



Byron Shire Council



Minutes

Ordinary Meeting

Thursday, 26 October 2017

BYRON SHIRE COUNCIL

Ordinary Meeting Minutes
26 October 2017

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BYRON SHIRE COUNCIL

ORDINARY MEETING MINUTES

26 October 2017

MINUTES OF THE BYRON SHIRE COUNCIL ORDINARY MEETING HELD ON THURSDAY, 26 OCTOBER 2017 COMMENCING AT 9.04AM AND CONCLUDING AT 6.15PM

I2017/1561

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

Staff: Mark Arnold (Director Corporate and Community Services)
Phil Holloway (Director Infrastructure Services)
Shannon Burt (Director Sustainable Environment and Economy)
Ralph James (Legal Counsel)
Michael Matthews (Manager Open Spaces and Resource Recovery – item 9.2)
Peter Rees (Manager Utilities – item 9.6)
Rob Van Iersel (Major Projects Planner – item 13.18)
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.

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:

9.2 Clothes Optional Tyagarah Beach

*Gyan Moyes and Colleen Graham addressed Council in favour of the recommendation.
Chris Dobney and David Dixon aka Oscar Redmond, representing naturist users of Tyagarah Beach, addressed Council against the recommendation.
Ann Reed addressed Council on the item.*

9.3 Refunding Council's Feral Animal Management Program

Matthew O'Reilly addressed Council in favour of the recommendation.

9.6 Current and future capacity of Bangalow STP - Assessment of capacity of the Bangalow sewerage system to handle sewage from DA No:10.2016.283.1 'Rural Industries Food Precinct 201 Lismore Rd Bangalow 2479

Jenny Coman and Ean Jones addressed Council in favour of the recommendation.

13.4 Review of Mullumbimby Outside of School Hours Care Services

David Lees, Principal of Mullumbimby Public School and Abelia Hissink, member of the Mullumbimby Public School P&C, addressed Council in favour of the recommendation.

13.17 PLANNING - Rural Land Use Strategy - Submissions Report and Finalisation

*Matthew O'Reilly, representing Community Associations Byron Shire, and Robert Janson addressed Council in favour of the recommendation.
Judy Macdonald, representing Main Arm Residents Association and Lindsay Wootten addressed Council against the recommendation.*

13.18 PLANNING - 26.2016.6.1 - Existing Land Uses at The Farm, Ewingsdale Road, Ewingsdale

*Johnson Hunter, representing The Farm, addressed Council in favour of the recommendation.
Matthew O'Reilly, representing Community Associations Byron Shire, addressed Council against the recommendation.*

13.19 PLANNING - 10.2017.198.1 Mixed Use Development for Three (3) Commercial Tenancies (for use as Shop, Restaurant or Cafe or Office Premises) and Six (6) Shop Top Housing Dwellings at 9 Station Street Bangalow

*Don Osborne, Jenny Bird, representing Bangalow Progress Association and Drew Paice addressed Council against the recommendation.
Micheala McNamara, representing Northern Rivers Land Solutions, addressed Council in favour of the recommendation.*

13.20 Response to DPE Short Term Holiday Letting Options Paper

David Wallace addressed Council in favour of the recommendation.

13.25 Heritage and Environmental Assessment Reports - Coastal Cypress Pines at Terrace Reserve Brunswick Heads

John Dunn, representing the Brunswick Heads Progress Association, addressed Council in favour of the recommendation.

PROCEDURAL MOTION

17-443 Resolved that Public Access be extended to 11.00am. (Richardson/Ndiaye)

The motion was put to the vote and declared carried.

13.26 Manfred Street - Update Reclassification Planning Proposal

John Vaughan addressed Council against the recommendation.

Submission No. 1 Works in Protected Areas

Matthew O'Reilly made a submission to Council regarding Council Resolution 12-560, concerning works in protected areas.

Submission No. 2 Land Acquisition for Bayshore Drive

Ann Reed made a submission to Council regarding Council Resolution 17-426, concerning land acquisition for Bayshore Drive roundabout.

Submission No. 3 Mafeking Road, Goonengerry issues

Patrick Morrissey made a submission to Council regarding issues with Mafeking Road, Goonengerry.

Question No. 1 Lot 2 DP 445771 coopers Lane West

Duncan Dey asked the following question:

“Has the current owner and has a prospective buyer of this property been given an indication that the two unapproved dwellings (for which an Order to Demolish was issued in June 2017 for execution in July) need now not be demolished and, if so, why?”

The Director Sustainable Environment and Economy took the question on notice.

Question No. 2 Sand Quarry

Matthew O'Reilly asked the following question:

“Why has Byron Council failed to take enforcement action, impose significant fines and make an order to undertake full rehabilitation over the illegal unauthorised Sand Quarry at 150 Tandy's lane, beyond gaining an undertaking from the developer that they will not take any more sand from the quarry in the future and what are the circumstances by which Council has allowed this sand obtained illegally for substantial commercial benefit to remain on the Myocum site and not have it returned to the Tandy's lane quarry site where it was illegally obtained.”

The Director Infrastructure Services took the question on notice.

Question No. 3 Dangerous Dogs

Angela Dunlop asked the following question:

“Given that council's compliance priority program identifies dangerous dogs as a very high priority and given the recent spate of reported dog attacks in our shire why do compliance staff not have the common courtesy to acknowledge victims of attacks or indeed provide an update of punitive actions taken regarding dogs and their owners in response to the attacks. I am referring to actual, not alleged, incidents where photographic evidence was supplied to staff and where a dog owner admitted that his dog had indeed been involved in menacing a person. In fact, I have been attacked in three separate incidents in the past six months in South Golden Beach and New Brighton. Does one have to be hospitalised before these aggressive dogs are taken off our streets, parks and beaches? I am aware of many attacks that have gone unreported to council and is it any wonder, as many people do not have the faith that staff will follow through on their mandate to protect residents of our shire. One only has to cross our shire's boundaries into Tweed and Ballina shires to see that unleashed and roaming dogs are a rarity, as they are, in most developed countries throughout the world, yet in Byron shire they abound. Why is that so? Surely, it's time that all breaches of the Companion Animals Act were seriously enforced. A firm message needs to be sent to those who routinely and flagrantly breach these regulations. When will uncontrolled and aggressive dogs finally be given the highest of compliance priorities so that our community can rightfully and fearlessly reclaim our streets, parks and beaches?”

The Director Sustainable Environment and Economy took the question on notice.

Question No. 4 Byron Bypass

John Anderson asked the following question:

“Given the stringent conditions attached to the Court's approval of the wetlands portion of the Byron Bypass;

- i. What is Council's latest estimate of the total cost of the project and the timeline for completion;
- ii. What processes must Council follow in assessing the Butler Street portion of the Bypass in terms of a Part V Application? (SEPP); and,
- iii. Who is to prepare the application and take the final determination?”

The Director Infrastructure Services took the question on notice.

The meeting adjourned at 10.54am and resumed at 11.13am.

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 Hunter declared a not significant, non-pecuniary interest in Report 13.17. The nature of the interest being that he owns a property in a rural area of the Shire. Cr Hunter elected to remain in the Chamber and will participate in discussion and the vote.

Cr Lyon declared a not significant, non-pecuniary interest in Report 13.18. The nature of the interest being that he is the manager of a competing business. Cr Lyon elected to remain in the Chamber and will participate in discussion and the vote.

Cr Richardson declared a not-significant, non-pecuniary interest in Report 13.19. The nature of the interest being that five years ago his wife completed a design brief for the proponents private house landscape. Cr Richardson elected to remain in the Chamber and will participate in discussion and the vote.

Cr Spooner declared a pecuniary interest in Report 13.31. The nature of the interest being that his employer (Byron Bay Community Association) has a lease over the Byron Community Cabin. Cr Spooner elected to leave the Chamber and will not participate in discussion and the vote.

TABLING OF PECUNIARY INTEREST RETURNS

In accordance with the Local Government Act 1993 Section 450A(2), Section 449(1) Returns were tabled for designated staff and Councillors.

ADOPTION OF MINUTES FROM PREVIOUS MEETINGS

17-444 Resolved that the minutes of the following meetings be confirmed:

- Byron Shire Reserve Trust Committee held 21 September 2017
- Ordinary Meeting held 21 September 2017 (Hunter/Spooner)

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 Local Government NSW Annual Conference 2017
- Report No. 13.3 Appointment of new alternate Councillor representative to Richmond Tweed Regional Library Committee
- Report No. 13.4 Review of Mullumbimby Outside of School Hours Care Services
- Report No. 13.6 Council Investments September 2017
- Report No. 13.11 Selection of Councillors for Mullumbimby Hospital Site Project Reference Group

Sustainable Environment and Economy

- Report No. 13.13 PLANNING - Review of further subdivision potential in the Ewingsdale and Mullumbimby 'R5 Large Lot Residential Zone'
- Report No. 13.17 PLANNING - Rural Land Use Strategy - Submissions Report and Finalisation
- Report No. 13.18 PLANNING - 26.2016.6.1 - Existing Land Uses at The Farm, Ewingsdale Road, Ewingsdale
- Report No. 13.19 PLANNING - 10.2017.198.1 Mixed Use Development for Three (3) Commercial Tenancies (for use as Shop, Restaurant or Cafe or Office Premises) and Six (6) Shop Top Housing Dwellings at 9 Station Street Bangalow
- Report No. 13.21 Update Council Resolution 17-191 Secondary Dwelling Conditions
- Report No. 13.22 Update on Resolution 17-263 Short Term Rental Accommodation Enforcement Options
- Report No. 13.23 Update Draft Coastal Zone Management Plan - Byron Bay Embayment
- Report No. 13.25 Heritage and Environmental Assessment Reports - Coastal Cypress Pines at Terrace Reserve Brunswick Heads
- Report No. 13.26 Manfred Street - Update Reclassification Planning Proposal
- Report No. 13.27 Proposed Strategic Business Panel
- Report No. 13.28 Update on Resolution 17-283 Innovative Business Incubation Program

Infrastructure Services

- Report No. 13.30 Settlement Road Proposed Actions

REPORTS OF COMMITTEES**Infrastructure Services**

- Report No. 14.3 Local Traffic Committee Meeting held on 19 September 2017
 - 7.1 Shared Zone - Seven Mile Beach Road, Broken Head

CONFIDENTIAL REPORTS**Corporate and Community Services**

- Report No. 16.1 CONFIDENTIAL - Grant 6-year sub-licences for Surf Schools, Personalised Surf Schools, Sea Kayaks and Stand Up Paddleboards as Preferred Tenderers

Infrastructure Services

Report No. 16.2 **CONFIDENTIAL - Council Tender for the Multi Use of Byron Shire Rail Corridor**

The remaining Recommendations and Committee Recommendation were adopted as a whole, being moved by Cr Richardson and seconded by Cr Cameron. Each recommendation is recorded with a separate resolution number commencing at Resolution No. 17-445 and concluding with Resolution No. 17-497.

