



Byron Shire Council



Minutes

Ordinary Meeting

Thursday, 9 April 2015

BYRON SHIRE COUNCIL

Ordinary Meeting Minutes

9 April 2015

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MINUTES OF THE BYRON SHIRE COUNCIL ORDINARY MEETING HELD ON THURSDAY, 9 APRIL 2015 COMMENCING AT 9.01AM AND CONCLUDING AT 4.40PM

I2015/273

PRESENT: Cr S Richardson (Mayor), Cr B Cameron, Cr C Cubis (arrived 9.17am), Cr D Dey, Cr A Hunter, Cr S Ibrahim, Cr P Spooner, Cr R Wanchap and Cr D Woods

Staff: Ken Gainger (General Manager)
Mark Arnold (Director Corporate and Community Services)
Phil Holloway (Director Infrastructure Services)
Shannon Burt (Director Sustainable Environment and Economy)
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:

13.6 Submissions received on the exhibition of Draft 2012 Developer Contributions Plan (Amendment 3)

Mark Pattern, Ocean Shores Soccer Club, addressed Council in favour of the recommendation.

13.9 Coastal Zone Management Plan Byron Bay Embayment

Andrew Winton-Brown addressed Council in favour of the recommendation.

Laurie Lynch addressed Council against the recommendation.

13.10 PLANNING - 10.2014.649.1 Mixed development comprising; demolition, retention of existing building, erection of a new building to be used for backpacker accommodation (250 beds), shops and restaurants at 19-23 Lawson Street Byron Bay

Steve Agnew, Byron Ventlink Pty Ltd, addressed Council in favour of the recommendation.

13.12 PLANNING - 10.2014.714.1 - Demolition of existing dwelling, garage, and all other structures at 9 Station Street Bangalow

Paul De Fina addressed Council in favour of the recommendation.

13.14 Belongil Creek Floodplain Risk Management Study and Plan

Laurie Lynch addressed Council in favour of the recommendation.

Jay Pearse and Kathy Dawson addressed Council against the recommendation.

Submission No. 1 Byron Traffic Management

Laurie Lynch made a submission to Council regarding on the coastline management at Belongil relating to protective works and beach scraping to restore the dune.

Submission No. 2 Traffic Management

Laurie Lynch made a submission to Council regarding traffic management, the introduction of the bypass and pedestrian activity.

The meeting adjourned at 9.55am for a break and reconvened at 10.15am.

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

There were no Pecuniary Interest Returns tabled.

ADOPTION OF MINUTES FROM PREVIOUS MEETINGS

15-121 Resolved that the minutes of the Ordinary Meeting held 19 March 2015 be confirmed. (Hunter/Dey)

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

- Report No. 13.1 2015 National General Assembly of Local Government
- Report No. 13.2 Australia Day Project Reference Group - Finalisation of 2015 Group and Commencement of 2016 Group
- Report No. 13.3 Section 355 Management Committees - resignations and appointments
- Report No. 13.5 Proposed CCTV system in Byron Bay - ongoing maintenance and monitoring

Sustainable Environment and Economy

- Report No. 13.8 Review of the waiving of developer contributions for secondary dwellings
- Report No. 13.9 Coastal Zone Management Plan Byron Bay Embayment
- Report No. 13.10 PLANNING - 10.2014.649.1 Mixed development comprising; demolition, retention of existing building, erection of a new building to be used for backpacker accommodation (250 beds), shops and restaurants at 19-23 Lawson Street Byron Bay

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- Report No. 13.12 PLANNING - 10.2014.714.1 - Demolition of existing dwelling, garage, and all other structures at 9 Station Street Bangalow
Report No. 13.13 Budget Allocation for Traffic Study to Determine Construction Priorities on Ewingsdale Road

Infrastructure Services

- Report No. 13.14 Belongil Creek Floodplain Risk Management Study and Plan

REPORTS OF COMMITTEES

Infrastructure Services

- Report No. 14.1 Report of the Community Infrastructure Advisory Committee Meeting held on 5 March 2015

CONFIDENTIAL REPORTS

Sustainable Environment and Economy

- Report No. 16.1 CONFIDENTIAL - Unlawful development, North Head Road, New Brighton

The remaining Recommendations and Committee Recommendation were adopted as a whole, being moved by Cr Richardson and seconded by Cr Woods. Each recommendation is recorded with a separate resolution number commencing at Resolution No. 15-121 and concluding with Resolution No. 15-130.

