



**Byron Shire Council**



# **Minutes**

**Ordinary Meeting**

**Thursday, 17 November 2016**

# BYRON SHIRE COUNCIL

Ordinary Meeting Minutes  
17 November 2016

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## INDEX OF ITEMS DISCUSSED

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

Report No. 13.1	Review of Outstanding Council Resolutions .....	5
Report No. 13.2	Council Budget Review - 1 July 2016 to 30 September 2016 .....	5
Report No. 13.3	Request for a Section 356 Donation .....	6
Report No. 13.4	Appointment of community members to Section 355 Management Committees and Boards .....	6
Report No. 13.5	Councils Investments 1 October to 26 October 2016 .....	7
Report No. 13.6	Presentation of 2015/2016 Financial Statements.....	7
Report No. 13.10	Local Heritage Places Grants 2016-17 .....	7
Report No. 13.13	PLANNING - 5.1986.278.2 S96 Application to relocate carparking associated with Byron Services Club, to facilitate the Byron Bay Bypass at 132-138 Jonson Street Byron Bay .....	7
Notice of Motion No. 9.3	Amendment to Council Resolution 16-464 .....	8
Report No. 13.9	PLANNING - Environmental Zones (E Zone) - process to amend Byron LEP 2014 .....	9
Report No. 13.11	PLANNING - Draft Byron DCP 2014 - Chapter E8 West Byron Urban Release Area - Submissions Report.....	10
Report No. 13.14	Council Part Road Reserve Closure and Subsequent sale at end of Durrumbul Road Adjoining Lot A DP 389649.....	11
Report No. 13.11	PLANNING - Draft Byron DCP 2014 - Chapter E8 West Byron Urban Release Area - Submissions Report.....	12
Report No. 13.12	PLANNING - BSC ats Koho Projects Pty Ltd LEC 266825 of 2016.....	19
No. 8.1	Department of Education Land Beech Drive .....	20
Notice of Motion No. 9.1	Independent Testing of Steam Weeding Devices.....	21
Notice of Motion No. 9.2	Support for the Safe Haven Enterprise Visa Scheme.....	21
Report No. 13.7	Councillor Representation on Destination Byron.....	24
Report No. 13.8	North Byron Parklands Regulatory Working Group - Community Representatives.....	24
Report No. 15.1	Amendment of General Manager delegation .....	25
Report No. 15.2	Report of the Local Traffic Committee Meeting held on 14 October 2016.....	25
Notice of Motion No. 9.4	Employment of Night Time Compliance Officers for Summer Period	34

# BYRON SHIRE COUNCIL

ORDINARY MEETING MINUTES

17 November 2016

<b>MINUTES OF THE BYRON SHIRE COUNCIL ORDINARY MEETING HELD ON THURSDAY, 17 NOVEMBER 2016 COMMENCING AT 9.04AM AND CONCLUDING AT 5.48PM</b>
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I2016/1180

**PRESENT:** Cr S Richardson (Mayor), Cr C Coorey, Cr J Hackett, Cr A Hunter, Cr M Lyon, Cr J Martin, Cr S Ndiaye and Cr P Spooner

**Staff:** Ken Gainger (General Manager)  
Mark Arnold (Director Corporate and Community Services)  
Phil Holloway (Director Infrastructure Services)  
Shannon Burt (Director Sustainable Environment and Economy)  
Ralph James (Coordinator Legal Services)  
Alex Caras (Team Leader Land Use Strategy, item 13.9 only)  
Chris Larkin (Major Projects Planner, item 13.11)  
David Royston Jennings/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.*

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## 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 Amendment to Council Resolution 16-464**

*Patricia Warren of the Foreshore Protection Group addressed Council in favour of the recommendation.*

### **13.9 PLANNING – Environmental Zones (E Zone) – Process to amend Byron LEP 2014**

*Jyothi Jaffray of Brays Forest Community and Rex Harris of the Byron Rural Action Group addressed Council against the recommendation.*

### **13.11 PLANNING – Draft Byron DCP 2014 – Chapter E8 West Byron Urban Release Area – Submissions Report**

*Mary Gardner and Gavin Greenoak addressed Council against the recommendation.*

### **13.12 Koho – 116 Stuart St. Mullumbimby**

*Chris Cooney of Brunswick Valley Historical Society/Mullumbimby Residents Association addressed Council in favour of the recommendation.*

### **13.14 Council Part Road Reserve Closure and subsequent sale at end of Durrumbul Road adjoining Lot A DP 389649**

*Sally Wagg and Kirsty McKinley of Hungerford Lehmann Solicitors addressed Council against the recommendation.*

*The meeting adjourned at 10.11am and reconvened at 10.30am.*

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**APOLOGIES**

There was an apology received from Cr Cameron.

PROCEDURAL MOTION

- 16-564 Resolved** that the apology from Cr Cameron be accepted and a leave of absence granted.  
(Richardson/Ndiaye)  
*The motion was put to the vote and declared carried.*

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**REQUESTS FOR LEAVE OF ABSENCE**

There were no requests for leave of absence

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**DECLARATIONS OF INTEREST – PECUNIARY AND NON-PECUNIARY**

*Cr Lyon declared a non-pecuniary interest in Report 15.2. The nature of the interest being that he manages a business with site at Brigantine Street. He elected to remain in the chambers, participate in the debate and the vote.*

*Cr Spooner declared a non-pecuniary interest in Report 15.2. The nature of the interest being that his employer manages Soul Street NYE and First Sun Events. He elected to leave the chambers, not participate in the debate and not vote.*

*Cr Hunter declared a special disclosure of pecuniary interest under s451 of the Local Government Act 1993 in Report 13.9. The nature of the interest being that he owns land that has potential E Zone.*

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**TABLING OF PECUNIARY INTEREST RETURNS**

In accordance with the Local Government Act 1993 Section 450A(2), Section 449(1) Returns are tabled for:

- Sarah Nagel
- Chloe Dowsett
- Rochelle Barclay
- Clare Manning

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**ADOPTION OF MINUTES FROM PREVIOUS MEETINGS**

- 16-565 Resolved** that the minutes of the following meetings be confirmed:
- Ordinary Meeting held 27 October 2016 (Coorey/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. 13.7 Councillor Representation on Destination Byron  
Report No. 13.8 North Byron Parklands Regulatory Working Group - Community Representatives

**Sustainable Environment and Economy**

- Report No. 13.9 PLANNING - Environmental Zones (E Zone) - process to amend Byron LEP 2014  
Report No. 13.11 PLANNING - Draft Byron DCP 2014 - Chapter E8 West Byron Urban Release Area - Submissions Report  
Report No. 13.12 PLANNING - BSC ats Koho Projects Pty Ltd LEC 266825 of 2016

**Infrastructure Services**

- Report No. 13.14 Council Part Road Reserve Closure and Subsequent sale at end of Durrumbul Road Adjoining Lot A DP 389649

**LATE REPORTS**

- Report No. 15.1 Amendment of General Manager delegation  
Report No. 15.2 Report of the Local Traffic Committee Meeting held on 14 October 2016

The remaining Recommendations and Committee Recommendation were adopted as a whole, being moved by Cr Richardson and seconded by Cr Hunter. Each recommendation is recorded with a separate resolution number commencing at Resolution No. 16-566 and concluding with Resolution No. 16-573.

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**STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES**

**Report No. 13.1**      **Review of Outstanding Council Resolutions**  
**File No:**            I2016/1082

**16-566 Resolved:**

1. That Council receive and note the information provided in this report on outstanding Council resolutions in Attachment 1 (#E2016/91776).
  2. That Council note the completed resolutions in Attachment 2 (#E2016/90414).
  3. That Council resolve that no further action be taken in respect of Council resolution 15-489 and that the resolution be closed. (Richardson/Hunter)
- 

**Report No. 13.2**      **Council Budget Review - 1 July 2016 to 30 September 2016**  
**File No:**            I2016/1088

**16-567 Resolved:**

1. That Council authorise the itemised budget variations as shown in Attachment 2

# BYRON SHIRE COUNCIL

ORDINARY MEETING MINUTES

17 November 2016

(#E2016/94992) which includes the following results in the 30 September 2016 Quarterly Review of the 2016/2017 Budget:

- a) General Fund – No change in the Estimated Unrestricted Cash Result
  - b) General Fund - \$1,831,800 decrease in reserves
  - c) Water Fund - \$1,216,300 increase in reserves
  - d) Sewerage Fund - \$2,152,300 increase in reserves
2. That Council adopt the revised General Fund Estimated Unrestricted Cash Result of \$1,182,800 for the 2016/2017 financial year as at 30 September 2016. (Richardson/Hunter)
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**Report No. 13.3**                      **Request for a Section 356 Donation**  
**File No:**                              I2016/1089

**16-568 Resolved:**

1. a) That Council, under Section 356 of the Local Government Act, make the following donation under Policy 14/002 Assistance for Festivals and Community Functions as follows:
    - i) Bangalow Lions Club \$ 600
  - b) The applicant be advised they will be responsible for payment of any costs associated to the road closure exceeding the amount donated.
2. As per resolution 16-443, Council call for submissions under the following policies to distribute the remaining funds early in 2017:
- a) Policy 14/002 Assistance for Festivals and Community Functions
  - b) Policy 12/011 Donations to Community Groups – *reimbursement of Council application fees*
3. That Council advertise the Section 356 Donation proposed to be made. (Richardson/Hunter)
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**Report No. 13.4**                      **Appointment of community members to Section 355 Management Committees and Boards**  
**File No:**                              I2016/1112

**16-569 Resolved:**

1. That the Community representatives, as recommended in the report, be appointed to each respective Section 355 Management Committee or Board for the 4 year term ending December 2020, and that any unsuccessful nominees be notified.
2. That all appointed Community Representatives be:
  - a) advised of their appointment to this Committee;
  - b) provided with a copy of the adopted Halls and Venues Guidelines for Section 355 Management Committees and Boards and the adopted Section 377 delegations;
  - c) advised that under new Work Health and Safety Act, as a volunteer on a Council Committee established and delegated with the management of a community facility,

# BYRON SHIRE COUNCIL

ORDINARY MEETING MINUTES

17 November 2016

of the requirement to attend an induction session.