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

Report No. 13.2 Public Exhibition of Draft Policy - Supporting Partnerships Policy
File No: I2017/1148

17-445 Resolved that Council:

1. Adopt the Supporting Partnerships Policy as detailed in Attachment 1 (E2017/62241).
 2. Note that supporting guidelines and assessment frameworks are being developed.
(Richardson/Cameron)
-

Report No. 13.5 Section 355 Management Committee matters
File No: I2017/1353

17-446 Resolved:

1. That in regards to the Brunswick Heads Memorial Hall:
 - a) the resignation from Linda Hibbard be accepted and a letter of thanks be provided.
 - b) staff work with the Committee on alternative solutions to managing the Hall considering the difficulty in recruiting active members on the management committee.
 2. That the resignation from Richard Willan from the South Golden Beach Community Centre Management Committee be accepted and that a letter of thanks be provided.
 3. That the resignation from Heika Braha be accepted from the Lone Goat Gallery Board of Management and that a letter of thanks be provided.
 4. That Denise Curran and Wendy Smith be appointed to the Ocean Shores Community Centre Management Committee.
 5. Council note the Capacity Building Projects and 'Love Byron Halls' project currently underway with a view to community halls being the central hub of a locality, by providing opportunities for community connections and strengthening social cohesion.
(Richardson/Cameron)
-

BYRON SHIRE COUNCIL

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26 October 2017

Report No. 13.7 Public Art Panel - minutes of meeting 28 September 2017
File No: I2017/1451

17-447 Resolved:

1. That Council note that in principal support is provided to the Brunswick Nature Sculpture Walk event proposed for October long weekend in 2018, and request a formal application from BNSW to developing a partnership.
2. That Council:
 - a) Note the resignation from Rebecca Townsend and provide a letter of thanks for her participation in the Public Art Panel;
 - b) Seek a youth representative for the Panel via advertising and social media;
 - c) Note the change of nominee for the Public Art Panel from the Bundjalung of Byron Bay (Arakwal) Corporation Pty Ltd, being Sharon Sloane, Acting General Manager.
(Richardson/Cameron)

Report No. 13.8 2017-2018 Financial Assistance Grant
File No: I2017/1463

17-448 Resolved that the report be received and noted. (Richardson/Cameron)

Report No. 13.9 Draft 2016/2017 Financial Statements
File No: I2017/1464

17-449 Resolved:

1. That Council suspend standing orders to allow for a presentation from Council's External Auditor.
2. That Council adopt the Draft 2016/2017 Financial Statements incorporating the General Purpose Financial Statements, Special Purpose Financial Statements and Special Schedules.
3. That Council approve the signing of the "Statement by Councillors and Management" in accordance with Section 413(2)(c) of the Local Government Act 1993 and Clause 215 of the Local Government (General) Regulation 2005 in relation to the 2016/2017 Draft Financial Statements.
4. That Council exhibit the Financial Statements and Auditor's Report and call for public submissions on those documents with submissions closing on 30 November 2017 in accordance with Section 420 of the Local Government Act 1993.
5. That the Audited Financial Statements and Auditors Report be presented to the public at the Ordinary Meeting of Council scheduled for 23 November 2017 in accordance with Section 418(1) of the Local Government Act 1993. (Richardson/Cameron)

BYRON SHIRE COUNCIL

ORDINARY MEETING MINUTES

26 October 2017

Report No. 13.10 **Draft 2016-2017 Annual Report**
File No: I2017/1472

- 17-450** **Resolved** that Council note the draft 2016/2017 Annual Report (#E2017/97181), included as Attachment 1 to this report, and its submission to the Minister for Local Government.
(Richardson/Cameron)

STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

Report No. 13.12 **PLANNING - S96 10.2009.314.11 Tallowwood**
File No: I2017/971

- 17-451** **Resolved** that, pursuant to Section 96 of the *Environmental Planning & Assessment Act 1979*, Application No. 10.2009.314.11, to amend approved Land Use Plan 2.1B to increase areas designated for Conservation and clarify areas for Managed Conservation, be approved by modifying Development Consent number 10.2009.314.1 as indicated in Attachment 1 (E2017/84647).
(Richardson/Cameron)
- No Councillors voted against the motion.

Report No. 13.14 **Local Heritage Places Grants 2017--18**
File No: I2017/1320

- 17-452** **Resolved** that Council receive the information in the report on Local Heritage Places Grants 2017-18 and endorse the funding recommendations made by the Heritage Advisor and staff.
(Richardson/Cameron)

Report No. 13.15 **Submissions Report on the Draft Byron Shire Flying-fox Camp Management Plan**
File No: I2017/1332

- 17-453** **Resolved** that Council note this report with the following recommendations:
1. adopt the Byron Shire Flying-fox Camp Management Plan (Attachment 1) (E2017/93262) that includes changes following public exhibition as outlined in Table 1 of this report.
 2. consider an allocation of:
 - a) \$20,000 in the 2018-19 annual budget to leverage 1:1 funding from the Flying-foxes Grants Program to fund specific management actions
 - b) \$35,000 in the 2018-19 budget to appoint a part time Flying-fox Project Officer, to organise and facilitate the initial stages of the Plan implementation where a high level community engagement and development of protocols and procedure will be required.
 3. note that funding commitment is required annually and long term beyond the five year life of the Plan.
 4. seek the Office of Environment & Heritage endorsement of the Byron Shire Flying-fox Camp Management Plan.
(Richardson/Cameron)

BYRON SHIRE COUNCIL

ORDINARY MEETING MINUTES

26 October 2017

Report No. 13.16 Mobile Food Venders
File No: I2017/1341

17-454 Resolved:

1. That one Council policy incorporates the commercial use of road reserves authorised under the Roads Act;
2. That the policy incorporates all licenced/approved activities on those areas as authorised under the Roads Act i.e. mobile food vendors, mobile product vendors, footpath dining and goods and chattels;
3. That the policy works in conjunction with Council's policy "Road Airspace"; and
4. That the policy works in conjunction with Council's policy 5.52 "Commercial Activities on Coastal and Riparian Crown Reserves".
(Richardson/Cameron)

Report No. 13.20 Response to DPE Short Term Holiday Letting Options Paper
File No: I2017/1440

17-455 Resolved:

1. That Council support the preparation of a submission to the 'Options Paper for Short Term Holiday Letting in NSW' by staff that recommends a multi faceted framework response including greater industry self-regulation, registration / licensing of operators, changes to strata laws and regulation through the planning system, acceptable and appropriate to the Byron Shire for the purposes of regulating short term holiday letting.
2. That Council seek an undertaking by the NSW State Government that further engagement with local government will occur subsequent to this consultation, to ensure that the legislative changes and industry reform needed to deliver the preferred local regulation framework sought by Council and the Byron community can be progressed expeditiously.
(Richardson/Cameron)

Report No. 13.24 Report of the Planning Review Committee Meeting held on 28
File No: September, 2017
I2017/1459

17-456 Resolved that Council note the report. (Richardson/Cameron)

STAFF REPORTS - INFRASTRUCTURE SERVICES

Report No. 13.29 Status Report on Road Safety Funding Applications 2014-2017 (Black
File No: Spot)
I2017/1283

17-457 Resolved that Council note the report in relation to the road safety funding applications made to the NSW Roads and Maritime Services (RMS), between 2014 and 2017 (inclusive).
(Richardson/Cameron)

BYRON SHIRE COUNCIL

ORDINARY MEETING MINUTES

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Report No. 13.31 **Draft Plan Of Management - Byron Bay Recreation Grounds**
File No: I2017/1330

17-458 Resolved that in relation to the draft Plan of Management for Byron Bay Recreation Ground:

- a) It be advertised for 28 days and if any submissions are received be brought back to Council for further consideration
- b) That if no submissions are received, that the Plan of Management be adopted as exhibited.
(Richardson/Cameron)

Report No. 13.32 **Proposed Installation of Telecommunications Equipment for Telstra Corporation Limited**
Bangalow Sportsground Lot 5 DP 1039596
File No: I2017/1429

This report was withdrawn at Telstra's request.

Report No. 13.33 **Vallances Road Management Plan**
File No: I2017/1473

17-459 Resolved:

1. That the Draft Vallances Road Plan of Management be adopted subject to:
 - a) Being renamed "Brunswick Valley Sustainability Centre Management Plan"; and
 - b) References in the document referring to "POM" or "Plan of Management" be modified to "MP" or "Management Plan" respectively.
2. That Council approve the initiation of a Community consultation programme for the area identified for possible Affordable Housing / Community Gardens / Eco tourism / Educational.
3. That Council endorse the commencement of the procurement process for the designated solar farms on the site.
(Richardson/Cameron)

COMMITTEE REPORTS - CORPORATE AND COMMUNITY SERVICES

Report No. 14.1 **Report of the Audit, Risk and Improvement Committee Meeting held on 12 October 2017**
File No: I2017/1509

17-460 Resolved that Council note the minutes of the Audit, Risk and Improvement Committee Meeting held on 12 October 2017.
(Richardson/Cameron)

17-461 Resolved that Council move the next meeting of the Audit, Risk and Improvement Committee from 16 November 2017 to 30 November 2017.
(Richardson/Cameron)

The motion was put to the vote and declared carried.

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17-462 Resolved that Council adopt the following Committee Recommendation(s):

Report No. 4.1 Draft 2016/2017 Financial Statements
File No: I2017/1475

Committee Recommendation 1.

That the Audit, Risk and Improvement Committee recommend to Council:

1. That Council approve the signing of the "Statement by Councillors and Management" in accordance with Section 413(2)(c) of the Local Government Act 1993 and Regulation 215 of the Local Government (General) Regulation 2005 in relation to the 2016/2017 Draft Financial Statements.
2. That Council exhibit the Financial Statements and Auditor's Report and call for public submissions on those documents with submissions closing on 30 November 2017 in accordance with Section 420 of the Local Government Act 1993.
3. That the Audited Financial Statements and Auditors Report be presented to the public at the Ordinary Meeting of Council scheduled for 23 November 2017 in accordance with Section 418(1) of the Local Government Act 1993. (Richardson/Cameron)

The motion was put to the vote and declared carried.