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

- Report No. 13.4 Section 356 Donations - Reimbursement of Application Fees, Bangalow Park Trust Section 355 Management Committee**
File No: I2015/216

15-122 Resolved:

1. That Council reimburse the Development Application fee paid totalling \$1,632.00 to the Bangalow Parks Trust Section 355 Management Committee.
2. That the Committee be invited to reapply for further reimbursement of application fees paid after the completion of Stage 2 of the project.
3. The Committee be congratulated on obtaining the grant funding with the Crown Lands and the completion of Stage 1 of the project at the Showground. (Richardson/Woods)

STAFF REPORTS – SUSTAINABLE ENVIRONMENT AND ECONOMY

- Report No. 13.6 Submissions received on the exhibition of Draft 2012 Developer Contributions Plan (Amendment 3)**
File No: I2015/101

15-123 Resolved:

1. That Council approve the 2012 Developer Contributions Plan (Amendment 3) as exhibited subject to inclusion of the following amendments:
 - a) Amend the Mullumbimby Community Facilities works schedule by including the

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information shown in table 3 included in this report and the consequential changes in the rates per standard dwelling unit as shown in table 4.

- b) Amend the Shire Wide Open Space Works Schedule by altering the description of works at the Cavanbah Sports Centre as follows:

“Energy efficiency improvements at Cavanbah Sports Centre including but not limited to installation of a Solar Photo-Voltaic generation system, hot water and lighting improvements. (Expenditure of Existing Funds)”

2. That notice of the approved 2012 Developer Contributions Plan (Amendment 3) be placed in the local paper within 28 days of the date of this meeting and that the date of commencement of the plan be two weeks after the date of publication of the notice.
3. Allocate a budget of \$130,890.50 from section 94 funds (ocean Shores Community Facilities account) to construct charge facilities at Tom Kendall Oval.

(Richardson/Woods)

Report No. 13.7 **Voluntary Planning Agreement - Agreement for provision of car parking associated with DA 10.2014.649.1 - Redevelopment of Old Byron Council Chambers**

File No: I2015/199

15-124 Resolved:

1. That Council place the planning agreement on public exhibition for a period to 28 days subject to the following amendments
- a) Amend Clause 5.3 by adding another clause after 5.3.3 that states:
“5.3.4 The Developer commences works on the development.”
- b) Amend clause 12 by adding another clause after 12.1.2 that states:
“12.1.3 No refund is to be given after the developer has commenced works on the development.”
2. That the planning agreement be referred to Council’s solicitors for review and that the cost of this review be recouped from the developer prior to Council entering into the planning agreement.
3. That the planning agreement and any submissions received be reported back to Council following the exhibition period. (Richardson/Woods)

Report No. 13.11 **Report of the Planning Review Committee Meeting held on 17 March 2015**

File No: I2015/217

15-125 Resolved that the report be noted. (Richardson/Woods)

Report No. 14.2 **Report of the Water, Waste and Sewer Advisory Committee Meeting held on 5 March 2015**

File No: I2015/220

15-126 Resolved that Council note the minutes of the Water, Waste and Sewer Advisory Committee Meeting held on 5 March 2015. (Richardson/Woods)

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15-127 Resolved that Council adopt the following Committee and Management Recommendation:

Report No. 5.1 Proposed Water, Waste and Sewer Advisory Committee Dates for 2015
File No: I2015/20

Moved 5.1.1

That the Water, Waste and Sewer Advisory Committee meets on the following dates and times:

- Thursday 7 May 2015 at 9.00am
 - Thursday 10 September 2015 at 9.00am
 - Thursday 3 December 2015 at 9.00am
- Richardson/Woods)

Report No. 14.3 **Report of the Transport Advisory Committee Meeting held on 12 March 2015**

File No: I2015/259

15-128 Resolved that Council note the minutes of the Transport Advisory Committee Meeting held on 12 March 2015. (Richardson/Woods)

15-129 Resolved that Council note the Committee Recommendation 5.1 as follows in regard to 2015 meeting dates and times:

- Thursday 25 June 2015 at 2.00pm
 - Thursday 1 October 2015 at 9.00am
 - Tuesday 1 December 2015 at 9.30am
- (Richardson/Woods)

15-130 Resolved that Council adopt the Committee Recommendation 5.2 as follows:

That Council, in adopting the following priority in regard to bike plan projects, receive a staff report on cost estimates and to amend and exhibit the s94 Contributions Plan accordingly which reflects:

- a) high priority for the funding and delivery of bike plan projects:
- i) No. 38 - shared path, Bangalow, from the eastern end of the existing path on the north side of Byron Bay Road through to the Bangalow Bowling Club;
 - ii) No. 73 and 72 - Broken Head Road, Suffolk Park between Beech Drive south and north roundabouts and onto Byron at Byron Resort, with options for both on-road (as per Res 14-223) and off-road (as per bike plan) be investigated, costed and reported back to Council; and
 - iii) No. 43 – a shared path on Raftons Road, Bangalow from Rifle Range Rd to Readings Bridge via Leslie Street.
- b) medium priority, commencing with investigation and report of options for bike plan projects:
- i) No. 76 - shared path, Suffolk Park from Broken Head Rd (at Byron at Byron Resort) through to Alcorn Street; and
 - ii) No. 15 - shared path Balemo Drive, Ocean Shores from Orana Road to Brunswick Valley Way;
- c) consideration of funding opportunity, relationship and priority of bike plan projects:

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- i) No. 40 - shared path Lismore Road from Rifle Range Road to Dudgeons Lane, Industrial Estate, Bangalow, noting opportunity for 100% RMS funding due to being adjacent to state road (MR65);
 - ii) No. 42 - shared path along Rifle Range Road, Bangalow from viaduct on Lismore Road to existing path at Samson Street; and
 - iii) No. 46 - shared path Tristania Street from Rifle Range Road to Sansom Street , Bangalow;
- d) low priority given to bike plan projects:
- i) No. 59 - shared path, Sunrise Boulevard and Julian Rocks Drive, Sunrise to existing path;
 - ii) No. 58 - shared path Bayshore Drive from Ewingsdale Road to rail corridor; and
 - iii) No. 65 - shared path Browning Street, Byron Bay from Bangalow Road to Jonson Street and onto the Ex-Services Club.
- e) the immediate delivery, using s94 funds or otherwise, of signage only projects being:
- i) No. 62 - on-road advisory signs along Cowper Street, Byron Bay through to Browning Street; and
 - ii) No. 64- on-road advisory signs along Lighthouse Road, Byron Bay from Brooke Drive (The Pass) to the Lighthouse.
- f) That the bike project within the s94 plan which is not in the bike plan and relates to the provision of a new path from Broken Head Road, Suffolk Park to Kalemajere Drive be investigated and reported to Council. (Richardson/Woods)

15-131 Resolved:

1. That Council adopt Committee Recommendation 5.3 in part as follows:
 - a) that the revision of the PAMP document be undertaken in the first instance with a review by staff and report back to Council via this Committee; and
 - b) that the PAMP review, which has commenced with staff and Access Advisory Committee input, be continued with a draft document to be tabled to the Committee prior to consultation being undertaken.

2. That Council not adopt Committee Recommendation 5.3(b) and instead endorse the Management Recommendation as follows:

That the funds within the adopted s94 plan, which are within the 2014/15 budget, be used to implement projects as detailed in the Committee Agenda at Report No. 5.3 (file I2015/187) with priority given as follows to projects within:

- a) Table 1, which are endorsed as Part 2 of Resolution 14-565; and
 - b) Table 2, with the exception of bike plan number 43. (Richardson/Woods)
-

PROCEDURAL MOTION

- 15-132 Resolved** that Council change the order of business to deal with Reports 13.10, 13.12, 13.14 and 13.9 next on the Agenda. (Woods/Richardson)

The motion was put to the vote and declared carried.

STAFF REPORTS – SUSTAINABLE ENVIRONMENT AND ECONOMY

Report No. 13.10 **PLANNING - 10.2014.649.1 Mixed development comprising; demolition, retention of existing building, erection of a new building to be used for backpacker accommodation (250 beds), shops and restaurants at 19-23 Lawson Street Byron Bay**
File No: I2015/213

15-133 Resolved:

1. That pursuant to Section 80 of the Environmental Planning & Assessment Act 1979, Development Application No. 10.2014.649.1 for Mixed development comprising; demolition, retention of existing building, erection of a new building to be used for backpacker accommodation (250 beds), shops and restaurants, be granted a deferred commencement consent subject to conditions nominated in attachment 1 (A2014/30455) with the following amendment:

Condition 27 – change wording to “*Details of publicly visible public art proposed to be installed are to be provided to Council for assessment to ensure its validity, appropriateness, location and value of a minimum \$25,000.00.*”

2. That pursuant to Section 95(2) of the Environmental Planning & Assessment Act 1979, the development consent lapses 5 years after the date from which it operates unless commenced in accordance Section 95(4) or (5). (Richardson/Spooner)

The motion was put to the vote and declared carried.

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

No Councillors voted against the motion.

Report No. 13.12 **PLANNING - 10.2014.714.1 - Demolition of existing dwelling, garage, and all other structures at 9 Station Street Bangalow**
File No: I2015/219

Moved: That pursuant to Section 80 of the Environmental Planning and Assessment Act 1979, development application 10.2014.714.1 for demolition of existing dwelling, garage and all other structures, be approved with conditions to maintain the property in a safe and clean manner, without a street fence. (Hunter/Woods)

15-134 Resolved that the matter rest on the table. (Hunter/Woods)

The motion was put to the vote and declared carried.

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

STAFF REPORTS - INFRASTRUCTURE SERVICES

Report No. 13.14 **Belongil Creek Floodplain Risk Management Study and Plan**
File No: I2015/93

15-135 Resolved:

1. That Council adopt the Draft Belongil Creek Floodplain Risk Management Study and Plan

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Summary (Attachment 2, E2015/16794) and the Draft Belongil Creek Floodplain Risk Management Plan (Attachment 3, E2015/16795).

