



Byron Shire Council



Minutes

Ordinary Meeting

Thursday, 1 February 2018

BYRON SHIRE COUNCIL

Ordinary Meeting Minutes

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MINUTES OF THE BYRON SHIRE COUNCIL ORDINARY MEETING HELD ON THURSDAY, 1 FEBRUARY 2018 COMMENCING AT 9.00AM AND CONCLUDING AT 3.31PM
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I2018/61

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

Staff: Mark Arnold (Acting General Manager)
Anna Vinfield (Acting Director Corporate and Community Services)
Phil Holloway (Director Infrastructure Services)
Shannon Burt (Director Sustainable Environment and Economy)
Ralph James (Legal Counsel)
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:

7 Reservation of items for debate and order of business

Matthew O'Reilly addressed Council on the order of business.

9.1 Byron Bay Paid Parking Scheme

Paul McCarthy addressed Council in favour of the recommendation.

9.3 Resident Contribution for Sealing Mafeking Road

Melissa Begg and Suvira McDonald addressed Council in favour of the recommendation.

13.2 Effective Community Engagement and Participative Decision Making

Tony Hart, representing the Bangalow Progress Association, addressed Council in favour of the recommendation.

John Anderson addressed Council against the recommendation.

13.7 Update on Res 17-515 and BSC ats Gordon Highlands Pty Ltd

Ian Holmes, representing the Bangalow Progress Association, addressed Council in favour of the recommendation.

13.10 Expression of Interest – Assessment of Affordable Housing Proposal on Council and/or Crown held land

Matthew Lambourne addressed Council in favour of the recommendation.

Matthew O'Reilly, representing Community Associations Byron Shire, addressed Council against the recommendation.

13.12 Compliance Priorities Program 2018

John Anderson addressed Council against the recommendation.

16.2 Tender Assessment – Legal Services Contract 2017-0054

John Anderson addressed Council against the recommendation.

Submission No. 1 Roadworks at Upper Main Arm

Matthew Lambourne made a submission to Council regarding roadworks at Upper Main Arm.

Submission No. 2 Saddle Road Planning Proposal

Matthew O'Reilly made a submission to Council regarding a planning proposal at Saddle Road.

Question No. 1 Drain Clearing at Billinudgel

Matthew Lambourne asked the following question:

Why has there been no apparent progress on drain clearing at Billinudgel since the SES meeting at Billinudgel on 24 September 2017 at which SES reports that "Council rep looking at drains and work out a plan for cleaning up"?

The question was taken on notice.

Question No. 2 Rural Accommodation Figures

Matthew O'Reilly asked the following question:

Can Council please provide figures for the number of new dwelling or rural tourist accommodation approvals in the 2015, 2016 and 2017 calendar years. Can these figures be divided into:

- Rural primary dwellings
- Rural dual occupancies
- Rural secondary dwellings
- Urban detached dwellings
- Urban secondary dwellings
- Urban dual occupancies
- Urban multi dwelling housing approved as strata title developments
- Shop top housing
- Rural tourist cabins, farm stay accommodation or eco tourism accommodation

NB please count total dwellings not total approvals as often multiple dwellings are included in a single approval such as multi dwelling housing dual occupancies or a new house and secondary dwelling

The question was taken on notice.

Question No. 3 General Manager Delegations

John Anderson asked the following question:

Would any Councillor who at the relevant Council meeting last September who was aware at that time that it was the intent of the relevant staff report to that meeting for Council to give all Council's

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powers to the General Manager that it could legally give him, care to give this meeting reasons for supporting that recommendation, or, alternatively to provide such reasons for publication in the next agenda; given that the public has a right to know the reason for your decision?

The question was taken on notice.

The meeting adjourned at 10.00am and reconvened at 10.23am.

APOLOGIES

There were apologies received from Crs Hunter and Ndiaye.

- 18-001 Resolved** that the apologies from Crs Hunter and Ndiaye be accepted and a leave of absence granted. (Richardson/Cameron)

The motion was put to the vote and declared carried.

REQUESTS FOR LEAVE OF ABSENCE

There was a request for leave of absence from Cr Hunter until 22 February 2018.

- 18-002 Resolved** that Cr Hunter be granted a leave of absence from 1 February 2018 to 22 February 2018. (Richardson/Lyon)

The motion was put to the vote and declared carried.

DECLARATIONS OF INTEREST – PECUNIARY AND NON-PECUNIARY

Cr Richardson declared a non-pecuniary interest in Item 9.3. The nature of the interest being that he has lived on Mafeking Road previously. Cr Richardson elected to stay in the Chamber and will participate in the debate and vote.

Cr Cameron declared a non-pecuniary interest in Item 9.3. The nature of the interest being that he lives on Mafeking Road. Cr Cameron elected to remain in the Chamber and will participate in discussion and the vote.

Cr Richardson declared a non-pecuniary interest in Report 13.7. The nature of the interest being that his wife provided design work for the proponent five years previously. Cr Richardson elected to remain in the Chamber and will participate in discussion and the vote.

Cr Spooner declared a non-pecuniary interest in Report 13.11. The nature of the interest being that his employer operates markets in Byron Bay and could be considered a competitor. Cr Spooner elected to leave the Chamber and will not participate in discussion and the vote.

TABLING OF PECUNIARY INTEREST RETURNS

There were no Pecuniary Interest Returns tabled.

