



Byron Shire Council



Minutes

Ordinary Meeting

Thursday, 21 May 2015

BYRON SHIRE COUNCIL

Ordinary Meeting Minutes
21 May 2015

INDEX OF ITEMS DISCUSSED

The following items are listed in the order in which they were dealt with.

Report No. 13.1	Mayoral and Councillor Fees 2015/2016	5
Report No. 13.2	Council Resolutions Review January to March 2015	6
Report No. 13.5	Budget Review - 1 January 2015 to 31 March 2015	6
Report No. 13.6	Council Investments April 2015	6
Report No. 13.7	Approval to write-off Bad Debt - Advanced Underground Technologies.....	6
Report No. 15.1	CONFIDENTIAL - Contract 2015-003 Ocean Shores Water Reticulation Renewal - Yallakool/Jarrah/Goondoloo.....	6
Notice of Motion No. 9.3	Flying Fox Camp Interim Actions	7
Report No. 13.9	PLANNING - Development Application 10.2014.742.1 - Demolition of existing single-storey motel building. Erection of a three (3) storey motel accommodation building plus two (2) levels of basement parking - 33 Lawson Street, Byron Bay	7
Report No. 13.13	PLANNING - Planning Proposal for finalisation of reclassification of Lot 530 DP 238451 Orana Road Ocean Shores.....	9
Report No. 15.2	CONFIDENTIAL - Proposed Belongil Interim Beach Access Stabilisation Works Update.....	9
Report No. 13.11	PLANNING - S96 10.2013.587.2 to delete condition 54 in relation to future lease arrangements (Mercato) 98-114 Jonson Street Byron Bay.....	10
Report No. 13.12	PLANNING - S96 10.2013.587.3 to modify conditions relating to signage, amenity of neighbourhood, availability of parking, traffic, construction staging, roof height, stormwater, site waste management, flood planning, pipelines landscaping, excavation, public safety, water pollution, public art and services at 98-110 Jonson Street Byron Bay	11
Notice of Motion No. 9.1	Financial Assistance Grants to Local Governments	11
Notice of Motion No. 9.2	CZMP end date.....	12
Notice of Motion No. 9.4	Caravan Park Booking Rules	12
Notice of Rescission Motion No. 9.5	Coastal Zone Management Plan Byron Bay Embayment (Part 8, 15-139)	14
Report No. 13.3	Draft Sustainable Community Market Policy - Public Exhibition	17
Report No. 13.4	Reclassification of Land at Belongil from Community Land to Operational Land	18
Report No. 13.8	Voluntary Visitor Contribution Fund - Update and Recommendations for 'Stage 2'	19
Report No. 13.10	Compliance process to address non-compliance with requirement for culvert creek crossing and access approaches at 220 Fowlers Lane Bangalow	19
Report No. 13.14	PLANNING - West Byron Draft Development Control Plan (DCP) Update.....	20
Report No. 13.15	PLANNING - Streamling Development Application determinations.....	20
Report No. 13.16	Pay Parking - Byron Bay Parking Study.....	21
Report No. 13.17	Fate of Effluent at Belongil.....	22

BYRON SHIRE COUNCIL

ORDINARY MEETING MINUTES

21 May 2015

MINUTES OF THE BYRON SHIRE COUNCIL ORDINARY MEETING HELD ON THURSDAY, 21 MAY 2015 COMMENCING AT 9.03AM AND CONCLUDING AT 5.57PM
--

I2015/405

PRESENT: Cr S Richardson (Mayor), Cr B Cameron, Cr C Cubis (arrived 9.23am), 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)
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:

9.3 Flying Fox Camp Interim Actions

Lisa Sandstrom, Mullumbimby Bat Colony Resident Action Group addressed Council in favour of the recommendation.

13.9 PLANNING - Development Application 10.2014.742.1 - Demolition of existing single-storey motel building. Erection of a three (3) storey motel accommodation building plus two (2) levels of basement parking - 33 Lawson Street, Byron Bay

Dwayne Roberts, DP Roberts Planning Solutions, addressed Council against the recommendation.

13.13 PLANNING - Planning Proposal for finalisation of reclassification of Lot 530 DP 238451 Orana Road Ocean Shores

Vivien Royston, Jemma Walker (both representing Ocean Shores Community Association) and Leah Kapral addressed Council against the recommendation.

15.2 CONFIDENTIAL - Proposed Belongil Interim Beach Access Stabilisation Works

*John Vaughan addressed Council in favour of the recommendation.
Catherine Coorey and Andrew Winton-Brown addressed Council against the recommendation.*

Submission No. 1 Light restrictions at Tom Kendall Oval New Brighton

Mark Patten, Shores United Soccer Club, made a submission to Council regarding light restrictions at Tom Kendall Oval in New Brighton requesting approval to use lights on Monday night from 5-6pm to allow for training.

The meeting adjourned at 10.06am and reconvened at 10.29am.

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

Cr Spooner declared a non-pecuniary interest in Report 13.3. The nature of the interest being that Cr Spooner's employer, Byron Community Centre, currently manages markets within Byron Shire. As this item deals with market policy and not awarding individual market licenses there is no pecuniary interest. Cr Spooner elected to stay in the Chamber and participate in the debate and vote.

Cr Wanchap declared a pecuniary interest in Report 13.10. The nature of the interest being that she is the owner of a lot in the Estate. Cr Wanchap elected to leave the chamber, not participate in the debate and not vote.