2. That Council note that the house previously identified for Voluntary House Purchase is not within a high hazard zone and has been removed from the Voluntary House Purchase program. (Woods/Cubis)

The motion was put to the vote and declared carried.

15-136 Resolved that Cr Dey be granted a one minute extension to his speech. (Woods/Cubis)

The motion was put to the vote and declared carried.

PROCEDURAL MOTION

15-137 Resolved that Report 13.12 be lifted off the table. (Richardson/Woods)

The motion was put to the vote and declared carried.

PROCEDURAL MOTION

15-138 Resolved that Report 13.12 rest on the table. (Richardson/Woods)

The motion was put to the vote and declared carried.

STAFF REPORTS – SUSTAINABLE ENVIRONMENT AND ECONOMY

Report No. 13.9 Coastal Zone Management Plan Byron Bay Embayment
File No: I2015/212

15-139 Resolved that Council:

1. Instructs WRL to finalise the management study as per variation quotation at attachment 5, taking into consideration recently received constructive comments from OEHL's Chief Economist on the CBA component of the Coastal Hazard Management Study.
2. Extend the scope of the WRL variation at attachment 5 to include an economic analysis for alternative models of retreat to that used in the CBA (as per OEHL recommendation), to be included in an appendix to the revised CBA, or as otherwise deemed appropriate by WRL.
3. Authorises an amount of \$6,950 be transferred from the Land and Natural Environment Reserve to the coastal zone management plan Byron Bay Embayment account 2605.083, for the purpose of: covering the cost of seeking a formal response from the consultants in accordance with resolution 15-065, and undertaking a variation of the contract with the consultant as per quotation at attachment 5.
4. Authorises an additional amount of \$15,000 be allocated from account the Byron Bay embayment account for the variation in point two above and delegate the General Manager to identify the most appropriate account if the funds are not available.
5. Notes that the Minister for Environment has extended the submission date for the coastal zone management plan Byron Bay Embayment to 30 June 2015, and that Council is under

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Ministerial Direction to complete the draft CZMP by that date.

6. Notes that the Minister has advised Council that failure to complete the CZMP within the deadline will preclude Council from receiving any funding in the 2015/16 financial year for emergency protection works until the CZMP is completed.
7. Thanks OEH for their assistance with technical review of plans, studies and designs to date for compliance with Government objectives and Project aims and requirements.
8. Council establishes a community advisory/reference panel to provide ongoing feedback during the preparation of the CZMP containing key stakeholders and Councillors (as per CZMP guideline 2.2.2). (Ibrahim/Woods)

AMENDMENT

Moved:

1. That Council pursue Option 3, which is 'Finalise the Coastal Hazard Management Study Byron Bay Embayment as per the consultant's variation quotation at CONFIDENTIAL Attachment 5, and participate in the Steering Committee proposed by the Office of Environment and Heritage for the preparation of a new cost benefit analysis of coastal hazard management options for Belongil Beach', for progressing and completing the management study phase of the coastal zone management plan Byron Bay Embayment.
2. That Council note the Minister for the Environment has extended the submission date for the coastal zone management plan Byron Bay Embayment to 30 June 2015, but that Council is unlikely to meet this timeframe.
3. That an amount of \$6,950 be transferred from the Land and Natural Environment Reserve to the coastal zone management plan Byron Bay Embayment account 2605.083, for the purpose of: covering the cost of seeking a formal response from the consultants in accordance with *resolution 15-065*, and undertaking Option 3 which entails a variation of the contract with the consultant.
4. that Council notes that the Minister has advised Council that failure to complete the CZMP within the deadline will preclude Council from receiving any funding in the 2015/16 financial year for emergency protection works until the CZMP is completed and thus write to the newly appointed NSW Minister for the Environment (the Hon. Mark Speakman) requesting a further extension.
5. That Council thanks OEH for their assistance with technical review of plans, studies and designs to date for compliance with Government objectives and Project aims and requirements.
6. That Council establishes a community advisory/reference panel to provide ongoing feedback during the preparation of the CZMP containing key stakeholders and Councillors (as per CZMP guideline 2.2.2). (Richardson/Dey)

The amendment was put to the vote and declared lost.

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

The motion was put to the vote and declared carried.

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

MAYORAL MINUTE

There was no mayoral minute.

NOTICES OF MOTION

Notice of Motion No. 9.1 Heritage Advisory Committee

File No: I2015/260

15-140 Resolved that Council:

1. Establish a Heritage Advisory Committee that includes community representation.
2. Prepare a draft constitution based on the Eurobodalla Shire Council model and report to Council for approval to establish a selection process and subsequent appointment of Members.
3. Apply for grant funding from the NSW Office of Environment and Heritage for a local Heritage Advisory Service to support the work of the Committee.
4. Consider allocation of recurrent funding in the 2015/2016 budget process.
(Cameron/Wanchap)

The motion was put to the vote and declared carried.