ADOPTION OF MINUTES FROM PREVIOUS MEETINGS

- 18-003 Resolved** that the minutes of the Ordinary Meeting held 14 December 2017 be confirmed.
(Spooner/Richardson)
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

General Manager

- Report No. 13.1 Cavanbah Centre - Options for Future Development
Report No. 13.2 Effective Community Engagement and Participative Decision Making
Report No. 13.3 Byron Recreation Grounds Plan of Management - Clarification of Process and Rationale
Report No. 13.4 Planning a new era for the Byron Arts and Industrial Estate

Corporate and Community Services

- Report No. 13.5 Section 355 Management Committee matters
Report No. 13.7 Update on Res 17-515 and BSC ats Gordon Highlands Pty Ltd
Report No. 13.8 Joint Organisation of Councils

Sustainable Environment and Economy

- Report No. 13.10 Expression of Interest - Assessment of Affordable Housing Proposal on Council and/or Crown held land
Report No. 13.12 Compliance Priorities Program - 2018
Report No. 13.13 Tourism Management Plan 2008-2018 Acquittal
Report No. 13.14 Report of the Planning Review Committee Meeting held on 30 November, 2017

Infrastructure Services

- Report No. 13.20 Mullumbimby Hospital site acquisition and site remediation

COMMITTEE REPORTS

Infrastructure Services

- Report No. 14.2. Report of the Water, Waste and Sewer Advisory Committee Meeting held on 21 December 2017

CONFIDENTIAL REPORTS

Corporate and Community Services

- Report No. 16.2 CONFIDENTIAL - Tender Assessment - Legal Services Contract 2017-0054

Organisation Development

- Report No. 16.4 CONFIDENTIAL - General Manager Recruitment

Cr Spooner left the Chambers in accordance with his earlier declared interest in Report 13.11.

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The remaining Recommendations and Committee Recommendation were adopted as a whole, being moved by Cr Richardson and seconded by Cr Lyon. Each recommendation is recorded with a separate resolution number commencing at Resolution No. 18-004 and concluding with Resolution No. 18-031.

Cr Spooner returned to the meeting following the vote.

SUBMISSIONS AND GRANTS

Report No. 11.1 **Byron Shire Council Submissions and Grants as at 10 January 2018**
File No: I2017/2099

18-004 Resolved that Council note the report and Attachment 1 (E2018/2222). (Richardson/Lyon)

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

Report No. 13.6 **Council Investments 25 November to 31 December 2017**
File No: I2018/1

18-005 Resolved that the report listing Council's investments and overall cash position as at 31 December 2017 be noted. (Richardson/Lyon)

STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

Report No. 13.9 **Draft Local Approvals Policy - further amendments**
File No: I2017/1748

18-006 Resolved:

1. That Council endorse the additional exemption provisions of the draft Local Approvals
2. That the draft Local Approvals Policy be placed on public exhibition for a period of 42 days for community consultation and submissions from interested parties.
3. That any submissions received as a result of the public exhibition be presented to Council for consideration in determining the adoption of the Amended Local Approvals Policy. In the event that there are no submissions received during the exhibition period, then the Amended Local Approvals Policy be submitted to the Director General for concurrence and, subject to that concurrence, be adopted. (Richardson/Lyon)

Report No. 13.11 **PLANNING - 10.2017.399.1 Use of Cavanbah Centre for Primitive
Camping grounds and markets at 249 Ewingsdale Road Byron Bay**
File No: I2017/1778

18-007 Resolved that pursuant to Section 80 of the Environmental Planning & Assessment Act 1979, development application 10.2017.399.1 for use of Cavanbah Centre for primitive camping grounds and markets, be granted consent subject to the conditions listed in Attachment 2 #E2018/3031.

(Richardson/Lyon)

The motion was put to the vote and declared carried.

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

No Councillors voted against the motion.

Report No. 13.15 Coastal Management Program for the Western Precincts of the Byron Bay Embayment - proposed project plan
File No: I2017/2005

18-008 Resolved:

1. That Council write to the Minister advising of the conflicting advice Council has received and seek their clarification as to how best to proceed with the preparation of a Coastal Management Program in the absence of the new legislation being enacted and the NSW Coastal Manual and Toolkit being finalised.
2. That Council await the advice of the Minister before proceeding with a Coastal Management Program for both the Western Precincts of the Byron Bay Embayment and the Northern Precincts (New Brighton and South Golden Beach).
3. That Council endorse in principle the proposed project plan (Table 1 of this report) to prepare a Coastal Management Program for the Western Precincts Byron Bay Embayment pending further Ministerial advice. (Richardson/Lyon)

Report No. 13.16 Report of the Planning Review Committee Meeting held on 21 December 2017
File No: I2017/2098

18-009 Resolved that the report be noted. (Richardson/Lyon)

Report No. 13.17 CZMP for the Brunswick Estuary (Issue 5, June 2017) and Ministerial certification
File No: I2018/2

18-010 Resolved:

1. That minor editorial changes and amendments are made to the Coastal Zone Management Plan for the Brunswick Estuary (Issue 5, June 2017- Attachment 1) based on comments received from public agencies (Attachment 2).
2. That no further work be done to seek Ministerial Certification of the Coastal Zone Management Plan until such time as resources permit.
3. That Council adopt the revised draft Coastal Zone Management Plan and make it publicly available to support Council's work and the work of non-government organisations acknowledging that it is not certified by the Minister. (Richardson/Lyon)

STAFF REPORTS - INFRASTRUCTURE SERVICES

Report No. 13.18 **Review of Bitumen Sealing Practises & Pothole Filling Works**
File No: I2017/1165

- 18-011** **Resolved** that Council note the report and the ongoing implementation of the action plan.
(Richardson/Lyon)
-

Report No. 13.19 **North Ocean Shores Sports Field Renaming**
File No: I2017/1827

- 18-012** **Resolved** that Council approves "Bob Belleair Sportsground" as the permanent name for the North Ocean Shores Sports Field to be advertised for public comment by the NSW Geographical Names Board.
(Richardson/Lyon)
-

Report No. 13.21 **Minutes of Coastal Estuary Catchment Panel Meeting 30 November 2017**
File No: I2017/2074

- 18-013** **Resolved** that Council adopt the following Panel recommendations:

Panel Recommendation 4.1. The State of Water Reuse

That Council notes the Panel supports water reuse over river discharge via solar electric installations for the supply pump at Mullumbimby and the irrigation pumps on the two farms in Main Arm involved in the Main Arm reuse scheme, especially due to the coincidence of insolation and irrigation.