TABLING OF PECUNIARY INTEREST RETURNS

In accordance with the Local Government Act 1993 Section 450A(2), Section 449(1) a First Return is tabled being received from:

- New staff:
Michael Matthews, Manager Open Space and Resource Recovery

Updated disclosures received from:

- Cr Paul Spooner
- Joe Davidson, Team Leader Planning

ADOPTION OF MINUTES FROM PREVIOUS MEETINGS

- 15-206 Resolved** that the minutes of the Ordinary Meeting held on 30 April 2015 be confirmed.
(Woods/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. 13.3 Draft Sustainable Community Market Policy - Public Exhibition

BYRON SHIRE COUNCIL

ORDINARY MEETING MINUTES

21 May 2015

Report No. 13.4 Reclassification of Land at Belongil from Community Land to Operational Land

Sustainable Environment and Economy

- Report No. 13.8 Voluntary Visitor Contribution Fund - Update and Recommendations for 'Stage 2'
- Report No. 13.9 PLANNING - Development Application 10.2014.742.1 - Demolition of existing single-storey motel building. Erection of a three (3) storey motel accommodation building plus two (2) levels of basement parking - 33 Lawson Street, Byron Bay
- Report No. 13.10 Compliance process to address non-compliance with requirement for culvert creek crossing and access approaches at 220 Fowlers Lane Bangalow
- Report No. 13.11 PLANNING - S96 10.2013.587.2 to delete condition 54 in relation to future lease arrangements (Mercato) 98-114 Jonson Street Byron Bay
- Report No. 13.12 PLANNING - S96 10.2013.587.3 to modify conditions relating to signage, amenity of neighbourhood, availability of parking, traffic, construction staging, roof height, stormwater, site waste management, flood planning, pipelines landscaping, excavation, public safety, water pollution, public art and services at 98-110 Jonson Street Byron Bay
- Report No. 13.13 PLANNING - Planning Proposal for finalisation of reclassification of Lot 530 DP 238451 Orana Road Ocean Shores
- Report No. 13.14 PLANNING - West Byron Draft Development Control Plan (DCP) Update
- Report No. 13.15 PLANNING - Streamlining Development Application determinations

Infrastructure Services

- Report No. 13.16 Pay Parking - Byron Bay Parking Study
- Report No. 13.17 Fate of Effluent at Belongil

CONFIDENTIAL REPORTS

Infrastructure Services

- Report No. 15.2 CONFIDENTIAL - Proposed Belongil Interim Beach Access Stabilisation Works Update

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. 15-207 and concluding with Resolution No. 15-212.

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

Report No. 13.1 **Mayoral and Councillor Fees 2015/2016**
File No: I2015/210

15-207 Resolved:

1. That Council fix the fee payable to each Councillor under Section 248 of the Local Government Act 1993 for the period 1 July 2015 to 30 June 2016 at \$18,380.
2. That Council fix the fee payable to the Mayor under section 249 of the Local Government Act 1993, for the period from 1 July 2015 to 30 June 2016 at \$40,090.
3. That Council in accordance with its current practice not determine a fee payable to the Deputy Mayor. (Woods/Richardson)

BYRON SHIRE COUNCIL

ORDINARY MEETING MINUTES

21 May 2015

Report No. 13.2 Council Resolutions Review January to March 2015
File No: I2015/63

15-208 Resolved:

1. That Council receive and note the information provided in this report on outstanding Council resolutions (Attachments 3 and 4 (#E2015/29834, E2015/29843.)
2. That Council note the completed resolutions in Attachments 1 and 2 (#E2015/29805 and #E2015/29712). (Woods/Richardson)

Report No. 13.5 Budget Review - 1 January 2015 to 31 March 2015
File No: I2015/352

15-209 Resolved:

1. That Council authorise the itemised budget variations as shown in Attachment 2 (#E2015/29355) which includes the following estimated results in the 31 March 2015 Quarterly Review of the 2014/2015 Budget:
 - a) General Fund - \$1,000 increase in the accumulated surplus
 - b) General Fund - \$1,241,600 decrease in reserves
 - c) General Fund - \$1,240,600 decrease in the estimated cash position
 - d) Water Fund - \$283,500 decrease in reserves
 - e) Sewerage Fund - \$4,900 decrease in reserves
2. That That Council adopt the revised estimated General Fund Accumulated Surplus/(Working Funds) surplus of \$1,957,550 for the 2014/2015 financial year as at 31 March 2015. (Woods/Richardson)

Report No. 13.6 Council Investments April 2015
File No: I2015/356

- 15-210 Resolved** that the report listing Council's investments and overall cash position as at 30 April 2015 be noted. (Woods/Richardson)

Report No. 13.7 Approval to write-off Bad Debt - Advanced Underground Technologies
File No: I2015/384

- 15-211 Resolved** that the debt for sundry debtor account 401.1, in the name of Advanced Underground Technologies for the amount of \$83,496.76, be written-off on the basis that the debt cannot be lawfully recovered. (Woods/Richardson)

CONFIDENTIAL REPORTS - INFRASTRUCTURE SERVICES

Report No. 15.1 CONFIDENTIAL - Contract 2015-003 Ocean Shores Water Reticulation Renewal - Yallakool/Jarrah/Goondoloo
File No: I2015/335

15-212 Resolved:

1. That Council award the Lump Sum Price Contract 2015-003 Ocean Shores Water Reticulation Renewal - Yallakool/Jarrah/Goondoloo to Ledonne Pty Ltd for the value of \$712,704 (inclusive of GST).