17-463 Resolved that Council adopt the following Committee Recommendation(s):

Report No. 4.2 Audit, Risk & Improvement Delivery Program and Strategy for 2017 - 2021
File No: I2017/1345

Committee Recommendation 2.

That the Audit, Risk and Improvement Committee:

1. Endorse the 2017-2021 Internal Audit Plan with minor amendments to the terms of reference for the Buildings and Property Management audit review and Fraud and Corruption Control audit review, noting that the reviews for year two onwards will be presented to the Audit, Risk and Improvement Committee at the commencement of each audit year.
2. Note the 2017/18 audit program will include:
 - a) Corporate Compliance and Policy Management
 - b) Buildings and Property Management
 - c) Fraud and Corruption Control
 - d) IT User Access(Richardson/Cameron)

The motion was put to the vote and declared carried.

Report No. 14.2 Report of the Arakwal Memorandum of Understanding Advisory Committee Meeting held on 22 September 2017
File No: I2017/1436

17-464 Resolved that Council note the minutes of the Arakwal Memorandum of Understanding Advisory Committee Meeting held on 22 September 2017. (Richardson/Cameron)

17-465 Resolved that Council adopt the following Committee Recommendation :

Report No. 4.1 Byron Shire Aboriginal Stakeholder Consultation Document
File No: I2017/1251

Committee Recommendation 4.1.1

That the Arakwal Memorandum of Understanding Advisory Committee reviews the “Byron Shire Council and Indigenous Stakeholders” document (E2016/98166) and that Council seek feedback from the Bundjalung of Byron Bay, Arakwal Corporation. (Richardson/Cameron)

The motion was put to the vote and declared carried.

17-466 Resolved that Council adopt the following Committee Recommendation:

Report No. 4.2 Ti Tree Lake PoM
File No: I2017/1233

Committee Recommendation 4.2.1

1. That the Arakwal Memorandum of Understanding Advisory Committee note the progress of this project.
2. That the Arakwal Memorandum of Understanding Advisory Committee seek comment on the closure of a section of Taylors Lake Road and the establishment of an easement, to protect the Aboriginal Cultural Principles of the Aboriginal Area and Aboriginal Place of the lake precinct, from the National Parks and Wildlife Service.
3. That the Arakwal Memorandum of Understanding Advisory Committee refer the schedule of water quality testing and the erection of signage to the National Parks and Wildlife Service for their recommendation under the terms of the Ti Tree Lake PoM. (Richardson/Cameron)

The motion was put to the vote and declared carried.

17-467 Resolved that Council adopt the following Committee Recommendation:

Report No. 4.3 Broken Head Beach Caravan Park signage
File No: I2017/1256

Committee Recommendation 4.3.1

1. That the Broken Head Beach Caravan Park sign be replaced with option A as outlined in the report and that Council fund the first \$2,000, with the balance being funded by the Broken Head Caravan Park.
2. That the erection of new Welcome to Country signage be taken back to the board of the Arakwal Corporation and reported to the next meeting of the Arakwal MoU. (Richardson/Cameron)

The motion was put to the vote and declared carried.

17-468 Resolved that Council adopt the following Committee Recommendation:

Report No. 4.4 Ironbark Housing Revegetation

File No: I2017/1241

Committee Recommendation 4.4.1

1. That the Arakwal Memorandum of Understanding Advisory Committee consider the request from the Bundjalung of Byron Bay, Arakwal Corporation regarding revegetation and works to restrict public access at the Ironbark Avenue Housing Development.
2. That Council's Infrastructure Planning Staff and Manager Open Space and Resource Recovery liaise with relevant Arakwal members to investigate and cost options for consideration. (Richardson/Cameron)

The motion was put to the vote and declared carried.

17-469 Resolved that Council adopt the following Committee Recommendation:

Report No. 4.5 Australia Day Report

File No: I2017/1223

Committee Recommendation 4.5.1

1. That the Arakwal Memorandum of Understanding Advisory Committee support further discussion about the possible change of date for 2019 Australia Day events and seek further consultation on changing the date with the Arakwal Corporation.
2. That the Arakwal Memorandum of Understanding Advisory Committee invite input from the Sisters for Reconciliation Group and the Cavanbah Reconciliation Group. (Richardson/Cameron)

The motion was put to the vote and declared carried.

17-470 Resolved that Council adopt the following Committee Recommendation:

Report No. 4.6 Brunswick River Foreshore Midden System Protection

File No: I2017/1255

Committee Recommendation 4.6.1

That Council write to Crown Lands as a matter of urgency with regards to requesting that a barrier be erected to protect the aboriginal cultural heritage site in the precinct (maps to be provided) with letters of support sought from Brunswick Valley Landcare, Tweed-Byron Land Council and the Arakwal Corporation. (Richardson/Cameron)

The motion was put to the vote and declared carried.

17-471 Resolved that Council adopt the following Committee Recommendation:

Report No. 4.7 Bangalow and Mullumbimby Master Plan Guidance Group Cultural Heritage

File No: I2017/1224

Committee Recommendation 4.7.1

1. That the Arakwal Memorandum of Understanding Advisory Committee note the Bangalow

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and Mullumbimby Master Plan guidance presentation and provide feedback on the consultation process to Council.

2. That the Arakwal Memorandum of Understanding Advisory Committee demand that Council projects engage consultation with aboriginal stakeholders from the commencement of the project. (Richardson/Cameron)

The motion was put to the vote and declared carried.

17-472 Resolved that Council adopt the following Committee Recommendation:

Report No. 4.8 Byron Shire Aboriginal Cultural Heritage Study - Stage 1 Progress Report

File No: I2017/1239

Committee Recommendation 4.8.1

That the representatives of the Bundajung of Byron Bay Aboriginal Corporation (Arakwal) note that the Draft Study is being reviewed in consultation with Aboriginal Stakeholders.

(Richardson/Cameron)

The motion was put to the vote and declared carried.

17-473 Resolved that Council adopt the following Committee Recommendation:

Report No. 4.9 Aboriginal Services in the Byron Shire

File No: I2017/1240

Committee Recommendation 4.9.1

1. That the Arakwal Memorandum of Understanding Advisory Committee note the development of this project and employment of a worker to continue to develop this project.
2. That Council commend the work in progress on this project. (Richardson/Cameron)

The motion was put to the vote and declared carried.

COMMITTEE REPORTS - INFRASTRUCTURE SERVICES

Report No. 14.3 Report of the Local Traffic Committee Meeting held on 19 September 2017

File No: I2017/1434

17-474 Resolved that Council note the minutes of the Local Traffic Committee Meeting held on 19 September 2017. (Richardson/Cameron)

17-475 Resolved that Council adopt the following Committee Recommendation(s):

Report No. 6.1 Event Road Closures - Mullum2Bruns Paddle 2018

File No: I2017/1036

Committee Recommendation 6.1.1

1. That Council approve the Traffic Management Plan and Traffic Control Plans for the Mullum2Bruns Paddle 2018 to be held Sunday 27 May 2018, that includes the temporary

road closure below:

- a) Brunswick Terrace, Mullumbimby, between Tincogan Street and Tyagarah Street (to become one-way traffic), between 06:00am and 10:00am on Sunday 27 May 2018.
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, including the use of signed detours, as designed and implemented by those with appropriate accreditation;
 - c) that the impact of the event be advertised 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;
 - d) the event be notified on Council's webpage;
 - e) the event organiser:
 - i) undertake consultation with community and affected businesses including adequate response/action to any raised concerns;
 - ii) undertake consultation with emergency services and any identified issues addressed;
 - iii) holding \$20m public liability insurance cover which is valid for the event;
 - iv) paying Council's Road Event Application Fee prior to the event.
3. That a debrief be held within two weeks of the event involving staff, Police (if they had incidents), and traffic controllers. (Richardson/Cameron)

The motion was put to the vote and declared carried.

17-476 Resolved that Council adopt the following Committee Recommendation(s):

Report No. 6.2 Event Road Closures - Falls Festival 2017/18
File No: I2017/1146

Committee Recommendation 6.2.1

That Council approve the Traffic Management Plan, which includes Traffic Control Plans, for the Falls Festival 2017/18 to be held at the North Byron Parklands site, Yelgun Sunday 31 December 2017 to Tuesday 2 January 2018 inclusive, subject to the following conditions:

- a) Separate approvals by NSW Police and RMS being obtained;
- b) Implementation of the approved Traffic Management Plan and Traffic Control Plan by those with appropriate RMS accreditation and the holding of current and appropriate levels of insurance and liability cover;
- c) The approved event size being sufficient (20,000 patrons) to trigger use of the south car park as per the DA Condition for its use;
- d) The temporary 'No Stopping' where applied, including on Brunswick Valley Way (between

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Shara Boulevard and Tweed Valley Way) and on Tweed Valley Way (between Brunswick Valley Way and the Shire boundary), is implemented prior to the event and in accordance with relevant state requirements and Australian Standards;

- e) A communications protocol be developed and maintained by those involved in the implementation of traffic management including monitoring and ability to implement contingency plans as and when directed;
- f) Monitoring of vehicle volumes that arrive and depart the festival site and on the local road network;
- g) The holding of an event debrief within the month following the festival which includes but not limited to Council, RMS and Police;
- h) As a committee, request council to consider additional rangers patrol the Yelgun Rest Area during the Falls Event.
- i) 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) give consideration of any submissions received;
 - iv) informing community and businesses 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;
 - 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.
 - x) That the event organiser be required to install a VMS board at the Yelgun Rest Area with appropriate message restricting or prohibiting parking in the rest area, such as "No Special Event Parking".
(Richardson/Cameron)

The motion was put to the vote and declared carried.

17-477 Resolved that Council adopt the following Committee Recommendation(s):

Report No. 6.3 Capital Works - Coolamon Scenic Drive (South Mullumbimby) - Regulatory Signage and Line Marking

File No: I2017/1236

Committee Recommendation 6.3.1

That Council approve the use of curve and advisory speed signs, chevron alignment markers, unidirectional hazard markers and a white double barrier line marking along Coolamon Scenic Drive from Azalea Street to Hinterland Way as required.
(Richardson/Cameron)

The motion was put to the vote and declared carried.

