



Byron Shire Council



Minutes

Ordinary Meeting

Thursday, 28 February 2019

BYRON SHIRE COUNCIL

Ordinary Meeting Minutes
28 February 2019

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MINUTES OF THE BYRON SHIRE COUNCIL ORDINARY MEETING HELD ON THURSDAY, 28 FEBRUARY 2019 COMMENCING AT 9:08AM AND CONCLUDING AT 5:17PM

12019/235

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

Staff: Mark Arnold (General Manager)
Vanessa Adams (Director Corporate and Community Services)
Phil Holloway (Director Infrastructure Services)
Shannon Burt (Director Sustainable Environment and Economy)
Ralph James (Legal Counsel)
Dan Strzina (Project Engineer) – item 13.20
Evan Elford – (Team Leader Infrastructure Services) - item 13.24
Phil Warner (Manager Assets and Major Projects) – item 13.2
Claire McGarry (Place Manager) – item 13.2
Josh Provis (Road and Bridge Engineer) – item 17.1
Heather Sills (Minute Taker)

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

PUBLIC ACCESS

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

13.5 Report of the Public Art Panel meeting 29 November 2018

Suvira McDonald, on behalf of Creative Mullum, addressed Council in favour of the recommendation.

13.13 Bayshore Drive Roundabout Public Art

John Anderson addressed Council in favour of the recommendation.

13.16 Compliance Priorities Program Report - 2018

*Duncan Dey addressed Council in favour of the recommendation.
John Anderson addressed Council against the recommendation.*

13.19 Reflections Holiday Parks - exhibition of draft Plans of Management for Ferry Reserve and Massy Greene Reserve, Brunswick Heads

*Michelle Grant addressed Council in favour of the recommendation.
John Dunn, on behalf of the Brunswick Heads Progress Association, addressed Council against the recommendation.*

13.20 Butler Street Reserve Access During Byron Bay Bypass Construction

David Trevor-Jones and Kate Hardman, on behalf of the Byron Bay Community Association, addressed Council in favour of the recommendation.

Catherine Henniker and Hud Maughan addressed Council against the recommendation.

13.21 Results of the Public Exhibition of the Byron Bay to Suffolk Park Cycleway Investigation Report

Melissa Armstrong addressed Council in favour of the recommendation.

13.24 Parking Options for Teachers and Staff at Byron Bay Public School

Natalie Lennon and Paul Prior addressed Council against the recommendation.

PROCEDURAL MOTION

19-013 Resolved that Public Access be extended until 11:15am. (Lyon/Cameron)

The motion was put to the vote and declared carried.

14.4 Report of the Water, Waste and Sewer Advisory Committee Meeting held on 31 January 2019

Duncan Dey addressed Council against the recommendation.

Submission No. 1 - Federal Drive Road Closure

Allan Rolfe made a submission to Council regarding Federal Drive Road Closure.

Submission No. 2 - Coolamon Scenic Drive Actions update / Federal Drive traffic diverted

Anthony Stante made a submission to Council regarding Coolamon Scenic Drive Actions update / Federal Drive traffic diverted.

Submission No. 3 - Bluesfest Paid Parking

Anthony Donnellan and Steve Romer made a submission to Council regarding Bluesfest Paid Parking.

Question No. 1

Debbie Sulzberger asked the following question:

As Bluesfest Pty Ltd imposed an additional daily parking fee on 12th December 2018 while subject to Council's consent conditions for DA 10.2014.753.1 which clearly states parking charges are to be included in the ticket price. Therefore will Council adhere to relevant section of the NSW Planning and Environment Act 1979 no. 203 and Council's 2016 Enforcement Policy and request Bluesfest Pty Ltd immediately rescind the 2019 additional parking charge and also refund to all 2019 ticket holders who have already purchased the parking voucher.

The Mayor took the question on notice.

The meeting adjourned at 10:50am and reconvened at 11:17am.