BYRON SHIRE COUNCIL

ORDINARY MEETING MINUTES

21 May 2015

2. That Council delegate to the General Manager the authority to administer this contract to the contract value plus the contingency value nominated in this report.
3. That Council authorise the affixing of the Council seal to all documents that may require it, in regards to the Contract.
4. That Council approve the increase in the project budget to the value nominated in this report (\$820,000) with the funds sourced from the Water Fund Capital Works Reserve.
5. 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.
6. That the report remains confidential until the contract is finalised. (Woods/Richardson)

PROCEDURAL MOTION

- 15-213 Resolved** that Council change the order of business to deal with Reports 9.3, 13.9, 13.13 and 15.2 next on the Agenda. (Woods/Richardson)

NOTICE OF MOTION

Notice of Motion No. 9.3 Flying Fox Camp Interim Actions
File No: I2015/380

- 15-214 Resolved** that Council:

1. Acknowledge that there are conflicts (noise, smell) between residential amenity and activity in flying fox camps in at least three urban locations of the Shire;
2. Acknowledge that one such colony (Pine/Palm Avenues in Mullumbimby) resides in a recently planted Crown Reserve under Council control;
3. Consider and undertake any short-term works or measures that (i) do not threaten the species, and (ii) may ameliorate the impacts of the camp on neighbouring residents at Pine/Palm Avenues in Mullumbimby; and
4. Consider and report on similar measures and on the need for Camp Management Plans for camps at Eltham Place in Bangalow and at Beech Drive in Suffolk Park.
5. receive a report on potential funding sources for the works resulting from Part 3 above, if available funds are not adequate. (Dey/Wanchap)

The motion was put to the vote and declared carried.

STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

Report No. 13.9 PLANNING - Development Application 10.2014.742.1 - Demolition of existing single-storey motel building. Erection of a three (3) storey motel accommodation building plus two (2) levels of basement parking - 33 Lawson Street, Byron Bay
File No: I2015/375

Moved: That the matter of Development Application 10.2014.742.1 be deferred for consideration

BYRON SHIRE COUNCIL

ORDINARY MEETING MINUTES

21 May 2015

of a preliminary contamination report to be provided.

(Woods/Cubis)

AMENDMENT

15-215 Resolved that pursuant to Section 80 of the Environmental Planning & Assessment Act 1979, Development Application 10.2014.742.1 for demolition of existing single-storey motel building and erection of a three (3) storey motel accommodation building plus two (2) levels of basement parking, be refused for the following reasons:

1. Pursuant to Section 79C(1)(a)(i) of the *Environmental Planning and Assessment Act 1979*, the height of the proposed building exceeds the maximum height shown for the land on the Height of Buildings Map, contrary to Clause 4.3 of Byron Local Environmental Plan 2014.
2. Pursuant to Section 79C(1)(a)(i) of the *Environmental Planning and Assessment Act 1979*, the floor space ratio of the proposed building exceeds the floor space ratio shown for the land on the Floor Space Ratio Map, contrary to Clause 4.4 of Byron Local Environmental Plan 2014.
3. Pursuant to Section 79C(1)(a)(i) of the *Environmental Planning and Assessment Act 1979*, an acid sulfate soils management plan (or a preliminary assessment) has not been provided to Council, in accordance with Clause 6.1 of Byron Local Environmental Plan 2014 development consent must not be granted.
4. Pursuant to Section 79C(1)(a)(i) of the *Environmental Planning and Assessment Act 1979*, it has not been demonstrated that the subject land is not contaminated and in accordance with Clause 7 of State Environmental Planning Policy No.55 (Remediation of land). Council must not consent to the carrying out of any development on land unless it has determined whether the land is contaminated or suitable for the purpose.
5. Pursuant to Section 79C(1)(b) of the *Environmental Planning and Assessment Act 1979* the proposed height, bulk and scale of the proposed building is likely to have a negative impact on the built environment of the locality.
6. Pursuant to Section 79C(1)(e) of the *Environmental Planning and Assessment Act 1979*, the proposed development is considered to be contrary to the public interest in terms of possible environmental impacts. (Dey/Richardson)

The amendment was put to the vote and declared carried.

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

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

Crs Cubis and Woods voted against the motion.

FORESHADOWED MOTION

15-216 Resolved that the height limits be reviewed for Zone B2 in Lawson Street on the eastern side of the road as part of the housekeeping amendment report of the Byron LEP 2014. (Woods/Wanchap)

The motion was put to the vote and declared carried.

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

BYRON SHIRE COUNCIL

ORDINARY MEETING MINUTES

21 May 2015

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

The meeting adjourned at 11.41am and reconvened at 11.42am.

Report No. 13.13 **PLANNING - Planning Proposal for finalisation of reclassification of Lot 530 DP 238451 Orana Road Ocean Shores**
File No: I2015/338

15-217 Resolved:

1. That Council forward the Planning Proposal relating to Lot 530 DP 238451 Orana Road, Ocean Shores to the NSW Department of Planning & Environment with a request to draft and finalise a local environmental plan amendment relating to Byron Local Environmental Plan 2014 having the effect that the land:
 - a) is reclassified 'operational' under the Local Government Act 1993;
 - b) ceases to be a public reserve (if it is a public reserve); and
 - c) is discharged from trusts (if any) and all interests except for:
 - i) any reservations that except 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 for Electricity registered dealing number N765060;
 - iv) Easement for Rising Main registered with DP 600678;
 - v) Right of Carriageway registered with DP 1062920; and
 - vi) Easement for Services registered dealing number AD798519; and
2. That Council note that a further report will need to be considered by Council, seeking a resolution of Council reclassifying Lot 530 DP 238451 Orana Road, Ocean Shores from "operational" land to "community" land, just prior to the making of the local environmental plan amendment to Byron Local Environmental Plan 2014 relating to the Planning Proposal.
(Wanchap/Woods)

The motion was put to the vote and declared carried.

