



Byron Shire Council



Minutes

Ordinary Meeting

Thursday, 30 April 2015

BYRON SHIRE COUNCIL

Ordinary Meeting Minutes
30 April 2015

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BYRON SHIRE COUNCIL

ORDINARY MEETING MINUTES

30 April 2015

MINUTES OF THE BYRON SHIRE COUNCIL ORDINARY MEETING HELD ON THURSDAY, 30 APRIL 2015 COMMENCING AT 9.04AM AND CONCLUDING AT 3.02PM

12015/359

PRESENT: Cr S Richardson (Mayor), Cr B Cameron, Cr C Cubis (arrived at 9.45am), Cr D Dey, Cr A Hunter, Cr S Ibrahim, 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)
Shannon Burt (Director Sustainable Environment and Economy)
Shannon McKelvey (Executive Manager Organisation Development)
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:

13.8 PLANNING 10.2014.238.1 – 25 Childe Street, Byron Bay

Jamie Dickson, Byron Beach Resort, addressed Council in favour of the recommendation. Christine Ahern addressed Council against the recommendation.

13.5 Submissions Report – Draft Short Term Holiday Accommodation

David Wallace, Victims of Holiday Letting, addressed Council in favour of the recommendation. John Gudgeon, HLO Byron Inc; Doug Luke, Victims of Holiday Letting; and Robert Rosen, Brunswick Heads Chamber of Commerce, addressed Council against the recommendation.

Submission No. 1 Bat Colony in Rotary Rainforest Park

Lisa Sandstrom, representing Bat Colony Resident Action Group, made a submission to Council regarding the increased number of bats and request that Council develop a management strategy to deal with the issue.

Submission No. 2 Flying foxes at Federation Bridge Mullumbimby

Paul Brecht made a submission to Council regarding flying foxes.

Submission No. 3 Traffic Control Measures at Wilsons Creek Public School

Will Constable, School Principal made a submission to Council regarding traffic control measures in front of Wilsons Creek Public School and requested Council to support the installation of a 40km zone with flashing lights, a road crossing and training of crossing guards.

The meeting adjourned at 9.50am and reconvened at 10.10am.

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

Crs Dey, Wanchap and Hunter tabled Forms of Special Disclosure of Pecuniary in accordance with section 451(4) and (5) of the Local Government Act 1993.

TABLING OF PECUNIARY INTEREST RETURNS

There were no Pecuniary Interest Returns tabled.

ADOPTION OF MINUTES FROM PREVIOUS MEETINGS

15-161 Resolved that the minutes of the Ordinary meeting held 9 April 2015 be confirmed. (Dey/Woods)

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 Code of Meeting Practice Policy - proposed amendments
Report No. 13.3 Draft 2015/16 Operational Plan and Statement of Revenue Policy - Public Exhibition

Sustainable Environment and Economy

Report No. 13.5 Submissions Report - Draft Short Term Holiday Accommodation Strategy
Report No. 13.6 Greenhouse Gas Emission Status Report 2012-13 and 2013-14
Report No. 13.8 PLANNING - 10.2014.238.1 - Use of existing awning and stage structures as part of existing restaurant, increase the maximum number of restaurant patrons to ninety-six (96) and erection of a new gazebo structure (ancillary to tourist facility) - 25 Childe Street, Byron Bay

Organisation Development

Report No. 13.11 Webcasting Council meetings

REPORTS OF COMMITTEES

Corporate and Community Services

Infrastructure Services

Report No. 14.2 Report of the Local Traffic Committee Meeting held on 1 April 2015
6.1 No Right-turn, Woolworths egress, Station Street, Mullumbimby

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- 6.2 Proposed No Stopping, Sunrise Boulevard, Byron Bay
- 6.3 Entry-exit treatments, Mullumbimbi Lane, Brunswick Heads
- 6.4 Cul-de-sac, St. Finbarr's Primary and Byron Bay High Schools
- 6.5 School bus route approval, Mullumbimby-Wilson's Creek-Huonbrook
- 6.6 Proposed No Parking, 310 Skinners Shoot Road, Byron Bay
- 6.7 Proposed No Stopping, Village Greens grocer, Brunswick Heads
- 6.8 Bus Zone options and design plan, Wilson's Creek Public School
- 6.9 No Parking - Authorised Vehicles Excepted, 52-54 Jonson Street, Byron Bay
- 6.10 Request for No Parking, Grevillea Street, Byron Bay Arts & Industry Estate
- 6.11 Request for No Stopping, Bayshore Drive, Byron Bay
- 6.12 Proposed No Stopping, Council Depot, Bayshore Drive, Byron Bay
- 7.1 Request for physical demarcation, Mullumbimby Road at Gulgan Rd intersection
- 8.1 Splendour in the Grass 2014 traffic management plan

CONFIDENTIAL REPORTS

Infrastructure Services

LATE REPORTS

Report No. 17.1 Coastal Zone Management Plan Project Reference Group

The remaining Recommendations and Committee Recommendation 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. 15-162 and concluding with Resolution No. 15-173.