Cr Coorey returned to the Chambers at 11:19am.

APOLOGIES

There were no apologies.

REQUESTS FOR LEAVE OF ABSENCE

There were no requests for leave of absence.

DECLARATIONS OF INTEREST – PECUNIARY AND NON-PECUNIARY

Cr Spooner declared a pecuniary interest in Report 13.20. The nature of the interest being that his employer, Byron Bay Community Association, holds a market licence for the Reserve. Cr Spooner elected to leave the Chamber and did not participate in discussion and the vote.

TABLING OF PECUNIARY INTEREST RETURNS

In accordance with the Local Government Act 1993 Section 450(A), Section 449(3) Returns are tabled for Lachlan Wall and Renan Solatan.

ADOPTION OF MINUTES FROM PREVIOUS MEETINGS

19-014 Resolved that the minutes of the following meetings be confirmed:

- Ordinary Meeting held 13 December 2018 (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

General Manager

Report No. 13.2 Railway Park rotunda location
Report No. 13.3 Former Byron hospital project update

Corporate and Community Services

Report No. 13.5 Report of the Public Art Panel meeting 29 November 2018
Report No. 13.6 National General Assembly of Local Government 2019
Report No. 13.8 Section 355 Management Committees - resignations and appointments
Report No. 13.9 Council Resolutions Quarterly Review - 1 October to 31 December 2018
Report No. 13.13 Bayshore Drive Roundabout Public Art

Sustainable Environment and Economy

Report No. 13.16 Compliance Priorities Program Report - 2018
Report No. 13.17 Sustainable Agriculture and Agribusiness Project update

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Report No. 13.19 Reflections Holiday Parks - exhibition of draft Plans of Management for Ferry Reserve and Massy Greene Reserve, Brunswick Heads

Infrastructure Services

Report No. 13.20 Butler Street Reserve Access During Byron Bay Bypass Construction

Report No. 13.21 Results of the Public Exhibition of the Byron Bay to Suffolk Park Cycleway Investigation Report

Report No. 13.23 Byron Bay Memorial Recreation Grounds Draft Plan of Management

Report No. 13.24 Parking Options for Teachers and Staff at Byron Bay Public School

REPORTS OF COMMITTEES

Infrastructure Services

Report No. 14.4 Report of the Water, Waste and Sewer Advisory Committee Meeting held on 31 January 2019

Report No. 14.5 Report of the Local Traffic Committee Meeting held on 8 February 2019

6.1 Byron Bay Transport Interchange - Regulatory Signage

6.2 Railway Hotel and Lawson Street South Carparks - Regulatory Signage

LATE REPORTS

Report No. 17.1 CONFIDENTIAL - Federal Drive Landslide Stabilisation (Tender 2019-0002)

The remaining Recommendations and Committee Recommendation were adopted as a whole, being moved by Cr Cameron and seconded by Cr Hackett. Each recommendation is recorded with a separate resolution number commencing at Resolution No. 19-015 and concluding with Resolution No. 19-047.

PETITIONS

Petition No. 10.1 The rezoning of 156 Stuart Street (Lot 22) Mullumbimby to R1 and reclassification to operational.

File No: I2019/112

19-015 Resolved:

1. That the petition regarding the rezoning of 156 Stuart Street (Lot 22) Mullumbimby to R1 and reclassification to operational be noted.
2. That the petition be referred to the Director Sustainable Environment and Economy.
(Cameron/Hackett)

SUBMISSIONS AND GRANTS

Report No. 11.1 Byron Shire Council Submissions and Grants as at 31 January 2019

File No: I2019/153

- 19-016 Resolved** that Council notes the report and attachment (#E2019/9845) for the Byron Shire Council Submissions and Grants as at 31 January 2019. (Cameron/Hackett)

STAFF REPORTS - GENERAL MANAGER

Report No. 13.1 **Lease over Byron Bay tennis courts to Andrew Bates Tennis Pty Ltd**
File No: I2018/2402