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

No Councillors voted against the motion.

CONFIDENTIAL REPORTS - INFRASTRUCTURE SERVICES

Report No. 15.2 **CONFIDENTIAL - Proposed Belongil Interim Beach Access Stabilisation Works Update**
File No: I2015/377

Moved that Council:

1. recognise that, even with landowner contributions in place, Council's commitment to the project remains over the \$907,000 budget approved in 2014;
2. discontinue the proposed works and reconsider the matter after the Byron Bay Coastal Zone Management Plan has been adopted, at which time Council may again become eligible for the OEH grant of \$300,000 and under which Plan Council will be better protected from litigation on the impacts of the works on other structures;
3. decline acceptance of any of the quotations for works; and

BYRON SHIRE COUNCIL

ORDINARY MEETING MINUTES

21 May 2015

4. advise the adjoining landowners of this decision. (Dey/Richardson)

15-218 Resolved that Cr Cameron be granted a two minute extension to his speech.(Woods/Richardson)

The motion was put to the vote and declared carried.

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

FORESHADOWED MOTION

15-219 Resolved that in relation to the proposed Interim Beach Access Stabilisation (IBAS) Works at Manfred Street, Belongil, Council:

1. a) Adjust the 2014/15 budget allocation from \$907,000 to \$1,267,000 to include the additional funding of \$300,000 provided by the landowners and a further \$60,000 from Council funded from the Infrastructure Renewal Reserve.
b) Accept the quotation from Hardings Earthmoving to the value of \$1,225,047 (ex GST).
2. That report 15.2 be made public except for the "commercial in confidence" information commencing on page 240 under the heading "appointment of contractors for the proposed works" (resolution 14-498) to the end of the report and confirm that Attachment 1 (quotation evaluation) remain confidential.
3. That Council formally thank the three contributors for their donation of \$300,000 and generate a media release to advise the community of this generosity.
4. That Council write to the Minister advising of our progress and request a reconsideration of the original \$300,000 grant, or part thereof considering this donation. (Cubis/Wanchap)

PROCEDURAL MOTION

15-220 Resolved that Cr Ibrahim be granted a two minute extension to his speech.

(Wanchap/Richardson)

The motion was put to the vote and declared carried.

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

The meeting adjourned at 12.49pm for lunch and reconvened at 1.40pm.

PROCEDURAL MOTION

15-221 Resolved that Council change the order of business to deal with Reports 13.11 and 13.12 next on the Agenda. (Woods/Richardson)

The motion was put to the vote and declared carried.

STAFF REPORTS – SUSTAINABLE ENVIRONMENT AND ECONOMY

Report No. 13.11 **PLANNING - S96 10.2013.587.2 to delete condition 54 in relation to future lease arrangements (Mercato) 98-114 Jonson Street Byron Bay**
File No: 12015/284

BYRON SHIRE COUNCIL

ORDINARY MEETING MINUTES

21 May 2015

- 15-222 Resolved** that pursuant to Section 96 of the Environmental Planning & Assessment Act 1979, application 10.2013.587.2, be approved to modify development consent 10.2013.587.1 by the deletion of Condition 54. (Wanchap/Dey)

The motion was put to the vote and declared carried.

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

No Councillors voted against the motion.

Report No. 13.12 PLANNING - S96 10.2013.587.3 to modify conditions relating to signage, amenity of neighbourhood, availability of parking, traffic, construction staging, roof height, stormwater, site waste management, flood planning, pipelines landscaping, excavation, public safety, water pollution, public art and services at 98-110 Jonson Street Byron Bay

File No: I2015/336

- 15-223 Resolved** that pursuant to Section 96 of the Environmental Planning & Assessment Act 1979, development application 10.2013.587.3 to modify conditions be approved (in part) by modifying development consent 10.2013.587.1 as detailed in Attachment 2 (E2015/28205) including the following amendment:

- Amend condition 10 by adding in sentence "No car parking/motorcycle/bicycle spaces are to be reserved (generally or specifically) for any customer". (Ibrahim/Woods)

The motion was put to the vote and declared carried.

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

No Councillors voted against the motion.

MAYORAL MINUTE

No. 8.1 Bonn Climate Change Conference

- 15-224 Resolved** that Council:

1. Accept the invitation for the Mayor to present Energy freedom in buildings: The Zero Emissions Byron Bay – Byron Bay/Australia, as part of the United Nations Framework Convention on Climate Change (UNFCCC) Bonn Climate Change Conference - June 2015.
2. Write to the UNFCCC thanking them for the invitation.
3. Provide \$2,500 to assist the Mayor to attend the Bonn Climate Change Conference - June 2015, and that this amount be sourced from the Conference budget. (Richardson)

The motion was put to the vote and declared carried.

Crs Cubis and Hunter voted against the motion.

NOTICES OF MOTION AND RESCISSION

Notice of Motion No. 9.1 Financial Assistance Grants to Local Governments
File No: I2015/367

BYRON SHIRE COUNCIL

ORDINARY MEETING MINUTES

21 May 2015

15-225 Resolved that Council:

- a) Acknowledges the importance of federal funding through the Financial Assistance Grants program for the continued delivery of council services and important community infrastructure;
- b) Acknowledges that the council will receive \$2,611,214 in 2014-15; and
- c) Will ensure that this federal funding, and other funding provided by the Federal Government under relevant grant programs, is appropriately identified as Commonwealth grant funding in council publications, including annual reports.
- d) acknowledges that the level of grants has been frozen by the federal government removing indexation.
- e) expresses its desire that indexation be returned to the Financial Assistance Grants program. (Richardson/Dey)

The motion was put to the vote and declared carried.