Panel Recommendation 4.2. Recycled Water Pricing

1. That Council notes Panel supports, where appropriate, for development consent conditions that require compulsory plumbing of recycled water to dwellings for laundry, toilets and gardens and to business and commercial where appropriate, as happens in parts of Ballina Shire.
 2. That Council requests a cost benefit analysis on implementing the above in Byron Shire including an environmental assessment and that this report be forwarded to Water, Waste and Sewer Advisory Committee for considerations.
(Richardson/Lyon)
-

COMMITTEE REPORTS – CORPORATE AND COMMUNITY SERVICES

Report No. 14.1 **Report of the Arakwal Memorandum of Understanding Advisory Committee Meeting held on 21 November 2017**
File No: I2017/1825

- 18-014** **Resolved** that Council note the minutes of the Arakwal Memorandum of Understanding Advisory Committee Meeting held on 21 November 2017.
(Richardson/Lyon)

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18-015 Resolved that Council adopt the following Committee Recommendation:

Committee Recommendation 4.1.1

That the report from Matthew O'Reilly (President of Saddle Ridge Local Area Management Planning Association):

- be reviewed by the Arakwal Corporate and comments provided back to this Committee/Council
- be saved into Council's secure record system as a confidential document.

(Richardson/Lyon)

18-016 Resolved that Council adopt the following Committee Recommendation:

Report No. 4.2 Butler Street proposed Crown Land Acquisition

File No: I2017/1750

Committee Recommendation 4.2.1

That the Arakwal Memorandum of Understanding Advisory Committee note the consultation with the Arakwal Corporation and the Arakwal Memorandum of Understanding Committee on the compulsory acquisition of the crown land at Butler Street, Byron Bay. (Richardson/Lyon)

18-017 Resolved that Council adopt the following Committee Recommendation:

Report No. 4.3 Aboriginal Cultural Heritage Study

File No: I2017/1751

Committee Recommendation 4.3.1

That the Arakwal Memorandum of Understanding Advisory Committee note the finalisation of Stage One of the Byron Shire Aboriginal Cultural Heritage Study. (Richardson/Lyon)

18-018 Resolved that Council adopt the following Committee Recommendation:

Report No. 4.4 Arakwal employment and procurement opportunities

File No: I2017/1752

Committee Recommendation 4.4.1

That the Arakwal Memorandum of Understanding Advisory Committee discuss key objectives for the development of an Indigenous Employment Strategy to assist with the development and implementation of this strategy. (Richardson/Lyon)

18-019 Resolved that Council adopt the following Committee Recommendation:

Report No. 4.5 Byron Shire Council process to report to Arakwal Board

File No: I2017/1753

Committee Recommendation 4.5.1

That the Arakwal Memorandum of Understanding Advisory Committee provide input into the development of a reporting and documentation framework for projects, as follows:

- Council to receive notification of Arakwal Board meetings for 2018
- Council to receive cut off dates for matters to go before the Board

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- Monthly meetings with Council staff and the Arakwal Corporation General Manager (at alternating venues), with Arakwal Board members invited
- Action list of current projects and their status to be provided monthly by Council for Arakwal Board Meetings. (Richardson/Lyon)

CONFIDENTIAL REPORTS - CORPORATE AND COMMUNITY SERVICES

Report No. 16.1 **CONFIDENTIAL - Tender 2017-0036 Trades Services Panel Recommendation**

File No: I2017/1788

18-020 Resolved:

1. That Council award Tender 2017-0036 Trades Services Panel to the following tenderers:
 - Coughran Electrical (Electrical Services category)
 - Curtis Electrical (Electrical Services category)
 - Stralis Energy (Electrical Services category)
 - Cape Byron Plumbing (Plumbing Services category)
 - Swift Plumbing (Plumbing Services category)
2. That Council makes public its decision, including the name and amount of the successful tenderer, in accordance with Clause 179(b) of the Local Government (General) Regulation 2005. (Richardson/Lyon)

CONFIDENTIAL REPORTS - INFRASTRUCTURE SERVICES

Report No. 16.3 **CONFIDENTIAL - Tinderbox Road Causeway No.1 Renewal**

File No: I2017/1998

18-021 Resolved:

1. That Council award Tender 2017-0059 Tinderbox Road Causeway No.1 Renewal to G&R Brown and Sons.
2. That Council makes public its decision, including the name and amount of the successful tenderer, in accordance with Clause 179(b) of the Local Government (General) Regulation 2005.
3. That the proposed budget for 2017/18 be increased to \$233,624, which is comprised of RMS funding of \$162,685 and Council revenue finding of \$70,939. (Richardson/Lyon)

PROCEDURAL MOTION

- 18-022 Resolved** that Council change the order of business to deal with Reports 9.1, 9.3, 13.2, 13.7, 13.10, 13.12, and 16.2 next on the Agenda. (Richardson/Lyon)

The motion was put to the vote and declared carried.

NOTICES OF MOTION

Notice of Motion No. 9.1 Byron Bay Paid Parking Scheme
File No: I2018/28

Moved that Council:

1. Allocate all future net revenue from the Byron Bay Paid Parking Scheme to be spent on projects and works in Byron Bay. Net revenue is to:
 - a) include meter revenue;
 - b) exclude resident exemption fees and parking fines.
2. Provide an updated account of the Byron Bay Paid Parking Scheme on an ongoing basis through the Quarterly Budget Review process. This is to identify all revenue and expenses allocated during the previous quarter.
3. Create a 'dashboard barometer' on the Byron Shire Council Paid Parking webpage that identifies money raised through the Byron Bay Paid Parking Scheme and how it has been allocated. (Spooner/Hackett)

AMENDMENT

18-023 Resolved:

1. That Council note:
 - i) the commitment to ensure 'at least 50%' of paid parking revenue from Byron Bay is committed to projects in Byron Bay has been met;
 - ii) Shire-wide community support for paid parking is based on an equitable distribution of revenue throughout the Shire to address impacts on infrastructure from tourism.
2. That Council affirm that 50% of all non-Crown paid parking revenue from Byron Bay continue to be used to fund projects in Byron Bay.
3. That the distribution of all paid parking revenue be reviewed should additional paid parking schemes be implemented.
4. That in order to provide information on the projects funded by revenue obtained from paid parking, Council produce a paid parking information table on its website that clearly displays: estimated revenue, particular projects, estimated cost of project, actual cost of project, and completion status of project. (Cameron/Richardson)

PROCEDURAL MOTIONS

18-024 Resolved that Cr Cameron be granted a two minute extension to his speech. (Richardson/Coorey)
The motion was put to the vote and declared carried.