17-478 Resolved that Council adopt the following Committee Recommendation(s):

Report No. 6.4 Event Road Closures - 50th Anniversary NSW National Parks and Wildlife Service

File No: I2017/1244

Committee Recommendation 6.4.1

1. That Council endorse the Traffic Management Plan for the 50th Anniversary of the NSW National Parks and Wildlife Service to be held on Sunday 8 October 2017 that includes:
 - a) the temporary road closure of Lighthouse Road (between Palm Valley Drive and the Cape Byron Lighthouse) between 5:00am and 4:00pm;
 - b) the use of the Clarkes Beach bus stop for the operation of the free shuttle bus service.
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, including the use of signed detours, as designed and implemented by those with appropriate accreditation;
 - c) that the impact of the event be advertised 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;
 - d) Due to the event being held at the end of the school holidays, the applicant be required to supply a VMS board notifying of the road closures for the event on Sunday 8 October. VMS board to be placed on the corner Tallows Beach Drive from 9am Friday the 6th October advising of the road closure;
 - e) the event be notified on Council's webpage;
 - f) the event organiser:
 - i) undertake consultation with community and affected businesses including adequate response/action to any raised concerns;
 - ii) undertake consultation with emergency services and any identified issues addressed;
 - iii) hold \$20m public liability insurance cover which is valid for the event;
 - iv) paying Council's Road Event Application Fee prior to the event.

(Richardson/Cameron)

The motion was put to the vote and declared carried.

17-479 Resolved that Council adopt the following Committee Recommendation(s):

Report No. 6.5 Event Road Closures - Bangalow Christmas Eve Carnival 2017

File No: I2017/1245

Committee Recommendation 6.5.1

1. That Council approve the Traffic Management Plan (TMP) and Traffic Control Plan (TCP) for

the Bangalow Christmas Eve Carnival 2017 to be held Sunday 24 December 2017, that includes the temporary road closure below:

- a) Byron Street, Bangalow between Ashton Street and Granuaille, between 3:30pm and 10:00pm.
2. That the approval provided in Part 1 is subject to:
- a) separate approvals by NSW Police and RMS being obtained, noting that the event is on a state road or may impact the state road network;
 - b) implementation of the approved Traffic Management Plan and Traffic Control Plan, including the use of signed detours, as designed and implemented by those with appropriate accreditation;
 - c) that the impact of the event be advertised 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;
 - d) the event be notified on Council's webpage;
 - e) the event organiser:
 - i) undertake consultation with community and affected businesses including adequate response/action to any raised concerns;
 - ii) undertake consultation with emergency services and address any identified issues;
 - iii) holding \$20m public liability insurance cover which is valid for the event;
 - iv) paying Council's Road Event Application Fee prior to the event.

(Richardson/Cameron)

The motion was put to the vote and declared carried.

17-480 Resolved that Council adopt the following Committee Recommendations:

Report No. 6.6 Event Road Closures - Brunswick Woodchop Twilight Markets 2017
File No: I2017/1246

Committee Recommendation 6.6.1

1. That the Twilight Markets to be held on Wednesday 13 December 2017, 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 13 December 2017, as per the following:
 - i) Closure of the area bounded by the nose-in parking and centre parking bay from 7:00am until 11:00pm. This is the u-shaped provision for parking that is adjacent Banner Park in the vicinity of the children's play area;
 - ii) Two (2) temporary designated 'Disability Parking' spaces be created outside of the hotel during the morning, with signage to be installed by appropriately accredited persons in conjunction with the implementation of the TCP. 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 12:00noon until 11:00pm.

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- b) Opening of Memorial Park for parking on Wednesday, 13 December 2017 from 12:00noon to allow stallholders to get their vehicles off the street before the markets start at 3:00pm.
 - c) The event organisers ensure clear access to the river is maintained at all times for Emergency Services through the temporary parking areas.
2. That the Fireworks Night to be held on Saturday 13 January 2018, which includes the opening of Memorial Park for parking from 6:00pm be endorsed.
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 Management Plan and Traffic Control Plan by those with appropriate RMS accreditation and the holding of current and appropriate levels of insurance and liability cover;
 - c) the impact of the event be advertised, and charged at cost to the organisers, 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;
 - d) the event organisers ensure clear access to the river is maintained at all times for Emergency Services through the temporary parking areas.
 - e) the event be notified on Council's web page;
 - f) 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.

(Richardson/Cameron)

The motion was put to the vote and declared carried.

17-481 Resolved that Council adopt the following Committee Recommendation(s):

Report No. 6.7 Event Road Closures - Byron Lighthouse Run 2017
File No: I2017/1250

Committee Recommendation 6.7.1

1. That the Traffic Management Plan and Traffic Control Plan/s that relate to the Byron Lighthouse Run 2017, to be held Sunday 22 October 2017, which includes the temporary road closures below, be endorsed between these times:

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- a) Lawson Street, between Massinger Street and Lighthouse Road, between 6:30am and 10:00am;
 - b) Tallow Beach Road, between Lighthouse Road and Tallow Beach Car Park, between 6:30am and 10:00am;
 - c) Lighthouse Road, between Lawson Street and the Cape Byron Lighthouse, between 6:30am and 10:00am; and
 - d) Brooke Drive, between Lighthouse Road and the Pass, between 6:30am and 10:00am.
2. That the approval provided in Part 1 is subject to:
- a) separate approvals by NSW Police, RMS and Cape Byron Headland Trust being obtained;
 - b) implementation of the approved Traffic Management Plan and Traffic Control Plan/s by those with appropriate RMS accreditation and the holding of current and appropriate levels of insurance and liability cover; and
 - 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 businesses that are directly impacted (e.g. adjacent to the event), including the Beach Byron Bay Café and North Coast Holiday Park Clarkes Beach, 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 with any identified issues being 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.

(Richardson/Cameron)

The motion was put to the vote and declared carried.

17-482 Resolved that Council adopt the following Committee Recommendation(s):

Report No. 6.8 Event Road Closures - Mullumbimby Music Festival 2017
File No: I2017/1267

Committee Recommendation 6.8.1

1. That the Traffic Management Plan and Traffic Control Plan/s as relates to the Mullumbimby Music Festival 2017, to be held between Thursday 16 November 2017 and Monday 20 November 2017, which includes the temporary road closures below, be endorsed between these times:
 - a) Dalley Street, between Tincogan Street and Burringbar Street, between 11:00am and 12:00noon on Sunday 19 November 2017 - Street Parade;

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- b) Burringbar Street, between Station Street and Dalley Street, effective between 10:45am and 11:15am on Sunday 19 November 2017 - Street Parade;
 - c) Cenotaph Lane, between Dalley Street and east of the fire station driveway and Murphys Lane, effective from 4:00pm Thursday 16 November 2017 through to 8am Monday 20 November 2017; and
 - d) Murphys Lane, between Cenotaph Lane and Tincogan Street, effective from 4:00pm Thursday 16 November 2017 through to 8am Monday 20 November 2017.
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/s by those with appropriate RMS accreditation and the holding of current and appropriate levels of insurance and liability cover;
 - c) that each temporary bus stop, as required by the event, be established in accordance with the accredited Traffic Control Plan/s;
 - 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.

(Richardson/Cameron)

The motion was put to the vote and declared carried.

17-483 Resolved that Council adopt the following Committee Recommendation(s):

Report No. 6.9 Event Road Closures - Chincogan Charge 2017 (out of session)
File No: I2017/794

Committee Recommendation 6.9.1

1. That Council note that the Local Traffic Committee reviewed the Traffic Management Plan and Traffic Control Plan for the Chincogan Charge 2017 out of session and concur with the event road closures.

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2. That Council note the Committee comments regarding the timelines for submission of applications for on-road events, and provides advice (including on Council's website) to event organisers that submissions of applications with less than four month's notice cannot guarantee approval. (Richardson/Cameron)

The motion was put to the vote and declared carried.

17-484 Resolved that Council adopt the following Committee Recommendation:

Report No. 7.2 Event Road Closures - Byron Bay Triathlon 2018 (for comment only)
File No: I2017/1248

Committee Recommendation 7.2.1

That the comments from the Local Traffic Committee, as relates to the proposed options for the Byron Bay Triathlon 2018, be provided to the event organisers. (Richardson/Cameron)

The motion was put to the vote and declared carried.

17-485 Resolved that Council adopt the following Committee Recommendation:

Report No. 8.1 DA 10.2016.632.1 - Subdivision of One Lot into Two Lots - 103
Paterson Street, Byron Bay
File No: I2017/1147

Committee Recommendation 8.1.1

That the Local Traffic Committee's comments relating to DA 10.2016.632.1 be provided to the Council Planning Team. (Richardson/Cameron)

The motion was put to the vote and declared carried.

Report No. 14.4 Report of the Water, Waste and Sewer Advisory Committee Meeting
held on 14 September 2017
File No: I2017/1456

17-486 Resolved that Council note the minutes of the Water, Waste and Sewer Advisory Committee Meeting held on 14 September 2017. (Richardson/Cameron)

17-487 Resolved that Council adopt the following Committee Recommendation(s):

Report No. 4.1 Water and Sewer Strategic Business Plan
File No: I2017/679

Committee Recommendation 4.1.1

1. That Council note:
 - a) the report on the Water and Sewer Strategic Business Plan;
 - b) that while the original design for Brunswick Valley Sewerage Treatment Plant included effluent storage to enable reuse, it did not include storage of untreated sewerage.
2. That the business plan be amended so that construction of a storage for untreated sewerage at Brunswick Valley Sewerage Treatment Plant not proceed until inflow/infiltration options have been considered.

3. That Council map its sewer pump station catchments in Mullumbimby and list the number of connections versus dry weather flow and then peak daily wet weather flow, so that worst areas can be identified for inflow/infiltration. (Richardson/Cameron)

The motion was put to the vote and declared carried.

17-488 Resolved that Council adopt the following Committee Recommendation(s):

Report No. 4.2 Urban Recycled Water Commercial Connections Policy
File No: I2017/841

Committee Recommendation 4.2.1

That Council note the Water, Waste and Sewer Advisory Committee considered the draft Urban Recycled Water Commercial Connections Policy. (Richardson/Cameron)

The motion was put to the vote and declared carried.

17-489 Resolved that Council adopt the following Committee Recommendation(s):

Report No. 4.3 Water and Sewer Equivalent Tenement Policy Review
File No: I2017/1232

Committee Recommendation 4.3.1

1. That Council note the report on the Water and Sewer Equivalent Tenement Policy Review.
2. That the reduction amount for waterless composting toilets, in the table under section 4.4 of Attachment 1 to the Water and Sewer Equivalent Tenement Policy Review report, be changed from 16% to 25%.
3. That the Draft Water and Sewer Equivalent Policy 2017 be placed on public exhibition.
4. That Council receive a report investigating whether local effects give water and sewer Equivalent Tenement rates different from those listed under sections 6 and 9 in Appendix A of Attachment 1 to the Water and Sewer Equivalent Tenement Policy Review report. (Richardson/Cameron)

The motion was put to the vote and declared carried.