Notice of Motion No. 9.2 CZMP end date
File No: I2015/378

Moved: That Council, in relation to preparing the Coastal Zone Management Plan for the Byron Bay Embayment:

1. Write immediately to the NSW Minister for the Environment Mark Speakman (also Assistant Minister for Planning) to convey the challenges facing Council in meeting the current 30 June 2015 deadline for completion of the draft CZMP for the BBE;
2. Write again to the Minister after (i) the time-frame for completing the management study is clarified by consultant and (ii) key milestone dates for preparing, exhibiting and then submitting the draft CZMP have been determined by staff, seeking an extension of the date by which the draft CZMP must reach him;
3. Note the difficulties encountered to date concerning the management study phase of the CZMP, and the importance that any extension requested reflect conservative estimates for completing key milestones. (Dey/Richardson)

The motion was put to the vote and declared lost.
Crs Ibrahim, Cubis, Woods, Wanchap and Hunter voted against the motion.

Notice of Motion No. 9.4 Caravan Park Booking Rules
File No: I2015/390

15-226 Resolved that Council:

1. Acknowledge the value of seasonally adjusting fees for accommodation in Caravan Parks such as First Sun and Suffolk Park and recognise the rationale behind price tables such as is proposed for 2015-16 in our Fees & Charges documents.
2. Receive a report on the various "rules" used for bookings, including those expressed in the draft 2015-16 Fees & Charges documents.
3. Invite Park operators to outline and explain the system and its philosophy to Councillors, at a time that allows revision for the 2016-17 fees and charges. (Dey/Richardson)

The motion was put to the vote and declared carried.

BYRON SHIRE COUNCIL

ORDINARY MEETING MINUTES

21 May 2015

Cr Cubis voted against the motion.

Notice of Rescission Motion No. 9.5 Coastal Zone Management Plan Byron Bay Embayment (Part 8, 15-139)

File No: I2015/381

Moved: That Council rescind Part 8 of Resolution No. 15-139 from its Ordinary meeting held on 9 April 2015 which reads as follows:

15-139 Resolved:

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). (Woods/Cubis)

Note: This motion was originally successful however at Resolution 15-227 below, the vote on this Rescission Motion was recommitted. As a result of the recommitted vote, the above motion was ultimately lost. Refer to the votes shown directly below 15-227.

PETITIONS

Mullumbimby Bat Colony Issue

The Mayor tabled a petition which contains 1034 signatures which states in part:

“We the undersigned, petition the Mayor and Councillors of Byron Shire Council to create and implement a Management Plan to address the negative impacts caused by an expanding flying fox colony camped in and around our residential area in Mullumbimby...”

SUBMISSIONS AND GRANTS

There were no submissions or grants.

DELEGATES' REPORTS

1. Local Traffic Committee site meeting of 12 May

Cr Dey advised Council:

The Local Traffic Committee visited Wilson’s Creek Public School to look at how children could cross the road to get on their buses. At that stage we thought there would a pool of “lollypop” people trained in a TAFE course to assist the kids. RMS and Department of Education attended the meeting. Things took a different course however and focus is now on relocating the bus bays to be opposite each other. When the buses stop simultaneously, there may not be room for vehicles to travel between them - that clearly stops traffic. This then becomes a Police matter. RMS also has problems with it. I’m notifying Council as this matter is urgent and proposals may have to come to Council at short notice.

2. Richmond Tweed Regional Library meeting of 15 May

Cr Dey advised Council:

Interestingly the Library Committee has approved the installation of content-filtering, on each libraries' own PCs but not over Wi-Fi. Content that is X-rated and RC-rated (ie unclassified) will be stopped. This is a step in the direction of censorship, which I know that is sensitive issue.

3. Byron Bay Liquor Accord meeting of 20 May

Cr Dey advised Council:

I didn't stay for the whole meeting - Cr Spooner may be able to fill in the rest. NSW Health presented on new smoking laws that will be introduced on 6 July and prevent smoking with 4m of doorways (because of smoke drift).

The police reported that the number of assaults in the Byron area continues to drop in comparison with previous years – it has been dropping steadily over the last year or two. They also said however that the number of assaults across the state is also dropping, and faster than in this area. In other words, we have actually moved up in the pecking order of who has the most assaults.

The Annual General Meeting elected a new executive for the Accord.

Proposals were brought forward to change the Terms under which Accord member venues operate. There are twenty such Terms. Most of the changes were to soften their impact on business. For example, Term 1 currently binds a signatory venue to “refuse entry” to patrons seen drinking alcohol on approach to the venue. That has been altered to “strictly evaluate” such patrons. Several others changes were considered and some were adopted.

4. Bayshore Drive Stakeholder Meeting

Cr Richardson advised Council:

This was held a week ago, where we had the landowners along Bayshore Drive including some who were leasing spaces. Cr Hunter was there with me – we shared some challenges of ongoing and future development of that area and also just to glean from them any possible ways that we might be able to work together to enhance that space as it is going to increasingly become a gateway into a bigger commercial area.

It was a really good meeting and they were very appreciative; there is always the odd chaos factor in meetings like that but generally speaking the vast majority of people were happy and were grateful for us to listen. We didn't give any commitments – in fact there were some offers from some of the businesses who were represented there to help chip in and do some basic landscaping or do some designs for us or supporting us in that process.

