excluding the alternative option for a B4 Mixed Use zone, to the Department of Planning and Infrastructure for a Gateway determination.
2. That should the Department of Planning and Infrastructure issue a positive Gateway determination, the following matters need to be addressed prior to the planning proposal being placed on public exhibition:
  - a) A Master Plan needs to be prepared to adequately address the following issues at a minimum:
    - Mechanism to ensure proposed 'Seniors housing' and 'Aged Care facilities' are constructed prior to, or concurrently with, the retail/commercial precinct to guarantee that the seniors housing component is constructed;
    - Suitable buffer areas between the existing concrete batching plant/electricity station and the subject land to be adequately assessed and provided; and
    - Transport networks for pedestrians/buggies within and between the subject land and the Hospital to be identified.
  - b) Updated traffic studies to be prepared to address: Council's MR545 Traffic Study; impact generated by proposed Byron Hospital and recently approved redirection of Woodford Lane; and consideration of vehicular access from Avocado Crescent into the subject land.
  - c) SEPP 55 site contamination assessment.
  - d) The sewerage management choice, ie whether on-site or off-site, be clarified.
  - e) Heritage assessment of "Buildings and surrounds" known as the Higgins Homestead located on the eastern parcel and listed as an item of environmental heritage in the Byron LEP 1988 and Schedule 5 of the Draft LEP.
  - f) Noise impact assessment due to proximity of future Pacific Highway alignment.

(Richardson/Ibrahim)

*The motion was put to the vote and declared carried.*

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

*Crs Woods and Cameron voted against the motion.*

*The meeting adjourned at 4.13pm for a break and reconvened at 4.27pm.*

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**Report No. 12.19. PLANNING - Draft Byron LEP 2012 Submissions Analysis - Rural Zones and Controls**

**File No:** #E2013/30217

*Crs Hunter, Dey and Cameron lodged a Schedule 3A – Form of special disclosure of pecuniary interest in this matter. The completed forms were tabled at the meeting.*

- 13-301 Resolved** that in relation to the draft Byron LEP 2012 Council resolves to adopt the following recommendations from the discussion paper (#E2013/23086) at Annexure 21 outlined as follows:
-

1. Amend the RU2 Rural Landscape zone Land use table to include 'intensive livestock agriculture' as permitted with consent.
2. Permissibility of dual occupancies (detached) and secondary dwellings in the RU1, RU2 and RU5 zones be considered in a Planning Proposal to amend the Byron LEP 2012 after the plan's gazettal.
3. Amend the RU2 Rural Landscape zone Land use table to include 'garden centres', 'rural supplies', 'warehouse or distribution centres' and 'storage premises' as permitted with consent.
4. Amend the RU5 Village zone Land use table to include 'shops' and 'office premises' as permitted with consent.
5. Amend the RU5 Village zone Land use table so that 'dual occupancies (attached)' are permitted with consent.
6. That clause 4.1B *Minimum lot sizes for dual occupancy, multi dwelling housing and residential flat buildings* of the draft LEP 2012 be amended so that 'dual occupancies (attached)' are required to have a minimum lot size of 4000m2 in the RU5 zone.
7. Amend the RU5 Village zone Land use table so that 'residential flat buildings' are prohibited.
8. Amend the RU1 Primary Production zone Land use table to remove 'intensive livestock agriculture' and 'intensive plant agriculture' from permitted with consent as the parent land use term 'agriculture' is listed. (Dey/Ibrahim)

AMENDMENT

That Council defer this to allow for staff to advise objectors that their concerns are rejected and advising them the reasons why. (Woods/Cubis)

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

*Crs Cubis and Woods voted in favour of the amendment.*

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

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**PROCEDURAL MOTION**

**13-302 Resolved** that the vote be recommitted. (Richardson/Cameron)

*The motion was put to the vote and declared carried.*

FORESHADOWED AMENDMENT

*A foreshadowed motion was tabled by Cr Hunter but withdrawn following Cr Dey's inclusion of points into his motion.*

**13-303 Resolved** that the meeting move into Committee. (Woods/Cubis)

*The motion was put to the vote and declared carried.*

*Crs Richardson and Cameron voted against the motion.*

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**COMMITTEE MEETING**

**13-304 Resolved** that the meeting move out of committee.

(Richardson/Woods)

*The motion was put to the vote and declared carried.*

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

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

*Crs Cubis and Woods voted against the motion.*

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**Report No. 12.21. PLANNING - Draft Byron LEP 2012 Submissions Analysis – Flood Planning Controls and Related Matters**

**File No:** #E2013/27048

*Crs Hunter, Dey and Cameron lodged a Schedule 3A – Form of special disclosure of pecuniary interest in this matter. The completed forms were tabled at the meeting.*

**13-305 Resolved:**

1. That in relation to the draft Byron LEP 2012 Council:
  - a) Amend draft clause 6.8 *Flood Planning* in accordance with Option 3 in Annexure 22(c) (#E2013/31933) of this report;
  - b) Make no site specific changes to Council's existing flood mapping information at this time, but continue to update the flood planning maps as new information becomes available through adopted studies.
  - c) Develop a process to incorporate the flood information associated with major rezonings and subdivisions, outside of existing Council flood study/plan catchments, into Council's flood information system.
  - d) Consider the inclusion of a map to Clause 6.9 *Floodplain Risk Management* only after sufficient information is available on the 'Probable Maximum Flood' for all of its flood study catchments.
2. That in relation to the Climate Change Strategic Planning Policy (2009) Council:
  - (a) Amend relevant components of the Climate Change Strategic Planning Policy (CCSPP) upon the occurrence of either of the following:
    - (i) adoption of a Development Control Plan that clarifies the application of 2050/2100 climate change flood planning horizons according to development 'type'; or
    - (ii) release of State government's review of Floodplain Management Guidelines.

