



Byron Shire Council



Minutes

Ordinary Meeting

Thursday, 17 September 2015

BYRON SHIRE COUNCIL

Ordinary Meeting Minutes
17 September 2015

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MINUTES OF THE BYRON SHIRE COUNCIL ORDINARY MEETING HELD ON THURSDAY, 17 SEPTEMBER 2015 COMMENCING AT 9.02AM AND CONCLUDING AT 5.51PM

I2015/1101

PRESENT: Cr S Richardson (Mayor), Cr B Cameron, Cr C Cubis (arrived 9.04am), Cr D Dey, Cr A Hunter, Cr S Ibrahim (arrived 9.07am), 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)
Lisa Brennan/Mila Jones (Minute Taker)

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

PUBLIC ACCESS

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

13.6 Byron Visitor Centre - Request for Financial Assistance

Colin Hussey, Byron Visitor Centre addressed Council against the recommendation.

13.9 PLANNING - Report on rehabilitation works 10.2014.331.1 Community title subdivision at Broken Head Road, Broken Head

Peter Wegner, Suffolk Park Progress Association addressed Council against the recommendation.

13.11 PLANNING - 10.2015.196.1 - Alterations to dwelling and a new residential flat building eight serviced apartments and a managers residence at 40 Mullumbimbi Street Brunswick Heads

Frank Stewart and Melissa Rosee (applicant) addressed Council in favour of the recommendation. Alexandra Williams and Robert Rosen addressed Council against the recommendation

13.15 PLANNING - 10.2015.214.1 - Railway infrastructure including a rail shed and two railway platforms and tree removal at Bayshore Drive and Lawson Street, Byron Bay

Jeremy Holmes (North Byron Beach Resort), Gerry Savins and Lydia Kindred addressed Council in favour of the recommendation.

Bethany Hudson, Edward Austin-Woods, Adrian Nelson (Sunrise Residents Group and Shirley Street Business Collective) address Council against the recommendation.

13.16 PLANNING - 26.2013.2.1 - Public submissions report for second exhibition of Ewingsdale Seniors Housing planning proposal

Phil Usher (Tall Trees Care Community) and Belinda Barnett (Director, Urban Concepts) addressed Council in favour of the recommendation.

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

14.4 Report No. 6.1 Request for Heavy Vehicle restrictions, Granuaille Road, Bangalow

Tony Hart (Bangalow Progress Association) addressed Council against the recommendation.

13.4. Report of the Safe Summer in the Bay PRG meeting 20 August 2015

Mouche Phillips addressed Council in favour of the recommendation.

Question No. 1 PLANNING - 10.2015.196.1 - Alterations to dwelling and a new residential flat building eight serviced apartments and a managers residence at 40 Mullumbimbi Street Brunswick Heads

Mrs Jenny Cornwell asked a question regarding this development.

The Mayor noted the question to Councillors and that it related to Report 13.11 and Council's consideration of the Report at this meeting.

The meeting adjourned at 10.55am and reconvened at 11.12am.

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 his employer currently operates markets in Byron Shire. Cr Spooner opted to stay in the Chamber, participate in the debate but leave the Chamber for the vote.

Cr Spooner declared a pecuniary interest in Report 13.4, the nature of the interest is that his employer is contracted to run Soul Street and First Sun events. Cr Spooner opted to leave the Chamber, not participate in the debate and not vote.

Cr Wanchap declared a pecuniary interest in Report 13.6, the nature of the interest being that the Byron Visitor Centre book units at the Complex of Byron Central Apartments. Cr Wanchap opted to stay in the chamber, not participate In the debate and not vote.

Under Schedule 3A Form of special disclosure of pecuniary interest:

- Cr Hunter declared a pecuniary interest in Report 13.14. The nature of the interest being land at 31 Pinegroves Road, Myocum.
- Cr Dey declared a pecuniary interest in Report 13.14. The nature of the interest being Lot 1 DP 405191

TABLING OF PECUNIARY INTEREST RETURNS

There were no Pecuniary Interest Returns tabled.

ADOPTION OF MINUTES FROM PREVIOUS MEETINGS

15-419 Resolved that the minutes of the following meetings be confirmed:

- Byron Shire Reserve Trust Committee held 27 August 2015
- Ordinary Meeting held 27 August 2015 (Woods/Hunter)

The motion was put to the vote and declared carried.

RESERVATION OF ITEMS FOR DEBATE AND ORDER OF BUSINESS

The Mayor suspended standing orders to allow for items to be reserved for debate, being:

STAFF REPORTS**Corporate and Community Services**

- | | |
|-----------------|---|
| Report No. 13.1 | Election of Deputy Mayor 2015-2016 |
| Report No. 13.2 | Tyagarah Aerodrome - Proposed Short-Term Lease Australia Skydive Pty Ltd |
| Report No. 13.3 | Sustainable Community Markets Public Exhibition for Draft Policy/Fees and Charges |
| Report No. 13.4 | Report of the Safe Summer in the Bay PRG meeting 20 August 2015 |
| Report No. 13.6 | Byron Visitor Centre - Request for Financial Assistance |
| Report No. 13.8 | Byron Bay Paid Parking Scheme - Proposed Fees and Charges |

Sustainable Environment and Economy

- | | |
|------------------|--|
| Report No. 13.9 | PLANNING - Report on rehabilitation works 10.2014.331.1 Community title subdivision at Broken Head Road, Broken Head |
| Report No. 13.11 | PLANNING - 10.2015.196.1 - Alterations to dwelling and a new residential flat building eight serviced apartments and a managers residence at 40 Mullumbimbi Street Brunswick Heads |
| Report No. 13.12 | Park and Ride / New Year's Eve Shuttle |
| Report No. 13.13 | North Byron Beach Resort (Ganra Pty Ltd) seek consent to lodge development application for coastal protection works on Council land |
| Report No. 13.14 | PLANNING - 26.2015.3.1 General Policy and Housekeeping Changes - Byron Local Environmental Plan (LEP) 2014 |
| Report No. 13.15 | PLANNING - 10.2015.214.1 - Railway infrastructure including a rail shed and two railway platforms and tree removal at Bayshore Drive and Lawson Street, Byron Bay |
| Report No. 13.16 | PLANNING - 26.2013.2.1 - Public submissions report for second exhibition of Ewingsdale Seniors Housing planning proposal |
| Report No. 13.17 | Update Coastal Zone Management Plan Byron Bay Embayment |

REPORTS OF COMMITTEES**Infrastructure Services**

- | | |
|-----------------|--|
| Report No. 14.4 | Report of the Local Traffic Committee Meeting held on 16 August 2015 |
| 6.1 | Request for Heavy Vehicle restrictions, Granuaille Road, Bangalow |

The remaining Recommendations and Committee Recommendation were adopted as a whole, being moved by Cr Richardson and seconded by Cr Woods. Each recommendation is recorded with a separate resolution number commencing at Resolution No. 15-420 and concluding with Resolution No. 15-448.