NBN and the need for a better network was a clear priority, the entrance – a roundabout obviously near OziGo was mentioned quite often and just formalisation and beautification – footpath and landscaping down Bayshore were all considered important priorities for us to map out going forward; how Bayshore could look and then the rest of the Arts and Industry Estate.

I've received a couple of sets of notes and I thank the staff for putting those together. We might get a little compilation perhaps, and share it with all Councillors – just to let you know the basic tone and what were the main points. There were some interesting design points, things like the open water (we'll call it canal) and how that might be utilised etc. So that was a really good meeting and the community members that were there were really happy we held it.

5. Community Roundtable

Cr Richardson advised Council:

The Roundtable was held last week and again that was really successful. I think there were four or five of us. For the benefit of those that couldn't make it there was a really big turnout, very positive again and really appreciative of us holding it and putting it together.

We were very diverse as far as the geographical area – I think every area was pretty much represented. Most types of community organisations from Progress Associations, the odd Land Care, OSCA – all representatives were there. We just initially shared Fit for the Future and other things like that for them to ruminate and push back to their groups. We are having the next one which will be the first real one in about three weeks to a month's time at Ocean Shores, which we really welcome everyone to come to.

Again, it was good-spirited, with the Historical Society next to Residents' Groups, everyone was really supportive and really "itching" to learn from what we had to offer. I would like to thank the General Manager and all the Executive Team who were there for giving their time and it was really appreciated. Successful first step so we will see where it goes.

6. Rous Water Meeting

Cr Woods advised Council:

The Rous meeting was held yesterday. We had a very short meeting but at the end of it we had a discussion about the way that Rous Water is actually now speaking with councils, their constituent councils, about the strategic planning and capital works programmes, to try and integrate Rous Water's capital works programmes with those of the constituent councils. It was stressed yesterday that its high level strategic planning that they are doing, they were asking us to stress to our council and to our executives that when they do it they will have another one to make sure that we have some high level staff there to talk to them. They said they understand that with all the capital works programmes that are out there – theirs and ours – that it could cause a rate spike and that makes it very unfavourable for communities. What they want to do is to try and work with everybody to make sure that whatever capital works are being planned are done in such a way with both Rous and the constituent councils that it becomes a level cost to the ratepayers so that we don't have these massive spikes. Rous is doing something that is going to impact on the cost of water for the councils and then the councils will also be doing something and that will have a massive impact as well.

PROCEDURAL MOTION

15-227 Resolved that the vote on Notice of Rescission Motion 9.3 be recommitted. (Ibrahim/Dey)

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

*The Notice of Rescission Motion 9.3 was put to the vote and declared lost.
Crs Ibrahim, Dey, Richardson, Cameron and Spooner voted against the motion.*

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

Report No. 13.3 **Draft Sustainable Community Market Policy - Public Exhibition**
File No: I2015/331

Cr Spooner declared a non-pecuniary interest in this matter earlier in the meeting and elected to stay in the chamber and participate in the debate and voting.

15-228 Resolved:

1. That the draft Sustainable Community Markets Policy as shown at Annexure 1 (#E2015/11857) be placed on public exhibition for a minimum period of 28 days.
2. That in the event:
 - a) that any submissions are received on the draft Sustainable Community Markets Policy, that those submissions be reported back to Council, prior to the adoption of the Policy.OR
 - b) that no submissions are received on the draft Sustainable Community Markets Policy, that the Policy be adopted and incorporated into Council's Policy Register.
3. That after adoption of the Sustainable Community Markets Policy, the Markets within Byron Shire Policy No. 5.51 be deleted from Council's Policy Register.
4. That the proposed Market Licence Fees be referred to a Councillor Workshop.
5. That Council endorse the Sustainable Community Market Regulatory Code as shown at Annexure 2 (E2015/11971).
6. That the following weightings be applied to the minimum qualitative assessment criteria set out at clause 3.6.2 of the draft Sustainable Community Market Policy for all Market Licence application assessment processes.
 - a) 20%
 - b) 5%
 - c) 5%
 - d) 10%
 - e) 30%
 - f) 30%
7. That Council thank the Project Reference Group committee for their contribution towards, and effort in, meeting the objectives of the Project Reference Groups' objectives.

(Ibrahim/Woods)

AMENDMENT

Moved:

1. That the draft Sustainable Community Markets Policy as shown at Annexure 1 (#E2015/11857) be placed on public exhibition for a minimum period of 28 days.

BYRON SHIRE COUNCIL

ORDINARY MEETING MINUTES

21 May 2015

2. That in the event that any submissions are received on the draft Sustainable Community Markets Policy, that those submissions be reported back to Council, prior to the adoption of the Policy.
3. That after adoption of the Sustainable Community Markets Policy, the Markets within Byron Shire Policy No. 5.51 be deleted from Council's Policy Register.
4. That the proposed Market Licence Fees, as shown at Table 1, be placed on public exhibition for the same period as in part 1 of this motion.
5. That in the event that any submissions are received on the proposed Market Licence Fees, that the submissions be reported back to Council prior to their adoption.
6. That Council endorse the Sustainable Community Market Regulatory Code as shown at Annexure 2 (E2015/11971).
7. That the following weightings be applied to the minimum qualitative assessment criteria set out at clause 3.6.2 of the draft Sustainable Community Market Policy for all Market Licence application assessment processes.
 - a) 20%
 - b) 5%
 - c) 5%
 - d) 10%
 - e) 30%
 - f) 30%
8. That Council thank the Project Reference Group committee for their contribution towards, and effort in, meeting the objectives of the Project Reference Groups' objectives.
9. That following the public exhibition period a councillor workshop be held to consider the submissions from the public on the draft Policy, Code and licence fees prior to being reported to Council. (Cameron/Richardson)

PROCEDURAL MOTION

15-229 Resolved that Cr Ibrahim be granted a two minute extension to his speech. (Wanchap/Woods)

The motion was put to the vote and declared carried.