18-025 Resolved that Cr Richardson be granted a one minute extension to his speech. (Cameron/Hackett)
The motion was put to the vote and declared carried.

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*The amendment (Cameron/Richardson) was put to the vote and declared carried.
Crs Hackett and Spooner voted against the amendment.*

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

Notice of Motion No. 9.3 Resident contribution for sealing Mafeking Road
File No: I2018/42

18-026 Resolved that Council:

1. Note the submissions and proposals to contribute funds provided by residents regarding the sealing of Mafeking Road.
2. Provide in principle support for the application of Council *Policy 4.17 Contribution to the cost of sealing of unsealed roads adjacent to properties at request of owners*, for the remaining 1.4 km of Mafeking Road.
3. Receive a report at the 22 February meeting:
 - a) detailing cost estimates for works involved in sealing 1.4 km of Mafeking Road up to a 5 metre seal with essential only reformation to achieve this width; and
 - b) identifying funding options. (Cameron/Richardson)

The motion was put to the vote and declared carried.

STAFF REPORTS – GENERAL MANAGER

Report No. 13.2 Effective Community Engagement and Participative Decision Making
File No: I2017/2095

18-027 Resolved that Council:

1. Supports the establishment of a Community Solutions Panel for Byron Shire Council area initially to inform the development of Council's Delivery Program (2018-2022) and Operational Plan (2018-2019).
2. Notes a further report will be presented to the 22 February Ordinary Meeting to:
 - a) Outline the outcomes from the recent Community Strategic Plan engagement
 - b) Outline the proposed engagement methodology moving forwards, including the Community Solutions Panel
 - c) Endorse the draft Community Strategic Plan for public exhibition
3. Conduct a review of the success of the Community Solutions Panel model within three months of the adoption of the Delivery Program (2018-2022) and Operational Plan (2018-2019) through the auspices of the Communications Advisory Panel (with feedback from the consultant team) who shall oversee the preparation of the evaluation criteria, and liaise with staff in formulating a report to Council on the outcomes of the review and advice as to future utilisation of this deliberative model.
4. Reviews the role and composition of established Town Centre Master Plan Leadership/Guidance Groups so as to ensure that the deliberative principles inherent in guiding the role and participants of the Citizen Jury concept are consistently applied and adopted in Council's community engagement.

5. Offer Councillors IAP2 training during the 2017/18 financial year.
6. Review the Community Round Table and Business Round Table including requesting feedback and suggestions from current members.
7. Affirms the principle that the community's best interests are served by good faith partnerships between community, Councillors and staff. (Richardson/Lyon)

The motion was put to the vote and declared carried.

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

Report No. 13.7 **Update on Res 17-515 and BSC ats Gordon Highlands Pty Ltd**
File No: I2018/14

18-028 Resolved:

1. That no further action be taken in respect of Resolution 17-515.
2. That after the s34 Conciliation Conference but before a s34 Conciliation Agreement is entered the matter be reported to Council for consideration of any proposed s34 Conciliation Agreement and for Council to provide authorisation to the General Manager to enter a s34 Conciliation Agreement if supported by a resolution of Council. (Cameron/Spooner)

The motion was put to the vote and declared carried.

PROCEDURAL MOTIONS

- 18-029 Resolved** that Council change the order of business to allow for public access to be extended. (Richardson/Coorey)

The motion was put to the vote and declared carried.

Matthew Hartley made a submission to Council regarding holiday letting.

- 18-030 Resolved** that Council resume standing orders. (Richardson/Cameron)

The motion was put to the vote and declared carried.

STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

Report No. 13.10 **Expression of Interest - Assessment of Affordable Housing Proposal on Council and/or Crown held land**
File No: I2017/1765

Moved:

1. That work progress to confirm the feasibility of sites: Lot 7 DP 263974, Lot 90A DP 3747 and Lot 89 DP 755697, Federal for affordable housing and a further report be presented to Council on the sites potential.
2. That the EOI's received for other Council owned and/or Crown held land be noted. (Spooner/Hackett)

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AMENDMENT

Moved: That Council adopt the recommendations in Tables 1 & 2 of this report as follows:

1. That work progress to confirm the feasibility of sites: Lot 7 DP 263974, Lot 90A DP 3747 and Lot 89 DP 755697, Federal for affordable housing and a further report be presented to Council on the sites potential.
2. That consideration of the EOI submission for Lot 12 DP 1189646, Bayshore Drive, Byron Bay for affordable housing be deferred pending the outcome of the specific EOI process for this site that commences in 2018.
3. That Lot 4 DP 841846, Mullumbimby, due to its possible use for affordable housing or agricultural based residential outcomes, be added to the list of properties to be discussed at the upcoming councillor workshop on other private parcels of land submitted as part of the EOI process.
4. That consideration of the EOI submission for Lot 188 DP 728535, Old Mullumbimby Hospital site for affordable housing be deferred pending the outcome of Mullumbimby Hospital Site Project Reference Groups findings in late 2018.
5. That consideration of the EOI submission for Vallances Road Land, Mullumbimby for affordable housing be deferred pending the outcome of item 2 of resolution 17-459 which is to initiate a Community consultation programme for the area identified for possible Affordable Housing / Community Gardens / Eco tourism / Educational.
6. That consideration of the EOI submission for Lot 22 DP 10731765 Mullumbimby for affordable housing be deferred for consideration in line with the rezoning of the land.
7. That consideration of the EOI submission for Lot 1 & 2 DP 573835 Old Suffolk Park Sewerage Plant Broken Head Road for affordable housing be deferred pending the outcome of the specific EOI process for this site that commences in early 2018. (Richardson/Lyon)

PROCEDURAL MOTION

18-031 Resolved that this matter rest on the table. (Richardson/Coorey)

The motion was put to the vote and declared carried.

