



Byron Shire Council



Minutes

Ordinary Meeting
Thursday, 9 October 2014

BYRON SHIRE COUNCIL

Ordinary Meeting Minutes
9 October 2014

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**MINUTES OF THE BYRON SHIRE COUNCIL ORDINARY MEETING HELD ON THURSDAY,
9 OCTOBER 2014 COMMENCING AT 9.00AM AND CONCLUDING AT 3.50PM**

#E2014/66144

PRESENT: Cr S Richardson (Mayor), Cr B Cameron, Cr C Cubis, Cr D Dey, Cr A Hunter,
Cr S Ibrahim (arrived at 9.15am), Cr P Spooner, Cr R Wanchap and Cr D Woods

Staff: Mark Arnold (Acting General Manager)
James Brickley (Acting Director Corporate and Community Services)
Phil Holloway (Director Infrastructure Services)
Ray Darney (Executive Manager Environment and Planning)
Shannon McKelvey (Executive Manager Organisation Development)
(arrived at 10.25am)
Mila Jones (Minute Taker)

The Mayor opened the meeting and acknowledged that the meeting is being held on Arakwal Country and that we pay our respects to the elders past and present and extend our respect to the Bundjalung clans whose lands and waters are part of the Shire.

PUBLIC ACCESS

Prior to dealing with the circulated reports and associated information, a Public Access Session was held and Council was addressed on the following:

Notice of Motion No. 9.2. Byron Shire Council Support for the Northern Rivers Rail Trail Project

Angie Burgler, Louise Dorin (TOOT) and David Piesse addressed Council against the recommendation.

Notice of Motion No. 9.3. Byron Trade Expo at proposed trial Lawson Street Mall

Morgan addressed Council against the recommendation.

Report No. 13.7. PLANNING Public Exhibition Report on Planning Proposal for Seniors Housing and Commercial uses at Ewingsdale

Leigh Belbeck (Belbeck Investments Pty Ltd) addressed Council in favour of the recommendation.

Kirsty Nugent and Mark Tidswell (Ewingsdale Progress Association) addressed Council against the recommendation.

Report No. 13.9. Byron Coast Comprehensive Koala Plan of Management

Lorraine Vass (Friends of the Koala) addressed Council against the recommendation.

Report No. 13.11. South Golden Beach Street Drainage

Kathy Norley addressed Council regarding this report.

Report No. 13.12. Extenuating Circumstances – Proposed Construction of Interim Beach Access Stabilisation Works at Belongil

Carl Goodsell addressed Council against the recommendations.

Submission No. 1 Cavvanbah Street (Byron Bay) - unlawful annexing by adjoining tourist resort property owners verses legal right of passage

Morgan made a submission to Council regarding the use of Crown and Council road and land by private property owners and the impact on pedestrians.

Submission No. 2 3, 5, 7 Shirley Street (Byron Bay) - acquisition by State on behalf of Byron Shire Council

Morgan made a submission to Council requesting that Council write to the State Government regarding this matter.

Submission No. 3 Business Etiquette - failure of Council to adhere

Morgan made a submission to Council regarding Council responding to applicants applying for membership on committees as well as responding to correspondence.

Submission No. 4 Repeat request for copy of "State government guidelines" Council cited as excuse to permit 2A Residential land to be used for Business purposes (tourist accommodation)

Morgan made a submission to Council regarding her request made for a copy of a related document.

Submission No. 5 Council managed Crown Land (roads/footpaths) within Byron Bay - Common Law Negligence; breach of Health and Safety; legal right of passage

Morgan made a submission to Council regarding the above matter regarding clearing items from Crown Land footpaths and all public footpaths for safe citizen access.

Submission No. 6 Rail Trail

Morgan made a submission to Council regarding getting the rail corridor back.

Submission No. 7 Getting information out to Communities

Kathy Norley made a submission to Council regarding including information within rates notices and rate reminder notices to distribute information to targeted areas of the community rather than only having public exhibition or consultation periods.

The meeting adjourned at 10.06am for a break and reconvened at 10.32am.

The Chairperson, in accordance with s257 of the Local Government Act 1993 adjourned the meeting at 10.34am for a period of five minutes due to an act of disorder by members of the public and left the Chair.

The meeting resumed at 10.39am with Council proceeding to conduct the business of the meeting.

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), the Section 449 Returns disclosing interests of Councillors and designated persons were tabled for the period 1 July 2013 to 30 June 2014.