(Dey/Richardson)

**AMENDMENT**

Moved:

1. That in relation to the draft Byron LEP 2012:

- a) That Council adopt the 2050 year flood planning scenario excluding the 2100 Climate Change Scenario.
  - b) That no site specific changes be made to Council's existing flood mapping information at this time.
  - c) That Council develop a process to incorporate the flood information associated with major rezonings and subdivisions, outside of existing Council flood study/plan catchments, into Council's flood mapping.
  - d) That Council consider the inclusion of a map to Clause 6.9 Floodplain risk management only after sufficient information is available on the 'Probable Maximum Flood' for all of its flood study catchments.
2. That in relation to the Climate Change Strategic Planning Policy (2009) Council:
- (a) Amend relevant components of the Climate Change Strategic Planning Policy (CCSPP) to reflect recommendation 1 above upon the occurrence of either of the following:
    - (i) adoption of a Development Control Plan that clarifies the application of 2050/2100 climate change flood planning horizons according to development 'type'; or
    - (ii) release of State government's review of Floodplain Management Guidelines.
3. That the flood maps be removed and replaced with updated maps if and when amended. (Woods/Cubis)

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

*Crs Cubis, Woods and Hunter voted in favour of the amendment.*

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

*The motion was put to the vote and declared carried.*

*Crs Ibrahim, Dey, Richardson, Cameron and Spooner voted in favour of the motion.*

*Crs Cubis, Woods and Hunter voted against the motion.*

**COMMUNITY INFRASTRUCTURE - COMMITTEE REPORTS**

**Report No. 13.1.      Report of the North Byron Coastal Creeks Floodplain Risk Management Committee Meeting held on 7 May 2013**

**File No:**                      #E2013/26386

**13-306 Resolved:**

1. That Council note the minutes of the North Byron Coastal Creeks Floodplain Risk Management Committee (NBCCFRMC) meeting held on 7 May 2013 (Annexure 3(a), #E2013/28251).
2. That Council adopt the North Byron Coastal Creeks Floodplain Risk Management Committee constitution (Annexure 3(c), #E2013/31467) with the following amendments:
  - *8 Voting - Non Councillors* - Remove heading
  - *9 Majority Decision* - Remove the whole section
  - *15 Miscellaneous* - Remove the words "all" and "any" where appropriate
  - *15 Miscellaneous* - Change the word "group" to "committee" in this section



3. That in relation to Report 4.2 - Flood Model Calibration Review - North Byron Coastal Creeks Floodplain Risk Management Committee, Council note that further work is required on the flood model to improve calibration as per discussions within the Committee, and that the proposed works recommended in Annexure 3(d) (#E2013/32334) be endorsed. (Dey/Richardson)

*The motion was put to the vote and declared carried.*

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**WATER AND RECYCLING - COMMITTEE REPORT**

**Report No. 13.4. Report of the Water, Waste and Sewer Advisory Committee Meeting held on 16 May 2013**

**File No:** #E2013/30590

**13-307 Resolved:**

1. That Council note the minutes of the Water, Waste and Sewer Advisory Committee held on 16 May 2013.
2. That in relation to Committee Recommendation WW&S4.1 – Review of Constitution - Council:

endorse the Water, Waste and Sewer Advisory Committee revised Constitution as presented at Annexure 1 [#E2013/28209] with the following additional amendments:

- a) the word "any" removed from the last line of Section 3 Membership;
  - b) the word "all" removed from the second last line of Section 16.3 Pecuniary Interest;
  - c) remove the Section heading "8 Voting - Non Councillors";
  - d) remove Section "9 Majority Decision" removed.
3. That in relation to Committee Recommendation WW&S 4.3 - Rainwater Tank Policy, Council:
- a) prepare an amended Policy 4.48 to include the following:
    - Alignment of the policy with the Regional Demand Management Plan and associated programs, including the removal of any additional rainwater tank installation subsidies.
    - Continuation of the extension of Rous Water demand management programs for Mullumbimby.
    - Removal of the fixed water charge rebate.
    - Provision for charging water and sewer fixed at vacant land rates for urban properties that disconnect from these services, for the period they are disconnected.
  - b) Place the draft policy on public exhibition for a minimum period of 28 days.
  - c) That in the event that any submissions are received on the draft Policy, it be reported back to Council prior to adoption.
  - d) That in the event that no submissions are received on the draft Policy it be adopted and incorporated in Council's Policy Register. (Dey/Richardson)

*The motion was put to the vote and declared carried.*

**PROCEDURAL MOTIONS**

**13-308 Resolved** that the vote on the Reservation of Items for debate be recommitted.  
(Richardson/Woods)

*The motion was put to the vote and declared carried.*

Moved: That the balance of the Reports be adopted. (Woods/Cubis)

*The motion was put to the vote and declared lost.*

**13-309 Resolved** that Report 13.3 be included with the list of items that were reserved for debate at the commencement of the meeting and confirm that the balance of the reports are to be adopted as a whole. (Dey/Cubis)

*The motion was put to the vote and declared carried.*

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**ENVIRONMENT AND PLANNING - COMMITTEE REPORT**

**Report No. 13.3. Report of the Planning Review Committee Meeting held on Wednesday 15 May 2013**

**File No:** #E2013/30152

**13-310 Resolved:**

1. That DA 10.2013.132.1 be reported to Council for determination.
2. That the balance of the report be noted. (Cubis/Hunter)

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

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*There being no further business the meeting concluded at 5.59pm.*

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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 27 June 2013.

.....  
Mayor Simon Richardson