Report No. 13.12 Compliance Priorities Program - 2018
File No: I2017/1793

18-032 Resolved:

1. That Council note the report.
2. That Council adopt the proposed Compliance Priorities Program for 2018 as provided in Attachment 1 (E2017/108374) with the addition of 2 2.2(d) below:

2 2.2(d) Development without consent, or not in accordance with consent, of the nature of Short Term Holiday Letting. (Coorey/Cameron)

The motion was put to the vote and declared carried.

CONFIDENTIAL REPORTS - CORPORATE AND COMMUNITY SERVICES

Report No. 16.2 **CONFIDENTIAL - Tender Assessment - Legal Services Contract
2017-0054**

File No: I2018/25

18-033 Resolved:

1. That Council hold a workshop on the matter of confidentiality and this particular tender.
2. That Council reconsider this matter at the next Ordinary Meeting on 22 February, and in the meantime disclose all information able to be made publically available (ie pages 548 and 549 to line 24 of the current agenda). (Lyon/Coorey)

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

MAYORAL MINUTE

There was no Mayoral Minute.

NOTICE OF MOTION

Notice of Motion No. 9.2 **Spelling correction for Dening**
File No: I2018/40

18-034 Resolved:

1. That Council ensure the correct spelling of Dening in all signage, maps and notices within the Byron Shire. Eg Dening Park is currently misspelt as Denning Park.
2. That historical societies across the Shire be invited to lodge any applications to change spelling errors of historical significance. (Hackett/Richardson)

The motion was put to the vote and declared carried.

PETITIONS

1. Speed Limits and Signage on The Pocket Road

The Mayor tabled a petition containing 16 signatures which states:

'...We, the undersigned, petition the Mayor and Councillors of Byron Shire Council to:

- *Traffic travelling along this stretch of The Pocket Road should be restricted to a speed of 60km/hr*
- *Clearer signs should be placed along the Pocket Road to indicate the intersections with Moffatts Road and Middle Pocket Road.*
- *Traffic should be warned about the concealed driveways by appropriate signs.'*

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- 18-035 Resolved** that the petition be referred to the Local Traffic Committee for consideration.
(Cameron/Richardson)
The motion was put to the vote and declared carried.
-

DELEGATES' REPORTS

1. Local Government NSW Tourism Conference 2018

Cr Richardson advised Council:

I have been asked to be on a panel, which will be part of an urgency as well, at the Local Government Tourism Conference in Parkes. I was lucky enough to drive and stay over night at Parkes and visit the big dish with my family only a month ago. The panel is concerning holiday letting. So I'm happy to provide a more thorough report on that after it concludes.

The meeting adjourned at 12.16pm for lunch and reconvened at 1.18pm.

PROCEDURAL MOTION

- 18-036 Resolved** that Report No. 13.10 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. 13.10 **Expression of Interest - Assessment of Affordable Housing Proposal on Council and/or Crown held land**
File No: I2017/1765

- 18-037 Resolved:**
1. That work progress to confirm the feasibility of sites: Lot 7 DP 263974, Lot 90A DP 3747 and Lot 89 DP 755697, Federal for affordable housing and a further report be presented to Council on the sites potential.
 2. That the EOI's received for other Council owned and/or Crown held land be noted.
(Spooner/Hackett)
- The motion was put to the vote and declared carried.*

- 18-038 Resolved:**
1. That in relation to the Saddle Road EOI sites a further report be presented to Council on their potential for affordable housing against the Council endorsed assessment criteria and methodology and any current Council resolutions pertaining to the land.
 2. That a report on the status of the Saddle Road Planning Proposal be completed and considered by Council at the 22 February 2018 Council meeting. (Coorey/Richardson)
- The motion was put to the vote and declared carried.*
-

STAFF REPORTS - GENERAL MANAGER

Report No. 13.1 **Cavanbah Centre - Options for Future Development**
File No: I2017/2094

18-039 Resolved:

1. That the report be noted.
2. That DWP Architects and Council's Grants Coordinator be invited to present concept plans for the proposed extensions to the Cavanbah Centre to a Strategic Planning Workshop of Council in March 2018.
3. That following the SPW presentation the Cavanbah Centre concept plans be placed on public exhibition and be exposed to effective community consultation in accordance with a detailed community engagement plan prepared by staff in conjunction with the Communications Advisory Panel.
4. That in conjunction with the Cavanbah Centre concept plans, concept plans for possible options for refurbishment or redesigns for the Byron Bay Memorial Pool be also exhibited to ascertain community held priorities or preferences.
5. That feasibility reports, including costs, be provided for both sites to enable greater community understanding.
6. That the effective community consultation include opportunities for feedback to indicate support for either or both as part of a two stage process.
7. That Council receive a report on the proposed plans for the further development of the Cavanbah Centre and Memorial Pool following the community consultation period and that this report include community feedback, any proposed design modifications, and a detailed budget for the project.
8. That Council re-consider the lodgement of grant applications for the further development of the Cavanbah Centre once it has considered the report in 7. (Richardson/Spooner)

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

Report No. 13.3 **Byron Recreation Grounds Plan of Management - Clarification of Process and Rationale**
File No: I2017/2096

18-040 Resolved that, given the information contained in this report, Council:

1. Note that the Version 1 (2015) was used as the basis for preparation of the final draft PoM but that it contained draft content that was inconsistent with Council Resolution 16-294.
2. Identify the following stakeholders to be invited to a workshop/s with Councillors under Part 4 of Resolution 17-693 as: current user groups of the Recreation Grounds, the Byron Bay Community School and Byron Bay Public School, representatives from the Event/Festivals Industry, Byron Bay Community Centre and Community Service representatives, representatives from local adjoining property owners, Byron Bay RSL and Feros Aged Care, fitness industry representatives.