ADOPTION OF MINUTES FROM PREVIOUS MEETINGS

- 14-467 Resolved** that the Minutes of the Ordinary Meeting held on 18 September 2014 be confirmed.
(Woods/Hunter)
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:

STAFF REPORTS

Corporate and Community Services

- 13.3. North Byron Parklands Regulatory Working Group – Community Representatives

Environment and Planning

- 13.7. PLANNING – Public Exhibition Report on Planning Proposal for Seniors Housing and Commercial uses at Ewingsdale
13.8. PLANNING – Submission to Department of Planning on Byron Shire Central Hospital
13.9. Byron Coast Comprehensive Koala Plan of Management

Infrastructure Services

- 13.11. South Golden Beach Street Drainage
13.12. Extenuating Circumstances – Proposed Construction of Interim Beach Access Stabilisation Works at Belongil
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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. 14-468 and concluding with Resolution No. 14-481.

GENERAL MANAGER – STAFF REPORT**Report No. 13.1. Bay Lane Activation Report****File No:** #E2014/61822

- 14-468 Resolved** that Council note the report on the program update of the Bay Lane Activation Project for endorsement. (Woods/Richardson)
-

CORPORATE AND COMMUNITY SERVICES – STAFF REPORTS**Report No. 13.2. Councillor attendance at the 23rd NSW Coastal Conference, Ulladulla NSW****File No:** #E2014/60043

- 14-469 Resolved** that Council authorise Councillors Richardson and Dey to attend as delegates at the 23rd NSW Coastal Conference held in Ulladulla, New South Wales from Tuesday 11 to Friday 14 November, 2014. (Woods/Richardson)
-

Report No. 13.4. Crown 34A Licence - Butler Street Reserve**File No:** #E2014/60420

- 14-470 Resolved** that Council, subject to a resolution from the Reserve Trust Committee confirming its support for Council applying and entering into a 34A licence with Crown Lands for use of part Butler Street Reserve as car park:
- a) authorise the completion and lodgement of the Application for Licence over Crown Land with NSW Trade and Investment Crown Lands Division for the use of part Butler Street Reserve as car park.
 - b) authorise the General Manager to execute and affix the Seal to the Licence Agreement with Crown Lands for part Butler Street Reserve in accordance with Local Government (General) Regulations 2005. (Woods/Richardson)
-

Report No. 13.5. Report of the Public Art Assessment Panel Meeting held on 11 September 2014**File No:** #E2014/61894**14-471 Resolved:**

1. That Council note the minutes from the Public Art Assessment Panel meeting held on 11 September 2014.
 2. That in relation to Report 6.1. Brunswick Nature Sculpture Walk:
-

That Council note the proposal from Brunswick Heads Sculpture Walk and invite further information and a formal request for assistance from the organisers at a later date.

3. That in relation to Report 6.3. Review of the Public Art Guidelines and Criteria:
 - a) That Council note that, after working with the document for approximately one year, a need has been identified by the Public Art Assessment Panel to revise some parts of the Public Art Guidelines and Criteria document.
 - b) That Council note that members of the Panel have worked with staff in the review of the Guidelines with many of the changes procedural in nature and not intended to change the integrity or intent of the Public Art process.
 - c) That the Public Art Assessment Panel recommend to Council the adoption of the revised Public Art Guidelines and Criteria (#E2014/41714).
4. That in relation to Report 6.7. Youth Art Project 2014 – Art Placement:

That Council note that the Panel support the Youth Arts Project and congratulate them on the project and note the proposed locations for this year's artwork.

(Woods/Richardson)

ENVIRONMENT AND PLANNING – STAFF REPORT

Report No. 13.6. Report on the outcome of discussions with the Department of Planning on North Byron Parklands Regulatory Working Group

File No: #E2014/59669/x Parcel No 65520

- 14-472 Resolved** that Council support the Department of Planning and Environment (DoPE) view that the Regulatory Working Group (RWG) should ensure views are minuted and where appropriate recommendations are forwarded to the Department of Planning and Environment for consideration and action. (Woods/Richardson)

INFRASTRUCTURE SERVICES – STAFF REPORTS

Report No. 13.10. Funding Allocation for 6 Burns Street – System Amplification project

File No: #E2014/61753

14-473 Resolved:

1. That the budget for 44168 – 6 Burns Street – System Amplification, be transferred to 44189 – System Amplification to Resolve Stormwater issues at Little Burns Street to create a total project budget of \$130,100.
2. That the revised budget for job number 44189 be increased to \$165,000 using funds from Council's existing Stormwater Levy reserve. (Woods/Richardson)