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

Report No. 13.2 Council Investments - March 2015
File No: I2015/257

15-162 Resolved that the report listing Council's investments and overall cash position as at 31 March 2015 be noted. (Woods/Richardson)

Report No. 13.4 Section 94 Funds Allocation Request for the 'Intergenerational Playgroup Project' to Construct Pathways, Seating and Shelter in Jacaranda Park, Byron Bay.
File No: I2015/292

15-163 Resolved:

1. That Council allocate a budget of \$20,000 for park upgrades, including pathways, shelters and seating, in Jacaranda Park Byron Bay out of the Byron Bay Open Space section 94 account.
2. That Council note that these works will facilitate the Intergenerational Playgroup Pilot Project for which Council received \$20,000 funding from the 'Creating Liveable Communities Competition' from the Department of Family and Community Services (FACS). (Woods/Richardson)

STAFF REPORTS – SUSTAINABLE ENVIRONMENT AND ECONOMY

Report No. 13.7 PLANNING - Planning Proposals - For finalisation of reclassification of Lot 1 DP 952598 Vallances Road Mullumbimby and Lots 15 and 16 DP 1178892 Dingo Lane Myocum

File No: I2015/224

15-164 Resolved that Council forward the Planning Proposals (and related legal documents) relating to Lot 1 DP 952598 (No. 125) Vallances Road Mullumbimby, and Lot 15 DP 1178892 (No. 1) and Lot 16 DP 1178892 Dingo Lane, Myocum to the NSW Department of Planning and Environment with a request to draft and finalise LEP amendments relating to Byron Local Environmental Plan 1988 and Byron Local Environmental Plan 2014 having the following effect:

1. That Lot 1 DP 952598, 125 Vallances Road, Mullumbimby:
 - a) is classified as “operational land – interests changed” in accordance with Part 2 of Chapter 6 of the Local Government Act 1993; and
 - b) ceases to be a public reserve (if it is a public reserve); and
 - c) is discharged from any trusts, estates, interests, dedications, conditions, restrictions and covenants affecting the land or any part of the land, except for:
 - i) any reservations that except the land out of a Crown grant relating to the land,
 - ii) reservations of minerals (within the meaning of the Crown Lands Act 1989), and
 - iii) A234199 Right of Way affecting the part of the land shown so burdened in Vol 2738 Fol 198, and

2. That Lot 15 DP 1178892, 1 Dingo Lane and Lot 16 DP 1178892 Dingo Lane, Myocum:
 - a) is classified as “operational land – interests changed” in accordance with Part 2 of Chapter 6 of the Local Government Act 1993; and
 - b) ceases to be a public reserve (if it is a public reserve); and
 - c) is discharged from any trusts, estates, interests, dedications, conditions, restrictions and covenants affecting the land or any part of the land, except for:
 - i) any reservations that except the land out of a Crown grant relating to the land,
 - ii) reservations of minerals (within the meaning of the Crown Lands Act 1989),
 - iii) Easement to Drain Water registered with DP 645883,
 - iv) Easement to Drain Water registered with DP 645884,
 - v) Easement to Drain Water registered with DP 1122726,
 - vi) Right of Carriageway registered with DP 1178892 affecting Lot 15 DP 1178892,
 - vii) Easement for Overhead Power Line(s) registered with DP 1178892 affecting Lot 16 DP 1178892,
 - viii) Restriction(s) on the Use of Land referred to and numbered (3) in the applicable Section 88B Instrument registered with DP 1178892 affecting Lot 16 DP 1178892, and
 - ix) Restriction(s) on the Use of Land referred to and numbered (4) in the applicable Section 88B Instrument registered with DP 1178892 affecting Lot 16 DP 1178892.

(Woods/Richardson)

Report No. 13.9 Report of the Planning Review Committee Meeting held on 7 April 2015

File No: I2015/289

15-165 Resolved that the report be noted. (Woods/Richardson)

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Report No. 13.10 **Sustainable Economy Committee Selection Process**
File No: I2015/341

15-166 Resolved that Council:

1. Agree the EOI's for the Sustainable Economy Committee be provided to an assessment panel made up of Cr Cameron, Cr Ibrahim and Cr Richardson supported by the Economic Development & Tourism Coordinator and Tourism Officer for review and recommendation for appointment to the Committee.
2. Provide delegation to the General Manager to authorise the recommended Sustainable Economy Committee appointments and issue letters of offer including a meetings schedule, confidentiality and conflict of interest agreements.
3. Receive a report at the Thursday 21 May 2015 Council meeting detailing the appointed Sustainable Economy Committee members. (Woods/Richardson)

REPORTS OF COMMITTEES - CORPORATE AND COMMUNITY SERVICES

Report No. 14.1 **Report of the Arakwal Memorandum of Understanding Advisory Committee Meeting held on 25 February 2015**
File No: I2015/285

15-167 Resolved that Council note the minutes of the Arakwal Memorandum of Understanding Advisory Committee Meeting held on 25 February 2015. (Woods/Richardson)

15-168 Resolved that Council note the following Committee Recommendation:

Report No. 5.1 Aboriginal Education Kit
File No: I2015/59

Committee Recommendation 5.1.1

That the Aboriginal Education Kit be renamed the Local Aboriginal Resource Kit. (Woods/Richardson)

15-169 Resolved that Council note the following Committee Recommendation:

Report No. 5.2 Aboriginal Cultural Heritage Planning Study Application
File No: I2015/65

Committee Recommendation 5.2.1

That the Arakwal MoU Advisory Committee note the application for funding to the NSW Department of Environment and Heritage for a Shire Wide Aboriginal Cultural Heritage Planning Study and the notification timeframes. (Woods/Richardson)

15-170 Resolved that Council adopt the following Committee Recommendation:

Report No. 5.3 Reconciliation Action Plan
File No: I2015/66

Committee Recommendation 5.3.1

1. That Council establish a Reconciliation Roundtable to develop a Byron Shire Reconciliation Action Plan (RAP).

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2. That a draft RAP be reviewed by the Aboriginal (MoU) Advisory Committee prior to being presented to Council. (Woods/Richardson)

15-171 Resolved that Council note the following Committee Recommendation:

Report No. 5.4 Arakwal MoU Implementation Plan 2013/14 Review
File No: I2015/67

Committee Recommendation 5.4.1

1. That the Arakwal MoU Advisory Committee note the progress on implementing the priority projects from the Arakwal MoU in 2013/14.
2. That the Arakwal MoU Advisory Committee recommend the priority projects for inclusion in the Arakwal MoU Implementation Plan 2015/16.
 - a) Consultation processes for development applications and other matters in regards to land management of public lands (2.2.2 from the Memorandum of Understanding)
 - b) Indigenous Employment Strategies (3.2.1 from the Memorandum of Understanding)
 - c) Cultural Awareness Training (4.2.4 from the Memorandum of Understanding)
 - d) Native Title (1.2.4 from the Memorandum of Understanding)
 - e) Tourism (1.2.6 from the Memorandum of Understanding)
 - f) Arakwal Cultural Centre (3.3.2 from the Memorandum of Understanding)
 - g) Protecting Wetlands (4.2.2 from the Memorandum of Understanding)(Woods/Richardson)

CONFIDENTIAL REPORTS - INFRASTRUCTURE SERVICES

Report No. 16.1 **CONFIDENTIAL - Tender Assessment - South Byron STP Stage 1 Works, Demolition of Above and Below Ground Infrastructure**
File No: I2015/296

15-172 Resolved:

1. That Council award Tender 2015-0002 South Byron STP Stage 1 Works - Demolition of Above and Below Ground Infrastructure to Liberty Industrial Pty Ltd for the alternative option of \$865,531.22 including GST (\$786,846.56 excluding GST).
2. That Council makes public its decision, including the name and amount of the successful tenderer, in accordance with Clause 179(b) of the Local Government (General) Regulation 2005.
3. That Council increases the 2014/15 project budget by \$222,000 to \$1,122,000 from the sewer fund capital works reserve. (Woods/Richardson)

LATE REPORTS

Report No. 17.2 **Coastal Zone Management Plan Update**
File No: I2015/357

15-173 Resolved:

1. That Council, pursuant to Section 55 (3) of the Local Government Act 1993, does not call tenders for the works to progress the draft Coastal Hazard Management Study Byron Bay Embayment including the additional work on the Cost Benefit Analysis (resolution 15-139)

(parts 1 and 2)) because to do that would not achieve a satisfactory result due to the following extenuating circumstances:

- a) The variation at resolution 15 -139 embodies both additional works and revisions to the work already performed as part of the original WRL contract 2013-0034.
 - b) The completion of contract 2013-0034, which entails the finalisation of a cost benefit analysis, management study report and the preparation of a management recommendation, is reliant on the works not yet undertaken as per the variation at resolution 15 -139.
 - c) Through carrying out a large proportion of the original contract of works, WRL have developed a significant body of specialist knowledge and expertise. This knowledge and expertise will be integral to undertaking the additional works.
 - d) Their extensive background and involvement in the management study project to date, place WRL in a competitive position with respect to carrying out the additional works at resolution 15-139.
 - e) Council is under a Ministerial Direction to submit the CZMP by 30 June 2015. The Direction is under section 55B of the *Coastal Protection Act 1979*. In accordance with the CP Act, if Council fails to comply with section 55B then the Minister may:
 - (a) *review the council's existing plan and make a new plan to replace that existing plan, and*
 - (b) *recover from the council the costs of doing those things, and*
 - (c) *publish the new plan in the Gazette.*
 - f) Council has successfully sought extensions to the Minister's Direction on a number of occasions. The latest advice from the state government is that until the CZMP is submitted and certified, further grant funding applications from Council, under the NSW Government's Coastal Management Program, will not be considered.
 - g) The time pressure exerted by the Minister's Direction, and the implications regarding funding under the Coastal Management Program, provide an imperative to carry out the additional works, and finalise the management study, in an expeditious fashion.
2. That Council delegate authority to the General Manager to negotiate and enter into a variation to contract 2013-0034 with the consultancy Water Research Laboratory, for the purpose of procuring the additional works at Council resolution 15-139.
 3. That Council note the progress to date on carrying out resolution 15-139.(Woods/Richardson)

PROCEDURAL MOTION

- 15-174 Resolved** that Council change the order of business to deal with Reports 13.5 and 13.8 next on the Agenda. (Richardson/Dey)

The motion was put to the vote and declared carried.

MAYORAL MINUTE

There was no mayoral minute.

STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

Report No. 13.5 Submissions Report - Draft Short Term Holiday Accommodation Strategy
File No: I2014/101

Moved that Council:

1. Adopt the Byron Shire Short Term Holiday Accommodation Action Plan, Attachment 1 (E2015/14847) subject to the following amendments:

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- a) amend the planning controls to remove all references to '40m' limitation applying to occupiers of separate dwellings in relation to making complaints about the short term rental activities taking place on a property (eg. at Action 5c in the Plan);
- b) Further amend the planning controls at Action 6c in the Plan to change "\$250/adult" to "\$250 per adult";
- c) amend the planning controls relating to signage to read:

'An A4 size sign, in accordance with Council's template, is to be placed where it can clearly be seen from the public domain (eg footpath) advising the public of the land owner's or property manager's details including telephone number in 40mm font to enable complaints to be readily made, and wording to advise that the property is 'Registered with Byron Shire Council'; and

- d) include a new action 'Develop Signage Template for use by landowners/managers in accordance with the planning controls. Timeframe: prior to LEP amendments being gazetted. Cost: existing budget'.
2. Prepare a planning proposal to amend Byron LEP 2014 in accordance with the proposed planning controls in Attachment 1 (E2015/14847) amended as in part 1 above and submit the planning proposal to the Department of Planning and Environment for a Gateway Determination.
 3. Request the Department of Planning and Environment to delegate to Council the preparation and making of the LEP amendment.
 4. Publicly exhibit the proposed amendments to DCP 2014 in Attachment 1 (E2015/14847) amended as in part 1 above, for at least 28 days, and concurrently exhibit the planning proposal to amend the Byron LEP 2014. (Dey/Wanchap)

15-175 Resolved that Cr Ibrahim be granted a one minute extension to his speech. (Woods/Richardson)

The motion was put to the vote and declared carried.