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3. Confirm that the draft Plan of Management will facilitate only those alternative community or commercial uses that:
 - a) are compatible both with the categorisation of the facility and the current sporting uses at the Grounds; and
 - b) that do not interfere with the scheduled use of the sporting fields nor degrade fields or facilities utilised by sporting users.
4. Clarify that:
 - a) as required, any revised draft PoM, will have to be prepared having regard to feedback from all previous and any new consultation;
 - b) the “preferred document” status of the 2015 draft PoM stated in Resolution 17-693 (Part 3) will need to be reviewed when Council next considers this matter, so that Council’s discretion to consider all community input is not fettered. (Richardson/Hackett)

The motion was put to the vote and declared carried.

Report No. 13.4 **Planning a new era for the Byron Arts and Industrial Estate**
File No: **12018/12**

18-041 Resolved that Council:

1. Note the report and acknowledge the current work and projects under way that relate to the Byron Arts and Industrial Estate.
2. Acknowledge the need to prepare a comprehensive precinct plan for the staged redevelopment and revitalisation of the Byron Arts and Industrial Estate. The key objectives of the precinct plan to include inter alia:
 - provision of new opportunities for economic growth and employment generation in the Byron Arts and Industry Estate’ that capitalise on the creative industries there
 - to enable the precinct to receive a much needed “face lift” as well as improving access and amenity and facilities for all users
3. Request staff in the Place Planning Team to commence the preparation of a detailed project plan for the preparation of a comprehensive precinct plan for the Byron Arts and Industrial Estate and wider environs as per 2 above; and that the precinct plan is to include consideration of the following: traffic and parking management, alternate transport options including car share, park and ride, use of the rail corridor, land use mix and density, place activation and beautification, technology needs like NBN, identification of land which links key sites including Cavanbah, Bayshore Drive railway station, future park and ride sites and walking and pedestrian links. The project plan will outline the key stages, milestones, stakeholders and a budget outline for the project.
4. Note that to inform the Byron Arts and Industrial Estate project a viability and a feasibility assessment of Lot 12 Bayshore Drive and the Council depot site for a range of uses to ensure any on or off site impacts from the future redevelopment of these sites is taken into account during this precinct planning process. The feasibility study is to be included in the project plan.
5. Consider the project plan and costing at the April council meeting, and that a budget

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allocation for the project be considered as part of the in the 2018-19 budget process reported then.

(Richardson/Hackett)

The motion was put to the vote and declared carried.

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

Report No. 13.5 **Section 355 Management Committee matters**
File No: I2017/1805

18-042 Resolved:

1. That Trudy Ashworth and Dianne Burke be appointed to the Brunswick Heads Memorial Hall Management Committee.
2. That the resignation from Denise Curran from the Ocean Shores Community Centre Management Committee be accepted and that a letter of thanks be provided.
3. That the South Golden Beach Community Centre name be changed to South Golden Beach Hall for ease of use and to better reflect the hall's role in the community.
4. That a report be prepared providing a strategic overview of our s355 management committees including a review of current practices, membership and community usage and options for future management. (Richardson/Lyon)

The motion was put to the vote and declared carried.

Report No. 13.8 **Joint Organisation of Councils**
File No: I2018/35

18-043 Resolved:

1. That Council defer consideration of the report for the purposes of a Strategic Planning Workshop (SPW) to receive details and implications of the proposed legislative and governance framework for Joint Organisations and how it might change decision making processes of Council in the future and in particular, participation of the community, accountability and transparency of decision making.
2. That Council, following the SPW, receive a further report at the 22 February meeting. (Cameron/Richardson)

The motion was put to the vote and declared carried.

STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

Report No. 13.13 **Tourism Management Plan 2008-2018 Acquittal**
File No: I2017/1795

18-044 Resolved:

1. That the report be noted.
2. A Strategic Planning Workshop (SPW) be held for Councillors to identify key issues and

objectives of a new Tourism Management Plan.

3. That integrated transport development as defined by Resolution 08-776 be a key consideration for discussion and inclusion in a new Tourism Management Plan.

(Cameron/Hackett)

The motion was put to the vote and declared carried.

Report No. 13.14 **Report of the Planning Review Committee Meeting held on 30 November, 2017**
File No: I2017/1911

18-045 Resolved:

1. That Council note the report.
2. That staff prepare a memo for distribution to Councillors on DA 10.2017.510.1 - 137 Jonson Street Byron Bay to advise on the status of the development application in terms of submissions received, and any issues raised through the current assessment process, to inform a Council submission to the JRPP. (Coorey/Cameron)

Cr Richardson left the meeting at 2.15pm.

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

Cr Richardson returned to the meeting at 2.18pm.

*The meeting adjourned at 2.18pm to open the Byron Shire Reserve Trust Committee Meeting and reconvened at 2.20pm. Resolution numbers **18-046** and **18-047** were used during that meeting.*

STAFF REPORTS - INFRASTRUCTURE SERVICES

Report No. 13.20 **Mullumbimby Hospital site acquisition and site remediation**
File No: I2017/1845

18-048 Resolved that Council:

1. Resolves not to call tenders for demolition of the Mullumbimby Hospital site buildings because:
 - a) significant delays in demolition would result in a prolonged risk exposure to Council from the ongoing management of the asbestos contaminated buildings
 - b) the significant cost of repeating work already completed by NSW Health during the planning stages of their proposed demolition project.
 - c) the cost of calling tenders for asbestos removal is significant due to the nature of the works and the planning and probity required for contractors to prepare an accurate tender submission.
2. Under the provisions of the Local Government Act Section 55(3)(i), enter into direct negotiations with the demolition contractor previously appointed by NSW Health to complete

the demolition works.

3. Receive a further report once those negotiations are complete and the project budget figures are clarified. (Cameron/Martin)

The motion was put to the vote and declared carried.

COMMITTEE REPORTS - INFRASTRUCTURE SERVICES

Report No. 14.2 **Report of the Water, Waste and Sewer Advisory Committee Meeting held on 21 December 2017**

File No: I2017/2103

- 18-049 Resolved** that Council note the minutes of the Water, Waste and Sewer Advisory Committee Meeting held on 21 December 2017. (Coorey/Richardson)

The motion was put to the vote and declared carried.