*The amendment (Cameron/Richardson) 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.*

Report No. 13.4 **Reclassification of Land at Belongil from Community Land to Operational Land**
File No: I2015/209

Moved: That Council defer consideration of report to a Councillor workshop. (Dey/Richardson)

AMENDMENT

15-230 Resolved that Council authorise the General Manager to proceed with the next stage of the statutory process to consider the re-classification of the parcels of land identified below from Community to Operational Land, by preparing a Planning Proposal for the Minister of Planning's determination through the Gateway process, for the reasons identified for each parcel of land:

- a) Lot B DP 371044, Lot 7 Section 3 DP 1623 and Lot 6 Section 3 DP 1623 for the purposes of regularising the existing building encroachment over Lot 6 Section 3 DP 1623.
- b) Lot 2 Section 3 DP 1623 for the purposes of creating a public road.

The amendment was put to the vote and declared carried.

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

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

Crs Dey, Richardson, Cameron and Spooner voted against the motion. (Ibrahim/Wanchap)

STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

Report No. 13.8 Voluntary Visitor Contribution Fund - Update and Recommendations for 'Stage 2'

File No: I2015/211

15-231 Resolved:

- 1. That the report and feedback on the short trial of the voluntary visitor contribution fund through Council's two holiday parks, be noted.
- 2. That the project management tasks identified in this report for 'Stage 2' be endorsed by Council, including the additional budget of \$20,000 to resource Stage 2 of the project funded from existing Holiday Park operational budgets for advertising over the 2014/2015 and 2015/2016 financial years.
- 3. That a report on Stage 2 be reported back to Council outlining a progress update with specific detail about the identified projects, the establishment of the Beautify Byron Fund Distribution Panel and possible Council budgets where 'matching' funds have been identified. (Ibrahim/Woods)

Cr Woods left the chamber at 4.25pm.

The motion was put to the vote and declared carried.

Cr Woods was not present for the vote.

Report No. 13.10 Compliance process to address non-compliance with requirement for culvert creek crossing and access approaches at 220 Fowlers Lane Bangalow

File No: I2015/95

Cr Wanchap left the chamber at 4.27pm in accordance with her declared pecuniary interest in this matter and took no part in the debate or voting on this matter.

15-232 Resolved:

- 1. That Council seek legal advice (external or internal) as to:

BYRON SHIRE COUNCIL

ORDINARY MEETING MINUTES

21 May 2015

- a) the appropriateness of issuing an Order and if so to draft the Order, and
 - b) whether more appropriate action would be to institute proceedings in the Land and Environment Court.
2. That should the legal advice recommend, or should the Order process (if taken) not bring about compliance with Condition 8 of Development Application No. 10.2000.348.1, the General Manager be authorised to commence and maintain Class 4 proceedings seeking enforcement of Condition 8 of Development Application No. 10.2000.348.1 in accordance with the General Manager's general delegations.
3. That subject to the legal advice and on being satisfied that all pre-conditions have been met, the General Manager take all steps necessary to make an unconditional demand on the Guarantee dated 28 February 2003. (Dey/Woods)

Cr Woods returned to the chamber at 4.33pm.

The motion was put to the vote and declared carried.

Cr Wanchap was not present for the vote.

Cr Wanchap returned to the meeting at 4.45pm.

Report No. 13.14 PLANNING - West Byron Draft Development Control Plan (DCP)

Update

File No: 12015/350

- 15-233 Resolved** that Council endorse the draft West Byron Urban Release Area Development Control Plan key project milestones and community engagement activities in the revised Project Snapshot (Attachment 1) with the following change:

That the June pre-exhibition community consultation be in the form of a workshop with Councillors, urban design planning and architecture practitioners and community representatives and that the total attendance be limited to 12 (excluding Councillors). (Richardson/Ibrahim)

The motion was put to the vote and declared carried.

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

Cr Woods voted against the motion.

Report No. 13.15 PLANNING - Streamlining Development Application determinations

File No: 12015/393

- 15-234 Resolved:**

1. That Council delegate to the General Manager the following development assessment matters previously required to be determined by the elected Council:
 - a) Development Applications proposed to be determined as a refusal as a result of inadequate information being provided for determination and/or where the application is fundamentally flawed, such as prohibited development.
 - b) Development Applications with an estimated value (once confirmed by staff) not exceeding \$5 million or any subdivision not exceeding 20 lots.
 - c) Development Applications for strata subdivision in a 7f(2) Urban Coastal Land Zone under Clause 32 of the BLEP (except any subdivision exceeding 20 lots).