15-176 Resolved that this matter rest on the table. (Richardson/Dey)

The motion was put to the vote and declared carried.

Report No. 13.8 **PLANNING - 10.2014.238.1 - Use of existing awning and stage structures as part of existing restaurant, increase the maximum number of restaurant patrons to ninety-six (96) and erection of a new gazebo structure (ancillary to tourist facility) - 25 Childe Street, Byron Bay**
File No: I2015/287

15-177 Resolved that pursuant to Section 80 of the Environmental Planning & Assessment Act 1979, development application 10.2014.238.1 for Use of existing awning and stage structures as part of existing restaurant, increase the maximum number of restaurant patrons to seventy (70) and erection of a gazebo structure (ancillary to tourist facility) be granted deferred commencement consent subject to the conditions listed in Attachment 2 with the following addition.

Provision of Loading and service facilities.

The application for a Construction Certificate is to include plans and specification that indicate a loading area within the site in accordance with the following:

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- a) The provision of 1 medium rigid vehicle space. The design and layout of the service vehicle areas must comply with Australian Standard AS 2890.2-2002 - Parking facilities - Off-street commercial vehicle facilities. The servicing arrangements for the development must also include sufficient paved area for garbage and recycling collection. The servicing area should be kept clear of all other vehicles (ie no car parking). A plan showing swept paths for all anticipated service vehicles, including for garbage and recycling collection, must also be approved as part of the Construction Certificate.

The engineering plans and specifications are to be designed by a qualified practising Civil Engineer. The Civil Engineer is to be a corporate member of the Institution of Engineers Australia or is to be eligible to become a corporate member and have appropriate experience and competence in the related field.

Such plans and specifications must be approved as part of the Construction Certificate.

NOTE: The plans must be in compliance with Council's current "Northern Rivers Local Government Development Design & Construction Manuals and Standard Drawings".

(Woods/Wanchap)

The motion was put to the vote and declared carried.

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

No Councillors voted against the motion.

FORESHADOWED MOTION

Moved: That Council conduct an audit on the property 25 Childe Street Belongil to assess safety and health issues as mentioned in public access today. (Woods/Cubis)

The motion was put to the vote and declared lost.

Crs Dey, Woods, Richardson and Spooner voted in favour of the motion.

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

NOTICES OF MOTION

Notice of Motion No. 9.1 Extended brief to the Byron Bay Master Plan Consultants
File No: I2015/333

Moved: That Council make the following request to the consultants for the Byron Bay Master Plan:

1. That the consultants to be given an extra brief to investigate the provision of the multilevel carpark and include in the brief the option of a public private partnership and that the brief advise council of best location eg Lawson Street, Butler Street or alternative identified sites.
2. That this design should include three levels for parking and commercial use for example in Lawson Street, the design could be as follows: two underground and one at ground level with two retail shop fronts to Lawson Street and two to Bay Lane with the whole top level being a Function room capable of catering to large functions from 200 to 500 participants incorporating a commercial kitchen and access to a roof top deck.
3. Request the West Byron Developers to consider funding this preliminary study from promised voluntary contributions. (Wanchap/Woods)

The motion was put to the vote and declared lost.

Crs Woods and Wanchap voted in favour of the motion.

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

15-178 **Resolved** that Cr Wanchap be granted a one minute extension to her speech.

(Richardson/Spooner)

The motion was put to the vote and declared carried.

Cr Dey voted against the motion.

PETITIONS

There were no petitions.

SUBMISSIONS AND GRANTS

There were no submissions or grants.

DELEGATES' REPORTS

Rous Water meeting of 15 April 2015

Cr Dey advised the following:

Rous Water adopted its draft annual Operational Plan and budget for public exhibition, as we will for our Council here today.

In other business, the question of installing photovoltaic systems (solar panels) on Rous's two Water Treatment Plants was presented for the second time but again rejected. I am unimpressed that Rous Council can't see its way into valuing the Greenhouse Gas reduction that it would achieve by grabbing its electricity out of the sky instead of grabbing it out of a deep hole in the Hunter Valley. Council voted instead to look at electricity demand management within Rous's own headquarters and depot. I support that but it was argued on the basis of the business case. The refit to Rous's headquarters has a 12 year pay-back period and yet Rous only has a 7 year lease on the building. I was flummoxed that a defective business argument was used to do one thing and a sound business case rejected on another.

Richmond Tweed Regional Library (RTRL) Committee meeting of 17 April 2015

Cr Dey advised the following:

RTRL Committee also looked at their draft budget. The share proposed for Byron Council to provide for the Regional Library system was set to rise by 4.5% from last years' contribution. Byron Council staff and I asked that this be reviewed downwards and RTRL staff will endeavour to do so.

Mullumbimby Civic Hall Board of Management

Cr Dey advised the following:

Council will advertise an expression of interest in May, for a manager for the hall. The Board hopes about half of the manager's role will be to promote the venue and the other half will be to operate it day to day. Promotion is required to increase the hall's usage and to turn around its financial viability.

Mullumbimby Showground Trust Committee

Cr Woods advised the following:

Cr Dey and myself are both on the Mullumbimby Showground Trust. We put in a grant just now and hopeful of getting about \$650,000 towards a new amenities block at the showground. Also there was a small fire there this morning in the Farmers' markets shed – nobody hurt and no real damage done.