- 18-050 Resolved** that Council adopt the following Committee Recommendation(s):

Report No. 4.1 Byron Shire Effluent Management Strategy 2017-27 Comments for Discussion
File No: I2017/1809

Committee Recommendation 4.1.1

That the Committee have an extraordinary meeting to workshop the strategy in the first quarter 2018. (Coorey/Richardson)

The motion was put to the vote and declared carried.

- 18-051 Resolved** that Council adopt the following Committee Recommendation(s):

Report No. 4.2 Integrated Water Cycle Management Plan 2017 Review
File No: I2017/1810

Committee Recommendation 4.2.1

That the Committee have an extraordinary meeting to workshop the Integrated Water Cycle Management Plan 2017 Review. (Coorey/Richardson)

The motion was put to the vote and declared carried.

- 18-052 Resolved** that Council adopt the following Committee Recommendation(s):

Report No. 4.3 Ocean Shores Sewage Treatment Plant Exceedences - January 2017 to
October 2017

File No: I2017/1811

Committee Recommendation 4.3.1

That the Committee note the report and for the next meeting Committee receive layout diagrams of the shire's 4 STPs indicating licensing and monitoring locations. (Coorey/Richardson)

The motion was put to the vote and declared carried.

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18-053 Resolved that Council adopt the following Committee Recommendation(s):

Report No. 4.4 Byron Resource Recovery Master Plan
File No: I2017/1818

Committee Recommendation 4.4.1

That Council endorse the Byron Resource Recovery Centre Master Plan and ensure that space for relocated tip shop is sufficient for any growth that could occur in upcoming decades.

(Coorey/Richardson)

The motion was put to the vote and declared carried.

18-054 Resolved that Council adopt the following Committee Recommendation(s):

Report No. 4.5 Mullumbimby Inflow and Infiltration - History and Future
File No: I2017/1820

Committee Recommendation 4.5.1

That Council commence a Mullumbimby Sewerage System Inflow and Infiltration Programme as a part of the sewer fund capital programme and that the Water, Waste and Sewer Advisory Committee receive an update on each quarterly meeting.

(Coorey/Richardson)

The motion was put to the vote and declared carried.

18-055 Resolved that Council adopt the following Committee Recommendation(s):

Report No. 4.6 Byron Shire Recycled Water Schemes - Murtagh Report Discussion
File No: I2017/1959

Committee Recommendation 4.6.1

That the Committee note the report.

(Coorey/Richardson)

The motion was put to the vote and declared carried.

18-056 Resolved that Council adopt the following Committee Recommendation(s):

Report No. 4.7 Odour Control Actions
File No: I2017/1964

Committee Recommendation 4.7.1

There was no Committee recommendation for this report however, the Committee discussed the report and the Committee members provided comments and questions that were discussed during an extraordinary meeting.

(Coorey/Richardson)

The motion was put to the vote and declared carried.

18-057 Resolved that Council adopt the following Committee Recommendation(s):

Report No. 4.8 Items For the Committee Requested by Duncan Dey
File No: I2017/1979

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Committee Recommendation 4.8.1

That the Committee note the report.

(Coorey/Richardson)

The motion was put to the vote and declared carried.

18-058 Resolved that Council adopt the following Recommendation(s):

Report No. 4.9 Current and Future Capacity of Bangalow STP - Response to Resolution 17-502

File No: I2017/2003

Committee Recommendation 4.9.1

That in relation to the report prepared under Resolution 17-502, Council should also consider at least the following additional matters:

- a) Estimates of sewer flow made by developers at time of application are inherently low. The estimates of flow from this development as it may stand in 10 years time should be made independently.
- b) Satisfying the EPA licence requirements does not equate to protecting the environment. There are now many more factors to be consider for the impact on receiving environment. This include: pharmaceuticals, viruses, medical and recreational drugs, hormone treatment, etc.
- c) If STP upgrades are brought forward for a development then the extra cost of bringing then forward should be passed on to the developer.
- d) A detailed risk assessment is needed of the pre-treatment system, including the likely dynamics of its loading and effluent quality, and its potential impacts on the performance of the Bangalow STP, and suitable mitigations identified. (Coorey/Richardson)

The motion was put to the vote and declared carried.

CONFIDENTIAL REPORTS – ORGANISATION DEVELOPMENT

Report No. 16.4

CONFIDENTIAL - General Manager Recruitment

File No:

I2018/9

18-059 Resolved that Council move into Committee.

(Spooner/Richardson)

The motion was put to the vote and declared carried.

The Executive Team left the chambers at 2.33pm.

18-060 Resolved:

1. That pursuant to Section 10A(2)(d)i, (d)ii and (d)iii of the Local Government Act, 1993, Council resolve into Confidential Session to discuss the report General Manager Recruitment.
2. That the reasons for closing the meeting to the public to consider this item be that the report contains:

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- a) commercial information of a confidential nature that would, if disclosed prejudice the commercial position of the person who supplied it
 - b) information that would, if disclosed, confer a commercial advantage on a competitor of the council
 - c) information that would, if disclosed, reveal a trade secret
3. That on balance it is considered that receipt and discussion of the matter in open Council would be contrary to the public interest, as it could prejudice the commercial position of the company who supplied it. (Richardson/Spooner)

The motion was put to the vote and declared carried.

PROCEDURAL MOTION

- 18-061 Resolved** that Council move out of Committee and resume the Ordinary Meeting. (Richardson/Hackett)

The motion was put to the vote and declared carried.

18-062 Resolved:

1. That Council evaluate, select and engage MacArthur for the appointment of a new General Manager.
2. That the Mayor finalise this arrangement and report to councillors; and
3. That Council commence the recruitment process for a new General Manager with MacArthur.

(Spooner/Richardson)

The motion was put to the vote and declared carried.

PROCEDURAL MOTION

- 18-063 Resolved** that the meeting move out of confidential session. (Richardson/Cameron)

The motion was put to the vote and declared carried.

The Executive Team returned to the meeting at 3.00pm.