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES**Report No. 13.5****File No:****Report of the Public Art Assessment Panel meeting 6 August 2015**

I2015/871

15-420 Resolved:

1. That Council note the minutes of the Public Art Assessment Panel meeting held on 6 August 2015.
2. That further to resolution 14-602, that Council note that the Public Art Assessment Panel reiterates its support for the Memorial Seat in Brunswick Heads.
3. That Council accept the donation of 'Simpson's Sofa' as a permanent sculpture installation in South Beach Park, Brunswick Heads.
4. That Council accept the donation of a public artwork on the Jonson Street bus shelter to deter graffiti.
5. That whilst the value and creative worth of the Inside Out Project is recognised, Council decline the request for funding and advise that the Public Art Assessment Panel supports the proponents working with the Bangalow community to raise the funds.
6. That Council commission public artwork on the following water infrastructure in the Byron Shire, to be funded from water and sewer budgets:
 - a) Paterson's Hill Water Tank
 - b) Wategos Water Tank
 - c) Warrumbool Road Reservoir
 - d) Several sewerage pump stations (locations listed in the report, limited by budget allocation for the 2015/16 financial year)
7. That with regard to the Brunswick Nature Sculpture Walk, the Public Art Assessment Panel recommend:
 - a) That Council note that the Public Art Assessment Panel has considered each artwork submission for the Brunswick Nature Sculpture Walk, for consistency with the Council's Public Art Policy.
 - b) That Council note that the event organisers have engaged structural engineers (Ardill Payne and Partners) to assess the installation of the artworks on Friday 2 October, prior to the event opening and access by the general public.
8. That Council:
 - a) accept the donation of 'Minyon Falls with Wesley Stacey' to hang in the Byron Bay Library, and
 - b) thank Rose McKinley for the generous donation and request her to help select a suitable location in the library. (Richardson/Woods)

Report No. 13.7**File No:****Council Investments August 2015**

I2015/895

- 15-421 Resolved** that the report listing Council's investments and overall cash position as at 31 August 2015 be noted. (Richardson/Woods)

STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

Report No. 13.10 PLANNING - West Byron Development Control Plan
File No: I2015/851

15-422 Resolved that Council publicly exhibit for a minimum period of 6 weeks:

- a) the draft Byron Shire Development Control Plan 2014 – Chapter E8 West Byron Urban Release Area;
- b) the draft amendments to Part A of Byron Shire DCP 2014 Section A5 'Where this DCP Applies' and Appendix A1 Dictionary and any other changes to Part A to reference the West Byron Bay Site. (Richardson/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.

REPORTS OF COMMITTEES - CORPORATE AND COMMUNITY SERVICES

Report No. 14.1 Report of the Finance Advisory Committee Meeting held on
20 August 2015
File No: I2015/899

15-423 Resolved that Council note the minutes of the Finance Advisory Committee Meeting held on 20 August 2015. (Richardson/Woods)

15-424 Resolved that Council adopt the following Committee Recommendation:

Report No. 5.1 2014/15 Financial Sustainability Project Plan - Update on the Action Implementation Plan as at 30 June 2015
File No: I2015/792

Committee Recommendation 5.1.1

That the update report to 30 June 2015 on the 2014/2015 Financial Sustainability Project Plan Action Implementation Plan be received and noted. (Richardson/Woods)

15-425 Resolved that Council adopt the following Committee Recommendation:

Report No. 5.2 Budget Review - 1 April 2015 to 30 June 2015
File No: I2015/793

Committee Recommendation 5.2.1

1. That Council note it authorised the itemised budget variations as shown in Attachment 2 (#E2015/52657) which includes the following results in the 30 June 2015 Quarterly Review of the 2014/2015 Budget:
 - a) General Fund - \$0 increase in accumulated surplus/working funds
 - b) General Fund - \$11,502,900 increase in reserves
 - c) Water Fund - \$2,601,000 increase in reserves
 - d) Sewerage Fund - \$2,807,700 increase in reserves.

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at its Ordinary meeting held on 27 August 2015.

2. That Council note that it adopted the revised estimated General Fund Accumulated Surplus/ (Working Funds) surplus of \$1,957,550 for the 2014/2015 financial year as at 30 June 2015 at its Ordinary meeting held on 27 August 2015. (Richardson/Woods)

15-426 Resolved that Council adopt the following Committee Recommendation:

Report No. 5.3 Carryovers for inclusion in 2015/2016 Budget

File No: I2015/853

Committee Recommendation 5.3.1

That Council note it authorised the following:

1. That the works and services, and the respective funding shown in attachment 1 (#E2015/50268), attachment 2 (#E2015/50270) and attachment 3 (#E2014/50271) to be carried over from the 2014/2015 Financial Year and that the carryover budget allocations be adopted as budget allocation revotes for inclusion in the 2015/2016 Budget Estimates.
2. That Council reallocate the adopted 2015/2016 Special Rate Community Building Maintenance outlined in Table 3 of this report to the program outlined in Table 4 of this report.

at its Ordinary meeting held on 27 August 2015.

(Richardson/Woods)

15-427 Resolved that Council adopt the following Committee Recommendation:

Report No. 5.4 Draft Updated Long Term Financial Plan 2015-2025

File No: I2015/854

Committee Recommendation 5.4.1

That Council adopt the updated Draft Long Term Financial Plan 2015-2025 for the General Fund and that the overall Long Term Financial Plan be further updated upon completion of the Water and Sewerage Business Plans.

(Richardson/Woods)

Report No. 14.2 Report of the Internal Audit Advisory Committee Meeting held on 20 August 2015

File No: I2015/902

15-428 Resolved that Council note the minutes of the Internal Audit Advisory Committee Meeting held on 20 August 2015. (Richardson/Woods)

15-429 Resolved that Council adopt the following Committee Recommendation:

Report No. 5.1 Internal Audit Report August 2015

File No: I2015/790

Committee Recommendation 5.1.1

1. That Council receive and note the Internal Audit Report – Audit Committee (August 2015) (#E2015/52756) prepared by the Internal Auditor, Grant Thornton.

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2. That the next Internal Audit Report – Audit Committee (12 November 2015) to the Internal Audit Committee, include an update on the target dates and explanation on the implementation of the Audit Recommendations, with regard to resources required and/or available. (Richardson/Woods)

15-430 Resolved that Council adopt the following Committee Recommendation:

Report No. 5.2 Internal Audit Report - 2015 Independent Compliance Audit Report - Compliance with the Roads and Maritime Services of NSW DRIVES Terms of Access Agreement

File No: I2015/798

Committee Recommendation 5.2.1

1. That the Independent Compliance Audit Report – Compliance with the Roads and Maritime Services of NSW DRIVES Terms of Access Agreement be noted by Council, including the responses and actions detailed by Management.
2. That Management implement the recommendations detailed in the report and also identified at Attachment 1 (E2015/48196). (Richardson/Woods)

15-431 Resolved that Council adopt the following Committee Recommendation:

Report No. 5.3 WHS Review

File No: I2015/716

Committee Recommendation 5.3.1

1. That the Internal Audit Report – Work, Health and safety Review - May 2015 be noted by Council along with responses and actions detailed by Management.
2. That Council adopt recommendations and management implement the recommendations suggested in the report identified at Attachment 1 (E2015/45948), except for Recommendation 2 under the heading 'WHS Framework' and recommendation under the heading 'Fire Safety Equipment Inspections' and adopt instead the alternative actions in relation to each of those items.
3. That Council investigate the merging of all three WHS Committees into one Committee to provide an organisation wide approach to WHS. (Richardson/Woods)

15-432 Resolved that Council adopt the following Committee Recommendation:

Report No. 6.1 2015/16 Internal Audit Plan

File No: I2015/832

Committee Recommendation 6.1.1

1. That the Internal Audit Committee recommend that Council adopt the "2015/16 Internal Audit Plan" at Attachment 1 (#E2015/50502) prepared by Grant Thornton.
2. That the Report and Attachment 1 remain confidential. (Richardson/Woods)

REPORTS OF COMMITTEES - SUSTAINABLE ENVIRONMENT AND ECONOMY

Report No. 14.3 **Report of the Biodiversity and Sustainability Advisory Committee Meeting held on 6 August 2015**

File No: I2015/844

15-433 **Resolved** that Council note the minutes of the Biodiversity and Sustainability Advisory Committee Meeting held on 6 August 2015. (Richardson/Woods)

15-434 **Resolved** that Council adopt the following Committee Recommendations:

Report No. 5.1 Integrated Weed Management Strategy update

File No: I2015/503

Committee Recommendations 5.1.1

1. That the Biodiversity and Sustainability Advisory Committee note the report.
2. That the definition of integrated weed management and the objectives within the strategy be reviewed with further input from Committee members and suggested experts/others. (Richardson/Woods)

15-435 **Resolved** that Council adopt the following Committee Recommendation:

Report No. 5.2 Update report on Sustainable House Day, World Environment Day and Byron Zero Emissions Community Forum

File No: I2015/644

Committee Recommendation 5.2.1

That the Biodiversity and Sustainability Committee note this report, provide feedback or suggestions in relation to funding options for BZE and/or volunteers to help project manage the process, and to share the Sustainable House Day event with networks. (Richardson/Woods)

REPORTS OF COMMITTEES - INFRASTRUCTURE SERVICES

Report No. 14.4 **Report of the Local Traffic Committee Meeting held on 26 August 2015**

File No: I2015/992

15-436 **Resolved** that Council note the minutes of the Local Traffic Committee Meeting held on 26 August 2015. (Richardson/Woods)

15-437 **Resolved** that Council adopt the following Committee and Management Recommendation(s):

Report No. 6.2 Road closure, Mullumbimby Music Festival, 22 November 2015

File No: I2015/880

1. That the Mullumbimby Music Festival Street Parade scheduled for Sunday, 22 November 2015 be endorsed, including the temporary road closure of:
 - a) Dalley Street, Mullumbimby between Tincogan Street and Burringbar Street which is

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- effective between 11am and 12noon
 - b) Burringbar Street, Mullumbimby between Station Street and Dalley Street which is effective between 10.45am and 11.15am
 - c) Lane 7, between Dalley Street and east of the Fire Station driveway, and Lane 2, from Lane 7 to Tincogan Street, with both in effect from 4pm Thursday 19 November 2015 through to 8am Monday 23 November 2015.
2. That the temporary road closure be subject to the following conditions, each to be met prior to the event being held:
- a) that the organisers be responsible for implementing a Traffic Control Plan, including the use of signed detours, as designed and implemented by those with appropriate accreditation;
 - b) payment of Council's relevant on-road event fee (\$350 inc GST);
 - c) that each temporary bus stop as required by the event be established in accordance with an accredited Traffic Control Plan;
 - d) that public liability insurance be in place for the sum of at least \$20 million;
 - e) that the written concurrence of local Police and from the Fire Stations on both Gordon Street and Dalley Street, be obtained by the organisers and provided to Council;
 - f) that Council advertise the event in accordance with the Roads Act;
 - g) that Council provide prior notification of the event on Council's website.
3. That the organisers note Council no longer provides traffic control services or equipment for such events. (Richardson/Woods)

15-438 Resolved that Council adopt the following Committee and Management Recommendation(s):

Report No. 6.3 Road closure, Twilight Markets, Brunswick Heads, 16 December 2015

File No: I2015/881

1. That the temporary road closure of Mullumbimbi Street between Park Street and The Terrace, Brunswick Heads from 12 noon to 12 midnight on Wednesday, 16 December 2015 be approved for the holding of the annual Twilight Markets.
2. That the temporary road closure be subject to the following conditions:
- a) that the temporary traffic arrangements and road closure be undertaken as per a Traffic Control Plan as designed and implemented by those with appropriate accreditation and includes the provision of two temporary accessible (disabled) parking bays outside the Brunswick Heads Hotel from 7am to 12noon
 - b) that public liability insurance be in place for the sum of at least \$20 million
 - c) that the concurrence of local Police be obtained by the organisers, independent of the Local Traffic Committee endorsement
 - d) that the event be advertised in accordance with the Roads Act
 - e) that the written concurrence of local Police be obtained by the organisers and provided to Council
 - f) that Council advertises the event in accordance with the Roads Act
 - g) that prior notification of the event be provided on Council's website
 - h) that the applicable Council fee for lodgement of a road event application apply (\$350 inc GST) and be paid prior to the event
3. That the organisers note Council no longer provides traffic control services or equipment for such events. (Richardson/Woods)

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15-439 Resolved that Council adopt the following Committee and Management Recommendation(s):

Report No. 6.4 Endorsement of one-way entry and exit, Mullumbimby High School car park

File No: I2015/882

That the car park on Jubilee Avenue, Mullumbimby, as located north-east of the intersection with Azalea Street, be endorsed and signed with the appropriate regulatory signage for No Entry (R2-4) so that the northern driveway be effectively an 'Entry Only' site and the southern driveway be an 'Exit Only'.
(Richardson/Woods)

15-440 Resolved that Council adopt the following Committee and Management Recommendation(s):

Report No. 6.5 Proposed Loading Zone, Council Office, Station Street, Mullumbimby

File No: I2015/883

That the three angled spaces on the east side of Station Street, Mullumbimby, south of the two mobility permit (disabled) spaces located south of Burringbar Street, be endorsed and signed as a Loading Zone Monday-Friday 8am-4pm.
(Richardson/Woods)

15-441 Resolved that Council adopt the following Committee and Management Recommendation(s):

Report No. 6.6 Request for 2P time limit, Tincogan Street, Mullumbimby

File No: I2015/884

1. That consultation with properties adjacent to Tincogan Street, Mullumbimby, between Dalley Street and Stuart Street, be undertaken in regard to both parking and traffic needs and demands and the use of a time limit to assist with turn over.
2. That the results of the consultation be referred to and help inform Council's parking study of Mullumbimby town centre, which will be reported to Council in due course.
(Richardson/Woods)

15-442 Resolved that Council adopt the following Committee and Management Recommendation(s):

Report No. 6.7 Request for mobility permit parking space, Community Gardens, Mullumbimby

File No: I2015/886

That a single car park space within the sealed car park at the frontage of the Mullumbimby Community Gardens be marked and signed as a mobility permit (disabled) parking space only.
(Richardson/Woods)

15-443 Resolved that Council adopt the following Committee and Management Recommendation(s):

Report No. 6.8 Request for 60kph speed limit, Myocum Downs Drive, Myocum

File No: I2015/887

That Council request the RMS, as the sole NSW authority for authorising speed zone changes, undertake such review of Myocum Downs Drive, Myocum if they believe it warranted and, if such review proceeds, provide results back in due course.
(Richardson/Woods)

15-444 Resolved that Council adopt the following Committee and Management Recommendation(s):

Report No. 6.9 Request for 60kph speed limit, Yelgun Road, Yelgun

File No: I2015/888

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That Council request the RMS, as the sole NSW authority for authorising speed zone changes, undertake such review of Yelgun Road, Yelgun if they believe it warranted and, if such review proceeds, provide results back in due course. (Richardson/Woods)

15-445 Resolved that Council adopt the following Committee and Management Recommendation(s):

Report No. 6.10 Proposed Trial, School Bus Contra-Flow, Wilsons Creek Public School Bus Bay

File No: I2015/889

1. That in regard to the constructed bus bay at the frontage of Wilson's Creek Public School, Council support a trial of the contra-flow arrangements as described at Report No. 6.10 within the Local Traffic Committee Minutes (I2015/894) and that it:
 - a) cease immediately if either Council, RMS, NSW Transport, Police, the bus operator, or the School or any authority with such power request as such, on the proviso such request is in writing and lodged with Council prior to the end of Term 4 2015; or
 - b) in event of no such request, be adopted as a permanent measure commencing with the start of the 2016 school year; and
 - c) a report be provided to Council in due course on either of the above outcomes once known
2. That on the basis Part 1 is adopted, both sides of the entry to the eastern end of the bus bay as provided between the fenced median and retaining wall and the mid-point of the bus bay be signed as No Entry (R2-4) Buses Excepted (R9-2) and that such signage be removed in the event the contra-flow arrangements cease to operate.
3. That Council note and accept the RMS advice as contained in above cited minutes, namely that:
 - a) RMS reserve the right to appeal this decision in accordance with the delegations of the Local Traffic Committee;
 - b) a report be provided prior to end of Term 4 2015 regarding the arrangements operation and that the details of the report are reviewed at that time as required, eg by the Local Traffic Committee, Council and RMS;
 - c) school zone/warning sign-posting as previously recommended and provided by the RMS be installed prior to the contra-flow trial commencing. (Richardson/Woods)