Cr Woods voted against the motion.

PETITIONS

There were no petitions tabled.

SUBMISSIONS AND GRANTS

There were no submissions or grants.

DELEGATES' REPORTS

1. Australian Coastal Conference

The Mayor discussed his delegates report that was included in this Agenda.

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

Report No. 13.1 **2015 National General Assembly of Local Government**
File No: I2015/77

15-141 Resolved:

1. That Council authorise Cr Richardson to attend the 2015 National General Assembly of Local Government to be held at the National Convention Centre in Canberra from 14 to 17 June 2015.
2. That Council delegate Cr Richardson to be the voting delegate.
3. That Council endorse the following motion for submission to the National General Assembly:

Marriage Equality

1. That due to the ongoing and harmful discrimination endured by our residents, especially our youth, this Assembly calls on the Commonwealth Government to end marriage discrimination and support marriage equality for same sex couples.
2. That the Assembly endorse the Marriage Proclamation as supported by Byron Shire Council and other councils across Australia. (Dey/Woods)

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

Report No. 13.2 **Australia Day Project Reference Group - Finalisation of 2015 Group
and Commencement of 2016 Group**
File No: I2015/208

15-142 Resolved:

1. That Council notes this report on the Australia Day 2015 activities and disbands the Australia Day Project Reference Group effective 11 March 2015.
2. That Council write to all members of the Australia Day 2015 Project Reference Group advising of this resolution and to thank the participants for their assistance.
3. That Council participate in the Australia Day Council Ambassador Program for 2016 Australia Day Activities.
4. That the objectives for the Australia Day 2016 Project Reference Group, as outlined in this report, be adopted.
5. That the Constitution for the Australia Day PRG (#E2015/16582) shown at Attachment 1 to this report, be adopted.
6. That Council invite the following organisations to nominate representatives to be a member on the Australia Day 2016 Project Reference Group:

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- Byron Bay Rural Fire Brigade, Suffolk Park
- Bangalow Historical Society
- Rotary Club of Byron Bay
- Rotary Club of Mullumbimby representing the Combined Services Clubs of Brunswick Valley
- Brunswick Mullumbimby Lions Club
- Ocean Shores Community Association
- Brunswick Valley Historical Society
- Sisters for Reconciliation
- Australia Day Paddle
- Byron Youth Council

(Richardson/Cameron)

The motion was put to the vote and declared carried.

The meeting adjourned at 12.26pm for lunch and reconvened at 1.38pm.

Report No. 13.3 Section 355 Management Committees - resignations and appointments

File No: I2015/214

15-143 Resolved:

1. That with regard to the Ocean Shores Community Centre Section 355 Management Committee Council:
 - a) Accept the resignation from Cr Diane Woods and thank Cr Woods for her past contribution on this Committee.
 - b) Endorse the appointment of Cr Chris Cubis as the Councillor representative, and Cr Woods as the alternate delegate on this Committee.
2. That Council accept the resignation from Patricia Bleakley on the Heritage House Bangalow Section 355 Management Committee and officially thank her for her contribution on this committee.
3. That Council accept the resignations from Liz Caddick and Elissa Pelling on the South Golden Beach Section 355 Management Committee and officially thank them for their contribution of this committee.
4. That Council accept the resignation from Gail Bridgman on the Brunswick Valley Community Centre Section 355 Management Committee and officially thank her for her contribution on this committee. (Woods/Cubis)

The motion was put to the vote and declared carried.

Report No. 13.5 Proposed CCTV system in Byron Bay - ongoing maintenance and monitoring

File No: I2015/222

Moved: That Council defer line item 8, within table 2 of the report: *Undertake a request for tender procurement process in accordance with the Council's Tendering Guidelines for the final design and installation of the CCTV camera system*, until the completion of the Byron Bay Town Centre Masterplan, due to the following reasons:

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1. The proposed location of the CCTV camera's all fall within the area of the Masterplan.
2. The development of Railway park and Apex Park as part of the Masterplan will impact final decisions on either the need or final preferred location of CCTV camera's, as will possible shared zones along Jonson st.
3. The Byron Bay Town Centre Masterplan will be considering the application of Crime Prevention Through Environmental Design (CPTED) principles which may result in less cameras needed or a new consideration of final locations
4. No financial support has been received from either Byron United or The Byron Liquor Accord and thus funds may best be obtained through grants made more successful if coming from within a Council and community endorsed Masterplan. (Richardson/Dey)

15-144 Resolved that Cr Cubis be granted a one minute extension to his speech. (Hunter/Woods)

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

AMENDMENT

15-145 Resolved that Council note the report. (Cubis/Woods)

15-146 Resolved that Cr Richardson be granted a one minute extension to his speech. (Woods/Cameron)

The motion was put to the vote and declared carried.