17-490 Resolved that Council adopt the following Committee Recommendation(s):

Report No. 4.6 Update on the Container Deposit Legislation
File No: I2017/1254

Committee Recommendation 4.6.1

1. That Council note the report on the update of the Container Deposit Legislation and the legislative limitations for Council to nominate the number and location of collection points.
2. That Council receive a report with options for the allocation of revenue received from the Materials Recycling Facility for eligible containers collected within the kerbside recycling stream, including options for litter reduction or other resource recovery programs. (Richardson/Cameron)

The motion was put to the vote and declared carried.

Report No. 14.5 **Report of the Water, Waste and Sewer Advisory Committee Meeting held on 10 October 2017**
File No: I2017/1500

17-491 Resolved that Council note the minutes of the Water, Waste and Sewer Advisory Committee Meeting held on 10 October 2017. (Richardson/Cameron)

17-492 Resolved that Council adopt the following Committee Recommendation(s):

Report No. 4.1 **State Government Water and Sewerage Performance Reports**
File No: I2017/1234

Committee Recommendation 4.1.1

1. The Water Waste and Sewer Advisory Committee recommends that Council notes the continuing improving performance in both cost and service delivery for the Water and Sewer services.
2. That a report comes to one of the next committee meetings on options to reduce odour sewage Pump Station number 3001 and 3023. (Richardson/Cameron)

The motion was put to the vote and declared carried.

17-493 Resolved that Council adopt the following Committee Recommendation(s):

Report No. 4.2 **Byron Shire Effluent Management Strategy (Draft)**
File No: I2017/1235

Committee Recommendation 4.2.1

1. The Water Waste and Sewer Advisory Committee notes the draft of the Byron Shire Effluent Management Strategy.
2. That Committee members provide feedback within 2 weeks including questions and information concerning the effectiveness and performance of the current reuse practices at Byron Bay Golf Course.
3. That the earlier report on Urban and Rural Water Reuse (circa 2003) prepared by John Murtagh be distributed to committee members. (Richardson/Cameron)

The motion was put to the vote and declared carried.

17-494 Resolved that Council adopt the following Committee Recommendation(s):

Report No. 4.3 **Vallances Road Plan of Management**
File No: I2017/1259

Committee Recommendation 4.3.1

The Water Waste and Sewer Advisory Committee recommends that Council notes the Vallances Road Plan of Management. (Richardson/Cameron)

The motion was put to the vote and declared carried.

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17-495 Resolved that Council adopt the following Committee Recommendation(s):

Report No. 4.4 Update on the review of Council's Integrated Waste Management and Resource Recovery Strategy

File No: I2017/1262

Committee Recommendation 4.4.1

That the update of the review of Council's Integrated Waste Management and Resource Recovery Strategy be noted. (Richardson/Cameron)

The motion was put to the vote and declared carried.

17-496 Resolved that Council adopt the following Committee Recommendation(s):

Report No. 4.5 Response to Alan Dickens Questions

File No: I2017/1268

Committee Recommendation 4.5.1

That the Water Waste and Sewer Advisory Committee notes the report. (Richardson/Cameron)

The motion was put to the vote and declared carried.

17-497 Resolved that Council adopt the following Recommendation(s):

Report No. 4.6 Items For the Committee Requested by Duncan Dey

File No: I2017/1269

Committee Recommendation 4.6.1

That Council notes that report number 4.6 *Items For the Committee Requested by Duncan Dey*, was not discussed and has been referred to the next committee meeting. (Richardson/Cameron)

The motion was put to the vote and declared carried.

PROCEDURAL MOTION

17-498 Resolved that Council change the order of business to deal with Reports 9.2, 9.3, 9.6, 13.4, 13.17, 13.18, 13.19, 13.21, 13.25 and 13.26 next on the Agenda. (Richardson/Cameron)

The motion was put to the vote and declared carried.

The Mayor, in accordance with Part 1 of Council Resolution 17-449 suspended standing orders to allow for a presentation on the Draft 2016/2017 Financial Statements from Council's External Auditor, Reiky Jiang of the NSW Audit Office.

Council resumed standing orders following the presentation.

MAYORAL MINUTE

There was no Mayoral Minute.

NOTICES OF MOTION

Notice of Motion No. 9.2 Clothes Optional Tyagarah Beach
File No: I2017/1448

Moved that Council:

1. Revoke its declaration of 27 October 1998 declaring a part of the Tyagarah Beach as clothes optional (Resolution 8147)
2. Allow the use of all Byron Shire Beaches for nude bathing except for the following beaches (or part thereof):
 - i. Broken Head and Suffolk Park (approx. 11km) – from the Byron Shire boundary on Seven Mile Beach through to the Scott Street walking track on Tyagarah Beach
 - ii. Wategos Beach (0.8km) – from Little Wategos to the end of Wategos
 - iii. Clarkes and Main Beach Byron Bay (2km) – from The Pass to the beginning of the Cavanbah Reserve Beach
 - iv. Belongil Beach (2.5km) – from Kendall Street to the beginning of the Tyagarah Nature Reserve
 - v. Brunswick Heads Beach (1km) – from the Brunswick breakwall south to the beginning of the Tyagarah Nature Reserve
 - vi. Torakina Beach (0.3km) – all of Torakina Beach
 - vii. New Brighton Beach (1km) – from North Head Road through to Ocean Avenue
 - viii. South Golden Beach (1km) – from South Golden Beach Community Centre north for 1 km.
3. Subject to the consent of the person who owns or controls the land, erect notices allowing the use of the places not excluded by i) above for the purposes of nude bathing.
4. Advise relevant state agencies, including National Parks and Wildlife Service, Department of Primary Industry and NSW Police, of its Resolution; and
5. Distribute a media release advising the general public of the Resolution.
6. That Council conduct a review of this resolution within a 12 month period. (Spooner/Hackett)

AMENDMENT

17-499 Resolved that Council:

1. Erect signs within two weeks declaring Tyagarah Beach a clothes optional beach (nude bathing permitted) 200 metres south of Grays Lane for a distance of 800 metres.
2. Work with NPWS, beach users, police and community safety committee to enhance safety at Tyagarah Beach or identify more suitable locations.
3. Support police action to deter inappropriate behaviour at Tyagarah Beach.
4. That a report be brought back to Council after three months to detail the results of the enhanced stakeholder safety initiatives.
5. That this resolution rescinds Council resolution 8147. (Cameron/Coorey)

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The amendment was put to the vote and declared carried.

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

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

Crs Richardson, Hackett, Spooner and Hunter voted against the motion.

The meeting adjourned at 12.34pm for lunch and reconvened at 1.23pm.

Notice of Motion No. 9.3 Refunding Council's Feral Animal Management Program **File No: I2017/1460**

17-500 Resolved:

1. That Council reinstates the Feral Animal Management Programme by allocating \$10,000 to assist meeting the costs of a trapper from January to June 2018 and a further \$20,000 be allocated in the 18/19 and subsequent financial years.
2. That the program commence after consultation between Council and landholders, Landcare, Local Land Services, NPWS and other relevant agencies to quantify the numbers and areas of feral animals and wild dogs to develop a targeted approach to controls; and that this consultation be completed prior to March 2018. (Hunter/Lyon)

PROCEDURAL MOTION

17-501 Resolved that the motion be put. (Hunter)

The motion was put to the vote and declared carried.

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

Notice of Motion No. 9.6 Current and future capacity of Bangalow STP - Assessment of capacity of the Bangalow sewerage system to handle sewage from DA No:10.2016.283.1 'Rural Industries Food Precinct 201 Lismore Rd Bangalow 2479. **File No: I2017/1496**

17-502 Resolved that Council receive as a matter of urgency a report that assesses the various capacities of the Bangalow sewerage system in the longer term and provides a basis to consider the feasibility or otherwise of connecting the proposed 'Rural Industries Food Precinct' (DA No:10.2016.283.1; 201 Lismore Rd Bangalow) as an alternative to its current proposal for on-site wastewater management. Assessments to include:

1. Flow and composition of sewage that could be generated as proposed in DA No:10.2016.283.1 or as expanded over the years by its tenants.
2. Current loading and treatment capacity of the Bangalow STP in both dry and wet weather, and in terms of both flow and pollutant loads.
3. Projected utilisation of the Bangalow STP taking into consideration the following:
 - Previous assessments of allocations to the Bangalow sewerage system
 - Byron Shire Council LEP (2014)
 - Byron Shire Council Preliminary Draft Residential Strategy (Aug 2016)
 - Bangalow Settlement Strategy (2003)

4. Upgrade and augmentation works which would be required to accommodate treatment of the wastewater loads generated by both the above mentioned Development Application and other projected sewage loads through to a 20 year horizon, including but not limited to:
 - Sewerage network infrastructure
 - Dry weather flow balancing
 - Inlet works
 - Secondary treatment
 - Disinfection
 - Biosolids processing and management
 - Odour control works (both network and STP)
 - Whole-of-life costs associated with development, operation, and maintenance.
5. Impact on the receiving environment (Byron Creek and Wilsons River) of additional flow and its content as would come to the system from the proposal.
6. Not approve any application to connect the proposal to Bangalow's sewerage system, including any additional flow or load (sewage content) that would be sent to the receiving environment unless the report shows conclusively that the STP has the capacity to handle the extra load from this development without compromising existing standards and expectations of future use.
7. That a report be presented to Council at its December meeting. (Cameron/Ndiaye)

The motion was put to the vote and declared carried.

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

Report No. 13.4 Review of Mullumbimby Outside of School Hours Care Services
File No: I2017/1351

17-503 Resolved:

1. That Council note the current facility constraints, low enrolment numbers, child protection provisions and requirements to meet National Quality Standards at the Mullumbimby OSHC service.
2. That Council note the commitment and support from the Principal of Mullumbimby Public School and the Parents and Citizens Association of Mullumbimby Public School to overcome the current facility constraints and low enrolment numbers.
3. That Council renew its Department of Education Licence for a period of 12 months from 23 December 2017, and work intensively with Mullumbimby Public School to grow enrolment numbers to at least an average of 9 per day by the end of term 1 in 2018 to an improved facility.
4. The service to be reviewed again at the end of the current financial year. (Hunter/Spooner)

The motion was put to the vote and declared carried.

STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

Report No. 13.17 **PLANNING - Rural Land Use Strategy - Submissions Report and Finalisation**
File No: I2017/1344

The mayor suspended standing orders to allow for public access on this matter.

Lewis Haigh addressed Council against the recommendation.