3. That at the first meeting of each S355 Committee or Board, that the appointed Council and Community representatives be requested to review the Terms of Reference for the respective facility. (Richardson/Hunter)

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**Report No. 13.5**      **Councils Investments 1 October to 26 October 2016**  
**File No:**            I2016/1122

- 16-570 Resolved** that the report listing Council's investments and overall cash position as at 26 October 2016 be noted. (Richardson/Hunter)

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**Report No. 13.6**      **Presentation of 2015/2016 Financial Statements**  
**File No:**            I2016/1124

- 16-571 Resolved** that the Audited Financial Statements and Auditors Reports for the 2015/2016 financial year be presented to the Public in accordance with Section 419(1) of the Local Government Act 1993. (Richardson/Hunter)

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## STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

**Report No. 13.10**      **Local Heritage Places Grants 2016-17**  
**File No:**            I2016/1111

- 16-572 Resolved** that Council receive the information in the report on Local Heritage Places Grants 2016-17 and endorse the funding recommendations made by the Heritage Advisor and staff. (Richardson/Hunter)

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**Report No. 13.13**      **PLANNING - 5.1986.278.2 S96 Application to relocate carparking associated with Byron Services Club, to facilitate the Byron Bay Bypass at 132-138 Jonson Street Byron Bay**  
**File No:**            I2016/1134

- 16-573 Resolved** that, pursuant to Section 96 of the Environmental Planning & Assessment Act 1979, that Application 5.1986.278.2 for S96 Relocate Carparking Required Off Site, be approved by modifying Development consent number 5.1986.287.1 as follows:

Delete the following condition/s:

- 2. The following conditions are to be complied with prior to occupation of the building:**
  - a) The driveways, access aisles and parking areas be constructed in accordance with plans approved by Council;
  - b) The site being landscaped in accordance with the approved landscape plan prior to occupying the development and maintained at all times to the satisfaction of the Council;
  - c) The provision of vehicle access to the building by means of layback kerb vehicle entrances in accordance with Council's Specification of Engineering Works; Standard No. F101;
  - d) The applicant is to provide concrete foot paving 1.2 metres wide fronting all lands between the northern car park entrance of the existing RSL club to the southern boundary of the proposed car park on Lots 7 & 8 in accordance with Council's

specifications for engineering works and plans submitted in triplicate and approved by the Engineering Department prior to commencement of the work.

- e) A carparking area containing 71 spaces be constructed on Lots 7 & 8 DP 604983.

Insert the following condition:

**2. The following conditions are to be complied with prior to occupation of the building:**

- a) The driveways, access aisles and parking areas be constructed in accordance with plans approved by Council;
- b) The site being landscaped in accordance with the approved landscape plan prior to occupying the development and maintained at all times to the satisfaction of the Council;
- c) The provision of vehicle access to the building by means of layback kerb vehicle entrances in accordance with Council's Specification of Engineering Works; Standard No. F101;
- d) The applicant is to provide concrete foot paving 1.2 metres wide fronting all lands between the northern car park entrance of the existing RSL club to the southern boundary of the proposed car park on Lots 7 & 8 in accordance with Council's specifications for engineering works and plans submitted in triplicate and approved by the Engineering Department prior to commencement of the work.
- e) Deleted – Amendment 5.1986.278.2. Council notes that a credit of 71 car parking space exists in relation to the Byron Bay Services Club, associated with the removal of spaces from within Lot 7 DP 258071 and Lot 8 DP 818197. (Richardson/Hunter)

*The motion was put to the vote and declared carried.*

*Crs Coorey, Martin, Lyon, Ndiaye, Richardson, Hackett, Spooner and Hunter voted in favour of the motion.*

*No Councillors voted against the motion.*

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**PROCEDURAL MOTION**

- 16-574 Resolved** that Council change the order of business to deal with Reports 9.3, 13.9, 13.11 and 13.14 next on the Agenda. (Richardson/Ndiaye)

*The motion was put to the vote and declared carried.*

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**NOTICES OF MOTION**

**Notice of Motion No. 9.3    Amendment to Council Resolution 16-464**  
**File No:** 12016/1164

Moved: That Council amend Resolution 16-464 to include the following:

- a) Ferry Holiday Park boundary remains along the southern edge of Riverside Cres road reserve.
- b) The western park boundary of Massey Greene is aligned with the existing picket fence, retaining part of Lot 7005, under Council management for public use and to prevent over-development along the foreshore.
- c) Terrace Park Boundary remains on Southern side of Fingal St with the 12 public car parking spaces retained for shared use and the footpath reinstated to provide safe access to the



pedestrian bridge.

- d) The southern section of Terrace Park has never been included within the holiday park boundary – instead park license contains special conditions for use of this site.
- e) Request Council to clearly delineate a foreshore boundary along the top of the riverbank in all three caravan parks. The public walkway must remain public land outside the operational area of the caravan parks.
- f) Request that NSW Holiday Parks Trust adhere to a 10m building setback from the foreshore boundary for all built structures (including new cabins and camp kitchens) in all caravan parks.
- g) Request CHPT provide a definite time frame and strategic plan for the reinstatement of the buffer zone/public walkway along the top of the Simpson's Creek riverbank in POM.  
(Coorey/Ndiaye)

AMENDMENT

- 16-575 Resolved** that Council requests a meeting with Staff and NSW Crown Holiday Parks Trust to inform the preparation of the Brunswick Heads Holiday Parks plans of management prior to there exhibition.  
(Richardson/Hunter)

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

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

**STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY**

**Report No. 13.9 PLANNING - Environmental Zones (E Zone) - process to amend Byron LEP 2014**

**File No:** 12016/1019

*Cr Hunter declared a special interest under s451 of the Local Government Act 1993 in this item earlier in the meeting.*

**16-576 Resolved:**

1. That Council endorse the following process for amending Byron Local Environmental Plan (LEP) 2014 in order to implement the Northern Councils E Zone Review Final Recommendations Report:
  - a) accept the Department of Planning and Environment's offer of \$40,000 together with a conditional 30 June 2017 deadline for lodgement of a planning proposal;
  - b) prepare and exhibit a draft planning proposal that includes the proposed zoning and supporting methodology for a minimum period of 6 weeks (following the completion of Shire wide vegetation mapping);
  - c) invite submissions from affected landowners to determine: (i) primary land use; (ii) agreement or disagreement with proposed zoning; and (iii) alternative zoning (where applicable);
  - d) finalise the planning proposal for those sites where there is agreement with the proposed or alternative zoning; and
  - e) resolve the zoning of outstanding sites in a subsequent planning proposal.