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

The amendment became the motion.

FORESHADOWED AMENDMENT

Moved:

1. That Council note the report.
2. That Council call tenders to place equipment after permanent on-going sources or at least partnerships have been found for funding for operation of the system.
3. That Council advise the funding authority of this short delay. (Dey/Richardson)

*The amendment (Dey/Richardson) was put to the vote and declared lost.
Crs Ibrahim, Cubis, Woods, Wanchap and Hunter voted against the amendment.*

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

STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

Report No. 13.8 Review of the waiving of developer contributions for secondary dwellings

File No: I2015/200

15-147 Resolved that Councillors attend a workshop with staff to consider a range of options regarding developer contributions for secondary dwellings and the availability of lower cost housing options such as one and two bedroom accommodations. The workshop will consider amongst other things, including the possibility of SEPP 70:

1. s94 and s64 charges that are scaled proportionally to the cost and impact of small secondary dwellings such as 'granny flats'.
2. Options for reducing the minimum area required for dual occupancy (and other related restrictions) with a view of increasing medium sized housing stock, and Council's Rates income.
3. The effect of applying full s64 and s94 charges for 'Granny Flats' on the incidence of unapproved dwellings, and the uptake by existing unapproved dwellings to council invitations to seek approval. (Wanchap/Woods)

15-148 Resolved that Cr Woods be granted a one minute extension to her speech. (Woods/Cubis)

The motion was put to the vote and declared carried.

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

PROCEDURAL MOTION

15-149 Resolved that Report 13.12 be lifted from the table. (Woods/Richardson)

The motion was put to the vote and declared carried.

Report No. 13.12 PLANNING - 10.2014.714.1 - Demolition of existing dwelling, garage, and all other structures at 9 Station Street Bangalow

File No: I2015/219

Moved: That pursuant to Section 80 of the Environmental Planning and Assessment Act 1979, development application 10.2014.714.1 for demolition of existing dwelling, garage and all other structures, be approved with the following conditions:

- 1) Development is to be in accordance with approved plans
The development is to be in accordance with plans and samples listed below:

Plan No.	Description	Drawn by	Dated:
DAL0	Demolition	MB	13.11.1
1	Plan		3

The development is also to be in accordance with any changes shown in red ink on the approved plans or conditions of consent.

The approved plans and related documents endorsed with the Council stamp and authorised signature must be kept on site at all times while work is being undertaken.

- 2) Demolition work
All demolition work is to be undertaken in accordance with Australian Standard AS 2601-1991: *The Demolition of Structures*, published by Standards Australia, and as in force at 1 July 1993.
- 3) Existing trees to be retained
This consent does not authorise the removal of any existing trees on the subject site.
- 4) Removal of asbestos and other wastes
All wastes, including asbestos and lead-contaminated wastes, associated with these works are to be handled and disposed of in accordance with the requirements of the Work Cover Authority. The applicant/owner is to produce documentary evidence that this condition has been met.

All wastes removed from the site must be managed and disposed of in accordance with NSW DECC *Waste Classification Guidelines* (2008).
- 5) Maintenance of sediment and erosion control measures
Sediment and erosion control measures must be maintained at all times until the site has been stabilised by permanent vegetation cover or hard surface.
- 6) Demolition times
Demolition works must not unreasonably interfere with the amenity of the neighbourhood. In particular construction noise, when audible from adjoining residential premises, can only occur:
 - a) Monday to Friday, from 7 am to 6 pm.
 - b) Saturday, from 8 am to 1 pm.
No demolition work to take place on Saturdays and Sundays adjacent to Public Holidays and Public Holidays and the Construction Industry Awarded Rostered Days Off (RDO) adjacent to Public Holidays.
Note: Council may impose on-the-spot fines for non-compliance with this condition.
- 7) Demolition Noise
Demolition noise is to be limited as follows:
 - a) For construction periods of four (4) weeks and under, the L10 noise level measured over a period of not less than fifteen (15) minutes when the construction site is in operation must not exceed the background level by more than 20 dB(A).
 - b) For construction/demolition periods greater than four (4) weeks and not exceeding twenty-six (26) weeks, the L10 noise level measured over a period of not less than fifteen (15) minutes when the construction site is in operation must not exceed the background level by more than 10 dB(A)
Note: Council may impose on-the-spot fines for non-compliance with this condition.
- 8) Signs to be erected on building and demolition sites
A sign must be erected in a prominent position on the work site:
 - a) stating that unauthorised entry to the work site is prohibited, and
 - b) showing the name of the person in charge of the work site and a telephone number at which that person may be contacted outside working hours.
Any such sign is to be removed when the work has been completed.
- 9) Prevention of water pollution
Only clean and unpolluted water is to be discharged to Council's stormwater drainage system or any watercourse to ensure compliance with the Protection of Environment Operations Act.