Report No. 13.13. Proposed Bay Street Ring Road and Two-Lanes Inbound on Shirley Street

File No: #E2014/63280

14-474 Resolved:

1. That in relation to resolution 14-363 Council:

- a) refer the following to the Byron Bay Master Plan project for further consideration on the proviso it does not require changes to the project scope and budget as already agreed with the consultant:
 - i) reinstating two-way on Bay Street , Byron Bay
 - ii) the creation of a pedestrian precinct on Jonson Street, between Lawson Street and Bay Street
 - b) note the matter of direct access to the Lawson Street north car park from Lawson Street, Byron Bay is being considered as per the current Byron Bay parking study.
2. That in relation to resolution 14-366 Council note as per previous studies, such as Council's own MR545 Strategic Study, a second inbound lane on Shirley Street, Byron Bay is to be considered in regard to the Byron Bay bypass project and does not require more than a 50m to 100m length on the approach to the Butler / Shirley / Lawson Street roundabout. (Woods/Richardson)

CORPORATE AND COMMUNITY SERVICES - COMMITTEE REPORT

Report No. 14.1. Report of the Arakwal (MoU) Advisory Committee Meeting held on 20 August 2014

File No: #E2014/56176

14-475 Resolved:

1. That Council note the minutes from the Arakwal (MoU) Advisory Committee Meeting held on 20 August 2014.
2. That in relation to Report 4.1 NAIDOC Week 2014 Report, Council adopt:

Committee Recommendation AMoU 4.1

1. That the Council note the NAIDOC Week 2014 program and outcomes contained in the report.
2. That the Council endorse the continuation of its role in the planning and delivery of NAIDOC Week events in the Byron Shire.
3. That a separate budget line of \$3,500 be established from the current Aboriginal Projects budget (2331.053) for cultural events including Reconciliation Week, NAIDOC Week and Sorry Day at the September quarterly review for 2014/15.
4. That prior to NAIDOC Week 2015 a launch be held to promote NAIDOC Week activities in Byron Shire.
5. That street banners be made for NAIDOC Week and erected in Byron Bay, with funding being sought through sponsorship.
6. That the Arakwal NAIDOC Week street march in Byron Bay be permitted to include amplified music. (Woods/Richardson)

14-476 Resolved that in relation to Report 4.2 Aboriginal Sites Identification and Protection, Council adopt:

Committee Recommendation AMoU 4.2

1. That the Council note the progress of the Aboriginal Sites Identification and Protection publication.
2. That the Arakwal MoU Advisory Committee defer the completion of this project until the changes to NSW Aboriginal Cultural Heritage legislation are finalised, while continuing to develop the content of the publication.

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3. That it be noted that the Cultural Education Officer from National Parks and Wildlife Service has been invited to assist with the fieldwork necessary to produce the publication.
(Woods/Richardson)

14-477 Resolved that in relation to Report 4.3 Railway Park 2014, that Council note that this matter has been discussed by the MoU Advisory Committee in regards to complaints of anti social behaviour in Railway Park.
(Woods/Richardson)

14-478 Resolved that in relation to Report 4.4 Aboriginal Education in the Byron Shire, Council adopt:

Committee Recommendation AMoU 4.4

1. That Council staff prepare a report on current Indigenous Education initiatives in the Byron Shire to assist with advocating at a state and federal level for increased funding for Indigenous Education in partnership with local schools.
2. That Council continue to support and advocate for improved Indigenous education services in the Byron Shire.
3. That Council staff develop an Indigenous Educational Tool Kit to assist local schools with knowledge about Aboriginal stakeholders and National and Cultural Days of significance.
(Woods/Richardson)

14-479 Resolved that in relation to Item 6.1 Broken Head Quarry DA2014.331, Council adopt:

Committee Recommendation AMoU 6.1

That Council note the Arakwal MoU Advisory Committee concern regarding any proposed increase in development adjoining the sacred Bundjalung womens lake and surrounding land, due to the great cultural and environmental nature of the area.
(Woods/Richardson)

ENVIRONMENT AND PLANNING - COMMITTEE REPORTS

Report No. 14.2. Report of the Planning Review Committee Meeting held on 16 September 2014

File No: #E2014/61563

14-480 Resolved that the report be noted. (Woods/Richardson)