2. That Council write to the Department of Planning and Environment (DPE) reaffirming Council's long standing position that a separate coastal hazard zone is required in Byron Local Environmental Plan 2014, as the current Standard Instrument LEP does not provide a suitable replacement for our current 7(f1) Coastal Land and 7(f2) Urban Coastal Land Zones and therefore appropriate alternatives such as 'E5 Coastal Hazard' and/or 'E6 Coastal Living' need to be provided. (Hunter/Spooner)

*The motion was put to the vote and declared carried.*

*Crs Coorey, Martin, Hackett, Spooner and Hunter voted in favour of the motion.*

*Crs Lyon, Ndiaye and Richardson voted against the motion.*

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**Report No. 13.11      PLANNING - Draft Byron DCP 2014 - Chapter E8 West Byron Urban Release Area - Submissions Report**

**File No:**                      I2016/1126

Moved: That Byron Shire Council engage the following experts to provide additional material to be taken into account in the finalisation of the Draft Byron Shire Development Control Plan 2014 – Chapter E8 – West Byron Urban Release Area:

1. A Koala expert to provide advice on any amendments to the draft West Byron DCP required to maintain and enhance populations of Koalas having regard to:
  - a) the Byron Coast Comprehensive Koala Plan of Management,
  - b) maintaining and enhancing existing Koala habitat on the site,
  - c) minimising impacts of roads and residential development on Koalas,
  - d) facilitating movement of Koalas onto and through the site (to nearby habitat), and
  - e) provision, siting and timing of compensatory Koala habitat.
2. A frog expert to provide advice on explicit amendments to the draft West Byron DCP required to maintain and enhance populations of Wallum Sedge Frogs and Wallum Froglets, having regard to:
  - a) requirements of the National recovery plan for the wallum sedgefrog and other wallum-dependent frog species,
  - b) maintaining and enhancing habitat for wallum-dependent frog species on and adjacent to the site,
  - c) maintaining and enhancing ground and surface waters for wallum-dependent frog species,
  - d) mitigating the impact of fill and drainage works on wallum-dependent frog species,
  - e) facilitating the movement of wallum-dependent frog species through the site, and
  - f) minimising impacts of roads and residential development on wallum-dependent frog species.
3. A traffic expert to provide advice on any amendments to the draft West Byron DCP required to address:
  - a) potential traffic generation from the development of West Byron, including its stages,
  - b) the potential effect of traffic generated by West Byron and its effect on the level of service at intersections on Ewingsdale Road, Shirley Street and the town centre,
  - c) the adequacy of and potential for public transport,
  - d) required provision of on street and off street carparking within the development, and
  - e) staging of development to mitigate traffic impacts.
4. Provide expert/s in water management and aquatic/riparian environments to provide advice

on any amendments to the draft West Byron DCP:

- a) to ensure proper management of water across the site
- b) to manage potential flood management issues
- c) to manage water quality issues; and,
- d) with regard to the Belongil Special Purpose Zone of the Cape Byron Marine Park to consider potential impacts on the Belongil estuary and Marine Park. (Coorey/Hackett)

PROCEDURAL MOTION

**16-577 Resolved** that this matter rest on the table. (Richardson/Hackett)

*The motion was put to the vote and declared carried.*

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**STAFF REPORTS - INFRASTRUCTURE SERVICES**

**Report No. 13.14 Council Part Road Reserve Closure and Subsequent sale at end of Durrumbul Road Adjoining Lot A DP 389649**  
**File No: I2016/1123**

Moved: That Council not endorse the part road reserve closure and sale to adjoining land owner that part of Durrumbul Road which is located within Lot A DP 389649 722 Main Arm Road Mullumbimby as per Figure 1 of report I2016/1123. (Lyon/Ndiaye)

*The motion was put to the vote and declared lost.*  
*Crs Coorey, Richardson, Hackett, Spooner and Hunter voted against the motion.*

FORESHADOWED MOTION

**16-578 Resolved:**

1. That Council endorse the part road reserve closure and sale to adjoining land owner that part of Durrumbul Road which is located within Lot A DP 389649 722 Main Arm Road Mullumbimby as per Figure 1 of report I2016/1123.
2. That Council ascertain market value by retaining a suitably qualified Valuer and delegate to the General Manager the authority to enter into a contract for sale, once the closure of the road reserve is complete, for a value no less than the highest value placed on said land by the independent Valuer.
3. That, without limiting the delegation to the General Manager to negotiate a contract suitable to the Council, terms and conditions of the contract will include requirements for:
  - i. the applicant to pay all costs associated with the part road closure and subsequent sale, including but not limited to:
    - a) Council application fees
    - b) Council's surveyor's fees and survey, valuation and legal costs
    - c) all registration fees
    - d) legal costs
4. That the new lot created by the part road closure be consolidated into corresponding property parcel number PN117430 (Lot A DP 389649 722 Main Arm Road Mullumbimby). (Hunter/Spooner)

# BYRON SHIRE COUNCIL

ORDINARY MEETING MINUTES

17 November 2016

## AMENDMENT

Moved:

1. That Council endorse the part road reserve closure and sale to adjoining land owner that part of Durrumbul Road which is located within Lot A DP 389649 722 Main Arm Road Mullumbimby as per Figure 1 of report I2016/1123 no earlier than in 12 months.
2. That Council ascertain market value by retaining a suitably qualified Valuer and delegate to the General Manager the authority to enter into a contract for sale, once the closure of the road reserve is complete, for a value no less than the highest value placed on said land by the independent Valuer.
3. That, without limiting the delegation to the General Manager to negotiate a contract suitable to the Council, terms and conditions of the contract will include requirements for:
  - i. the applicant to pay all costs associated with the part road closure and subsequent sale, including but not limited to:
    - a) Council application fees
    - b) Council's surveyor's fees and survey, valuation and legal costs
    - c) all registration fees
    - d) legal costs
4. That the new lot created by the part road closure be consolidated into corresponding property parcel number PN117430 (Lot A DP 389649 722 Main Arm Road. (Martin/Lyon)

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

*Crs Coorey, Richardson, Hackett, Spooner and Hunter voted against the amendment.*

*The motion (Hunter/Spooner) was put to the vote and declared carried.*

*Crs Martin, Lyon and Ndiaye voted against the motion.*

*The meeting adjourned at 12.44pm for lunch and reconvened at 1.30pm.*

## PROCEDURAL MOTION

**16-579 Resolved** that Report No. 13.11 be lifted from the table. (Richardson/Hunter)

*The motion was put to the vote and declared carried.*

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## **STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY**

**Report No. 13.11 PLANNING - Draft Byron DCP 2014 - Chapter E8 West Byron Urban Release Area - Submissions Report**

**File No:** I2016/1126

*Continued*

Moved: That Byron Shire Council engage the following experts to provide additional material to be taken into account in the finalisation of the Draft Byron Shire Development Control Plan 2014 – Chapter E8 – West Byron Urban Release Area:

1. A Koala expert to provide advice on any amendments to the draft West Byron DCP required to maintain and enhance populations of Koalas having regard to:

- a) the Byron Coast Comprehensive Koala Plan of Management,
  - b) maintaining and enhancing existing Koala habitat on the site,
  - c) minimising impacts of roads and residential development on Koalas,
  - d) facilitating movement of Koalas onto and through the site (to nearby habitat), and
  - e) provision, siting and timing of compensatory Koala habitat.
2. A frog expert to provide advice on explicit amendments to the draft West Byron DCP required to maintain and enhance populations of Wallum Sedge Frogs and Wallum Froglets, having regard to:
- a) requirements of the National recovery plan for the wallum sedgefrog and other wallum-dependent frog species,
  - b) maintaining and enhancing habitat for wallum-dependent frog species on and adjacent to the site,
  - c) maintaining and enhancing ground and surface waters for wallum-dependent frog species,
  - d) mitigating the impact of fill and drainage works on wallum-dependent frog species,
  - e) facilitating the movement of wallum-dependent frog species through the site, and
  - f) minimising impacts of roads and residential development on wallum-dependent frog species.
3. A traffic expert to provide advice on any amendments to the draft West Byron DCP required to address:
- a) potential traffic generation from the development of West Byron, including its stages,
  - b) the potential effect of traffic generated by West Byron and its effect on the level of service at intersections on Ewingsdale Road, Shirley Street and the town centre,
  - c) the adequacy of and potential for public transport,
  - d) required provision of on street and off street carparking within the development, and,
  - e) staging of development to mitigate traffic impacts.
4. Provide expert/s in water management and aquatic/riparian environments to provide advice on any amendments to the draft West Byron DCP:
- a) to ensure proper management of water across the site
  - b) to manage potential flood management issues
  - c) to manage water quality issues; and,
  - d) with regard to the Belongil Special Purpose Zone of the Cape Byron Marine Park to consider potential impacts on the Belongil estuary and Marine Park
  - e) impacts of acid sulphate soils on c) and d) above. (Coorey/Hackett)

AMENDMENT

Moved:

1. That Council approve the Byron Shire Development Control Plan 2014 - Chapter E8 West Byron Urban Release Area and associated amendments to Part A and Part D of the Byron Shire Development Control Plan 2014 in Attachments 1 and 2, and that notice of the decision be published in a local newspaper within 28 days of this decision being made.
2. Chapter E8 West Byron Urban Release Area also to incorporate the following additional amendments:

- a) Amend the Concept Plan and Staging Plans as shown in E2016/100741 to identify area of Wallum Frog Habitat to be protected
- b) Under E8.10.3 prescriptive measure 2 amend the wording to state:
  - 2. *The street network layout and associated infrastructure to be carefully sited and designed, having regards to the provisions contained under E8.10.5.1 Biodiversity and Vegetation Management and in particular threatened species of flora, fauna and endangered ecological communities, habitat corridors and links. The road layout to avoid the Wallum Frog Habitat as indicated on the Concept Plans and Staging Plans.*
- c) Under E8.10.5.1 amend prescriptive measure 1(h)(i) to state:
  - i) *Threatened species management plan providing details on any expected impacts on threatened species or their habitat, how such impacts will be avoided as far as practical or mitigated if necessary, and how any impacts will be compensated through rehabilitation and revegetation work. Council records indicate the site provides habitat for wallum sedge frog and the wallum tree frog. The management plan is to address the National Recovery Plan for Wallum Sedgefrogs and other wallum dependant frog species. The Wallum Frog Habitat area as identified on the Concept Plans and Staging Plan to be protected and retained as a natural feature. No urban stormwater to flow into the area.*
- d) Amend E8.10.4 prescriptive measure 1(q) to state:
  - q) *A monitoring regime for Belongil Creek to ensure a Neutral or Beneficial Impact (NorBE) is being achieved for the creek. Target criteria for water quality including litter, coarse sediments, fine particles, total phosphorus and nitrogen and hydrocarbons to be nominated consistent with the Northern Rivers Development Local Government Design Manual. The monitoring regime to be applied to assess impacts as the development proceeds from the start of construction for a minimum period of 10 years, or until the release of the last stage of residential lots.*
- e) Amend E8.10.5.1 by adding the following to prescriptive measure 1.:
  - j) *The Biodiversity Conservation Management Plan to have regard to any adopted Coastal Zone Management Plan or Estuary Management Plan for the Belongil Creek.*
- f) Amend E8.10.4 by adding the following additional prescriptive measures:
  - 5. *Driveways and other impervious surfaces are to incorporate water sensitive urban design to allow infiltration at ground level. Residential development to be based primarily on piers, bearers and joists to provide for a greater area for the infiltration of stormwater and to reflect the historical character of residential development elsewhere in Byron Shire.*
- g) Amend E8.1 Introduction to state:
 

*The subject land known as West Byron was rezoned under Part 3A of the Environmental Planning and Assessment Act 1979 on the 14<sup>th</sup> November 2014. The zoning and associated controls sit within Part 4 of Byron LEP 1988 under Clauses 65 – 101. West Byron is broken up into the following zones.*

# BYRON SHIRE COUNCIL

Zones	Area (Hectares)
R2 Low Density residential	44.3
R3 Medium Density residential	11.0
B1 Neighbourhood Centre	1.1
IN2 Light Industrial	7.5
RE1 Public Recreation	2.2
E2 Environmental Conservation	35.6
E3 Environmental Management	6.8
Total	108.5 ha

*The subject land in its wider context is located to the west of the Byron Bay township and sits opposite the existing Arts and Industrial Estate. It also adjoins SEPP 14 Wetlands to the south, a closed chicken processing plant to the west and the Belongil Creek to the east. The land in part is clear of vegetation, but still retains remnant vegetation and habitat of significance for wallum dependant frog species, koalas and other species of flora and fauna. Although used for grazing of livestock, a caravan park/ camping ground and as festival site, West Byron sits within an environmentally significant area.*

*Flooding, Acid Sulphate Soils, and Bushfire affect West Byron, whilst a number of drains take stormwater from Ewingsdale Road and the Arts and Industrial Estate through to the wetlands and Belongil Creek. West Byron may also be of significance to the traditional owners of the land and this will need to be fully investigated at the Development Application stage with consultation with the Byron Bay Bundjalung People and other key stakeholders.*

*Access to the site is from Ewingsdale Road which is the main thoroughfare into and out of Byron Bay from the Pacific Highway. Managing traffic impacts through the construction phase and post subdivision will be matters for consideration to minimise traffic conflicts on Ewingsdale Road.*

*The development of the site will provide additional housing stock for the Shire which will contribute to housing targets set by the Department of Planning and Environment under the North Coast Regional Plan.*

*This development control plan (DCP) chapter provides a framework to guide the future development of West Byron. The document specifies subdivision, built form, environmental protection measures and other controls to achieve the vision for West Byron Bay.*

h) Amend E8.10.2 by adding the following prescriptive measure:

8) *Details to be submitted with the development applications for subdivisions of covenants and other instruments with the aim of zero emissions housing and other sustainability initiatives. Details to be provided:*

- *on lighting, draught proofing, insulation, appliances and cooking, heating and cooling, hot water, energy monitoring and control, solar panels (photovoltaic) to achieve zero emissions for residential development;*
- *Native landscaping measures for residential lots and land to be dedicated to Council;*
- *Recycling measures;*
- *Water tanks for garden and domestic use in excess of Basix requirements; and*
- *how such covenants will be managed and enforced by the developer.*

(Spooner/Hunter)

# BYRON SHIRE COUNCIL

ORDINARY MEETING MINUTES

17 November 2016

*The meeting adjourned at 2.13pm to open the Byron Shire Reserve Trust Committee Meeting. The Ordinary meeting resumed at 2.22pm.*

*Resolution numbers 16-580 to 16-582 were used during the Byron Shire Reserve Trust Committee Meeting.*

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

*Crs Hackett, Spooner and Hunter voted in favour of the amendment.*

*Crs Coorey, Martin, Lyon, Ndiaye and Richardson voted against the amendment.*

## FORESHADOWED AMENDMENT

### **16-583 Resolved:**

1. That subject to peer reviews of frog, koala, traffic, and water and flood management reports, Council approve the Byron Shire Development Control Plan 2014 - Chapter E8 West Byron Urban Release Area and associated amendments to Part A and Part D of the Byron Shire Development Control Plan 2014 in Attachments 1 and 2 at the first Ordinary Meeting after Council's summer recess, and that notice of the decision be published in a local newspaper within 28 days of this decision being made.
2. Chapter E8 West Byron Urban Release Area also to incorporate the following additional amendments:
  - a) Amend the Concept Plan and Staging Plans as shown in E2016/100741 to identify area of Wallum Frog Habitat to be protected
  - b) Under E8.10.3 prescriptive measure 2 amend the wording to state:
    2. *The street network layout and associated infrastructure to be carefully sited and designed, having regards to the provisions contained under E8.10.5.1 Biodiversity and Vegetation Management and in particular threatened species of flora, fauna and endangered ecological communities, habitat corridors and links. The road layout to avoid the Wallum Frog Habitat as indicated on the Concept Plans and Staging Plans.*
  - c) Under E8.10.5.1 amend prescriptive measure 1(h)(i) to state:
    - i) *Threatened species management plan providing details on any expected impacts on threatened species or their habitat, how such impacts will be avoided as far as practical or mitigated if necessary, and how any impacts will be compensated through rehabilitation and revegetation work. Council records indicate the site provides habitat for wallum sedge frog and the wallum tree frog. The management plan is to address the National Recovery Plan for Wallum Sedge frogs and other wallum dependant frog species. The Wallum Frog Habitat area as identified on the Concept Plans and Staging Plan to be protected and retained as a natural feature. No urban stormwater to flow into the area.*
  - d) Amend E8.10.4 prescriptive measure 1(q) to state:
    - q) *A monitoring regime for Belongil Creek to ensure a Neutral or Beneficial Impact (NorBE) is being achieved for the creek. Target criteria for water quality including litter, coarse sediments, fine particles, total phosphorus and nitrogen and hydrocarbons to be nominated consistent with the Northern Rivers Development Local Government Design Manual. The monitoring regime to be applied to assess impacts as the development proceeds from the start of construction for a minimum*



# BYRON SHIRE COUNCIL

*period of 10 years, or until the release of the last stage of residential lots.*

- e) Amend E8.10.5.1 by adding the following to prescriptive measure 1.:
  - j) *The Biodiversity Conservation Management Plan to have regard to any adopted Coastal Zone Management Plan or Estuary Management Plan for the Belongil Creek.*
- f) Amend E8.10.4 by adding the following additional prescriptive measures:
  - 5. *Driveways and other impervious surfaces are to incorporate water sensitive urban design to allow infiltration at ground level. Residential development to be based primarily on piers, bearers and joists to provide for a greater area for the infiltration of stormwater and to reflect the historical character of residential development elsewhere in Byron Shire.*
- g) Amend E8.1 Introduction to state:

*The subject land known as West Byron was rezoned under Part 3A of the Environmental Planning and Assessment Act 1979 on the 14<sup>th</sup> November 2014. The zoning and associated controls sit within Part 4 of Byron LEP 1988 under Clauses 65 – 101. West Byron is broken up into the following zones.*

Zones	Area (Hectares)
R2 Low Density residential	44.3
R3 Medium Density residential	11.0
B1 Neighbourhood Centre	1.1
IN2 Light Industrial	7.5
RE1 Public Recreation	2.2
E2 Environmental Conservation	35.6
E3 Environmental Management	6.8
Total	108.5 ha

*The subject land in its wider context is located to the west of the Byron Bay township and sits opposite the existing Arts and Industrial Estate. It also adjoins SEPP 14 Wetlands to the south, a closed chicken processing plant to the west and the Belongil Creek to the east. The land in part is clear of vegetation, but still retains remnant vegetation and habitat of significance for wallum dependant frog species, koalas and other species of flora and fauna. Although used for grazing of livestock, a caravan park/ camping ground and as festival site, West Byron sits within an environmentally significant area.*