BYRON SHIRE COUNCIL

- d) Development Applications with State Environmental Planning Policy No 1 Variations (except when associated within Development Applications with an estimated value exceeding \$5 million or any subdivision exceeding 20 lots).
 - e) The amendment or review of all development applications, except:
 - i) the review of a determination made by the Council, and not by a delegate of the Council, of an application for approval or an application that may be reviewed under Section 82A of the Environmental planning and Assessment Act 1979.
2. That Development Applications valued from \$3 million to \$5 million are to be reported to the Planning Review Committee. (Dey/Cameron)

AMENDMENT

Moved: That Council delegate to the General Manager the following development assessment matters previously required to be determined by the elected Council:

- 1. All Development Applications proposed to be determined as a refusal as a result of inadequate information being provided for determination and/or where the application is fundamentally flawed, such as prohibited development.
- 2. Development Applications with an estimated value not exceeding \$5 million or any subdivision not exceeding 40 lots.
- 3. Development Applications for strata subdivision in a 7f(2) Urban Coastal Land Zone under Clause 32 of the BLEP (except any subdivision exceeding 40 lots).
- 4. All Development Applications with State Environmental Planning Policy No 1 Variations (except when associated within Development Applications with an estimated value exceeding \$5 million or any subdivision exceeding 40 lots).
- 5. The amendment or review of all development applications, except:
 - a) the review of a determination made by the Council, and not by a delegate of the Council, of an application for approval or an application that may be reviewed under Section 82A of the Environmental planning and Assessment Act 1979. (Woods/Cubis)

The amendment was put to the vote and declared lost.

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

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

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.

STAFF REPORTS - INFRASTRUCTURE SERVICES

Report No. 13.16 **Pay Parking - Byron Bay Parking Study**
File No: 12015/298

15-235 Resolved:

- 1. That Council endorse the introduction of a Byron Bay town centre pay parking scheme which applies a unilateral \$4 per hour rate and provides an annual exemption to eligible

BYRON SHIRE COUNCIL

residents which is charged at \$100pa and granted on the proviso of meeting Council's existing exemption (coupon) criteria.

2. That a pay parking area be endorsed as depicted in Figure 1 of this report (I2015/298), which covers:
 - a) a limited area west of the rail corridor, being on-street locations between east of Milton Street through to the Butler Street and Lawson Street intersection and north side of Somerset Street; and
 - b) east of the rail corridor, including Jonson Street and all areas bounded within north of Browning Street, east of Tennyson Street and east to Massinger Street, with the exception of both Kingsley Street and Ruskin Street west of Middleton Street.
3. That a Resident Permit Parking area be endorsed as depicted in Figure 1 of this report (I2015/298), which excludes the pay parking area and covers on-street locations:
 - a) west of the rail corridor, as bounded by and including Butler Street, Burns Street and the south side of Somerset Street; and
 - b) east of the rail corridor, as located between Middleton Street and Tennyson Street for both the south side of Kingsley Street and both sides of Ruskin Street, and the greater area as bounded by east of Tennyson Street, through to and including Massinger Street and north of and including Browning Street.
4. That Roads and Maritimes Services (RMS) concurrence and approval, where required, be sought to allow implementation of both a Pay Parking Area and a Resident Permit Parking Area.
5. That Council proceed to procurement to implement a Pay Parking Area as described within this report (I2015/298).
6. That Council note that to conclude the Byron Bay parking study further reports will be forthcoming which will seek endorsement of:
 - a) a supplier, including contractual arrangements, for example lease or purchase of equipment and agreements on maintenance and level of service;
 - b) the formal declaration of type of pay parking scheme and its commencement date;
 - c) any necessary additions or changes to Council's Fees and Charges; and
 - d) changes to time limits, such as increased all day parking on the perimeter and more 1P in the centre.
7. That the necessary regulatory, approval and operational requirements be undertaken to allow Butler Street Reserve, which is now subject of two year lease as held by Council for the purpose of a trial car park, be made available as a lease per space, all day car park (6am to 6pm) which is to be charged at \$80/month and is prioritised for those business premises located or those who work within the pay parking area and who have no off-street car parking and prove ineligible for the annual exemption. (Spooner/Cameron)

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

Report No. 13.17 **Fate of Effluent at Belongil**
File No: **I2015/392**

15-236 Resolved:

1. That Council continue with the data logging exercise in the Belongil to help define the hydraulic impacts of current STP effluent.

BYRON SHIRE COUNCIL

2. That Council continue to negotiate with affected Landowners to form an Agreement on jointly managing the stream of effluent through their properties.
3. That invitations be extended to Councillors to attend meetings held with the Landowners or with the Drainage Union.
4. That Council continue to negotiate with the Belongil Swamp Drainage Union to undertake periodical maintenance of the Union drains, with a view to forming an Agreement on that maintenance.
5. That Council utilise funds available from existing budget activities for the Byron Bay Integrated Water Management reserve to implement the activities already identified in the various Council prepared management plans for the catchment.
6. That Council create a new Advisory Committee to advise on priorities and on integration of the various Plans & Strategies listed in today's Report 13.17 plus Agreements that may be reached as above, and on other catchment issues within Belongil catchment.
7. That Council receive a report with draft Terms of Reference and Committee composition to its June or July meeting. (Dey/Richardson)

The motion was put to the vote and declared carried.

URGENCY MOTION

No. 16.1 Ocean Shores Soccer Club use of ground lights

The Mayor determined that the matter of lights at the Ocean Shores Soccer Club be dealt with as a matter of urgency. The urgency is that new teams have started and their training cannot currently occur due to the fading lights in the evening, and the inability for the club to accommodate the team on any other day.

- 15-237 Resolved** that the matter of urgency be discussed. (Woods/Richardson)

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

- 15-238 Resolved** that the Ocean Shores Soccer Club be granted the approval to use lights on a Monday Night as required up to 6.30pm to allow training. (Woods/Richardson)

The motion was put to the vote and declared carried.

There being no further business the meeting concluded at 5.57pm.

I hereby certify that these are the true and correct Minutes of this Meeting
as confirmed at Council's Ordinary Meeting on 11 June 2015.

.....
Mayor Simon Richardson