Report No. 14.3. Report of the Biodiversity and Sustainability Advisory Committee Meeting held on 11 September 2014

File No: #E2014/62297

14-481 Resolved:

1. That Council note the minutes of the Biodiversity and Sustainability Advisory Committee meeting held on 11 September 2014.
2. That in relation to Agenda Item 4, Resignation of Robert Rosen, that Peter Westheimer, a current non-voting member, fulfils the vacant community voting member role of the Biodiversity and Sustainability Advisory Committee and the Constitution is amended accordingly.
(Woods/Richardson)

PROCEDURAL MOTION

- 14-482 Resolved** that the order of business be changed to deal with items discussed during Public Access, those being 9.2, 13.7, 13.9, 13.11, 13.12 and 9.3 next on the Agenda.
(Richardson/Woods)

The motion was put to the vote and declared carried.

NOTICE OF MOTION

Notice of Motion No. 9.2. Byron Shire Council Support for the Northern Rivers Rail Trail Project

#E2014/63506

- 14-483 Resolved** that Council write to MP Don Page acknowledging and thanking him for his efforts to secure funding for the Northern Rivers Rail Trail. Byron Shire Council fully supports the NRRT project which will:

1. Secure the rail corridor in its entirety in public ownership for future generations.
2. Create a new environmentally friendly tourism enterprise that will create jobs and support local enterprise.
3. Provide locals of all ages with a safe, easy and family friendly cycle and walkway within and between our townships.
4. Achieve our main tourism management objectives of; hinterland dispersal, attracting more respectful environmentally appreciative visitors, and supporting the creation of the infrastructure and services required to achieve these goals.
5. In the preparation of the concept plan and design for the rail trail considerations of multiple uses such as that already approved for the North Beach development be incorporated.

Byron Shire Council looks forward to working with our neighbouring Council's and the NSW Government to make the Northern Rivers Rail Trail a reality.
(Ibrahim/Woods)

PROCEDURAL MOTIONS

- 14-484 Resolved** that Cr Ibrahim be granted a two minute extension to his speech.
(Richardson/Hunter)

The motion was put to the vote and declared carried.

- 14-485 Resolved** that Cr Cameron be granted a two minute extension to his speech.
(Spooner/Wanchap)

The motion was put to the vote and declared carried.

- 14-486 Resolved** that Cr Wanchap be granted a two minute extension to her speech. (Woods/Hunter)

The motion was put to the vote and declared carried.

- 14-487 Resolved** that Cr Richardson be granted a two minute extension to his speech.
(Spooner/Cameron)

The motion was put to the vote and declared carried.

- 14-488 Resolved** that Cr Cubis be granted a two minute extension to his speech. (Richardson/Ibrahim)

The motion was put to the vote and declared carried.

14-489 Resolved that Cr Dey be granted a two minute extension to his speech. (Cameron/Cubis)

The motion was put to the vote and declared carried.

*The motion (Ibrahim/Woods) was put to the vote and declared carried.
Crs Dey, Richardson, Cameron and Spooner voted against the motion.*

FORESHADOWED MOTION

Moved: That Council:

1. Support a rail, cycling and walking multi-use Casino-Murwillumbah transport corridor.
 2. Write to the NSW Premier Mike Baird, Transport Minister Gladys Berijiklian and Ballina MP Don Page to advise of Council's support for a multi-use transport corridor and request \$75 million be allocated to the project noting the following benefits.
 - a) Consistent with council's adopted Tourism Management Plan
 - b) Superior infrastructure for low impact dispersal of tourist visitors around the Shire and region
 - c) Development of a regional public transport network
 - d) Potential to better manage Council's transport networks and reduce traffic congestion in coastal areas
 - e) Financial benefits to the community and Council from lower road maintenance costs.
- (Cameron/Spooner)
-

PROCEDURAL MOTIONS

14-490 Resolved that Cr Cameron be granted a two minute extension to his speech. (Richardson/Spooner)

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

14-491 Resolved that Cr Richardson be granted a two minute extension to his speech. (Woods/Cameron)

The motion was put to the vote and declared carried.