15-446 Resolved that Council adopt the following Committee and Management Recommendation(s):

Report No. 6.11 Request for Bus Stop, Byron Bay Pool

File No: I2015/890

That the applicant be informed that under NSW Road Rules 2014, a bus can legally use any loading zone whilst engaged in loading or unloading passengers. (Richardson/Woods)

15-447 Resolved that Council adopt the following Committee and Management Recommendation(s):

Report No. 6.12 Request for No Parking limits, Market Street, Bangalow

File No: I2015/891

1. That in accordance with Australian Standard 2890.5, No Parking be signed and apply on the western side of Market Street, Bangalow.
2. That 'Kiss and Ride' supplementary signage be attached to the No Parking signs, subject to the School's concurrence, which if not forthcoming an alternative site be investigated for such purpose. (Richardson/Woods)

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15-448 Resolved that Council adopt the following Committee and Management Recommendation(s):

Report No. 7.1 Byron Bay Bypass – DA 10.2015.384.1

File No: I2015/892

That in regard to the GHD preliminary designs as included at Appendix E of DA Application 10.2015.384.1 (as per Council file E2015/41826) for the Byron Bay town centre bypass, Council notes that the Local Traffic Committee:

- a) provide in-principle support for the traffic facilities and provisions proposed
- b) recommend the turning and exit lines shown to demarcate roundabout travel lanes be removed from the design; and
- c) require regulatory traffic matters be referred back to the Local Traffic Committee as and when required. (Richardson/Woods)

PROCEDURAL MOTION

15-449 Resolved that Council change the order of business to deal with Reports 13.6, 13.9, 13.11, 13.15, 13.16, 13.4 and 14.4.6.1 next on the Agenda. (Woods/Richardson)

The motion was put to the vote and declared carried.

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

Report No. 13.6 Byron Visitor Centre - Request for Financial Assistance

File No: I2015/872

Cr Wanchap left the chambers at 11.50am in accordance with her earlier declared Pecuniary Interest in this matter.

15-450 Resolved that Council staff provide assistance to the BVC to develop a financial plan with timelines to:

1. Pay all Council outstanding rates and charges, and
2. To generate sufficient cash flow to meet all future costs including rent and Council's rates and charges. (Hunter/Richardson)

The motion was put to the vote and declared carried.

PROCEDURAL MOTION

15-451 Resolved that Cr Hunter be granted a two minute extension to his speech. (Richardson/Woods)

The motion was put to the vote and declared carried.

AMENDMENT

Moved:

1. That Council grant the Byron Visitors Centre a donation of \$10,000 from unspent Park and Ride funds towards outstanding Council rates and charges.

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2. That negotiations with the Byron Visitor Centre Incorporated Association be held with a view to developing a payment plan for the outstanding rates and charges. (Ibrahim/Woods)

The amendment was put to the vote and declared lost.

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

Cr Wanchap was not present for the vote.

The motion was put to the vote and declared carried.

Cr Wanchap was not present for the vote.

Cr Wanchap returned to the Chamber at 11:54am.

STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

Report No. 13.9 **PLANNING - Report on rehabilitation works 10.2014.331.1**
File No: **Community title subdivision at Broken Head Road, Broken Head**
 I2015/643

15-452 Resolved:

1. That Council note the report on rehabilitation works as required within the original consent conditions.
2. That Council contact the owners of the land and request an update on the plan for rehabilitation works. (Woods/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.

FORESHADOWED MOTION

- 15-453 Resolved** that Council receive a report, as soon as the current court case is over, on enforcement action to achieve the outstanding rehabilitation. (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.

Report No. 13.11 **PLANNING - 10.2015.196.1 - Alterations to dwelling and a new residential flat building eight serviced apartments and a managers residence at 40 Mullumbimbi Street Brunswick Heads**
File No: **I2015/812**

Moved:

1. That the determination of the development application 10.2015.196.1 be deferred to enable the applicant to consider the redesign of the rear area of the development, including but not limited to:

- a) Where Cypress Tree "A" is proposed to be retained – that an arborist report be prepared to provide details of the likely longevity of this tree and chance for survival once the proposed building is constructed.
 - b) Where the Cypress tree is not proposed to be retained, the relocation of the proposed (Oyster) building 2.8 metres to the east.
 - c) The relocation of the proposed pool and associated decking to the western side of the proposed walkway and the retention of the existing landscape plantings in the previously proposed pool area. Where appropriate the swimming pool could be removed from the development.
 - d) The reduction in the height of the rear fence from 1.8 metres to 1.2 metres.
 - e) Where possible the reduction in height of the car park area so as to reduce the overall height of the building.
 - f) To reverse the pitch of the roof of the proposed Oyster building so as to reduce the height of the building at the rear lane.
 - g) Wall treatment to the southern elevation of the proposed (Oyster) building so as to break up the stark nature of the flat walls.
2. That the determination of the final design and the determination of development application 10.2015.196.1 be delegated to the General Manager. (Hunter/Cubis)

AMENDMENT

15-454 Resolved that the determination of the development application 10.2015.196.1 be deferred to enable the applicant to consider the redesign of the rear area of the development, including but not limited to:

- a) Where Cypress Tree "A" is proposed to be retained – that an arborist report be prepared to provide details of the likely longevity of this tree and chance for survival once the proposed building is constructed.
- b) Where the Cypress tree is not proposed to be retained, the relocation of the proposed (Oyster) building 2.8 metres to the east.
- c) The relocation of the proposed pool and associated decking to the western side of the proposed walkway and the retention of the existing landscape plantings in the previously proposed pool area. Where appropriate the swimming pool could be removed from the development.
- d) The reduction in the height of the rear fence from 1.8 metres to 1.2 metres.
- e) Where possible the reduction in height of the car park area so as to reduce the overall height of the building.
- f) To reverse the pitch of the roof of the proposed Oyster building so as to reduce the height of the building at the rear lane.
- g) Wall treatment to the southern elevation of the proposed (Oyster) building so as to break up the stark nature of the flat walls. (Richardson/Dey)

The amendment was put to the vote and declared carried.

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

Crs Cubis, Wanchap and Hunter voted against the amendment.

The amendment became the substantive motion.

FORESHADOWED AMENDMENT

Moved: That pursuant to Section 80 of the Environmental Planning & Assessment Act 1979, development application 10.2015.196.1 for alterations to a dwelling and a new residential flat building to be eight serviced apartments and manager's residence, be granted consent subject to the conditions listed in Attachment 2 #E2015/49495. (Wanchap/Cubis)

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The amendment was put to the vote and declared lost.

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

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

The substantive motion (Richardson/Dey) 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.

The meeting adjourned for the lunch break at 12.38pm and reconvened at 1.30pm.

PROCEDURAL MOTION

- 15-455 Resolved** that Council change the order of business to deal with Report 13.16 next on the Agenda. (Woods/Richardson)

The motion was put to the vote and declared carried.

Report No. 13.16 PLANNING - 26.2013.2.1 - Public submissions report for second exhibition of Ewingsdale Seniors Housing planning proposal
File No: 12015/878

Moved: That Council note the submissions received on the planning proposal and defer further consideration of the planning proposal until completion of a:

- a) Rural Land Use Strategy and Residential Settlement Strategy with consultation with the Ewingsdale community, and
- b) Far North Coast Regional Strategy (Cameron/Richardson)

PROCEDURAL MOTIONS

- 15-456 Resolved** that Cr Cameron be granted a two minute extension to his speech. (Richardson/Dey)

The motion was put to the vote and declared carried.