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Note: Council may impose on-the-spot fines for non-compliance with this condition.

10) Site rehabilitation

Following the completion of demolition works all temporary fencing is to be removed. The development site is to be turfed and landscaped to the satisfaction of Council.

11) Post demolition works

The subject site is to be maintained in a clean and tidy manner at all times.

Notes:

Protection of the Environment Operations Act 1997:

It is an offence under the provisions of the Protection of the Environment Operations Act 1997 to act in a manner causing, or likely to cause, harm to the environment. Anyone allowing material to enter a waterway or leaving material where it can be washed off-site may be subject to a penalty infringement notice ("on-the-spot fine") or prosecution.

Site fencing:

No fencing is to be erected on the subject site without the prior consent of Council.

(Hunter/Woods)

AMENDMENT

Moved: That report 13.12 on DA 10.2014.714.1 be deferred and considered at Council's next Ordinary Meeting on 30 April along with draft Consent Conditions to enable approval.

(Dey/Ibrahim)

The amendment was put to the vote and declared lost.

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

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

The motion was put to the vote and declared lost.

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

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

FORESHADOWED MOTION

- 15-150 Resolved** that pursuant to Section 80 of the Environmental Planning and Assessment Act 1979, development application 10.2014.714.1 for demolition of existing dwelling, garage and all other structures, be refused for the reasons listed in Attachment 1. (Richardson/Spooner)

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, Wanchap and Hunter voted against the motion.

**Report No. 13.13 Budget Allocation for Traffic Study to Determine Construction
Priorities on Ewingsdale Road**

File No: I2015/256

Moved:

1. That Council allocate a budget of \$50,000 to engage a traffic consultant to:
 - a) Determine the priority order for the construction of intersection upgrades on MR545; and
 - b) Model the impacts of construction of more than one roundabout at a time on Ewingsdale Road; and
 - c) Investigate the need for a roundabout at the intersection of Kendall Street and Ewingsdale Road; and
 - d) Model the impact of the rezoning proposal for seniors living and commercial

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development at Ewingsdale on the intersections of William Flick Lane/Ewingsdale Road and McGettigans Lane/Ewingsdale Road and determine the timing of construction for the infrastructure to service this development. Model the impact of this development on the function of MR545.

2. That budget be made up of section 94 funds with \$30,000 taken from the Byron Bay Urban Roads account and \$20,000 from the Plan Administration Fund.
3. That the proponents of the rezoning proposal for seniors living and commercial development at Ewingsdale be required to contribute to the cost of item (d) as a fee payable for costs and expenses of a study by a relevant planning authority under clause 11 of the Environmental Planning and Assessment Regulation 2000 and Council's Fees and Charges 2014-2015. Staff to determine an appropriate fee amount and advise the proponents accordingly. (Dey/Woods)

AMENDMENT

Moved: That Council prioritise intersection upgrades at Broken Head Road and Clifford Street first and Ewingsdale Road and Bayshore Drive second, as seen in Table 8 of the report. (Richardson/Cameron)

The amendment was put to the vote and declared lost.

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

The motion was put to the vote and declared lost.

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

FORESHADOWED MOTION

15-151 Resolved:

1. That Council allocate a budget of \$50,000 to engage a traffic consultant to:
 - a) Determine the priority order for the construction of intersection upgrades on MR545; and
 - b) Model the impacts of construction of more than one roundabout at a time on Ewingsdale Road; and
 - c) Investigate the need for a roundabout at the intersection of Kendall Street and Ewingsdale Road; and
 - d) Model the impact of the rezoning proposal for seniors living and commercial development at Ewingsdale on the intersections of William Flick Lane/Ewingsdale Road and McGettigans Lane/Ewingsdale Road and determine the timing of construction for the infrastructure to service this development. Model the impact of this development on the function of MR545.
2. That budget be made up of section 94 funds with \$30,000 taken from the Byron Bay Urban Roads account and \$20,000 from the Plan Administration Fund. (Ibrahim/Cubis)

15-152 Resolved that Cr Cameron be granted a two minute extension to his speech.

(Richardson/Woods)

The motion was put to the vote and declared carried.

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

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

REPORTS OF COMMITTEES - INFRASTRUCTURE SERVICES

Report No. 14.1 **Report of the Community Infrastructure Advisory Committee Meeting held on 5 March 2015**

File No: I2015/218

15-153 Resolved that Council note the minutes of the Community Infrastructure Advisory Committee Meeting held on 5 March 2015. (Richardson/Cameron)

The motion was put to the vote and declared carried.