Moved: That the motion be put. (Hunter)

*The motion was put to the vote and declared lost.
Crs Dey, Woods, Richardson, Cameron, Wanchap and Spooner voted against the motion.*

*The motion (Cameron/Spooner) was put to the vote and declared lost.
Crs Ibrahim, Cubis, Woods, Wanchap and Hunter voted against the motion.*

ENVIRONMENT AND PLANNING – EXECUTIVE MANAGER'S REPORTS

Report No. 13.7. PLANNING - Public Exhibition Report on Planning Proposal for Seniors Housing and Commercial uses at Ewingsdale

File No: #E2014/61527

Moved: That, until completion of Council's Forward Planning Process (Housing), Council defers consideration of endorsement of the updated Planning Proposal contained in Annexure 8(a) #E2014/39455. (Cameron/Richardson)

AMENDMENT

14-492 Resolved:

1. That the planning proposal contained in Annexure 8(a) #E2014/39455, be amended where necessary to reflect the following insertion into Schedule 1 of the LEP 2014:

'Use of certain land at Ewingsdale Road, Ewingsdale:
 - 1) This clause applies to land at Ewingsdale Road, Ewingsdale, being Lot 101 DP 1140936.
 - 2) Development for the purposes of Seniors Housing, Medical Centre, Business Premises, Restaurants or Cafes, and Shops is permitted with development consent.
 - 3) All commercial uses listed in subclause (2) are restricted to the land identified as 'Area A' on the Additional Permitted Uses Map and limited to a combined maximum total floor area of 1200m².
 - 4) Medical centre uses listed in subclause (2) are restricted to the land identified as 'Area A' on the Additional Permitted Uses Map and limited to a maximum total floor area of 1800m².'

2. That Council forward the amended planning proposal, as adopted by Council in item 1 above, to the Department of Planning & Environment for legal drafting of the LEP amendment and finalisation.

3. That a Development Control Plan for the site (Lot 101 DP 1140936) be prepared by the applicant for Council's consideration prior to the lodgement of a development application to adequately address the following issues at a minimum:
 - a) Suitable buffer areas between the existing adjacent residential areas and the proposed development;
 - b) Suitable buffer areas between the existing concrete batching plant/electricity substation and the proposed development; and
 - c) Transport networks for pedestrians/buggies within and between the subject land and the Hospital to be identified.
 - d) That height restrictions on the subject site be generally restricted to two levels and not on residential boundaries.
 - e) That vehicular access to the subject site not be granted through Avocado Crescent and Parkway Drive and the access to the site be provided in the Development Control Plan.

4. That an updated 'Demand Model' traffic study be prepared in accordance with the requirements detailed in the response from the RMS (Annexure 8(c) #E2014/62782) prior to lodgement of a development application for the subject site. (Ibrahim/Cubis)

PROCEDURAL MOTION

- 14-493 Resolved** that Cr Wanchap be granted a two minute extension to her speech. (Woods/Richardson)

The motion was put to the vote and declared carried.

*The amendment was put to the vote and declared carried.
Crs Ibrahim, Cubis, Woods, Wanchap and Hunter voted in favour of the amendment.
Crs Dey, Richardson, Cameron and Spooner voted against the amendment.*

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

Crs Ibrahim, Cubis, Woods, Wanchap and Hunter voted in favour of the motion.

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

The meeting adjourned at 12.59pm for lunch and reconvened at 1.47pm.

Report No. 13.9. Byron Coast Comprehensive Koala Plan of Management

File No: #E2014/59128

Moved:

1. That Council:
 - a) draft amendments to the Byron Coast Comprehensive Koala Plan of Management at Annexure 7(g), (#E2014/52403) in line with the 'Recommend Amendments' in Table 1 of this report;
 - b) refer them to the Project Reference Group for discussion at a PRG meeting to which Councillors are invited; and
2. That staff either bring the resulting draft to Council for adoption or put it on public exhibition.

(Dey/Richardson)

AMENDMENT

14-494 Resolved that in order to progress towards finalisation of the Byron Coast Comprehensive Koala Plan of Management, Council receive legal advice on the following questions relating to the draft Byron Coast Koala Plan of Management.

1. Whether:
 - a) The Koala Plan of Management only becomes operative/applicable if Clauses 7 and 8 of SEPP 44 have been satisfied; and
 - b) Whether if the Koala Plan of Management purports to identify areas which satisfy Clauses 7 and 8 of SEPP 44, that would be the sole determinant of whether Clauses 7 and 8 of the SEPP 44 have been satisfied, or whether that question must or can be answered separately without reference to the Plan of Management, but in accordance with the criteria defined in SEPP 44.
2.
 - a) Whether it is valid for a Koala Plan of Management to use different definitions than those contained in SEPP 44, or operate without definitions, for:
 - i. Potential Koala Habitat;
 - ii. Core Koala Habitat;
 - b) Whether it is valid to define and enforce terms which have fundamentally different meanings to the definitions used in the SEPP 44, and or which play no part in the SEPP 44, such as:
 - i. "Preferred Koala Habitat" – see definitions, and Clause 6.2 Classification of Koala Habitat; or
 - ii. "Core Koala Habitat" – see Clause 6.3
 - iii. "Habitat Buffer Areas" – see Clause 6.6.5
 - iv. "Koala Corridors" – see Clause 6.6.6
 - v. The extension of the operative definition of "Preferred Koala Habitat" to include individual "preferred Koala Food Trees" – see Figure 10 Development Assessment Flowchart.