17-504 Resolved that Council:

1. Note the update on priority actions progressed to date as contained in Table 1 of this report;
2. Adopt the proposed amendments to the draft Rural Land Use Strategy (RLUS) and supporting documents, as contained in Table 2 and Table 3 of this report, to enable submission to Department of Planning & Environment;
3. Delegate authority to the Director Sustainable Environment & Economy to amend the draft Rural Land Use Strategy in relation to any consequential (non-policy) and/or other minor editorial amendments required for clarity or accuracy, prior to submitting to Department of Planning & Environment for final endorsement; and
4. Receive a report at the meeting on 23 November 2017 regarding site specific planning proposals being considered as part of the RLUS including at 74 Charltons Road, Federal.
(Richardson/Ndiaye)

AMENDMENT

Moved that Council:

1. Note the update on priority actions progressed to date as contained in Table 1 of this report;
2. Adopt the proposed amendments to the draft Rural Land Use Strategy (RLUS) and supporting documents, as contained in Table 2 and Table 3 of this report, to enable submission to Department of Planning & Environment;
3. Delegate authority to the Director Sustainable Environment & Economy to amend the draft Rural Land Use Strategy in relation to any consequential (non-policy) and/or other minor editorial amendments required for clarity or accuracy, prior to submitting to Department of Planning & Environment for final endorsement; and
4. Does not proceed with the Planning Proposal (ref # 26.2014.10) to allow multiple occupancy development with consent at 74 Charltons Road, Federal, as it does not satisfy the draft RLUS criteria for future rural lifestyle living opportunities and the State/regional policy framework (namely the North Coast Regional Plan and s117 Ministerial Direction 5.3).
(Cameron/Hackett)

*The meeting adjourned at 2.07pm to open the Byron Shire Reserve Trust Committee Meeting. Resolution numbers **17-504** and **17-505** were used during that meeting. The Ordinary meeting reconvened at 2.17pm.*

The amendment (Cameron/Hackett) was put to the vote and declared lost.

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Crs Coorey, Cameron and Hackett voted in favour of the amendment.

Crs Martin, Lyon, Ndiaye, Richardson, Spooner and Hunter voted against the amendment.

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

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

No Councillors voted against the motion.

Report No. 13.18 **PLANNING - 26.2016.6.1 - Existing Land Uses at The Farm, Ewingsdale Road, Ewingsdale**
File No: I2017/1431

Moved:

1. That Council support the application for a Planning Proposal and authorise the Director SEE to negotiate with the applicant to facilitate the preparation of a Planning Proposal at the applicant's cost.
2. That Council's support of the Planning Proposal is withdrawn in the event that a costs agreement for the processing of the Planning Proposal not be executed within 28 days of the date of this resolution ie close of business 23 November 2017.
3. That the Planning Proposal deal only with the following uses on the site:
 - Wholesale Bakery
 - Agricultural training/education facilities
 - Administration offices
 - Small-scale information centre

and that it be reported back to Council at the meeting of December 2017 for further deliberation prior to it being forwarded to the NSW Dept of Planning and Environment for a Gateway Determination.
4. That in the event that Council becomes aware of uses of the property beyond those set out in 3 above those unauthorised uses be investigated and actioned in accordance with Council's Enforcement Policy. (Lyon/Hackett)

PROCEDURAL MOTIONS

17-506 Resolved that Cr Lyon be granted a two minute extension to his speech. (Richardson/Martin)

The motion was put to the vote and declared carried.

17-507 Resolved that Cr Richardson be granted a two minute extension to his speech. (Ndiaye/Martin)

The motion was put to the vote and declared carried.

AMENDMENT

Moved:

1. That Council support the application for a Planning Proposal and authorise the Director Sustainable Environment and Economy to negotiate with the applicant to facilitate the preparation of a Planning Proposal at the applicants cost.

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2. That the Planning Proposal deal only with existing uses on the site, and that it be reported back to Council at the meeting of December 2017 for further deliberation prior to it being forwarded to the NSW Department of Planning and Environment for a Gateway Determination.
(Spooner/Richardson)

PROCEDURAL MOTIONS

- 17-508 Resolved** that Cr Spooner be granted a two minute extension to his speech.
(Richardson/Hackett)

The motion was put to the vote and declared carried.

- 17-509 Resolved** that Cr Ndiaye be granted a two minute extension to her speech.
(Richardson/Cameron)

The motion was put to the vote and declared carried.

- 17-510 Resolved** that Cr Hackett be granted a two minute extension to her speech.
(Richardson/Spooner)

The motion was put to the vote and declared carried.

- 17-511 Resolved** that Cr Cameron be granted a two minute extension to his speech.
(Richardson/Hackett)

The motion was put to the vote and declared carried.

The amendment was put to the vote and declared lost.

Crs Richardson, Ndiaye and Spooner voted in favour of the amendment.

Crs Coorey, Martin, Lyon, Cameron, Hackett and Hunter voted against the amendment.

The motion was put to the vote and declared lost.

Crs Martin, Lyon, Cameron and Hackett voted in favour of the motion.

Crs Coorey, Ndiaye, Richardson, Spooner and Hunter voted against the motion.

FORESHADOWED MOTION

Moved: That council not endorse the progression of a Planning Proposal and that the operations on The Farm be brought into compliance with the conditions of consent of the original DAs.
(Coorey/Hackett)

PROCEDURAL MOTION

- 17-512 Resolved** that the motion be put. (Richardson)

The motion was put to the vote and declared carried.

The motion (Coorey/Hackett) was put to the vote and declared lost.

Crs Coorey, Lyon and Hackett voted in favour of the motion.

Crs Martin, Ndiaye, Richardson, Cameron, Spooner and Hunter voted against the motion.

FORESHADOWED MOTION

- 17-513 Resolved** that the motion (Lyon/Hackett) be recommitted. (Spooner/Hackett)

The motion was put to the vote and declared carried.

17-514 Resolved:

1. That Council support the application for a Planning Proposal and authorise the Director SEE to negotiate with the applicant to facilitate the preparation of a Planning Proposal at the applicant's cost.
2. That Council's support of the Planning Proposal is withdrawn in the event that a costs agreement for the processing of the Planning Proposal not be executed within 28 days of the date of this resolution ie close of business 23 November 2017.
3. That the Planning Proposal deal only with the following uses on the site:
 - Wholesale Bakery
 - Agricultural training/education facilities
 - Administration offices
 - Small-scale information centreand that it be reported back to Council at the meeting of December 2017 for further deliberation prior to it being forwarded to the NSW Dept of Planning and Environment for a Gateway Determination.
4. That in the event that Council becomes aware of uses of the property beyond those set out in 3 above those unauthorised uses be investigated and actioned in accordance with Council's Enforcement Policy. (Lyon/Hackett)

AMENDMENT

Moved:

1. That Council support the application for a Planning Proposal and authorise the Director Sustainable Environment and Economy to negotiate with the applicant and neighbours to facilitate the preparation of a Planning Proposal at the applicants cost.
2. That the Planning Proposal deal only with existing uses on the site, and that it be reported back to Council at the meeting of December 2017 for further deliberation prior to it being forwarded to the NSW Department of Planning and Environment for a Gateway Determination. (Spooner/Richardson)

The amendment was put to the vote and declared lost.

Crs Ndiaye, Richardson, Spooner and Hunter voted in favour of the amendment.

Crs Coorey, Martin, Lyon, Cameron and Hackett voted against the amendment.

The motion was put to the vote and declared carried.

Crs Coorey, Martin, Lyon, Cameron, Hackett and Hunter voted in favour of the motion.

Crs Ndiaye, Richardson and Spooner voted against the motion.

The meeting adjourned at 4.25pm and reconvened at 4.35pm.

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Report No. 13.19 **PLANNING - 10.2017.198.1 Mixed Use Development for Three (3) Commercial Tenancies (for use as Shop, Restaurant or Cafe or Office Premises) and Six (6) Shop Top Housing Dwellings at 9 Station Street Bangalow**
File No: I2017/1437

17-515 Resolved that Council defer consideration of development application 10.2017.198.1:

1. to obtain further information;
2. to request the proponent to lodge amended plans to reduce the bulk and scale that does not require an excessive cut contrary to the DCP 2014; and
3. an independent review of heritage assessment regarding the site context and sunken façade of the commercial components and their interface with the street. (Cameron/Richardson)

The motion was put to the vote and declared carried.

PROCEDURAL MOTION

17-516 Resolved that Council change the order of business to deal with Reports 13.11, 13.23 and 16.1 next on the Agenda. (Richardson/Cameron)

The motion was put to the vote and declared carried.

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

Report No. 13.11 **Selection of Councillors for Mullumbimby Hospital Site Project Reference Group**
File No: I2017/1484

17-517 Resolved:

1. That Crs Martin, Cameron, Richardson and Ndiaye make up the Councillor representatives for the Mullumbimby Hospital Project Reference Group.
2. That the constitution be changed to allow for four councillor representatives. (Martin/Richardson)

The motion was put to the vote and declared carried.

STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

Report No. 13.23 **Update Draft Coastal Zone Management Plan - Byron Bay Embayment**
File No: I2017/1446

Moved:

1. That council note the additional information on report 13.23 (refer memo dated 18 October 2017 E2017/100956).
2. That as a consequence of point 1, Council prepare a newly formed draft CZMP for the Eastern Precinct of the Byron Bay Embayment.
3. That the General Manager be authorised to undertake the actions outlined in this memo in

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respect of the development of a CZMP for the Eastern Precinct of the Byron Bay Embayment. (Hackett/Richardson)

PROCEDURAL MOTION

17-518 Resolved that this matter rest on the table. (Richardson/Cameron)

The motion was put to the vote and declared carried.

CONFIDENTIAL REPORTS - CORPORATE AND COMMUNITY SERVICES

Report No. 16.1 **CONFIDENTIAL - Grant 6-year sub-licences for Surf Schools, Personalised Surf Schools, Sea Kayaks and Stand Up Paddleboards as Preferred Tenderers**

File No: I2017/1312

17-519 Resolved:

1. That Council does not move into confidential session; and
2. That Council adopt the staff recommendation on the sub-licences as follows:
 1. That Council grant six (6) year commercial activities sub-licences in accordance with clause 60(b) of Crown Licence RI 564194 for:
 - a) Surf Schools
 - i) Black Dog Surfing Pty Ltd
 - ii) Byron Bay Surf School Pty Ltd (Jayme Edwards)
 - iii) Style Surfing School Byron Bay (Gary Morgan & Virginia Hardwick)
 - iv) Surfing Byron Bay Pty Ltd (t/a Lets Go Surfing Byron Bay)
 - b) Personalised Surf Schools
 - i) Rusty Miller Personalised Surfing Byron Bay Holiday Guide
 - ii) Soul Surf School Pty Ltd
 - c) Sea Kayaks
 - i) Byron Sea Kayaks Pty Ltd (t/a Cape Byron Kayaks)
 - ii) Kurt Tutt, Go Sea Kayaks Byron Bay Pty Ltd
 - d) Stand Up Paddleboard
 - i) Byron Bay Surf School Pty Ltd (Jayme Edwards)
 - ii) Byron Stand Up Paddle (Ricky Jacobson)
 - iii) Surfing Byron Bay Pty Ltd (t/a Lets Go Surfing Byron Bay)
 2. That Council's seal be affixed to the relevant documents. (Richardson/Lyon)

The motion was put to the vote and declared carried.