19-017 Resolved:

1. That Council, having considered all submissions received, in accordance with s47(5)(a) and s46 of the *Local Government Act 1993*, Council grant a five year lease with a five option to renew to Andrew Bates Tennis Pty Ltd for the operation and management of the Byron tennis courts being part of the Byron Bay Recreation Grounds.
2. That Council make an application for the consent of the NSW Minister for Local Government for the lease proposed in point one above.
3. That Council authorise the waiving of \$1,758 (inclusive of GST) in rent payable by Andrew Bates Tennis Pty Ltd, being 30 days between 3 January to 1 February 2019, inclusive, during which period the full closure of the Byron tennis courts was required for refurbishment works by Council. (Cameron/Hackett)

Report No. 13.4 **Crown Lands Transition - Additional information R65234, Federal**
File No: I2019/135

- 19-018 Resolved** that Council for Reserve R65234 at Keyes Bridge Federal, apply to the Minister administering the Crown Lands Management Act for a Community classification and Natural Area, Bushland categorisation. (Cameron/Hackett)

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

Report No. 13.7 **Investments - 29 November to 31 December 2018**
File No: I2019/28

- 19-019 Resolved** that the report listing Council's investments and overall cash position as at 31 December 2018 be noted. (Cameron/Hackett)

Report No. 13.10 **Delivery Program 6-monthly Report and 2018/19 Operational Plan**
Second Quarter Report - Q2 - 1 July to 30 December 2018
File No: I2019/65

19-020 Resolved:

1. That Council notes the Delivery Program 6-monthly Report and 2018/19 Operational Plan Second Quarter Report for the period ending 30 December 2018 (Attachment 1 #E2019/2528).
2. That Council adopts the proposed amendments to the Operational Plan 2018/19 outlined in Attachment 2 (#E2019/10091). (Cameron/Hackett)

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Report No. 13.11 Budget Review 1 October 2018 to 31 December 2018
File No: I2019/101

19-021 Resolved:

1. That Council authorises the itemised budget variations as shown in Attachment 2 (#E2019/9717) which include the following results in the 31 December 2018 Quarterly Review of the 2018/2019 Budget:
 - a) General Fund – \$20,000 increase to the Estimated Unrestricted Cash Result
 - b) General Fund - \$835,300 increase in reserves
 - c) Water Fund - \$515,600 increase in reserves
 - d) Sewerage Fund - \$2,149,000 increase in reserves

 2. That Council adopts the revised General Fund Estimated Unrestricted Cash Result of \$1,145,200 for the 2018/2019 financial year as at 31 December 2018. (Cameron/Hackett)
-

Report No. 13.12 Investments - 1 January to 31 January 2019
File No: I2019/159

- 19-022 Resolved** that the report listing Council's investments and overall cash position as at 31 January 2019 be noted. (Cameron/Hackett)
-

Report No. 13.14 2018-2019 Loan Borrowings
File No: I2019/171

19-023 Resolved:

1. That Council authorises the General Fund borrowings of \$7,669,000 for the 2018/2019 financial for the purposes outlined in this report and amends the 2018/2019 Budget Estimates to reflect this resolution.

 2. That following an Expression of Interest process, Council authorises the General Manager to accept loan offer(s) that represent the best financial outcome for Council.