- vi. See Clause 7.1(i)(b) "subdivision of land"
3. Whether it is enforceable for a Koala Plan of Management to include broader 'tests' for establishing the presence of koala populations than are referred to in SEPP 44 as follows:
 - a) "Core Koala Habitat" – see Clause 6.3
 - b) Clause 7.3.3(vi)(1) & (ii) "Identification of core koala habitat for the purposes of preparing a KAAR"; "Development Standards: Clause 7.4.
 4. Whether a Koala Plan of Management adopted by Council has the status of a statutory document or, if not:
 - a) what would be its status, and what regard has to be had to it, and in which circumstances;
 - b) to the extent that it is inconsistent with any DCP, LEP, SEPP, Regulation or Act, which would prevail and in what order.
 5. Once a Koala Plan of Management has been authorised by the Minister,
 - a) How can it be replaced by Council?
 - b) Can an individual choose to have a property specific Plan of Management apply to their land if they want to (and if they can, how do they do that)?
 - c) With reference to (b) above, could the individual Plan of Management apply the procedures laid out in the SEPP 44 and related guidelines, or would the Council Plan's approach have to be followed?
 6. Whether the Koala Plan of Management, assuming it is authorised by the Director, can be challenged, and in particular:
 - a) whether it would need to be challenged within a set period of time or otherwise it becomes unchallengeable;
 - b) whether it could be challenged either directly or indirectly in appeals against development decisions made by Council. (Ibrahim/Hunter)

PROCEDURAL MOTION

14-495 Resolved that Cr Ibrahim be granted a two minute extension to his speech. (Richardson/Woods)
The motion was put to the vote and declared carried.

The amendment was put to the vote and declared carried.

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

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

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

Crs Ibrahim, Cubis, Woods, Wanchap and Hunter voted in favour of the motion.

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

The meeting adjourned at 2.23pm to open the Byron Shire Reserve Trust Committee Meeting and reconvened at 2.25pm. Resolution 14-496 was used during that meeting.

INFRASTRUCTURE SERVICES – STAFF REPORTS

Report No. 13.11. South Golden Beach Street Drainage

File No: #E2014/41284

14-497 Resolved:

1. That Council endorse the use of street drainage option A and driveway treatment option A, with driveway option B being used in locations where the grass swale becomes deeper, making option A too steep, as detailed in Annexure 6(a) (E2014/44543).

2. That Council implement the South Golden Beach Street Drainage 12 year plan as detailed in Annexure 6(b) (E2014/57386), subject to approval via Council's annual budget process.
3. That Council fund the South Golden Beach Street Drainage 12 year plan (subject to approval via the annual budget process) using a combination of Council revenue, Stormwater Levy funds and a charge to land owners of half the cost of driveway construction where a driveway to Council's standards has not already been provided by the property owner.
4. That Council's position regarding the rear easements in South Golden Beach, as shown by the plan at Annexure 6(c) (E2014/56911) is that:
 - a) all boundary fences are to be placed on the private property side of the easements, rather than the centre or within the easements
 - b) no small to medium size vegetation that may impede stormwater flows is to exist within the easements
 - c) no structures are allowed within the easements
 - d) easements are to maintain a shape that supports conveyance of stormwater to the main open drains in South Golden Beach
 - e) all easements are to be kept clear to allow easy and regular inspection by Council staff
5. That Council completes a survey of the South Golden Beach levy and repair as necessary using funds from the North Byron Flood Study Project.
6. That on completion of each street's drainage solution, Council add repairing and resealing of the bitumen road surface to Council's reseal program. (Dey/Richardson)

The motion was put to the vote and declared carried.