*Flooding, Acid Sulphate Soils, and Bushfire affect West Byron, whilst a number of drains take stormwater from Ewingsdale Road and the Arts and Industrial Estate through to the wetlands and Belongil Creek. West Byron may also be of significance to the traditional owners of the land and this will need to be fully investigated at the Development Application stage with consultation with the Byron Bay Bundjalung People and other key stakeholders.*

*Access to the site is from Ewingsdale Road which is the main thoroughfare into and out of Byron Bay from the Pacific Highway. Managing traffic impacts through the construction phase and post subdivision will be matters for consideration to minimise traffic conflicts on Ewingsdale Road.*

*The development of the site will provide additional housing stock for the Shire which will contribute to housing targets set by the Department of Planning and Environment under the North Coast Regional Plan.*

*This development control plan (DCP) chapter provides a framework to guide the future*

*development of West Byron. The document specifies subdivision, built form, environmental protection measures and other controls to achieve the vision for West Byron Bay.*

h) Amend E8.10.2 by adding the following prescriptive measure:

*8) Details to be submitted with the development applications for subdivisions of covenants and other instruments with the aim of zero emissions housing and other sustainability initiatives. Details to be provided:*

- on lighting, draught proofing, insulation, appliances and cooking, heating and cooling, hot water, energy monitoring and control, solar panels (photovoltaic) to achieve zero emissions for residential development;*
- Native landscaping measures for residential lots and land to be dedicated to Council;*
- Recycling measures;*
- Water tanks for garden and domestic use in excess of Basix requirements; and*
- how such covenants will be managed and enforced by the developer.*

3. That these peer reviews are to consider the following:

a) Koala Management

- i) the Byron Coast Comprehensive Koala Plan of Management,
- ii) maintaining and enhancing existing Koala habitat on the site,
- iii) minimising impacts of roads and residential development on Koalas,
- iv) facilitating movement of Koalas onto and through the site (to nearby habitat), and
- v) provision, siting and timing of compensatory Koala habitat.

b) Frog Management

- i) requirements of the National recovery plan for the wallum sedgefrog and other wallum-dependent frog species,
- ii) maintaining and enhancing habitat for wallum-dependent frog species on and adjacent to the site,
- iii) maintaining and enhancing ground and surface waters for wallum-dependent frog species,
- iv) mitigating the impact of fill and drainage works on wallum-dependent frog species,
- v) facilitating the movement of wallum-dependent frog species through the site, and
- vi) minimising impacts of roads and residential development on wallum-dependent frog species.

c) Traffic Management

- i) commercial and residential traffic generation modelling,
- ii) the requirement of provision of on street and off street carparking within the development, and,
- iii) traffic modelling during construction.

d) Water and Flood Management

- i) proper management of water across the site
- ii) potential flood management issues
- iii) water quality issues; and,
- iv) potential impacts on Belongil Special Purpose Zone of the Cape Byron Marine Park

# BYRON SHIRE COUNCIL

and to consider potential impacts on the Belongil estuary and Marine Park.  
v) impacts of acid sulphate soils on iii) and iv) above.

4. That if the Department is not supportive of the timeline outlined in 1, Council endorse the DCP without the peer reviews and that these reviews be completed after the DCP has been approved. (Richardson/Ndiaye)

*The amendment was put to the vote and declared carried.*

*Crs Coorey, Martin, Lyon, Ndiaye, Richardson, Hackett, Spooner and Hunter voted in favour of the amendment.*

*No Councillors voted against the motion.*

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

*Crs Coorey, Martin, Lyon, Ndiaye, Richardson, Hackett, Spooner and Hunter voted in favour of the motion.*

*No Councillors voted against the motion.*

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## PROCEDURAL MOTION

- 16-584 Resolved** that Council change the order of business to deal with Report 13.12 next on the Agenda.

(Richardson/Spooner)

*The motion was put to the vote and declared carried.*

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**Report No. 13.12 PLANNING - BSC ats Koho Projects Pty Ltd LEC 266825 of 2016**  
**File No: I2016/1131**

- 16-585 Resolved** that the General Manager be authorised to enter into a s34 Conciliation Agreement approving development application 10.2016.189.1, as amended, subject to appropriate conditions to be finalised under delegation. These conditions to include that two of the units are to be used in perpetuity for the purposes of 'affordable housing' as defined in the state SEPP.

(Spooner/Hackett)

*The motion was put to the vote and declared tied.*

*Crs Richardson, Hackett, Spooner and Hunter voted in favour of the motion.*

*Crs Coorey, Martin, Lyon and Ndiaye voted against the motion.*

*The Mayor used his casting vote in favour of the motion and declared the motion carried.*

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## MAYORAL MINUTE

### Mayoral Minute No 8.1 Department of Education Land Beech Drive

#### PROCEDURAL MOTION

- 16-586 Resolved:**

1. That pursuant to Section 10A(2)(d)i of the Local Government Act, 1993, Council resolve into Confidential Session to discuss the report Department of Education Land Beech Drive .
2. That the reasons for closing the meeting to the public to consider this item be that the report contains:
  - a) commercial information of a confidential nature that would, if disclosed prejudice the commercial position of the person who supplied it

# BYRON SHIRE COUNCIL

ORDINARY MEETING MINUTES

17 November 2016

3. That on balance it is considered that receipt and discussion of the matter in open Council would be contrary to the public interest, as:
  - a) disclosure could prejudice the Council's position in litigation; and
  - b) disclosure could adversely impact Council's position in the upcoming negotiations.  
(Richardson/Lyon)

*The motion was put to the vote and declared carried.*

## **16-587 Resolved:**

1. That Council authorise the General Manager to enter into contracts for the purchase of Lot 60 DP 817888, Beech Drive Suffolk Park subject to:
  - a) The purchase price to be negotiated within the identified budget;
  - b) The terms and conditions of the contract being satisfactory to Council for the intended use of the land as community land open space.
2. That Council allocate a budget from the unallocated Suffolk Park Open Space Section 94 account.
3. That if the Minister sets a sale price above the budget specified in item 2 then the General Manager (in consultation with the Mayor) be delegated to negotiate a purchase price not exceeding 15% above the budget allocated by the Council provided that a report be presented to the Council post purchase on the settlement details and suggested funding sources for the difference.
4. That upon completion of the purchase the General Manager does all acts and things necessary to classify the land as community land and amend the Byron Local Environmental Plan to rezone the land to RE1 Public Recreation in the next housekeeping amendment.
5. That Council send letters of appreciation to MPs Tamara Smith, Ben Franklin and Walt Secord for facilitating the opportunity for Council to negotiate an affordable purchase option.
6. That Council, upon the purchase of the land, begin discussions with the community of Suffolk Park to ascertain the preferred uses of the land in question.
7. That Council requests any funds generated from the sale to be used for educational purposes in Byron Shire.  
(Richardson)

## PROCEDURAL MOTIONS

- 16-588 Resolved** that Council move into Committee to allow for free debate. (Richardson/Spooner)

*The motion was put to the vote and declared carried.*

- 16-589 Resolved** that Council move out of Committee and resume the Ordinary Meeting.  
(Richardson/Spooner)

*The motion was put to the vote and declared carried.*

- 16-590 Resolved** that the meeting move out of confidential session. (Richardson/Spooner)

*The motion was put to the vote and declared carried.*

*The motion (Richardson) was put to the vote and declared carried.*

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**NOTICES OF MOTION**

**Notice of Motion No. 9.1 Independent Testing of Steam Weeding Devices**

**File No:** I2016/1159

**16-591 Resolved:**

1. That Council initiate an independently monitored test of locally available steam weeding devices and that the results are reported to Council.
2. That the test measure speed of application, efficiency and breadth of use, performance across species and other measurements that are mutually agreed.
3. That the budget for this test not exceed \$3,000. (Richardson/Coorey)

*The motion was put to the vote and declared carried.*

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**Notice of Motion No. 9.2 Support for the Safe Haven Enterprise Visa Scheme**

**File No:** I2016/1160

**16-592 Resolved** that Council write to the Hon. Catherine Cusack, MLC, indicating the Byron Shire community's willingness to participate in the Safe Haven Enterprise Visa Scheme.

(Richardson/Ndiaye)

*The motion was put to the vote and declared carried.*

*The meeting adjourned at 4.35pm and reconvened at 4.47pm.*

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**PETITIONS**

There were no petitions.

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**SUBMISSIONS AND GRANTS**

A memo was provided to Councillors regarding current submissions and grants.

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**DELEGATES' REPORTS**

1. Coastal Conference 9-11 November 2016

Cr Richardson advised Council: I will just start off with a bit of an description of both the Coastal Conference that both Cr Hackett and I went to and also the meeting with Minister Stokes that we managed to get, well they said 10 but I reckon we got at least 12 Shannon and it was great.