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

Report No. 13.1 **Code of Meeting Practice Policy - proposed amendments**
File No: **I2015/221**

15-179 Resolved:

1. That the report be noted.
2. That the draft amended Schedule A as shown at Attachment "A" (E2015/20747) to the Code of Meeting Practice be adjusted to incorporate the following changes:
 4. Questions from members of the public relating to Council business. Time allowed 1 minute per question.
 5. Councillors may ask questions of people speaking to items on the Agenda, making a submission or asking a question.
 6. Responses to questions not provided at the meeting but taken on notice will be tabled in the next agenda papers.
3. That the draft amended Schedule A, as shown at Attachment "A" (E2015/20747) to the Code of Meeting Practice Policy be placed on public exhibition for a minimum period of 28 days allowing a period of 42 days for public submissions with the following changes:
 - a) That in the event that any submissions are received on the draft Schedule A to the Policy, it be reported back to Council prior to adoption.
 - b) That in the event that no submissions are received on the draft Schedule A to the Policy it be adopted and incorporated in Council's Policy Register.

(Spooner/Richardson)

The motion was put to the vote and declared carried.

FORESHADOWED MOTION

15-180 Resolved that the following further amendments be exhibited with the exhibition resolved on in the previous motion:

Amendments to Schedule B: Special Purpose Committees starting at page 13 of the current Code be drafted for sections 6 - 8 under "Planning Review Committee" as follows:

section 6:

Councillors are to advise the General Manager or nominated delegate of any development application they wish to discuss at the next Planning Review Committee meeting by 12 noon 3 days prior to the meeting. Notwithstanding the above, Councillors are encouraged to advise as early as possible.

section 7:

The agenda is to be prepared and distributed to Councillors no later than 2 working days before the meeting and is to include the dates of exhibition of the DA. Late items may only be included under exceptional circumstances (deemed so by the General Manager).

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section 8:

A development application can only be called to the Planning Review Committee once, except under exceptional circumstances or if the DA's exhibition period closed less than 3 days before the day the Committee considers it. A matter should stay on the agenda for no longer than until the next Committee meeting or until 3 working days after the exhibition period closed.

(Dey/Woods)

The motion was put to the vote and declared carried.

Report No. 13.3 **Draft 2015/16 Operational Plan and Statement of Revenue Policy - Public Exhibition**

File No: I2015/291

15-181 Resolved:

1. That Council note and amend the Draft 2015/2016 Operational Plan and Statement of Revenue Policy (comprising the draft Budget Estimates, Rates and Charges, Borrowings and Fees and Charges) as follows:
 - a) reallocate \$20,000 out of the \$33,000 in ledger account number 2606.18 on Page 48 of Attachment 1 "Environmental Levy, Unallocated" to create a new item "prepare Plan(s) of Management for bat colony(s)" in the same area of Sustainable Environment & Economy (ie Planning Policy & Natural Environment) or in a more appropriate area.
 - b) reallocate \$4,000 within ledger account number 3211 (\$295,800) to number 3211.22 "Traffic Facilities" specifically for the purchase and installation of a physical centre median on the hatched painted area in Station Street Mullumbimby at the Woolworths driveway immediately south of Tincogan Street (to prevent right turns, which are not permitted).
2. That the thus-amended Draft 2015/2016 Operational Plan and Statement of Revenue Policy (comprising the Budget Estimates, Rates and Charges, Borrowings and Fees and Charges) be placed on public exhibition, as set out in the report. (Dey/Woods)

The motion was put to the vote and declared carried.

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

Cr Cubis voted against the motion.

FORESHADOWED MOTION

- 15-182 Resolved** that staff investigate an appropriate process and fee for commercial activities such as "Kick Boxing Classes" currently occurring on Council managed Crown Lands. (Woods/Dey)

The motion was put to the vote and declared carried.

STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

Report No. 13.6 **Greenhouse Gas Emission Status Report 2012-13 and 2013-14**
File No: I2015/2

- 15-183 Resolved** that Council note this report and continue its commitment to reducing greenhouse gas emissions through a whole of Council approach to implementing the Byron Shire Low Carbon Strategy. (Wanchap/Dey)

The motion was put to the vote and declared carried.

STAFF REPORTS - ORGANISATION DEVELOPMENT

Report No. 13.11 Webcasting Council meetings
File No: I2015/87

Moved:

1. That future audio broadcasting, post Council meetings, is put to the community in the form of a survey to get the level of interest and results brought back to council for a decision.
2. That legal advice is obtained on the potential legal risks associated with the delayed uploading of audio recordings of Council meetings and reported to Council. (Hunter/Cubis)

AMENDMENT

15-184 Resolved:

1. That audio broadcasting, post Council meetings, is the preferred delivery method for webcasting;
2. That prior to webcasting commencing, legal advice is obtained on the potential legal risks associated with the delayed uploading of audio recordings of Council meetings and presented to a workshop for councillors as quickly as possible;
3. That funding for the legal report be allocated from the 2014/2015 Legal Services budget;
4. That audio broadcasts are stored and a further report be brought back to Council if additional costs arise from perpetual storage;
5. That audio broadcasting is undertaken as a trial for 12 months and the listener uptake reported back to the Communications Committee towards the end of this period.
(Dey/Cameron)

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

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

The meeting adjourned at 12.27pm for lunch and reconvened at 1.21pm.

PROCEDURAL MOTION

15-185 Resolved that Report No. 13.5 be lifted from the table. (Richardson/Woods)

The motion was put to the vote and declared carried.

STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

**Report No. 13.5 continued Submissions Report - Draft Short Term Holiday
Accommodation Strategy**
File No: I2014/101

15-186 Resolved that Council:

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1. Adopt the Byron Shire Short Term Holiday Accommodation Action Plan, Attachment 1 (E2015/14847) subject to the following amendments:
 - a) amend the planning controls to remove all references to '40m' limitation applying to occupiers of separate dwellings in relation to making complaints about the short term rental activities taking place on a property (eg. at Action 5c in the Plan);
 - b) further amend the planning controls at Action 6c in the Plan to change "\$250/adult" to "\$250 per adult";
 - c) amend the planning controls relating to signage to read:

'An A3 size sign, in accordance with Council's template, is to be placed where it can clearly be seen from the public domain (eg footpath) advising the public of the land owner's or property manager's details including telephone number in 40mm font to enable complaints to be readily made, and wording to advise that the property is 'Registered with Byron Shire Council';
 - d) include a new action 'Develop Signage Template for use by landowners/managers in accordance with the planning controls. Timeframe: prior to LEP amendments being gazetted. Cost: existing budget';
 - e) change the Actions to ensure that for dwellings (of any size) where the dominant use of the dwelling is short term rental accommodation, development consent is required and other references in the documents be adjusted accordingly;
 - f) clarify wherever needed, that the standard is the total number of occupants being no more than the equivalent of 2 people per bedroom; and
 - g) exclude from the calculation of total number of occupants children under 5 years of age.
2. Prepare a planning proposal to amend Byron LEP 2014 in accordance with the proposed planning controls in Attachment 1 (E2015/14847) amended as in part 1 above and submit the planning proposal to the Department of Planning and Environment for a Gateway Determination.
3. Request the Department of Planning and Environment to delegate to Council the preparation and making of the LEP amendment.
4. Publicly exhibit the proposed amendments to DCP 2014 in Attachment 1 (E2015/14847) amended as in part 1 above, for at least 28 days, and concurrently exhibit the planning proposal to amend the Byron LEP 2014. (Dey/Wanchap)

The motion was put to the vote and declared carried.

15-187 Resolved that Council move into Committee. (Richardson/Woods)

The motion was put to the vote and declared carried.

15-188 Resolved that Council move out of Committee and resume the Ordinary Meeting. (Richardson/Woods)

The motion was put to the vote and declared carried.

REPORTS OF COMMITTEES - INFRASTRUCTURE SERVICES

Report No. 14.2 **Report of the Local Traffic Committee Meeting held on 1 April 2015**
File No: I2015/329

15-189 Resolved that Council note the minutes of the Local Traffic Committee Meeting held on 1 April 2015. (Dey/Woods)

The motion was put to the vote and declared carried.

15-190 Resolved that Council not adopt the Committee Recommendation in regard to Report No. 6.1 - No Right-turn, Woolworths egress, Station Street, Mullumbimby and instead adopt the management recommendation as follows:

That Council note the request for a physical centre median be installed on Station Street, Mullumbimby at the Woolworths driveway immediately south of Tincogan Street and that the request be referred to future budgets for consideration. (Dey/Woods)

The motion was put to the vote and declared carried.

15-191 Resolved that Council adopt the following Committee Recommendation in regard to Report No. 6.2 - Proposed No Stopping, Sunrise Boulevard, Byron Bay:

That the two northbound traffic lanes as marked on Sunrise Boulevard, Byron Bay at and adjacent to the entry of the Byron Bay Tourist Village be removed and if required line marking be undertaken to reconfigure and provide one northbound travel lane only, with implementation to include passing space subject to standards being met. (Dey/Woods)

The motion was put to the vote and declared carried.

15-192 Resolved that Council adopt the following Committee Recommendation in regard to Report No. 6.3 - Entry-exit treatments, Mullumbimbi Lane, Brunswick Heads:

1. That where Lane 6 (aka Mullumbimbi Lane), Brunswick Heads intersects with Park Street the following be implemented:
 - a) the Give Way hold line be extended west to align with existing edge lines on Park Street;
 - b) white edge line marking be installed through the intersection; and
 - c) a physical kerb blister be installed on the north-west corner.
2. That where Lane 6 (aka Mullumbimbi Lane) Brunswick Heads intersects with The Terrace the following be implemented:
 - a) at least one physical road hump, and no more than two, be installed in the laneway, which is west of the building line and at least one vehicle length from the intersection, and appropriate advisory signage be provided; and
 - b) a physical kerb blister be installed on the north-east corner be installed and includes a Give Way sign. (Dey/Woods)

The motion was put to the vote and declared carried.

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15-193 Resolved that Council adopt the following Committee Recommendation in regard to Report No.6.4 - Cul-de-sac, St. Finbarr's Primary and Byron Bay High Schools, that:

- a) the bus zones except one at the frontage of both Schools be signed as operational school days only 8am – 9.30am and 2.30pm – 4pm; and
- b) Council note the onsite meeting as held 24 March 2014 with the Schools and the options to be explored further with consultation to occur with stakeholders and a report to be provided back to Council. (Dey/Woods)

The motion was put to the vote and declared carried.

15-194 Resolved that Council not adopt the Committee Recommendation in regard to Report No.6.5 - School bus route approval, Mullumbimby-Wilson's Creek-Huonbrook and instead adopt the Management recommendation as follows:

- a) That Council recognises the need for, and holds no objections to, the school bus routes as detailed within Transport for NSW Contract N1060 and N2903 as held with Mullumbimby Bus Service and the principal operator Gary Hughes; and
- b) That Transport for NSW and the NSW Department of Education be advised of the Local Traffic Committee:
 - i) preference that a smaller vehicle be required and form part of the aforementioned or future contracts to undertake services that travel Wilson's Creek Road and more specifically those that service Wilson's Creek Public School; and
 - ii) concerns for safety and risks relating to the current school bus arrangements at the Wilson's Creek Public School and request for the named parties to be involved including approvals, concurrence and funding, to resolve the matters raised. (Dey/Woods)

The motion was put to the vote and declared carried.