- 15-457 Resolved** that Cr Wanchap be granted a two minute extension to her speech. (Richardson/Woods)

The motion was put to the vote and declared carried.

- 15-458 Resolved** that Cr Cubis be granted a two minute extension to his speech. (Richardson/Wanchap)

The motion was put to the vote and declared carried.

AMENDMENT

- 15-459 Resolved:**

1. Proponent to prepare draft DCP along with a basic concept plan in consultation with Council and provide that to Council as soon as possible.
2. Proponent to prepare and complete at their own cost a Traffic demand study for the planning proposal.

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3. Proponent and Council to finalise draft VPA so that:
 - a) \$15,000 is paid to Council after the LEP is amended to contribute to the wider traffic studies
 - b) \$3,000 is paid to Council for its legal costs to finalise the VPA
 - c) The VPA is to be placed on public exhibition (Wanchap/Woods)

The amendment was put to the vote and declared carried.

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

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

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

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

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

Report No. 13.15 PLANNING - 10.2015.214.1 - Railway infrastructure including a rail shed and two railway platforms and tree removal at Bayshore Drive and Lawson Street, Byron Bay
File No: I2015/875

15-460 Resolved that pursuant to Section 80 of the Environmental Planning & Assessment Act 1979, Development Application No. 10.2015.214.1, for railway infrastructure, be granted consent subject to conditions listed in Attachment 2 #E2015/56877 with the following amendments:

1. Condition 5 Hours of Operation and Lighting to amend the hours of operation as follows:

“The train platforms must not operate prior to 7.30am and after 10.30pm on any day...” “

2. An additional condition:

16(a) Landscaping plan required:

The application for a Construction Certificate is to include plans and specifications that indicate the landscaping of the site. Such landscaping plan must incorporate adequate detail to demonstrate compliance with the provisions of Part H of Development Control Plan 2010. Species identified in Part B9 of Development Control Plan 2014 are to be planted wherever possible. The landscaping plan must provide for screen plantings within the railway corridor on the eastern side of Bayshore Drive to screen the platform and shed from the residential area to the south of the railway corridor, and must indicate:

- a) proposed location for planted shrubs and trees
- b) botanical name of shrubs and trees to be planted
- c) mature height of trees to be planted
- d) location of trees identified for retention in the development application plans.
- e) The plan is to be prepared by a suitably qualified landscape architect/architect /ecologist who has appropriate experience and competence in landscaping.

Such plans and specifications must be approved as part of the Construction Certificate. Note: Landscaping to the site is to comply with the principles of Appendix 5 of Planning for Bushfire Protection 2006.

3. An additional condition:

32(a) Landscaping to be completed:

All landscaping must be completed prior to the use of the train platforms for a train service.

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4. An additional condition:

38 Use of horn/whistle:

It is a requirement that any train service accessing the Bayshore Drive Platform limit the use of the train's horn to emergency situations only, and the train's whistle be used when sound signals are required.

5. Amend Condition 16 to increase the number of bike rack parking areas from 5 to 20.

(Woods/Cameron)

PROCEDURAL MOTION

15-461 Resolved that Cr Woods be granted a two minute extension to her speech.

(Richardson/Cameron)

The motion was put to the vote and declared carried.

AMENDMENT

Moved:

1. That Consent Condition 1 in Attachment 2 E2015/56877 be amended by deleting Drawings 01 and 02 relating to the platform and shed east of Bayshore Drive and including:

Limitations of approval:

Approval is granted for a single train platform only, being the platform located within the Byron Bay town centre adjacent to the Lawson Street crossing. No approval is granted for the train platform nor the train storage shed adjacent to the Bayshore Drive crossing. The plans that are submitted for approval as part of the Construction Certificate must be amended to meet the requirements of this condition.

2. That any other Conditions be likewise amended to remove references to that platform and shed east of Bayshore Drive.

3. That the hours of operation in Condition 5 Hours of Operation and Lighting be amended as follows:

"The train platforms must not operate prior to 7.30am and after 10.30pm on any day..."

4. That pursuant to Section 80 of the EP&A Act 1979. DA 10.2015.214.1 for railway infrastructure be granted consent subject to Conditions as amended by Parts 1-3 of this Resolution.

(Spooner/Dey)

PROCEDURAL MOTION

15-462 Resolved that Cr Cameron be granted a two minute extension to his speech. (Woods/Cameron)

The motion was put to the vote and declared carried.

The amendment (Spooner/Dey) was put to the vote and declared lost.

Crs Dey and Spooner voted in favour of the amendment.

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

FORESHADOWED AMENDMENT

Moved: That pursuant to Section 80 of the Environmental Planning & Assessment Act 1979, Development Application No. 10.2015.214.1, for railway infrastructure, be granted consent subject to conditions listed in Attachment 2 #E2015/56877 as amended below:

1. Condition 5 Hours of Operation and Lighting to amend the hours of operation as follows:

The train platforms must not operate prior to 7.30am and after 10.30pm on any day...

2. An additional condition:

16(a) Landscaping plan required

The application for a Construction Certificate is to include plans and specifications that indicate the landscaping of the site. Such landscaping plan must incorporate adequate detail to demonstrate compliance with the provisions of Part H of Development Control Plan 2010. Species identified in Part B9 of Development Control Plan 2014 are to be planted wherever possible. The landscaping plan must provide for screen plantings within the railway corridor on the eastern side of Bayshore Drive to screen the platform and shed from the residential area to the south of the railway corridor, and must indicate:

- a) proposed location for planted shrubs and trees
- b) botanical name of shrubs and trees to be planted
- c) mature height of trees to be planted
- d) location of trees identified for retention in the development application plans.
- e) The plan is to be prepared by a suitably qualified landscape architect/architect /ecologist who has appropriate experience and competence in landscaping.

Such plans and specifications must be approved as part of the Construction Certificate. Note: Landscaping to the site is to comply with the principles of Appendix 5 of Planning for Bushfire Protection 2006.

3. An additional condition:

32(a) Landscaping to be completed:

All landscaping must be completed prior to the use of the train platforms for a train service.

4. An additional condition:

38 Use of horn/whistle:

It is a requirement that any train service accessing the Bayshore Drive Platform limit the use of the train's horn to emergency situations only, and the train's whistle be used when sound signals are required.

5. Amend Condition 16 to increase the number of bike rack parking areas from 5 to 20.

6. An additional condition:

1(a) That the diesel engine train is not to utilise the station. (Richardson/Dey)

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

Crs Dey and Richardson voted in favour of the amendment.

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

The motion was put to the vote and declared carried.

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

Cr Spooner voted against the motion.

PROCEDURAL MOTION

- 15-463 Resolved** that Council change the order of business to resume in Agenda order.
(Woods/Richardson)
The motion was put to the vote and declared carried.

MAYORAL MINUTE

Mayoral Minute No. 8.1 2015 NSW Coastal Conference

- 15-464 Resolved** that Council appoint Cr Dey as its delegates to attend the 2015 Australian Coastal Conference to be held at Forster from 11-13 November 2015.
(Richardson)
The motion was put to the vote and declared carried.