PROCEDURAL MOTION

17-520 Resolved that Report No 13.23 be lifted from the table. (Richardson/Cameron)

The motion was put to the vote and declared carried.

STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

Report No. 13.23 Update Draft Coastal Zone Management Plan - Byron Bay Embayment
File No: I2017/1446

17-521 Resolved:

1. That council note the additional information on report 13.23 (refer memo dated 18 October 2017 E2017/99558).
2. That as a consequence of point 1, Council prepare a newly formed draft CZMP for the Eastern Precinct of the Byron Bay Embayment.
3. That the General Manager be authorised to undertake the actions outlined in this memo in respect of the development of a CZMP for the Eastern Precinct of the Byron Bay Embayment.

(Hackett/Richardson)

The motion was put to the vote and declared carried.

PROCEDURAL MOTION

- 17-522 Resolved** that Council change the order of business to deal with items 13.25, 9.8 and 9.9 next on the Agenda. (Richardson/Lyon)

The motion was put to the vote and declared carried.

Report No. 13.25 Heritage and Environmental Assessment Reports - Coastal Cypress Pines at Terrace Reserve Brunswick Heads
File No: I2017/1474

17-523 Resolved:

1. The area of Coastal Cypress Pines within the 2014 approved POM for the Terrace Holiday Park be listed on Byron Shire Council's LEP Schedule 5 under Environmental Heritage.
2. Council pursue the listing of the significant area in the southern part of the Terrace Holiday Park under section 25 (2) of the NSW Heritage Act 1977.
3. Council pursue a nomination to the Heritage Division of the Office of Environment and Heritage (OEH) for listing of the significant area on the State Heritage Register.
4. Council acknowledge the findings in the ecologist's report advising that preservation and conversation of the Coastal Cypress Pines in the southern area of the Terrace Holiday Park is best managed by removing all existing infrastructure and use of the area and restricting all activities to the northern area. Council formally advises NSW Crown Holiday Parks of these findings.
5. Council formally advises NSW Crown Holiday Parks Trust of the ecologist's recommended tree management strategies and works with them to achieve this.
6. That Council note the pressing issue of the Aboriginal cultural heritage issues raised in the recommendation of the Arakwal Memorandum of Understanding Advisory Committee

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meeting of Friday, 22 September 2017:

"That Council write to Crown Lands as a matter of urgency with regards to requesting that a barrier be erected to protect the aboriginal cultural heritage site in the precinct (maps to be provided) with letters of support sought from Brunswick Valley Landcare, Tweed-Byron Land Council and the Arakwal Corporation."
(Coorey/Spooner)

PROCEDURAL MOTION

17-524 Resolved that Cr Coorey be granted a two minute extension to her speech. (Richardson/Ndiaye)

The motion was put to the vote and declared carried.

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

NOTICES OF MOTION

Notice of Motion No. 9.8 Effluent Pathway as per Bayley Report
File No: I2017/1502

17-525 Resolved that Council consider the "Bayley Report" as amended after the Panel meeting 28 September complete, and use it as the basis for application for permissions from various authorities (including BSD Union) to introduce a second drainage path as described by Option 2 of the Report. (Lyon/Ndiaye)

The motion was put to the vote and declared carried.

Notice of Motion No. 9.9 Drainage Union Contributions
File No: I2017/1504

17-526 Resolved that Council estimate a contribution rate it is likely to pay to the reformed S D Union for use of the Drain as part of the effluent path from BBSTP, and pay that amount in advance to assist the Union cover its expenses such as preparing a Management Plan. (Lyon/Hackett)

The motion was put to the vote and declared carried.

STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

Report No. 13.21 Update Council Resolution 17-191 Secondary Dwelling Conditions
File No: I2017/1444

17-527 Resolved that Council note the report. (Richardson/Ndiaye)

The motion was put to the vote and declared carried.

Report No. 13.26 Manfred Street - Update Reclassification Planning Proposal
File No: I2017/1443

17-528 Resolved:

1. That Council not proceed with preparing any Planning Proposal to reclassify any of the land

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identified referred to in resolution 15-230.

2. That it be noted that it is the intent of Council that this resolution is to replace resolution 15-230.

(Hackett/Lyon)

The motion was put to the vote and declared carried.

Cr Hunter voted against the motion.

NOTICES OF MOTION

Notice of Motion No. 9.1 Mayor's Discretionary Allowance
File No: I2017/1292

17-529 Resolved:

1. That Council confirm the donation to Mullum Cares (\$250) from the Mayor's Discretionary Allowance 2017/18.
2. That Council advertise the donations in accordance with Section 356 of the Local Government Act 1993. (Richardson/Ndiaye)

The motion was put to the vote and declared carried.

Notice of Motion No. 9.4 Commitment to the Community Charter for Good Planning
File No: I2017/1461

17-530 Resolved:

1. That Council reaffirm its commitment to the Community Charter for Good Planning.
2. That Councillors work with staff to integrate the principles of the Charter into planning decisions. (Coorey/Richardson)

PROCEDURAL MOTION

17-531 Resolved that Cr Coorey be granted a two minute extension to her speech. (Richardson/Hackett)

The motion was put to the vote and declared carried.

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

Cr Hunter voted against the motion.

PROCEDURAL MOTION

17-532 Resolved That the following items be dealt with at an Extraordinary Meeting to be held on 2 November 2017:

- 9.5 Affordable Housing
- 9.7 Supporting community resilience in flood planning
- 10.1 Petitions
- 11.1 Byron Shire Council Submissions and Grants as at 27 September 2017
- 13.3 Appointment of new alternate Councillor representative to Richmond Tweed Regional Library Committee

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- 13.6 Council Investments September 2017
- 13.13 PLANNING - Review of further subdivision potential in the Ewingsdale and Mullumbimby 'R5 Large Lot Residential Zone'
- 13.22 Update on Resolution 17-263 Short Term Rental Accommodation Enforcement Options
- 13.27 Proposed Strategic Business Panel
- 13.28 Update on Resolution 17-283 Innovative Business Incubation Program
- 13.30 Settlement Road Proposed Actions
- 14.3 Report of the Local Traffic Committee Meeting held on 19 September 2017
 - 14.3.7.1 Shared Zone - Seven Mile Beach Road, Broken Head
- 16.2 CONFIDENTIAL - Council Tender for the Multi Use of Byron Shire Rail Corridor
(Richardson/Cameron)

The motion was put to the vote and declared carried.

PROCEDURAL MOTION

- 17-533 Resolved** that Council change the order of business to deal with Report 13.1 next on the Agenda.
(Richardson/Martin)

The motion was put to the vote and declared carried.

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

Report No. 13.1 Local Government NSW Annual Conference 2017
File No: I2017/641

- 17-534 Resolved** that Council:

1. Note the authorisation for Cr Ndiaye to attend the Local Government NSW Annual Conference as a voting delegate, as per Council Resolution 17-439, adopted at its Ordinary meeting held on 21 September 2017.
2. Authorise Crs Hunter and Lyon as additional voting delegates to attend the Local Government NSW Annual Conference 2017 to be held at the Hyatt Regency, Sydney, NSW from 4 to 6 December 2017.
(Cameron/Ndiaye)

The motion was put to the vote and declared carried.

QUESTIONS WITH NOTICE

Question With Notice No. 15.1 Works in Protected Areas
File No: I2017/1164

At Council's Ordinary Meeting held on 24 August 2017, Matthew O'Reilly asked the following question which was taken on notice:

Is Byron Council still implementing motion 12-560 "works in protected areas" and is it still being complied with?

Response Manager Works:

Works in Protected Areas

Res 12-560

1. *That where Council proposes to utilise the provisions of the State Government Infrastructure SEPP for works located in environmental protection zones, Council require a report for these matters to Council prior to any approval with consideration and assessment of Council's geographical information system High Conservation Value data layers and consultation with Natural Resource Management staff.*
2. *That Council develop a policy/procedure that clearly defines the appropriate measures for the disposal of vegetation in relation to the works and the awarding of contracts and that this be reported to Council and to consider:*
 - a) *contracts for tree removal not including ownership of logs; and*
 - b) *trees/logs or other infrastructure eg timber bridges, removed for infrastructure works on public land be assessed for appropriate use to determine the value of leaving on site for habitat or to be used for the provision of public purposes eg outdoor furniture, public art, fencing or for sale with proceeds returned to Council.*
3. *That the PRG consideration of road management be deemed a priority.*

Staff do not have an option to utilise or not utilise the provisions of the SEPP Infrastructure as it applies to works under the SEPP. The SEPP applies to all types of development listed in the SEPP and the SEPP will prevail over the provisions of the LEP. The provisions of the Infrastructure SEPP must be applied to all works unless an alternate environmental planning instrument (SEPP 14 for example) prevails.

The SEPP Infrastructure has three categories of development. Development is defined in the Environmental Planning and Assessment Act 1979 as follows:

development means:

- (a) *the use of land, and*
- (b) *the subdivision of land, and*
- (c) *the erection of a building, and*
- (d) *the carrying out of a work, and*
- (e) *the demolition of a building or work, and*
- (f) *any other act, matter or thing referred to in section 26 that is controlled by an environmental planning instrument,*

This means that all works are development including road work.

The three categories of development in the SEPP are:

- 1 Exempt development does not require a Review of Environmental Factors (REF) or a Development Application (DA);
- 2 Development without consent (requires a REF);
- 3 Development with consent (requires a DA);

The current resolution refers to all environmental protection zones. Clause 8 of LEP 1988 lists the following zones as environmental protection:

Environmental Protection

- Zone No 7 (a)—(Wetlands Zone)—black edging, lettered “7 (a)” and coloured orange.
- Zone No 7 (b)—(Coastal Habitat Zone)—black edging, lettered “7 (b)” and coloured orange.
- Zone No 7 (c)—(Water Catchment Zone)—black edging, lettered “7 (c)” and coloured orange.
- Zone No 7 (d)—(Scenic/Escarpment Zone)—black edging, lettered “7 (d)” and coloured orange.
- Zone No 7 (f1)—(Coastal Lands (f1) Zone)—black edging, lettered “7 (f1)” and coloured orange.