URGENCY MOTIONS

PROCEDURAL MOTION

- 18-064 Resolved** that Council consider the matter of the rail corridor feasibility expression of interest. The urgency is due to the clear intent within resolution 17-627 to place the Expression of Interest on public expression as quickly as possible, the matter of establishing and determining an internal working party to complete this task is clear.

Crs Hackett and Spooner voted against the motion. (Cameron/Richardson)

The motion was put to the vote and declared carried.

The Mayor ruled the matter to be of great urgency.

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Urgency Motion No. 1. Matter of Urgency - Rail Corridor Feasibility Eol

18-065 Resolved:

1. That Council establish an expert multi-discipline working group to deliver a revised brief suitable to meet Councillor's expectations.
2. The working group is to report a revised brief to the 22 March Ordinary Meeting of Council.
3. The internal working group is to be overseen by Director Sustainable Environment and Economy and Director Infrastructure Services, and consist of Councillors, internal staff members with expertise in economic development, place making/masterplanning, business analysis and civil engineering, and an external social and economic impact consultant expert.

The motion was put to the vote and declared carried.

Cr Spooner voted against the motion.

(Richardson/Lyon)

The motion was put to the vote and declared carried.

PROCEDURAL MOTION

- 18-066 Resolved** that the matter of conferences be discussed as a matter of urgency. The urgency being that due to the imminent dates, plans are required to be made for registration, airfares and accommodation. (Richardson/Coorey)

The motion was put to the vote and declared carried.

Urgency Motion No.2 Councillor Conference Attendance

18-067 Resolved:

1. That Cr Richardson attend the LGNSW Tourism Conference in Parkes on 12-14 March 2018.
2. That Cr Richardson attend the Australian Coastal Councils Conference to be held in Geelong on 20-23 March 2018 (which includes pre-conference forum). (Richardson/Coorey)

The motion was put to the vote and declared carried.

PROCEDURAL MOTION

- 18-068 Resolved** that the matter of Development Application 10.201.661.1 be discussed as a matter of urgency, the urgency being that the exhibition period closes in five days. (Lyon/Coorey)

The motion was put to the vote and declared carried.

The Mayor and Director Sustainable Environment and Economy left the chambers at 3.24pm and the Deputy Mayor took the Chair.

Urgency Motion No.3 Development Application 10.201.661.1**18-069 Resolved:**

1. That Council prepare a submission on the Development Application 10.2017.661.1 - Various Properties.
2. That a Council staff member (not involved in the assessment of the Development Application in point 1) be requested to finalise a submission on behalf of Council objecting to the Development Application 10.2017.661.1 - Various Properties on the following grounds:
 - a) i) Failure to provide a buffer for residential lots from the boundary that adjoins the Ewingsdale Road reserve (noting that any infrastructure associated with the development should be provided on the applicant's site)
 - ii) the proposed use of the road reserve may impinge on the town's future transport corridor needs
 - b) failure to provide landowners' consent from the Crown and Byron Shire Council for works within the drainage reserve lot and Council's road reserve.
 - c) opposition to the use of fill (1 million tonnes) on the site, noting that any structures on the site should be raised above the existing ground level. Concerns regarding the impact of the use of fill on the site and the impact on the whole Belongil Creek catchment area, including the SEPP 14 wetlands and adjoining neighbours properties and insufficient information to enable an informed consideration of the location detail or truck movement (including time frames) concerning the use and source of fill on the site.
 - d) insufficient information to enable an informed consideration of the traffic impacts associated with the construction activities and resultant subdivision works and development of the site
 - e) unacceptable increase in traffic movements along Ewingsdale, noting that the estimated 14,000 additional daily car movements is significantly higher than the originally estimated 6,000 at the time the site's State Significance status was considered and increase total Ewingsdale road daily car usage to approximately 35,000.
 - f) unacceptable environmental impacts, including:
 - i) the clearing of 1.8 hectares of environmentally zoned land
 - ii) a failure to adequately consider impacts on mapped Wetland areas, including a failure to provide a required EIS for works in these areas.
 - iii) failure to meet the requirements of the WB DCP for a whole of site (as identified by the DCP) Koala Management Plan
 - iv) unacceptable impacts on koalas across the site; due to dealing with potential threats to connectivity and inadequate buffers for core Koala habitat
 - v) failure to adhere to the National Recovery Plan for the Wallum Sedge Frog and other Wallum dependent frog species, and unacceptable risks to the protection and enhancement of the existing Wallum froglet populations as a result of significant disturbance of known habitat by proposed fill and stormwater works and insufficient buffers and linkage along drain and watercourse lines; and,
 - vi) unreasonable risk to the health of the Belongil estuary, due to: the extreme difficulty in avoiding Acid Sulfate contamination, or impacts of any drainage works and stormwater impacts
 - g) inconsistencies to the adjoining Development Applications;

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- h) failure to take changes in rainfall intensities due to climate change into account in identifying Probable Maximum Flood Levels and designing stormwater management, including failure to undertake sensitivity analyses for the range of potential changes expected by the end of this century, and
 - i) any other issues that staff identify in preparing the submission to the JRPP.
4. That the Council submission be finalised and submitted up to seven days before any scheduled JRPP meeting on the Development Application. This submission to include any other matters that may be pertinent to the consideration of the Development Application by the JRPP in addition to those in point 2 above.
 5. That Council confirm a staff representative and the following Crs Coorey and Lyon to be registered to address the planning panel at the scheduled meeting of the JRPP to express the views of Council.
 6. That Council request the JRPP to hold a public briefing meeting after the exhibition has ended, and invite any person who made a submission to present, before the assessment report is finalised.
 7. That Council write to Ben Franklin MLC, Tamara Smith MLA, Justine Elliot MP, Walt Secord MLC, Dawn Walker MLC and Gabrielle Upton MP, outlining the resolution and request their support. (Lyon/Coorey)

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

There being no further business the meeting concluded at 3.31pm.

I hereby certify that these are the true and correct Minutes of this Meeting
as confirmed at Council's Ordinary Meeting on 22 February 2018.

.....
Mayor Simon Richardson