Mayoral Minute No. 8.2 Postponement of IBAS works until conclusion of court proceedings

Moved: That Council cease all works on the construction of the Interim Beach Access Stabilisation works until the completion of the impending court proceedings concerning these works, due to commence in October.
(Richardson)

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

NOTICES OF MOTION

Notice of Motion No. 9.1 Council's Policy on Dogs **File No:** I2015/903

Moved:

1. That Council receive a report on Council's and the state's options to better protect residents, visitors and other animals from attacks and intimidation by dogs;
2. That the report include consideration of local measures such as licenses or other arrangements and / or reporting systems for owning or keeping "menacing" dogs or those of large or intimidating breeds. Such licences to be issued after the owner has received appropriate training and renewed annually on confirmation of those skills being up to date;
3. That the report identify opportunities and shortfalls if any in the state's current legislation such as the Companion Animals Act of 1998 and any associated regulations;
4. That the report go beyond legislative matters and consider social and cultural changes that could help protect;
5. That the report identify whether Council requires a new Policy or amendment of existing Policies such as Policy 5.30 to better protect people and animals from attacks or intimidation by dogs.
(Dey/Richardson)

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AMENDMENT

15-465 Resolved:

1. That Council will initiate a review of Policy 5.30 to better protect people and animals from attacks or intimidation by dogs and associated fines.
2. That Council raise the educative component of the Policy to a high priority. (Ibrahim/Cubis)

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

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

PROCEDURAL MOTION

15-466 Resolved: that Council change the order of business to deal with Reports 13.13 next on the Agenda. (Richardson/Woods)

The motion was put to the vote and declared carried.

STAFF REPORTS – SUSTAINABLE ENVIRONMENT AND ECONOMY

Report No. 13.13 **North Byron Beach Resort (Ganra Pty Ltd) seek consent to lodge development application for coastal protection works on Council land**

File No: I2015/860

Moved: That Council write to Planners North advising that their request for landowner's consent to lodge a development application for coastal protection works over Council community land has been declined. (Dey/Richardson)

AMENDMENT

15-467 Resolved:

1. That Council grant owners consent to Ganara Pty Ltd to lodge a development application to the Coastal Panel. In assessing such an application, the Coastal Panel will consult with state government agencies, Byron Shire Council and the local community.
2. That Council notes that in granting owners consent it is merely providing the proponent an opportunity to undertake further detailed studies to formulate and finalise a proposal. In granting owners consent, Council does not in any way commit to future action or demonstrate that it is supportive of the works.
3. That Council notes that the land for which owner's consent is sought is a remaining fragment of community classified land zoned 7(f1) in which beach and coastal restoration works are listed as permissible with development consent.
4. That Council notes that the land is bounded by an unformed and inaccessible road reserve, the Belongil Creek and private property.
5. That the Council owned land forms a small part of a much larger privately owned and managed area of rare littoral rainforest. The owners of this land have recently provided

\$20,000 to a local group to protect this fragile ecosystem.

6. That the Belongil Creek flood waters have in the past few years removed a significant part of this rare forest, and if unchecked this likely to continue.
7. That Council notes that under section 36E and 36J of the Local Government Act 1993 the 'core objectives for management of community land categorised as a natural area or bushland' are interalia;
 - a) To conserve biodiversity and maintain ecosystem function in respect of the land, and
 - b) To provided for the restoration and regeneration of the land,
 - c) To retain bushland parcels of a size and configuration that will enable the existing plant and animal communities to survive in the long term
8. That Council notes that under section 46(1)(b)(i) Council may grant a lease, license or other estate in respect of community land for a purpose prescribed by any of sections 36E to 36N as a core objective of the categorisation of the land concerned (including (a), (b) and (c) above).
9. That Council notes that under section 47B(4) it is unclear whether the proposed protection works will comply with the prescribed (permitted) structures. This will be a matter for future determination should an application for a lease or license be lodged by Ganara Pty Ltd.
10. That Council notes that this land is subject to Council's Generic Plan of Management for Community Land Categorised as a Natural Area.
11. That Council notes that under the generic plan of management, the participation of local groups and individuals in the maintenance of natural areas 'should be supported and encouraged' (3.4). Furthermore the POM identifies a key objective of preserving and increasing remnant native plant vegetation (p19). The POM authorises minor earthworks, drainage, landscaping, and the granting of leases as outlined in the Act (p22).

(Ibrahim/Woods)

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 the vote and declared carried.

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

NOTICES OF MOTION

Notice of Motion No. 9.2 Councillor onto PRG for CZMP

File No: I2015/989

15-468 Resolved:

1. That in addition to the formation under Resolution 15-410 of the Project Reference Group for the Coastal Zone Management Plan for the Byron Bay Embayment, Mayor Richardson be appointed as a further Councillor to the PRG.
2. That section 4.1 of the constitution of the PRG be amended as follows:

5 Councillor Members, and these Councillors are Crs Ibrahim, Cameron, Wanchap, Dey and Richardson. (Dey/Woods)

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

Notice of Motion No. 9.3 Ticket/Boom Gate Access on Lawson Street North Car Park
File No: I2015/990

Cr Wanchap deferred this Notice of Motion to the Ordinary Meeting of 8 October 2015.

Notice of Motion No. 9.4 Koala and Wild Life Sanctuary at West Byron
File No: I2015/991

Cr Wanchap deferred this Notice of Motion to the Ordinary Meeting of 8 October 2015.

PETITIONS

There were no petitions tabled.

SUBMISSIONS AND GRANTS

There were no submissions and grants.

DELEGATES' REPORTS

1. Turning of the Sod Ceremony - Ironbark Avenue, Byron Bay on Saturday 12 September 2015

Cr Spooner advised Council:

- This was an historical and important event for our shire
- This was the traditional home of Linda and Jimmy Kay where 13 children were born and raised
- Arakwal Elders lodged an original claim over the area 21 years ago.
- In the 1950's they left to live on Cabbage Tree island to stop the Welfare Department taking their children away.
- This event marks the beginning of constructing four houses on this land for the Arakwal community
- Today I want to congratulate and acknowledge the selfless work of the Arakwal people for the betterment of our community over many years.

Cr Dey advised that he was also in attendance at the Turning of the Sod ceremony for the 4 Arakwal houses in Ironbark Ave.

2. North Byron Coastal Creeks Flood Study Update

Cr Dey advised Council:

I met with staff on 1 September to view the next submission from the consultant engaged for this project. To date, calibration (ie testing the model against a large flood) fails to match the many recorded flood levels for the May 1987 flood in Mullumbimby. Staff and I agree that getting a reasonable match is necessary before the model can be presented to Council's North Byron Coastal Creeks Flood Risk Management Committee, which could then recommend that Council adopt the Study.

As desperate as we and the community of the Brunswick Valley are to get this project complete, mismatch was still gross at half a metre or so in some locations. While a discrepancy of 100mm could be acceptable (though problematic in flat terrain such as ours) the model is still grossly inaccurate.

Council has asked the consultant to try again. I believe there are problems of competency. I wish the state authority with whom we share management of the project and on whose recommendation we choose such consultants would step in and help.

3. Rous Water, Ordinary Meeting of 16 September:

Cr Dey advised Council:

Cr Robert Mustow of Richmond Valley Council was appointed Chair. Our own Cr Diane Woods was re-appointed Deputy Chair.

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

Report No. 13.1 Election of Deputy Mayor 2015-2016
File No: I2015/261

15-469 Resolved:

1. That Council elect a Deputy Mayor for the period from 17 September 2015 until the end of this term of Council in September 2016.
2. That the method of election of the Deputy Mayor be by way of ordinary ballot.
(Cubis/Richardson)

The motion was put to the vote and declared carried.

The returning officer advised that there were 2 nominations for Deputy Mayor being Crs Spooner and Ibrahim

Following the election the returning officer declared Cr Spooner was elected Deputy Mayor for the ensuing 12 month period.