The Coastal Conference itself, I've written a couple of things which I'll add to and I might speak to Cr Hackett and we'll put something together. A lot of it was quite technical and seemed to be a bit more technical than I remember but it was still fascinating to see the science and the engineering behind this and how it's all changing. A lot of different aspects, whether it just be learning about estuarine systems to where protection walls are at and looking at a lot of case studies, in particular

looking at the science and understanding behind the big Collaroy storm in April, June? So that in itself was fantastic and great to make contacts in particular with the coastal panel, Bruce Tom and Angus Gordon who are the two gurus, it was great having a yak to them. We then had a meeting with Minister Stokes, the coastal panel have categorically recommended refusal of the Coastal Zone Management Plan for the reasons we've all known. The community consultation was inadequate, the consideration of the impacts on Belongil Creek was inadequate, the identification funding and management regime of sand nourishment was inadequate and it didn't really comply with the Coastal Protection legislation so from that we then, they liked everything except Belongil which is what we did and they were quite, even some of the language, they were quite disappointed I must say that we apparently just didn't take anything on board from the OEH and the other organisations. What they did say though is that they really support action on Main Beach, they acknowledge the Masterplan work that had been done and also they did a site visit a couple of weeks ago and were pretty shocked at the state of the protection works along there so they urged you know, for the Minister to consider a part gazetting, we asked that same thing of the Minister, we told him that from our perspective we agreed with everything he said about the Belongil matter but really didn't want the whole thing to be brought back to us because we wanted to work and act on Johnson Street and Clarkes Beach, etc. At that point he wasn't sure really whether he could part gazette and excise bit of it. Our gut feeling from conversations with staff and I think Shannon could disagree if I'm over stepping the mark and suggested that they were open to it and thought it was possible so we're hoping, we've written a formal letter requesting that and we're hoping that when he speaks to his staff, they will tell him that 'yeah, that's doable and that would be the outcome' but you know, a good meeting with him, he's a good fellow and anyone who's had communication with him knows he was on top of the issues, was quite resolute he said there's no way, from his point of view he said straight up that this can't happen without clear identification of the nourishment management regime, he was unequivocal so we're either going to get a refusal or we're going to get a part approval and a refusal of that, I think is the up shot. Shannon is that a pretty fair précis? Yeah so, did you want to add something as far as the conference?

Cr Hackett also advised Council: Stokes did point out that we have inherited terrible things and that we have to move on from that, that a lot of decision making in the past has been piecemeal, knee jerk bits and pieces and that he is all for strategic planning, wants to leave all the bits and pieces behind and he said that scientific knowledge was of course extremely useful and important but we also needed to consider social history and sciences from our specific areas as well in making our decisions and I think he stressed community input, might be another reason why he's not real happy about our CZMP. He also made the point that as far as he was concerned, Belongil was a pain and he didn't want to deal with it any further and he was going to leave that to us to sort out and he did say that he was particularly concerned about wetlands and estuaries, that was his passion, his focus and so I think that's why he wasn't too happy about our CZMP as well because it left out the impacts on the Belongil estuary, he did make the point to that he said well you haven't put in anything about sand replenishment, he said because you do know what you have put in means you'll lose the beach and he said that is unacceptable so that was all very positive coming from him, I think he's definitely on top of the subject

Cr Richardson then advised: Just one thing though, because it wasn't all gravy from those who have a same position as me, I think the question of planned retreat in Belongil is going to be off the table. He was also pretty unequivocal in saying those rocks are there, we need to sort it out. So that's going to be a conversation I will also be having now because that is of course if we do our cost thing and we do our cost benefit analysis appropriately and we do our identification of the sand transfer location, etc. it might come out where we have to say that to him, that this is the only economic possibility but he was pretty closed really on the idea of, he was talking purely on a pragmatic point of view, he said they're there, you can't get them off. So it was an interesting conversation, hey we're all going to have an interesting conversation with our community.

## 2. Coorabell NBN Meeting

Cr Hunter advised Council: On Sarah's and Jan's behalf, the three of us went to Coorabell the other day after locals contacted us about the proposed NBN tower down there and while we understand that there's very little Council can do, it's a State and Federal Government decision to put these towers over and where they put them and all the approvals and so on. We did say that if we got the right process that we could as Councillors, ask Council to write and ask questions of the NBN Co. about the safety fears that residents have in 2 kilometres of the tower. It seems that's where everyone's concerns come from and there's a lot of questions that the locals haven't had answers to, there's been very little consultation, had pictures around the walls of the Coorabell Hall with very few people in attendance, you walk in and sort of take yourself around and have a look. They did this process for a while and it's got to the point I think these people are getting quite anxious and what we generally agreed was that, we'd ask staff for a bit of clarification about what questions and what we'd be entitled to do or know even if we do know what we can do with the answers other than to pass them on but we felt incumbent on ourselves to help them through this because they're at wits ends, they really aren't getting any meaningful response from the NBN Co. or the State Government or the likes so they've got questions like, some of the questions they suggested we would sort of have to re word a bit because they are very emotional. "Why did you limit the letter drop notices to the 2 km radius of the tower" and "how many letters did that include", "what are the safer alternatives to microwave towers". "Where is the signs to prove to yourselves that fixed wireless emissions are safe?", "what is the cost difference between supplying 200 homes with fixed wireless satellite and fibre to the node". A lot of those questions I think based very heavily on emotion but I do think and I'm following it up with staff, to find out how we can address their issues but in a more objective way, it needs to have a more objective look at some of these questions that they have.

## 3. Byron Bay Liquor Accord

Cr Spooner advised Council: I went along to the Byron Bay Liquor Accord meeting recently and there hadn't been to one for a while so it was good to have one but the police were there. What was interesting was the police crime stats which I'm going to give you a run down because this has been a hot issue around Byron for some time. Back in 2012, there were just over 4,00 alcohol related incidents, 36% of those were assaults, so 1 in 3. 2015 that dropped down to just over 2,000 which there were 28% assaults. 2016 it's sitting at 1,342, which is down from the same period last year, so they're really positive turn around. There has been a decline across state averages and we are still high up in the scheme of things but it's encouraging. The only disturbing thing though is that there's very few alcohol or venues with alcohol licenses who are actually paid up members of the accord. It's only about 15 and there's something like 75 licenses so that's just a point of information because I do think, you know we need people around the table but apart from making it mandatory, it's proving quite difficult. So you know, good news story.

## 4. LGNSW Annual Conference:

Cr Spooner advised Council: I will just mention that we didn't mention the Local Government Conference last time, there was going to be a report put in by one of us but just to mention that so Cr Martin and Cr Coorey and myself went down to Wollongong and spent a lovely couple of days in the Gong. It was actually first conference I've been to or Local Government Conference and it was, I was more impressed than what I thought I was going to be. There were some good discussions down there. What I was pleased about was our two motions that we took down there were passed. Which was the affordable housing motion to set a target or to suggest to the State Government, that we set a target for planning instruments for a minimum level of affordable housing for residential developments so that's been indorsed by Local Government NSW, the other pleasing one was the ethical investment one where we've been pursuing that as has some other Councils but we want LGNSW to maintain a list of authorised deposit taking institutions which will

make it easier for us to find out who's actually got some ethical investments out there that we can put some money into, so hopefully we will see that come forward soon. Thanks.

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**STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES**

**Report No. 13.7**      **Councillor Representation on Destination Byron**  
**File No:**              I2016/1132

**16-593 Resolved** that Council appoint Cr Richardson as its Councillor Representative to the Destination Byron Board. (Richardson/Hunter)

*The motion was put to the vote and declared carried.*

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PROCEDURAL MOTION

**16-594 Resolved:**

1. That pursuant to Section 10A(2)(a) of the Local Government Act, 1993, Council resolve into Confidential Session to discuss the following report, namely North Byron Parklands Regulatory Working Group – community representatives.
2. That the reasons for closing the meeting to the public to consider this item be that:
  - (a) personnel matters concerning particular individuals (other than councillors) (Richardson/Ndiaye)

*The motion was put to the vote and declared carried.*

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**Report No. 13.8**      **North Byron Parklands Regulatory Working Group - Community Representatives**  
**File No:**              I2016/1133

**16-595 Resolved:**

1. That the report be noted.
2. That Council nominate Laurel Cohn and Raymond Darney as the new community representatives for appointment to the North Byron Parklands Regulatory Working Group (RWG) to sit on this Group until 31 December 2017.
3. That Council advise the Chairperson of the North Byron Parklands Regulatory Working Group (RWG) of the nominated community representatives.
4. That Council thank all nominees for their interest and time in submitting a Expression of Interest.
5. That Council write and thank the current community representatives on the North Byron Parklands Regulatory Working Group (RWG), Denise Nessel and Russell Eldridge for their contribution and efforts during their term which will conclude on 26 November 2016. (Hunter/Richardson)