Report No. 13.12. Extenuating Circumstances – Proposed Construction of Interim Beach Access Stabilisation Works at Belongil

File No: #E2014/63715

Moved:

1. That Council:

Noting:

- a) OEH and NSW Coastal Panel's "concerns about the scale of the proposed interim works, which will have significant impact on the amenity of the already compromised beach area and associated public access";
 - b) OEH's formal response that "the scale of the proposed interim works might compromise the long-term management strategy for this area currently being considered in developing the CZMP";
 - c) OEH's position to "encourage Council to finalise its CZMP as a matter of priority and consider the utility of the proposed works in the context of the Plan"
2. Writes to the Hon. Rob Stokes, Minister of the Environment, seeking clarification as to whether he concurs with the position of the OEH.

3. Defers further facilitation to construct an interim rock wall until a report has been brought to council outlining funding options, and including a letter of support from the Minister of the Environment. (Richardson/Dey)

AMENDMENT

14-498 Resolved:

1. That Council, pursuant to Section 55 (3) of the Local Government Act 1993, not call tenders for the proposed beach access stabilisation at Belongil construction works contract nor the materials contract because to do that would not achieve a satisfactory result due to the following extenuating circumstances:
- a) To the greatest extent possible the project needs to be expedited and to do this the different components, such as securing approval/s and funding and negotiating contracts etc, need to run in concurrently not consecutively.
 - b) The usual tender process requirements of waiting until all preconditions have been satisfied before calling tenders does not suit the circumstances in this project.
 - c) The flexibility of direct contracting is required for this project because the proposed works can be affected by weather and external influences which are beyond Council's contract, and there could be a need to adjust or readjust the contracts, and a fixed tender specification with submissions valid for a limited period of time would not provide the required flexibility.
 - d) The materials required for the proposed project are specific and sources for them are limited. Further, the materials are not always readily available and can be expensive to store. Council needs the flexibility to be able to contract a supplier who has materials that meet the required specification at the time that Council is ready to use those materials.
 - e) The market for both materials and contractors for these types of works is specialised and limited and it is reasonably well understood such that the Council can sufficiently test the value of the proposed contracts by comparison against projects undertaken at other locations and by obtaining competitive quotes at the appropriate time.
2. That Council delegate authority to the General Manager to negotiate and enter into contracts on terms and conditions deemed suitable. (Woods/Cubis)

The amendment was put to the vote and declared carried.

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

The motion was put to the vote and declared carried.

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

NOTICE OF MOTION

Notice of Motion No. 9.3. Byron Trade Expo at proposed trial Lawson(sic) Street Mall #E2014/63518

- 14-499 Resolved** that Council approve the proposed trial for the "Bay Street Ring Road, Jonson Street mall and Two Lanes in" to promote a whole of shire "Arts & Industry" Expo in the Jonson street mall for a period of 10 days from the 1st April, 2015 subject to:
- a) All necessary funding being identified
 - b) All required approvals from state bodies being obtained. (Wanchap/Woods)

Cr Cameron left the meeting at 3.02pm.

*The motion was put to the vote and declared carried.
Crs Dey and Spooner voted against the motion.
Cr Cameron was not present for the vote.*

MAYORAL MINUTE

There was no Mayoral Minute.

NOTICES OF MOTION

Notice of Motion No. 9.1. 10/50 Vegetation Clearing
#E2014/63178

14-500 Resolved that Council:

1. Note the following:
 - a) that vegetation clearing allowed under the recently adopted "10/50 Code of Practice" overrides the protections for trees and vegetation that are found in Council's Tree Protection Order, Local Environment Plans and Development Control Plans;
 - b) that the Code also overrides various NSW state legal protections for threatened species and endangered ecological communities;
 - c) that the Code is not supported by peer-reviewed evidence to show that clearing mature trees up to 350 metres from bushfire prone land protects residences from ember attack during a fire.
2. Prepare and submit a letter to appropriate Ministers and Heads of Departments in the State Government informing them of the shortfalls and difficulties in administration of the recently introduced Amendments to the Rural Fires Act 1997 (including the Code of Practice associated with them) and asking the State to review the arrangements and to reconsider the Amendments. (Dey/Richardson)

*Cr Cubis left the meeting at 3.09pm.
Cr Cameron returned to the meeting at 3.11pm.*

*The motion was put to the vote and declared carried.
Cr Cubis was not present for the vote.*

PETITIONS

There were no petitions tabled.

SUBMISSIONS AND GRANTS

There were no submissions or grants tabled.

DELEGATES' REPORTS

There were no delegates' reports.