Report No. 13.2 Tyagarah Aerodrome - Proposed Short-Term Lease Australia Skydive Pty Ltd
File No: I2015/811

15-470 Resolved:

1. That Council not call for competitive lease proposals for a new short-term lease agreement for Part Lot 1 in DP 713023 known as Skydive Byron Bay being "plan for lease purposes" Lot 4 in DP 805678 for the following reasons:
 - a) All site infrastructure (including buildings) is owned by Australia Skydive Pty Ltd;
 - b) Australia Skydive Pty Ltd currently occupy the premises and conduct commercial operations from the site and formal tenure and access agreements with Council are required to ratify the current circumstances;
 - c) A competitive process is not considered to achieve best value for money outcomes for a short-term lease arrangement because of the necessity to attract capital investment (for required building infrastructure); and

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- d) Best value for money is considered achievable with a short-term, market value rental, with the incumbent business operating from the site.
 - e) A competitive long-term lease proposal is already planned as part of implementing the Tyagarah Aerodrome Future Options Project.
2. That Council authorise the General Manager to negotiate and grant a short-term lease with Australia Skydive Pty Ltd subject to the following:
- a) A lease term that aligns with time frame required to complete compliance, safety and subdivision works at the Aerodrome, but not more than 24 months;
 - b) Rent to be determined via market rental valuation in accordance with Council's adopted fees and charges;
 - c) Inclusion of lease clauses that:
 - i. provide for requirements for removal or otherwise of any onsite infrastructure fixtures and fittings (including buildings) to achieve vacant possession of the site at the end of the lease term.
 - ii. provide for use of the airfield, taxiways, runway, and other Aerodrome infrastructure in accordance Commercial Access Licence conditions that provide Council with the legal ability to collect fees and charges levied in accordance with Council's adopted Fees and Charges.
 - iii. provide the proposed lessee, Australia Skydive Pty Ltd, with a lease termination clause for sufficient notice to vacate the premises, but not more than 6 months.
3. That Council, on expiry of the new short-term lease agreement with Australia Skydive Pty Ltd and completion of the necessary compliance and safety works, and finalisation of the subdivision required to support long-term lease arrangements at the Aerodrome, call for competitive long-term lease proposals for Part Lot 1 in DP 713023 known as Skydive Byron Bay being "plan for lease purposes" Lot 4 in DP 805678.
4. That the Council seal be affixed to the short-term lease agreement between Council and Australia Skydive Pty Ltd for Part Lot 1 in DP 713023 known as Skydive Byron Bay being "plan for lease purposes" Lot 4 in DP 805678 in accordance with Regulation 400 of the Local Government (General) Regulations 2005.
5. That this resolution closes and replaces the previous resolution of Council 14-654.
(Woods/Richardson)

The motion was put to the vote and declared carried.

Report No. 13.3 Sustainable Community Markets Public Exhibition for Draft Policy/Fees and Charges

File No: I2015/868

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

Moved:

- 1. That Council adopt the Sustainable Community Markets Policy, contained at Attachment 2 (E2015/33306), to replace the Markets within Byron Shire Policy No. 5.51 and incorporate these changes into Council's Policy Register.
- 2. That Council adopt the Market Licence Fees, shown at Table 1, and incorporate these changes into Council's adopted Fees and Charges for 2015/16 for all markets excluding the Byron Community Markets which will be interim until:

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- a) a new site has been identified
- b) Management arrangements have been finalised. (Woods/Cubis)

Cr Hunter left the chamber at 3.55pm.

AMENDMENT

15-471 Resolved:

1. That Council adopt the Sustainable Community Markets Policy, contained at Attachment 2 (E2015/33306), to replace the Markets within Byron Shire Policy No. 5.51 and incorporate these changes into Council's Policy Register.
2. That Council adopt the Market Licence Fees, shown at Table 1, and incorporate these changes into Council's adopted Fees and Charges for 2015/16. (Richardson/Cameron)

The amendment was put to the vote and declared carried.

Cr Cubis voted against the amendment.

Crs Spooner and Hunter were not present for the vote.

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

Cr Cubis voted against the motion.

Crs Spooner and Hunter were not present for the vote.

Report No. 13.4 Report of the Safe Summer in the Bay PRG meeting 20 August 2015
File No: I2015/870

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

- 15-472 Resolved** that in order to meet the current shortfall in funding of Soul St NYE and First Sun NYD (as experienced for the previous two years also), that Council reallocate savings made from the Park and Ride project budget, up to \$20,000, to Soul St NYE and First Sun NYD, noting that the Safe Summer in the Bay PRG are pursuing other sponsorship opportunities. (Wanchap/Woods)

The motion was put to the vote and declared carried.

Crs Spooner and Hunter were not present for the vote.

The meeting adjourned at 4.30pm and reconvened at 4.42pm. Cr Spooner returned to the meeting at this time.

Report No. 13.8 Byron Bay Paid Parking Scheme - Proposed Fees and Charges
File No: I2015/897

15-473 Resolved:

1. That Council advertise the fees and charges applicable to the Byron Bay Paid Parking Scheme as resolved by Council in Resolution 15-378 for a period of twenty eight days allowing for public submissions.
2. That should there be no public submissions received by the close of the public exhibition period then Council adopt the proposed fees and charges for the Byron Bay Paid Parking Scheme as indicated in resolution 15-378 and implement those fees and charges upon

commencement of the Byron Bay Parking Scheme, except for the implementation of the Shire Resident or Ratepayer exemption fee and non Shire resident worker/volunteer exemption fee.

3. That in regard to the introduction of, implementation and transition to the new pay parking scheme exemptions Council endorse that:
- a) the sale of the existing off-street parking coupons (as currently charged at \$15 for 6 months, \$25 for 12 months) cease on Friday 30 October 2015;
 - b) the new \$50 per annum and \$100 per annum exemptions as endorsed by Resolution 15-378 be offered as soon as possible, and no later than Monday 2 November 2015, in preparation for the new paid parking scheme;
 - c) any purchase of the new annual exemption prior to pay parking commencing on-street be effective immediately upon purchase and apply where Council paid parking exists and that its expiry be 12-months after on-street pay parking commences;
 - d) all residents with active and valid coupons at the time of writing be advised of the above plus details of Council's new Byron Bay pay parking scheme and that:
 - i) the coupon benefit as held, and which exempts them from paying the meter at Council's off-street car parks only, will be honoured, no more to pay, through to the date of expiry as stated upon their coupon;
 - ii) the upgrade charges as detailed at Table 1 in this report (#12015/897) apply prior to the coupon expiring and upon payment provide access to the full pay parking exemption to which they are entitled;
 - iii) if so desired, the full exemption cost can also be paid at time of and in addition to the upgrade purchase price;
 - iv) upon activation of the new 'pay by plate' meters in Council off-street car parks coupon holders will be required to enter their licence details at the meter to access the coupon entitlement;
 - v) to assist in this new requirement, and unless Council is notified to the contrary by the coupon holder prior to their activation, all new 'pay by plate' meters to be installed in Council off-street car parks will upon activation contain and recognise the licence plate details only as stated on a valid coupon;
 - vi) despite part (iv) above, the physical coupon if valid and displayed correctly will be honoured through to its expiry subject to the conditions it contains.

(Wanchap/Richardson)

The motion was put to the vote and declared carried.

Cr Ibrahim voted against the motion.

STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

Report No. 13.12 Park and Ride / New Year's Eve Shuttle
File No: 12015/857

15-474 Resolved:

- 1. That for 2015 Council run a New Year's Eve Shuttle in place of the Park and Ride service, between the hours of 5.00pm (or earlier if the budget permits) and 3.00am.
- 2. That the original budget allocation (Res 14-293) for the Park and Ride initiative, less the cost of the 2015 New Year's Eve shuttle, be maintained for a review in 2016 post the introduction of paid parking and implementation of the Byron Bay Town Centre Masterplan.
(Ibrahim/Spooner)

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AMENDMENT

Moved:

1. That for 2015 Council run a New Year's Eve Shuttle, between the hours of 5.00pm (or earlier if the budget permits) and 3.00am.
2. That park and ride continues for this year with a review at completion with a budget source to be identified. (Richardson/Dey)

Cr Hunter returned to the meeting at 4.57pm.