Zone No 7 (f2)—(Urban Coastal Lands (f2) Zone)—black edging, lettered “7 (f2)” and coloured orange.

Zone No 7 (j)—(Scientific Zone)—black edging, lettered “7 (j)” and coloured orange.

Zone No 7 (k)—(Habitat Zone)—black edging, lettered “7 (k)” and coloured orange.

Zone No 8 (a)—(National Parks and Nature Reserve Zone)—black edging, lettered “8 (a)” and uncoloured with dark green edging.

As an example relating only to road maintenance activities for the Works Section, this resolution as it relates to Clause 97 of the SEPP is that works such as, pothole patching, bitumen resealing, asphalt resheets, line marking, replacement of signs and emergency works that do not need a REF should be reported to Council. This resolution does in fact prevent the Works Section from undertaking these activities without investigation of Council’s GIS to assess High Conservation Value data layers, consultation with Natural Resource Management staff and reporting to Council.

The following is an example of how this resolution restricts the operations of the Works Section of the Infrastructure Services Directorate:

1 Council’s Works Section would not be able to patch potholes in this section of Coolamon Scenic Drive that is mapped as Zoned 7D without an REF and report to Council.

This activity is currently exempt development under the SEPP and does not require an REF and is currently not reported to Council.

Clause 94 of the SEPP relates to road infrastructure facilities that are permissible without consent. Development without consent requires a REF. An REF is required by Section 111 of the Environmental Planning and Assessment Act 1979. Section 111 required an authority (Council) proposing to carry out an activity to examine and take into account to the fullest extent possible all matters affecting or likely to affect the environment by reason of that activity. Road work and work is considered to be an activity under the terms of the Act. Clause 94 relates to activities that may have an impact on the environment.

REFs are already required for development without consent. The section 111A of the act and clause 228 of the regulations set out the factors to be taken into account concerning the impact of an activity on the environment. These factors, where relevant, must be incorporated into the REF.

In 2014 Council engaged an experienced environmental planning consultant to:

- Investigate and review the current approvals processes used by Council Infrastructure Services staff (including document the review and interview staff)
- Provide a report of findings and detail where and how Council can improve and streamline processes.
- Meet with staff and train staff on the use of the SEPP Infrastructure, Roads Act, Local Government Act, Environmental planning and Assessment Act, 1979 and Byron LEP 2014. Help staff to understand when a work is subject to Part 4 of the EPA Act 1979 (a DA is required) and when it is subject to Part 5 of the EPA Act 1979 (an REF is required) or when it is exempt development (no assessment is required).
- Prepare draft templates to enable staff to prepare a Conservation Risk Assessment (CRA) for small scale projects (that are otherwise exempt development) ; or a Review of Environmental Factors (REF) for small to medium scale projects that are assessable pursuant to Part 5 of the

EPA Act 1979.

Staff have been implementing this training since this time. New staff have also been given training and existing staff have had refresher training.

When preparing an REF staff generally use a consultant ecologist to assess any vegetation or habitat that will be impacted. This ensures that threatened species and EEC's are not impacted without proper assessment. It is Council's goal to avoid any impacts on threatened species, EEC's and native vegetation generally. Where vegetation impacts are unavoidable then Council applies its Byron Biodiversity Conservation Strategy (2004) and compensation plantings are required.

The Aboriginal heritage due diligence approach is applied to Council works and staff have been trained in accessing the AHIMs web site to check for sites and places of cultural significance. It is Council's goal to avoid any impacts on Aboriginal heritage. Council uses its Aboriginal Project Officer as a point of contact for the Bundjalung of Byron Bay Aboriginal Corporation (Arakwal) and Tweed Byron LALC.

Staff are aware of the socio-economic impacts of works in certain locations and undertake early liaison with affected parties (e.g. shop owners, residents or neighbours to a work area) to ensure that works cause minimal disruption. Works are timed to avoid peak periods (where possible) such as Easter and Christmas. Where works involve Crown land or National Park / Nature Reserve / Marine Park then the relevant government authority is involved. In some projects they become a Determining Authority as well. In others they are required to issue a licence for the work to take place.

Staff have the option of using an external consultant to either prepare or review REFs (budget permitting). All REFs are internally checked by Sustainable Environment and Economy (SEE) staff as well. All REFs and CRAs are signed off by a senior staff person as a final check. The package for roads projects, including approval of the REF or CRA, is considered and approved by the Director of Infrastructure Services before any works proceed.

The above comments are provided from a roads perspective in relation to RES 12-560. Some of the areas impacted will be, stormwater works and maintenance, water and sewer works, parks and reserves works and maintenance. There may be other types of work not addressed above that are caught by this resolution.

Question With Notice No. 15.2 Expert Witnesses for Myocum Property Appeal
File No: I2017/1426

At Council's Ordinary Meeting held on 21 September 2017, John Anderson submitted the following question:

Why did Council spend \$31,000 on expert witnesses in the Butler Street Bypass appeal, but offer no expert witnesses in Cr Hunter's appeal over his Myocum property?

Response Director Corporate and Community Services:

Council engaged experts in three fields, namely:

1. traffic and safety;
2. drainage, flooding and effluent disposal; and
3. zone objectives.

As the judgement shows agreement was reached between the expert witnesses on many of the

points.

The role of the expert witness is to assist the Court. Their overriding duty is to the Court and not to his or her client. Expert witnesses must advise their client (or the party engaging them) that their views may change depending on the information provided to them. Importantly, the expert witness is not to be an advocate for a party. The expert witness' duty is to work cooperatively with other experts and to endeavour to reach agreement with other experts.

Notwithstanding that there were agreements between the experts on a number of matters there remained a number of conditions which were in dispute between the parties. They are summarised below, with the Court's findings below in italics:

Transport Terminal

- 12 month operation period sought to be imposed by Council in condition 1A

The Court imposed 12 month restriction on operation of the transport terminal (as sought by Council), unless Roads Act approval is obtained.

- Requirement for consent of Council in capacity as roads authority to be obtained within 6 months of approval of modification application

The Applicant's conditions were rejected.

Council's wording of conditions 1B and 1C were generally accepted (minor change to timing to be within 6 months of roads act approval being granted, rather than within 6 months of approval to modification application as sought by Council)

Storage Premises

- Wording of condition 9b which relates to vegetation clearing
Council's wording accepted

- Inclusion of condition 28 which requires the Applicant to keep a weekly record of the trucks using the facility

Condition 28 imposed, with additional wording prepared by Court.

Throughout the history of the matter it was reported monthly to Councillors through the Legal Services Status Reports.

In addition the matter was reported to Council by way of a confidential report on 3 August 2017. Council resolved as follows:

Resolved:

1. *That the General Manager be authorised to enter into consent orders or a s34 Conciliation Agreement approving development application 10.2016.486.1, subject to appropriate conditions to be finalised under delegation.*
2. *That the General Manager be authorised to enter into consent orders or a s34 Conciliation Agreement modifying development application 10.2013.559.1, subject to appropriate conditions to be finalised under delegation.*

Notwithstanding that delegation, the General Manager did not "settle" the matter as appropriate conditions could not be agreed upon.

As such, the matter proceeded to a hearing.

Question With Notice No. 15.3 Butler Street Bypass Development Application
File No: I2017/1427

At Council's Ordinary Meeting held on 21 September 2017, John Anderson submitted the following question:

How much did Council pay GHD Pty Ltd for its work in preparing Council's DA for the Butler Street Bypass and did Council seek substantial discounts for the fact that GHD stuffed up its initial DA and had to redo it, and for the fact that the DA turned out to be 70% irrelevant and unnecessary as it applied to the Butler Street Road part of the bypass in terms that Council did not need to lodge a DA for the modification of an existing road, as later successfully argued by Council in the Land and Environment Court?

Response Director Infrastructure Services:

The cost for GHD completing investigations, assessments, EIS and DA is \$354,000 (GST exclusive). The work has proved relevant in all aspects of the project delivery process including the Joint Regional Planning Panel assessment and approval and the NSW Land Environment Court (LEC) proceedings.

Question With Notice No. 15.4 Community input into expenditure of section 94 monies
File No: I2017/1428

At Council's Ordinary Meeting held on 21 September 2017, Matthew O'Reilly submitted the following question:

Can Council please advise on the process by which local communities can establish a mechanism to provide recommendations to Council on the expenditure of section 94 monies in their community; similar to the existing process with Suffolk park community?

Response Developer Contributions Officer:

The Byron Developer Contributions Plan 2012 was adopted by Council after 3 rounds of community consultation. Staff conducted surveys, public meetings, presentations to Chambers of Commerce and various ratepayer organisations to gain feedback on the draft plan. The community was consulted on the type of works and the priorities for expenditure. The contributions plan has been amended 3 times and some of the priorities for expenditure and the type of work proposed have been amended after further community consultation.

A contributions plan should generally require review and updating every 5 years to match up with the release of the census data. A review of the contributions plan is scheduled and will be undertaken upon completion of the Urban Strategy. Community consultation will be undertaken as part of this process. Consultation during the preparation of the associated plans that underpin the preparation of a new contributions plan also afford the community input into the priorities in the plan. An example of this is the recreation needs study that will form the basis for an updated open space works schedule in the next iteration of the contributions plan.

The reason that Suffolk Park has had separate consultation outside of the scope regular community consultation for plan preparation is that there was a significant amount of Open Space funds collected under the terms of previous contributions plans in the Suffolk Park catchment that was not allocated to a particular project. The plan reserved these funds for expenditure on open space works in that catchment by creating a specific line item in the works program under the heading:

BYRON SHIRE COUNCIL

ORDINARY MEETING MINUTES

26 October 2017

“Open Space Embellishment Works in Suffolk Park Further works to be determined after community consultation. Expenditure from old plan.”

As a result of line item staff have engaged with the Suffolk Park community to determine how best to spend these funds held over from previous contributions plans.

The regulations and the departmental guidelines do not allow such flexibility when collecting funds for new projects. New collections must be in accordance with identified projects and cost of works specified in the contributions plan. Council cannot simply state that it will collect funds for open space in a given catchment and then leave it up to the community to determine what it will be spent on. The items for expenditure need to be identified in the plan.

The appropriate mechanism is for the community to be consulted on the proposed works schedules for inclusion in the preparation of the next iteration of the contributions plan as required by the regulations.

The meeting closed at 6.15pm.

I hereby certify that these are the true and correct Minutes of this Meeting
as confirmed at Council's Extraordinary Meeting on 2 November 2017.

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Mayor Simon Richardson