# BYRON SHIRE COUNCIL

ORDINARY MEETING MINUTES

17 November 2016

## PROCEDURAL MOTIONS

**16-596 Resolved** that Council move into Committee to allow for free debate. (Richardson/Ndiaye)

*The motion was put to the vote and declared carried.*

**16-597 Resolved** that Council move out of Committee and resume the Ordinary Meeting. (Ndiaye/Richardson)

*The motion was put to the vote and declared carried.*

*The motion (Hunter/Richardson) was put to the vote and declared carried.*

## PROCEDURAL MOTIONS

**16-598 Resolved** that the meeting move out of confidential session. (Ndiaye/Richardson)

*The motion was put to the vote and declared carried.*

**16-599 Resolved** that the vote on Report 15.1 be recommitted. (Spooner/Hunter)

*The motion was put to the vote and declared carried.*

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## LATE REPORTS

**Report No. 15.1      Amendment of General Manager delegation**  
**File No:              I2016/1197**

**16-600 Resolved:** that the delegation limiting the General Manager's exercise of delegated authority in respect of any development application that has an estimated value exceeding \$3,000,000 be amended by increasing the sum to \$10,000,000 so that the relevant part of the General Manager delegation reads:

*FURTHER THAT the above delegations in relation to development applications may not be exercised in the following areas:*

- Any development application that has an estimated value exceeding \$10,000,000 or for subdivision of land that will create 20 or more lots.* (Spooner/Richardson)

*The motion was put to the vote and declared carried.*

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**Report No. 15.2      Report of the Local Traffic Committee Meeting held on 14 October**  
**File No:              I2016/1129**

*Cr Lyon declared a non-pecuniary interest in this item. The nature of the interest being that he manages a business with site at Brigantine Street. He elected to remain in the chambers, participate in the debate and the vote.*

*Cr Spooner declared a non-pecuniary interest in this item. The nature of the interest being that his employer manages Soul Street NYE and First Sun Events. He elected to leave the chambers, not participate in the debate and not vote.*

# BYRON SHIRE COUNCIL

ORDINARY MEETING MINUTES

17 November 2016

- 16-601 Resolved** that Council note the minutes of the Local Traffic Committee Meeting held on 14 October 2016. (Hunter/Richardson)

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

- 16-602 Resolved** that Council adopt the following Recommendations:

**Report No. 6.4 Event Road Closure - Monthly Criterium Cycle Races, Byron Bay Industrial Estate - Request for Three Year Agreement from September 2016 (Amended)**

File No: I2016/917

1. That the Byron Bay Cycle Club's Criterium Racing circuit at Byron Bay Industrial Estate, to be held on the second and fourth Sunday of each month from 4 September 2016 to the last Sunday in August 2019, be endorsed between these times:
  - a) Centennial Circuit between Bayshore Drive and Wollongbar Drive, Tasman Way, Wollongbar Drive and Brigantine Street (between Centennial Circuit and Wollongbar Drive) between the hours of 06:00 and 09:00
2. That the approval provided in Part 1 is subject to NSW Police and RMS approval being obtained
3. That the attached Traffic Control Plan and Traffic Management Plan be noted
4. That the Traffic Management Plan be implemented as approved
5. That the event organiser:
  - i. provide wording for Council's website noting the impact of the event and including the event name, specifics of any traffic impacts or road closures and times, alternative route arrangements, event organiser, a personal contact name and a telephone number for all event related enquiries or complaints
  - ii. inform community and business that are directly impacted (eg adjacent to the event) via written information which is delivered to the property in a timely manner so as to document, consider and respond to any concerns raised
  - iii. arrange for private property access and egress affected by the event
  - iv. liaise with bus and taxi operators and ensuring arrangements are made for provision of services during conduct of the event
  - v. consult with emergency services and any identified issues be addressed
  - vi. hold \$20m public liability insurance cover which is valid for the event
  - vii. pay Council's Road Event application fee prior to the event. (Hunter/Richardson)

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

- 16-603 Resolved** that Council adopt the following Committee Recommendations:

**Report No. 6.5 Event Road Closure - Rainbow Ride Cycle Challenge - William Flick Lane, Ewingsdale - Sunday, 27 November 2016**

File No: I2016/919

1. That the Rainbow Ride Cycle Challenge to be held on Sunday 27 November 2016, which includes the temporary road closure/s below, be endorsed between these times:

- a. William Flick Lane, Ewingsdale between 11am and 4pm.
2. That the approval provided in Part 1 is subject to:
- a. separate approvals by NSW Police and RMS being obtained;
  - b. Implementation of the approved Traffic Management Plan and Traffic Control Plan;
  - c. The event organiser:
    - i. advertising the impact of the event via a notice in the local weekly paper a minimum of one week prior to the operational impacts taking effect, noting it must include the event name, specifics of any traffic impacts or road closures and times, alternative route arrangements, event organiser, a personal contact name and a telephone number for all event related enquiries or complaints.
    - ii. providing a copy of the advert for Council's web page.
    - iii. informing community and businesses that are directly impacted (eg adjacent to the event) via written information which is delivered to the property in a timely manner so as to document, consider and respond to any concerns raised.
    - iv. arranging for private property access and egress affected by the event.
    - v. liaising with bus and taxi operators and ensuring arrangements are made for provision of services during conduct of the event.
    - vi. consulting with emergency services and any identified issues be addressed.
    - vii. holding \$20m public liability insurance cover which is valid for the event.
  - viii. paying of Council's Road Event Application Fee prior to the event. (Hunter/Richardson)

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

**16-604 Resolved** that Council adopt the following Committee Recommendations:

**Report No. 6.6 Event Road Closure - Mullumbimby Music Festival - Burringbar Street and Dalley Street, Mullumbimby - Sunday, 20 November 2016**

File No: I2016/976

1. That the Mullumbimby Music Festival to be held on Sunday 20 November 2016, which includes the temporary road closures below, be endorsed between these times:
  - a. Dalley Street, Mullumbimby between Tincogan Street and Burringbar Street between 11am and 12pm on Sunday 20 November 2016.
  - b. Burringbar Street, Mullumbimby between Station Street and Dalley Street effective between 10:45am and 11:15am on Sunday 20 November 2016.
  - c. Cenotaph Lane, Mullumbimby between Dalley Street and east of the fire station driveway and Murphys Lane; from Cenotaph to Tincogan Street, with both in effect from 4pm Thursday 17 November 2016 through to 8am on Monday 21 November 2016.

2. That the approval provided in Part 1 is subject to:
  - a. separate approvals by NSW Police and RMS being obtained;
  - b. implementation of the approved Traffic Management Plan and Traffic Control Plan;
  - c. that each temporary bus stop, as required by the event, be established in accordance with the accredited Traffic Control Plan;
  - d. the event organiser:
    - i. advertising the impact of the event via a notice in the local weekly paper a minimum of one week prior to the operational impacts taking effect, noting it must include the event name, specifics of any traffic impacts or road closures and times, alternative route arrangements, event organiser, a personal contact name and a telephone number for all event related enquiries or complaints.
    - ii. providing a copy of the advert for Council's web page.
    - iii. the written concurrence of the Fire Stations on both Gordon Street and Dalley Street, be obtained and copies provided to Council.
    - iv. informing community and businesses that are directly impacted (eg adjacent to the event) via written information which is delivered to the property in a timely manner so as to document, consider and respond to any concerns raised.
    - v. arranging for private property access and egress affected by the event.
    - vi. liaising with bus and taxi operators and ensuring arrangements are made for provision of services during conduct of the event.
    - vii. consulting with emergency services and any identified issues be addressed.
    - viii. holding \$20m public liability insurance cover which is valid for the event.
    - ix. paying of Council's Road Event Application Fee prior to the event. (Hunter/Richardson)

*The motion was put to the vote and declared carried.*

*Cr Spooner was not present for the vote.*

**16-605 Resolved** that Council adopt the following Committee Recommendations:

**Report No. 6.7 24.2015.19.1 - Marine Parade, Byron Bay - Regulatory Signage - Extension of Pay Parking Scheme - Endorsement of Council Resolved Time Limits within Wategos**

File No: I2016/984

That the Local Traffic Committee have no objection to Council Resolution 16-467 and as sought provide concurrence for:

- a. Part 2(a), which is for a 4-hour (4P) limit to apply across 98% of parking supply within the endorsed Wategos pay parking area; and
- b. Part 3, which is for a 4-hour (4P) limit to apply within the endorsed Wategos resident permit parking area, on the proviso a review including resident feedback is undertaken during the

# BYRON SHIRE COUNCIL

ORDINARY MEETING MINUTES

17 November 2016

first holiday period the scheme applies.