CORPORATE AND COMMUNITY SERVICES –STAFF REPORT

Report No. 13.3. North Byron Parklands Regulatory Working Group - Community Representatives

File No: #E2014/61480

14-501 Resolved:

1. That the report be noted.
2. That Council nominate Denise Nessel and Russell Eldridge as the new community representatives for appointment to the North Byron Parklands Regulatory Working Group (RWG) for the next two year term commencing 25 October 2014.
3. That Council advise the Chairperson of the North Byron Parklands Regulatory Working Group (RWG) of the nominated community representatives.
4. That Council thank all Expressions of Interest for their nomination.
5. That Council note the contribution of Paul Arrowsmith and Chris Cherry as the retiring community representatives and write to them thanking them very much. (Cameron/Dey)

Cr Cubis returned to the meeting at 3.15pm.

The Mayor left the meeting at 3.17pm and the Deputy Mayor took the Chair.

AMENDMENT

Moved:

1. That the report be noted.
2. That Council nominate applicants 2 and 3 as the new community representatives for appointment to the North Byron Parklands Regulatory Working Group (RWG) for the next two year term commencing 25 October 2014.
3. That Council advise the Chairperson of the North Byron Parklands Regulatory Working Group (RWG) of the nominated community representatives.
4. That Council thank all Expressions of Interest for their nomination.
5. That Council note the contribution of Paul Arrowsmith and Chris Cherry as the retiring community representatives and write to them thanking them very much. (Woods/Cubis)

The Mayor returned to the meeting and resumed the Chair at 3.19pm.

The amendment was put to the vote and declared lost.

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

The motion was put to the vote and declared carried.

ENVIRONMENT AND PLANNING – EXECUTIVE MANAGER’S REPORT

Report No. 13.8. PLANNING – Submission to Department of Planning on Byron Shire Central Hospital

File No: #E2014/55602 Parcel No 240778

14-502 Resolved:

1. That Council:
 - a) Advise the Department Planning and Environment of its general support for the development of a Byron Shire Central Hospital (BSCH); and
 - b) Forward a copy of this report to the Department to identify the issues associated with the BSCH; and
 - c) Forward a copy of this report to the media including a press release identifying the issues associated with the BSCH.
 - d) Request that the Department include the recommended conditions of consent at the end of this report into the consent for the BSCH;
 - e) Endorse the payment of Section 64 charges for sewer in accordance with the table at the top of page 44.
2. That Council delegate staff to set the design parameters required for the rising main to service the BSCH and the development immediately adjacent that site (east and west) that is currently the subject of a rezoning. The holding well capacity shall be designed to satisfy the demand for the possible future development of Ewingsdale locality. The cost of Council’s share of the design and construction to be funded from the Section 64 Sewer Fund.
3. That due to the proposed new Hospital not containing an operating theatre providing surgical services, which has always been considered essential by the Byron Shire Community Consultative Committee in its support for a new facility, this council cannot support the proposal in its current form. (Spooner/Richardson)

AMENDMENT

Moved:

1. That Council:
 - a) Advise the Department Planning and Environment of its general support for the development of a Byron Shire Central Hospital (BSCH); and
 - b) Forward a copy of this report to the Department to identify the issues associated with the BSCH; and
 - c) Request that the Department include the recommended conditions of consent at the end of this report into the consent for the BSCH;
 - d) Endorse the payment of Section 64 charges for sewer in accordance with the table at the top of page 44.
2. That Council delegate staff to set the design parameters required for the rising main to service the BSCH and the development immediately adjacent that site (east and west) that is currently the subject of a rezoning. The holding well capacity shall be designed to satisfy the demand for the possible future development of Ewingsdale locality. The cost of Council’s share of the design and construction to be funded from the Section 64 Sewer Fund.

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3. That Council write to the Department outlining the absolute need for an operating theatre providing surgical services as part of the new hospital.
 4. That Council forward a copy of this report to the media including a press release identifying the issues associated with the BSCH. (Woods/Cubis)
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PROCEDURAL MOTION

14-503 Resolved that Cr Dey be granted a two minute extension to his speech. (Richardson/Cameron)

The motion was put to the vote and declared carried.

The amendment was put to the vote and declared lost.

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

The motion was put to the vote and declared carried.

There being no further business the meeting concluded at 3.50pm.

I hereby certify that these are the true and correct Minutes of this Meeting
as confirmed at Council's Ordinary Meeting on 9 October 2014.

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Mayor Simon Richardson