15-195 Resolved that Council adopt the Committee Recommendation in regard to Report No. 6.6 - Proposed No Parking, 310 Skinners Shoot Road, Byron Bay:

That the request for No Parking signs to be installed on the east side of the widened sealed area south of the driveway at 310 Skinners Shoot Road, Skinners Shoot be further clarified and brought back to the June 2015 meeting of the Local Traffic Committee. (Dey/Woods)

The motion was put to the vote and declared carried.

15-196 Resolved that Council adopt the Committee Recommendation in regard to Report No. 6.7 - Proposed No Stopping, Village Greens grocer, Brunswick Heads:

That staff liaise with the business owner of Village Greens Grocer, Brunswick Heads about better definition of entry and exit arrangements and about methods of preventing vehicles parking too close to the carriageway. (Dey/Woods)

The motion was put to the vote and declared carried.

15-197 Resolved that Council not adopt the Committee Recommendation in regard to Report No. 6.8 - Bus Zone options and design plan, Wilson's Creek Public School and instead adopt the Management recommendation as follows, namely that:

- a) as per the Local Traffic Recommendation, the request for a contra-flow movement at Wilson's Creek Public School, as requested by the bus operator, not be supported or incorporated into any redesign of the bus bay;

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- b) a bus turn around be provided, preferably at or on the School site, or within closest proximity east and west of the School subject to bus operator acceptance of the site and safety; and
- c) the information be forwarded to the Department of Education and Transport NSW, with a view to them being involved in seeking a resolution to the issues raised including use of a smaller vehicle to provide student transport and therefore a reduced turning circle.

(Dey/Woods)

The motion was put to the vote and declared carried.

15-198 Resolved that Council adopt the Committee Recommendation in regard to Report No. 6.9 - No Parking - Authorised Vehicles Excepted, 52-54 Jonson Street, Byron Bay:

- a) That RMS standard signs for No Parking (R5-40) with supplementary plates (R9-229), which are to state 'Byron Shire Council Authorised Vehicles Excepted', be installed on the west side of Jonson Street, Byron Bay between 7m south of the Byron Street laneway entry to Lawson Street south car park and the angle car parking to its south.
- b) That Council note vehicles exempt from the No Parking are those clearly marked as either Police or Byron Shire Council and are undertaking active, operational duties at the time of use.

(Dey/Woods)

The motion was put to the vote and declared carried.

15-199 Resolved that Council adopt the Committee Recommendation in regard to Report No. 6.10 - Request for No Parking, Grevillea Street, Byron Bay Arts & Industry Estate:

- a) That No Stopping be line marked as described and depicted in report no. 6.10 (I2015/276) between numbers 2 and 15 Grevillea Street, Byron Bay Arts and Industry Estate.
- b) That No Stopping also be line marked 3 metres either side of the driveway at number 6 Grevillea Street, subject to concurrence of the land owner.

(Dey/Woods)

The motion was put to the vote and declared carried.

15-200 Resolved that Council adopt the Committee Recommendation in regard to Report No. 6.11 - Request for No Stopping, Bayshore Drive, Byron Bay

- a) That on the west side of Bayshore Drive, Byron Bay commencing immediately north of Grevillea Street, No Stopping applies for a 10m length, after which a dedicated area for bus pick up and set down is provided.
- b) That Council consider the continuity of parking time limits on Bayshore Drive between Grevillea Street and Julian Rocks Drive, Byron Bay.

(Dey/Woods)

The motion was put to the vote and declared carried.

15-201 Resolved that Council adopt the Committee Recommendation in regard to Report No. 6.12 - Proposed No Stopping, Council Depot, Bayshore Drive, Byron Bay:

That on the street frontage of the Council work depot, located east side of Bayshore Drive (Lots 101 and 102), Byron Bay, 'No Stopping' be signed from 3m south to 3m north of each driveway.

(Dey/Woods)

The motion was put to the vote and declared carried.

15-202 Resolved that Council adopt the Committee Recommendation in regard to Report No. 7.1 - Request for physical demarcation, Mullumbimby Road at Gulgan Road intersection:

1. That Council note the Police request for a median island at the Mullumbimby Road and Gulgan Road intersection.

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2. That along with the Local Traffic Committee comments, a traffic count be undertaken to inform a re-design of plan number 2148, which is to be reported back to the Committee.
(Dey/Woods)

The motion was put to the vote and declared carried.

- 15-203 Resolved** that Council adopt the following Committee Recommendation in regard to Report No. 8.1 - Splendour in the Grass 2014 traffic management plan:

That the temporary traffic management and regulatory changes within the series of Traffic Control Plans related to the Splendour in the Grass Music Festival to be held Friday 24th to Sunday 26th July 2015 inclusive be endorsed subject to:

- a) their design and implementation being undertaken on dates, times and locations as specified on the plans (or any approved amendments) and by those with appropriate RMS accreditation and the holding of current and appropriate levels of insurance and liability cover
- b) meeting of the advertising requirements of the Roads Act 1993
- c) event being notified on Council's website
- d) consideration of any submissions received
- e) a communications protocol being developed in conjunction with RMS, Police and any other identified stakeholder and explained to those involved in the implementation of traffic management
- f) the holding of an event debrief within the month following the festival which includes but not limited to Council, RMS and Police
- g) written approval of both the RMS and Police separate to Local Traffic Committee
- h) 'No Parking' be signed and implemented on Jones Road, Yelgun Road and Billinudgel Road
(Dey/Woods)

The motion was put to the vote and declared carried.

FORESHADOWED MOTIONS

- 15-204 Resolved** that Council call a meeting in the first or second week of May with the following bodies plus Council staff and Councillors who wish to attend, to resolve the impasse on volunteer training and to bring forward the construction of the 40kmh zone at Wilsons Creek Public School. Those bodies are: Departments of Education, Transport, RMS.
(Dey/Woods)

The motion was put to the vote and declared carried.