(Hunter/Richardson)

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

**16-606 Resolved** that Council adopt the following Committee Recommendations:

**Report No. 6.8 Event Road Closure - Brunswick Valley Woodchop and Entertainment Committee - Twilight Markets - Mullumbimbi Street, Brunswick Heads - Wednesday, 14 December 2016**

File No: I2016/986

1. That the Twilight Markets to be held on Wednesday 14 December 2016, which includes the temporary road closure/s below, be endorsed between these times:
  - a. Mullumbimbi Street Brunswick Heads, between The Terrace and Park Street on Wednesday 14 December, as per the following:
    - i. Closure of the area bounded by the nose-in parking and centre parking bay from 7am until 11pm. This is the "U" shaped provision for parking that is adjacent Banner Park in the vicinity of the children's play area.
    - ii. Request for 2 temporary designated 'Disabled Parking' spots outside of the hotel during the morning. The existing 2 spots will have been closed off.
    - iii. Closure of the remaining section of 'through road' between The Terrace and Park Street from 12 noon until 11pm.
  - b. Opening of Memorial Park for parking, as per the following:
    - i. Wednesday, 14 December 2016 from 12noon. This will allow stallholders to get their vehicles off the street before the markets start at 3pm.
2. That the Fireworks Night to be held on Saturday 14 January 2017, which includes the opening of Memorial Park for parking as per the following, be endorsed:
  - a. Saturday, 14 January 2017 from 6pm. This will allow for people attending the carnival/housie and through to when the fireworks take place at 9pm to park off the streets.
3. That the approval provided in Part 1 and Part 2 is subject to:
  - a. separate approvals by NSW Police and RMS being obtained;
  - b. implementation of the approved Traffic Control Plan by those with appropriate accreditation;
  - c. the event be advertised in accordance with the Roads Act, charged at cost to the organisers;
  - d. the event be notified on Council's web page;
  - e. the event organiser:
    - i. informing community and businesses that are directly impacted (eg adjacent to the

event) via written information which is delivered to the property in a timely manner so as to document, consider and respond to any concerns raised.

- ii. arranging for private property access and egress affected by the event.
- iii. liaising with bus and taxi operators and ensuring arrangements are made for provision of services during conduct of the event.
- iv. consulting with emergency services and any identified issues be addressed.
- v. holding \$20m public liability insurance cover which is valid for the event.
- vi. paying of Council's Road Event Application Fee prior to the event.  
(Hunter/Richardson)

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

**16-607 Resolved** that Council adopt the following Committee Recommendations:

**Report No. 6.9 Event Road Closure - Byron Lighthouse Run - Lighthouse Road, Byron Bay - Sunday, 23 October 2016 (Amended)**

File No: I2016/987

1. That the 10km Byron Lighthouse Fun Run, to be held Sunday 23 October 2016, which includes the temporary road closures below, be endorsed between these times:
  - a. Lighthouse Road at the intersection of Massinger Street, Lawson Street and Lighthouse Road between 7am and 8am.
  - b. Daniels Street at the intersection of Massinger Street and Daniels Street between 7am and 8am.
  - c. Lighthouse Road between Brooke Drive (at The Pass) and Palm Valley Way (entry to Wategos) between 7am and 8am.
  - d. Clarkes Car Park closed, including the current Caravan Park access road off Lawson Street, between 6am and 10am.
2. That the approval provided in Part 1 is subject to:
  - a. separate approvals by NSW Police and RMS being obtained;
  - b. Local Traffic Committee advice is sought for the event Traffic Management Plan (including Risk Management Plan and Traffic Control Plan/s) prior to implementation of traffic control devices including road closures, noting that:
    - i. conformance with approved Traffic Management Plan and associated Traffic Control Plans which shall be implemented and controlled by Roads & Maritime Services accredited persons;
    - ii. all temporary traffic control devices erected for the event must comply with Roads & Maritime Services Guide to Traffic Control at Worksites Manual, not cause a hazard for motorists or pedestrians and be removed immediately following the completion of the event; and

- iii. temporary Speed Zone Authorisation is obtained from the roads authority for any reduced speed limit/s required as part of the traffic control for the event; and that where local Council is the roads authority, notification of any reduced speed limit should be forwarded to Roads and Maritime Service and NSW Police.
- c. The event organiser:
  - i. advertising the impact of the event via a notice in the local weekly paper a minimum of one week prior to the operational impacts taking effect, noting it must include the event name, specifics of any traffic impacts or road closures and times, alternative route arrangements, event organiser, a personal contact name and a telephone number for all event related enquiries or complaints;
  - ii. providing copy of the advert for Council's web page;
  - iii. informing community and business that are directly impacted (e.g. adjacent to the event) via written information which is delivered to the property in a timely manner so as to document, consider and respond to any concerns raised;
  - iv. arranging for private property access and egress affected by the event;
  - v. liaising with bus and taxi operators and ensuring arrangements are made for provision of services during conduct of the event;
  - vi. consulting with emergency services and any identified issues be addressed;
  - vii. holding \$20m public liability insurance cover which is valid for the event; and
  - viii. payment of Council's Road Event application fee prior to the event;
  - ix. The attainment (by the event proponent) of Cape Byron Headland Trust written concurrence of the event;
  - x. Consultation with the Beach Byron Bay Cafe and North Coast Holiday Parks Clarkes Beach. (Hunter/Richardson)

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

**16-608 Resolved** that Council adopt the following Committee Recommendations:

**Report No. 6.11 Event Road Closure - Soul Street New Year's Eve and First Sun New Year's Day, Byron Bay**

File No: I2016/992

- 1. That the Local Traffic Committee supports:
  - a. Council's temporary traffic management initiatives for the Soul Street New Year's Eve event to be held in Byron Bay and approves the temporary road closure of Jonson Street, between Lawson Street through to the car park entry at Railway Park (north of Marvell Street), from 12noon on Saturday 31 December 2016 and its removal by no later than 7am on the Sunday 1 January 2017.
  - b. Council's temporary traffic management initiatives for the First Sun New Year's Day

# BYRON SHIRE COUNCIL

ORDINARY MEETING MINUTES

17 November 2016

event to be held in Byron Bay and approves the temporary road closure of Lighthouse Road from Brooke Road (The Pass), from 3am to 8am on Sunday 1 January 2017.

2. That the approval provided in Part 1 remain subject to Council endorsement of the event prior to implementation and is subject to the following requirements:
  - a. traffic control plans are designed and implemented by those with the appropriate NSW (RMS) accreditation;
  - b. advertising is undertaken in accordance with the Roads Act, including the publication of a map and explanatory notes in a local newspaper and on Council's website;
  - c. the letterbox drop of properties adjacent to and prior of the Jonson Street closure and Bay Street, Marvell Street and Byron Street parking changes; and
  - d. all parties involved in Council's NYE events hold, or least covered by, appropriate and relevant levels of insurance and public liability cover as required by Council.

(Hunter/Richardson)

*The motion was put to the vote and declared carried.*

*Cr Spooner was not present for the vote.*

**16-609 Resolved** that Council adopt the following Committee Recommendation:

**Report No. 6.12 Event Road Closure - Falls Festival 2016/17 - North Byron Parklands, Yelgun - Saturday 31 December 2016 to Monday 2 January 2017**

File No: I2016/993

That the Committee defer consideration of this matter until information is provide regarding the traffic issues associated with the Splendour 2016 event. (Hunter/Richardson)

*The motion was put to the vote and declared carried.*

*Cr Spooner was not present for the vote.*

**16-610 Resolved** that Council adopt the following Committee Recommendation:

**Report No. 6.14 11.2013.587.2 - Mercato on Byron - 108-110 Jonson Street, Byron Bay**

File No: I2016/991

That the Committee comments be provided to the Planning team. (Hunter/Richardson)

*The motion was put to the vote and declared carried.*

**Resolved** that Council adopt the following Committee Recommendation:

**16-611**

**Report No. 7.1 Elysium Project - Lawson Lane, Byron Bay**

File No: I2016/1027

That the Committee comments be provided to Economic Development and Tourism team. (Hunter/Richardson)

*The motion was put to the vote and declared carried.*

*Cr Spooner was not present for the vote.*



# BYRON SHIRE COUNCIL

ORDINARY MEETING MINUTES

17 November 2016

**16-612 Resolved** that Council adopt the following Committee Recommendation:

**Report No. 8.1 10.2016.399.1 - Byron Central Health & Wellness HUB - 15 McGettigans Lane, Ewingsdale**

File No: I2016/969

That the development be reported to the November LTC meeting and the traffic impact report attached and a summary provided in the LTC report. (Hunter/Richardson)

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

**16-613 Resolved** that:

**Report No. 8.2 10.2016.582.1 - Peddle and Hawk Acacia Street Market - Byron Bay - Every Second Saturday**

File No: I2016/879

The trial be extended for a further 12 months to allow for consideration of the impact to the community and allow for the monitoring of any complaints received. (Hunter/Richardson)

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

**16-614 Resolved** that Council adopt the following Committee Recommendations:

**Report No. 8.3 10.2016.247.1 - Transport Depot - 25 Fowlers Lane, Bangalow**

File No: I2016/1028

1. That the Committee's comments be provided to the planning department.
2. That it be a recommendation to Council that if any future alterations to the layout of the Hinterland Way proximal to Fowlers Lane be undertaken, that RMS consider the implementation of exclusive left turn lane. (Hunter/Richardson)

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

*Cr Spooner returned to the meeting.*

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## PROCEDURAL MOTION

**16-615 Resolved** that the matter of night time compliance officer employment processes be dealt with as a matter of urgency, the urgency being that work is to commence in December. (Richardson/Ndiaye)

*The motion was put to the vote and declared carried.*