15-154 Resolved that Council adopt the following Committee Recommendation:

Report No. 5.1 Proposed Community Infrastructure Advisory Committee Meeting dates for 2015
File No: I2015/21

Committee Recommendation 5.1.1

That the Community Infrastructure Advisory Committee meets on the following dates and times:

- Thursday 7 May 2015 at 2.00pm
- Thursday 10 September 2015 at 2.00pm
- Thursday 3 December 2015 at 2.00pm (Richardson/Cameron)

The motion was put to the vote and declared carried.

15-155 Resolved that Council adopt the following Committee recommendation:

Additional Item Roadside Weed Management

Committee Recommendation 5.1.2

That Council:

- 1) Note the Discussion Paper (E2015/14133) on roadside weed management.
- 2) Convene a meeting of interested stakeholder groups and individuals to consider the paramount question.
- 3) Review the Roadside Vegetation Management Plan (RVMP), including to:
 - a) identify effectiveness of control methods and identifying opportunities for costs saving through better targeting of control methods.
 - b) identify opportunities for better coordination of stakeholders to increase area of roadside under sustainable weed management control.
- 4) Receive a report via the Committee on public liability, risk management and other issues associated with support of voluntary groups, as outlined in the Discussion Paper. (Richardson/Cameron)

The motion was put to the vote and declared carried.

15-156 Resolved that Council adopt the following Committee recommendation:

Additional Item - Marshalls Creek

Committee Recommendation 5.1.3

That Council note the Discussion Paper presented to the CIAC (E2015/14756) and collaborate with NPWS about possible canoe access and launching locations on Marshalls Creek at Ocean Shores and New Brighton. (Richardson/Cameron)

The motion was put to the vote and declared carried.

15-157 Resolved that Council receive a report on bus set down and pick up options at the Byron Bay Memorial Swimming Pool. (Richardson/Cameron)

The motion was put to the vote and declared carried.

15-158 Resolved that Council note advice from Bus Operators of increasing traffic congestion and disruption to services along Broken Head Road, between Suffolk Park and Byron Bay, and that:

1. this be considered in future planning e.g. traffic, cycling, capacity etc; and
2. the Committee receive a further report on issues raised. (Richardson/Cameron)

The motion was put to the vote and declared carried.

CONFIDENTIAL REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

Report No. 16.1 **CONFIDENTIAL - Unlawful development, North Head Road, New Brighton**

File No: I2014/177

15-159 Resolved:

1. That pursuant to Section 10A(2)(b) and (g) of the Local Government Act, 1993, Council resolve into Confidential Session to discuss the report Unlawful Development, North Head Road, New Brighton.
2. That the reasons for closing the meeting to the public to consider this item be that the report contains:
 - a) discussion in relation to the personal hardship of a resident or ratepayer
 - b) advice concerning litigation, or advice as comprises a discussion of this matter, that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege
3. That on balance it is considered that receipt and discussion of the matter in open Council would be contrary to the public interest, as:

disclosure of the confidential information could disclose matters and information going to the personal hardship of a resident and/or ratepayers and would disclose advice sought and given which would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege.

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4. That in accordance with Sections 10A(4) of the *Local Government Act 1993*, that the Chairperson allow members of the public to make representations as to whether this part of the meeting should be closed. (Woods/Richardson)

The motion was put to the vote and declared carried.

15-160 Resolved that Council defer this matter to allow councillors to have a workshop to discuss:

- a) the merits or otherwise of attempting enforcement action regarding the subject holdings
- b) implications of the zone 7(f1) having been identified by the NSW Minister of Planning as DM "Deferred Matter" in BLEP 2014 as it is not known at this point in time if the outcomes of the Ministerial process will offer any opportunities for the current development and uses of these lands to become lawful. (Wanchap/Woods)

Cr Cubis left the meeting at 4.07pm and did not return.

AMENDMENT

Moved:

1. That Council institute the processes to issue all property owners the subject of this report with Orders to cease the use; to demolish and remove unlawful structures.
2. That if the orders are not complied with, Council commence Class 4 civil proceedings in the NSW Land and Environment Court seeking orders in each case restraining the respondents from using or permitting the use of, the dwelling houses and related structures and the tourist facility that have been erected without development consent.
3. That in recognition that there may be some hardship, Council should concede a stay of the operation of the orders:
 - i) for the property where the unlawful dwelling is the owners principal place of residence, a period of 2 years;
 - ii) for all other properties, a period of 6 months. (Dey/Cameron)

The amendment was put to the vote and declared lost.

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

The motion was put to the vote and declared carried.

Cr Dey voted against the motion.

There being no further business the meeting concluded at 4.40pm.

I hereby certify that these are the true and correct Minutes of this Meeting
as confirmed at Council's Ordinary Meeting on 30 April 2015.

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Mayor Simon Richardson