- 15-205 Resolved** that Council receive a report outlining potential of training other volunteers in traffic management accreditation including the possible costs to Council.
(Richardson/Cubis)

The motion was put to the vote and declared carried.

LATE REPORTS

Report No. 17.1 Coastal Zone Management Plan Project Reference Group
File No: I2015/354

Moved:

1. That section 4.1 of the draft constitution at Attachment 1 (E2015/25268) be amended as follows:
 - a) X number of Councillor members, these Councillors are...
2. That Council adopt the amended draft constitution at Attachment 1 (E2015/25268), noting that Section 4.4 Community Members is incomplete and will require confirmation through an

advertised expression of interest process.

1. Preamble:

(insert) The Project Reference group is formed in accordance with the recommendation in section 2.2.2 of the OEH CZMP Guidelines.

Community participation during the preparation of the CZMP should exceed the minimum requirements in the Coastal Protection Act 1979 and should include consultation with local Aboriginal communities. Approaches which should be considered include:

• establishing a community advisory committee or reference panel to provide ongoing feedback during the preparation of the CZMP. Where such a committee or panel is established, it is important that key stakeholders including public authorities are involved, the terms of reference are clearly defined and council has responsibility for managing the planning process and the contents of the CZMP.

2. Objectives:

(insert) 2. To review public submissions regarding the exhibited draft CZMP and assist staff with the assessment and responses to these submissions.

(insert) 3. To expedite the preparation of the Draft CZMP for public exhibition.

4. Membership

Membership is to include 14 members:

4.1 Four Councillor Members, two primary and two alternates....

4.4 Two Community Members, one representing affected landowners, and one interested community member (not an affected property owner).

9. Voting:

(replace with) The PRG will provide reports to Council for consideration and resolution. All points of view will be reported to Council, and therefore no voting will be required.

10 Majority Decision:

(delete)

11. Convening Meetings.

(insert) Meetings will be held on Thursdays as required by staff or requested by members of the PRG.

3. That the process at Table 1 be implemented for establishing the Coastal Zone Management Plan Byron Bay Embayment Project Reference Group, which includes delegating authority to the Councillor members of the PRG to convene and determine the Community Members through assessing the expressions of interest. (Ibrahim/Wanchap)

AMENDMENT

Moved:

1. That the draft constitution at Attachment 1 (E2015/25268) be amended as follows:

1. Preamble:

(insert) The Project Reference group is formed in accordance with the recommendation in section 2.2.2 of the OEH CZMP Guidelines.

Community participation during the preparation of the CZMP should exceed the minimum requirements in the Coastal Protection Act 1979 and should include consultation with local Aboriginal communities. Approaches which should be considered include:

• *establishing a community advisory committee or reference panel to provide ongoing feedback during the preparation of the CZMP. Where such a committee or panel is established, it is important that key stakeholders including public authorities are involved, the terms of reference are clearly defined and council has responsibility for managing the planning process and the contents of the CZMP.*

2. Objectives:

(insert) 2. To review public submissions regarding the exhibited draft CZMP and assist staff with the assessment and responses to these submissions.

(insert) 3. To expedite the preparation of the Draft CZMP for public exhibition.

4. Membership

Membership is to include 12 members:

4.1 Two Councillor Members (and two alternates)....

4.4 Two Community Members, one representing affected landowners, and one interested community member (not an affected property owner).

9. Voting:

(replace with) The PRG will provide reports to Council for consideration and resolution. All points of view will be reported to Council, and therefore no voting will be required.

10 Majority Decision: (delete)

11. Convening Meetings.

(insert) Meetings will be held on Thursdays as required by staff or requested by members of the PRG.

2. That the draft constitution at Attachment 1 (E2015/25268) be further amended as follows:
 - a) section 2.1: to provide Council with feedback on preparation of the CZMP.
 - c) section 3: line 3 replace line with "CZMP BBE is sent to the Minister or on the day of last ordinary meeting of the current Council".
 - e) section 4.4: XX number of Councillor Members and who those people are is to be determined by Council from Expressions of Interest received after broad advertising to the community.
 - f) section 5: add the words "and Deputy Chair" after "Chair"; replace the second sentence with "If that Councillor is not present at a PRG meeting, a Chair is elected by the PRG for the meeting from amongst Councillors who are present".
 - j) section 16: in Paragraph 3, remove the words "by Councillor Members".
 - m) section 18c: remove "when required".
 - n) section 18d: remove "if the PRG considers necessary"; replace "may" with "will"; .
 - o) section 18e: replace the first line with "The PRG".
 - p) section 20: in paragraph 5 with "Members are to declare pecuniary interests and to revise or confirm them at each meeting".
3. That Council adopt the draft constitution at Attachment 1 (E2015/25268) as amended in Parts 1 and 2 above, noting that Section 4.4 Community Members is incomplete and will require confirmation through an advertised expression of interest process.
4. That the process at Table 1 be amended as follows:
 - step 1: 30 April 2015;
 - step 2: 14 days, 7 May to 21 May;
 - step 3: 21 days, 4 May to 25 May;
 - step 4: to 28 May;

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step 5: Council meeting to determine Community members, 11 June;
step 6: by end of June;
new step 7: first report to Council meeting of 16 July.

5. That the process in Table 1 as amended in Part 3 above be implemented for establishing the Coastal Zone Management Plan Byron Bay Embayment Project Reference Group, which includes Council determining the Community Members from expressions of interest.
(Dey/Richardson)

The amendment was put to the vote and declared lost.

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

The motion was put to the vote and declared lost.

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

There being no further business the meeting concluded at 3.02pm.

I hereby certify that these are the true and correct Minutes of this Meeting
as confirmed at Council's Ordinary Meeting on 21 May 2015.

.....
Mayor Simon Richardson