The amendment was put to the vote and declared lost.

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

The motion was put to the vote and declared carried.

Report No. 13.14 PLANNING - 26.2015.3.1 General Policy and Housekeeping Changes -
Byron Local Environmental Plan (LEP) 2014
File No: I2015/874

Moved:

1. That Council amend the planning proposal contained in Attachment 1 by removing "Proposal O" for a dwelling on Jones Road Yelgun.
2. That Council proceed with the planning proposal thus amended and send it to the NSW Department of Planning and Environment requesting a Gateway Approval. (Dey/Richardson)

AMENDMENT

- 15-475 Resolved** that Council proceed with the planning proposal contained in Attachment 1 and send it to the NSW Department of Planning and Environment requesting a Gateway Approval. (Ibrahim/Wanchap)

The amendment was put to the vote and declared carried.

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

Crs Dey, Richardson and Cameron voted against the amendment.

The amendment upon becoming the substantive 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. 13.17 Update Coastal Zone Management Plan Byron Bay Embayment
File No: I2015/944

- 15-476 Resolved:**

1. That Council reaffirms its commitment to the previously resolved timeframes for the public exhibition of the draft Coastal Zone Management Plan Byron Bay Embayment (CZMP BBE).

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2. That Council will incorporate consideration of any OEH advice received into the draft CZMP BBE up to the adopted exhibition date.
3. Any submissions or advice from OEH received after the commencement of the draft CZMP BBE exhibition period will be considered along with all other submissions.
4. That Council rejects consideration of any sand nourishment schemes at Tallow Beach on the grounds of its potential detrimental impacts on the environment, incursions into Aboriginal land and National Parks, disruption and impacts to public amenity, and cost.
5. That the General Manager is delegated the authority to engage suitably qualified consultants on fair and reasonable terms to complete preparation of the draft CZMP BEE by the adopted exhibition date. Funds are to be sourced by a transfer from account 1501.64 to account 2605.083, as well as appropriate general revenue sources if additional funds are required. (Ibrahim/Woods)

AMENDMENT

1. That Council note that delays to finalising the draft Coastal Hazard Management Study Byron Bay Embayment are likely to impact on the draft Coastal Zone Management Plan Byron Bay Embayment (CZMP BBE) timeframes; and that following receipt of the Office of Environment and Heritage comments on the cost benefit analysis, a further report will be tabled for Council's consideration on the impacted CZMP BBE timeframes.
2. That Council rejects consideration of any sand nourishment schemes at Tallow Beach on the grounds of its potential detrimental impacts on the environment, incursions into Aboriginal land and National Parks, disruption and impacts to public amenity, and cost. (Richardson/Spooner)

The amendment was put to the vote and declared lost.

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

The motion was put to the vote and declared carried.

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

REPORTS OF COMMITTEES - INFRASTRUCTURE SERVICES

Report No. 14.4 **Report of the Local Traffic Committee Meeting held on**
26 August 2015
File No: I2015/992

15-477 Resolved that Council adopt the following Committee and Management Recommendation(s):

Report No. 6.1 Request for Heavy Vehicle restrictions, Granuaille Road, Bangalow
File No: I2015/879

That Council:

1. note the concerns raised by the Bangalow Progress Association regarding heavy vehicle use, noise and speed, and traffic volumes in general.
2. note that these concerns include amenity and safety on Route B62, the Bangalow to Lismore route which uses Granuaille and Lismore Roads in Bangalow and the domed roundabout at the top of Byron Street.

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3. confirm its previous opposition to signage that the RMS may place on the Pacific Highway north of the Ewingsdale interchange for southbound traffic that directs traffic to Lismore via Bangalow.
4. recommend to the RMS that, if it wishes to proceed with the proposed assessment of such signage, it be carried out only after completion of the T2E upgrade on the basis that:
 - a) the highway is fully operational, i.e. no road works or temporary speed limits apply south of Ewingsdale Road and all associated road works are completed;
 - b) the trial start with no signage for a period of at least three months; and
 - c) if undertaken, the subsequent "with signage" part of the trial be for the same time period.
5. note that load limiting or restriction of general access vehicles (including heavy vehicles such as trucks up to 19 metres, buses, etc) is only permissible on roads where there is a road hazard or asset management issue.
6. note that the RMS is preparing a "Corridor Strategy" which should address speed, traffic volumes, heavy vehicle use, signage, etc.
7. seek RMS advice and approval for signage in regard to heavy vehicle use and noise reduction on Granuaille Road (eg compression braking). (Cameron/Dey)

Cr Cubis left the meeting at 5.29pm and did not return.

The motion was put to the vote and declared carried.

FORESHADOWED MOTION

15-478 Resolved that Council:

1. note the apparent increase in heavy vehicles using Route 62 since the removal of the Binna Burra rail bridge.
2. write to the NSW Premier, the NSW Minister for Roads and the NSW Minister for Police reiterating the Bangalow community's concerns and requesting the following actions by them for Granuaille and Lismore Roads Bangalow:
 - a) Increased police speed patrols on the Bangalow section of Route B62 plus frequent mobile speed camera monitoring;
 - b) Prohibition (and policing) of compression braking within Bangalow;
 - c) Expansion of the 50kph speed zones in the town
 - (i) to commence at the start of the divided road on Bangalow Road, north of Bangalow with clear road markings and differentiation [similar to that in Clunes] and
 - (ii) to commence on Lismore Road between the industrial estate and Rifle Range Road with the same road markings and differentiation;
 - d) Speed activated warning signs 100m after the commencements of the 50kph zones and speed cameras on both Granuaille and Lismore Roads;
 - e) A 40kph zone within 100 metres of the domed roundabout (similar to that now operating on the Highway where it crosses the Bangalow to Byron Road);
 - f) Prohibition of fuel and other hazardous through-freight on Route B62 because of the dangers of overturning at the domed roundabout. The roundabout is upslope of Bangalow's CBD and a spill would have disastrous impacts on health and on livelihoods;
 - g) Alternatively, prohibition of fuel tankers with trailers, to minimise the danger of fire and explosion due to the same issue;
 - h) Clearer line marking and signage on the approach roads to the domed roundabout

- including clearer lit roundabout signs, better marking of the roundabout (with reflective markers) and clear give-way markings;
- i) Clear advisory school bus-stop signage on Lismore Road at its junction with Rifle Range Road. (Dey/Ibrahim)

The motion was put to the vote and declared carried.

URGENCY MOTION

Urgency Motion No. 1 Matter of Urgency - Cypress Pine Trees at Terrace Caravan Park

The Mayor declared the matter of the Cypress Pine Trees at Terrace Caravan Park to be of great urgency due their imminent removal.

- 15-479 Resolved** that the matter of urgency be discussed due to the imminent removal of the Cypress Pine Trees at Terrace Caravan Park. (Woods/Richardson)

The motion was put to the vote and declared carried.

- 15-480 Resolved** that Council write to NCHP and request:

1. Deferral of the removal of the identified Cypress Pines at the Terrace Caravan Park until the following has occurred:
 - a) A suitably qualified and independent arborist inspects the trees to be removed and advice be given to appropriate staff for a decision on removal or not.
 - b) The newly formed Heritage Advisory Committee to investigate the importance of the heritage aspect of the Cypress Pine Trees at the Terrace Caravan Park.
 - c) The Park is operating under an approval to operate to be issued by this Council.
2. That if the tree is deemed to be dangerous and to be removed that compensatory planting must occur within the Park. (Woods/Wanchap)

The motion was put to the vote and declared carried.

There being no further business the meeting concluded at 5.51pm.

I hereby certify that these are the true and correct Minutes of this Meeting
as confirmed at Council's Ordinary Meeting on 8 October 2015.



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Mayor Simon Richardson

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