 3. That Council authorises the affixing of the Council Seal to any documents to execute the loan borrowings that are the subject of this report should it be required. (Cameron/Hackett)
-

STAFF REPORTS – SUSTAINABLE ENVIRONMENT AND ECONOMY

Report No. 13.15 Byron Shire Council's Emissions Reporting 2017/18
File No: I2018/2130

- 19-024 Resolved** that Council note the Emissions Report 2017/18. (Cameron/Hackett)
-

Report No. 13.18 Sustainability and Emissions Reduction Projects - Update
File No: I2019/107

- 19-025 Resolved** that Council note the report on key sustainability and emissions reduction projects. (Cameron/Hackett)
-

Report No. 13.22 **Proposal for Naming Maslen Arboretum - Results of Public Exhibition**

File No: I2019/127

19-026 Resolved:

1. That Council adopt the name 'Maslen Arboretum' for the western section of Heritage Park
2. That staff submit an application to the NSW Geographical Names Board to formalise this naming of a place. (Cameron/Hackett)

REPORTS OF COMMITTEES - CORPORATE AND COMMUNITY SERVICES

Report No. 14.1 **Report of the Audit, Risk and Improvement Committee Meeting held on 15 November 2018**

File No: I2019/38

19-027 Resolved that Council notes the minutes of the Audit, Risk and Improvement Committee Meeting held on 15 November 2018. (Cameron/Hackett)

19-028 Resolved that Council adopts the following Committee Recommendation:

Report No. 4.1 Audit, Risk and Improvement Committee Constitution Review

File No: I2018/1655

Committee Recommendation 4.1.1

That the Audit, Risk and Improvement Committee adopt the updated Constitution (E2018/71315). (Cameron/Hackett)

19-029 Resolved that Council adopts the following Committee Recommendation:

Report No. 4.2 2017/2018 Financial Statements

File No: I2018/2139

Committee Recommendation 4.2.1

That the Audit, Risk and Improvement Committee notes the report on the 2017/2018 Financial Statements and the Draft 2018 Client Service Report received from the NSW Audit Office. (Cameron/Hackett)

19-030 Resolved that Council adopts the following Committee Recommendation:

Report No. 5.1 Fraud and Corruption Control

File No: I2018/1752

Committee Recommendation 5.1.1

That the Audit, Risk and Improvement Advisory Committee:

1. Endorse the Fraud and Corruption Control Policy (E2018/71390) and Strategy (E2018/71426).
2. Recommend that Council place the Fraud and Corruption Control Policy (E2018/71390) on public exhibition for a period of 28 days, and in the event:
 - a) that any submissions are received on the draft policy those submissions be reported back to Council prior to the adoption;

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- b) that no submissions are received the draft policy be adopted.
3. Note the Internal Investigations Procedure. (Cameron/Hackett)

19-031 Resolved that Council adopts the following Committee Recommendation:

Report No. 5.2 Internal Audit Progress Report - November 2018

File No: I2018/1581

Committee Recommendation 5.2.1

That the Audit, Risk and Improvement Advisory Committee:

1. Note the Internal Audit Activity Report – November 2018 (E2018/89644)
2. Endorse the completion of recommendations as per table 1
3. Endorse the revised Internal Audit Plan (Cameron/Hackett)

19-032 Resolved that Council adopts the following Committee Recommendation:

Report No. 5.3 External Audit Progress Report - November 2018

File No: I2018/1582

Committee Recommendation 5.3.1

That the Audit, Risk and Improvement Advisory Committee:

1. Note the progress of Council's External Audit Recommendations
2. Endorses the completion of those noted in Table 1 and items 2, 14 and 18 in Table 2. (Cameron/Hackett)

19-033 Resolved that Council adopts the following Committee Recommendation:

Report No. 5.4 Risk Management Framework

File No: I2018/1754

Committee Recommendation 5.4.1

That the Audit, Risk and Improvement Advisory Committee endorse the Risk Management Framework (E2018/51599, E2018/61724 and E2018/83700). (Cameron/Hackett)

19-034 Resolved that Council adopts the following Committee Recommendation:

Report No. 5.5 Information Security Management System

File No: I2018/1983

Committee Recommendation 5.5.1

That the Audit Risk and Improvement Committee note the update provided in the report on the Information Security Management System. (Cameron/Hackett)

REPORTS OF COMMITTEES – INFRASTRUCTURE SERVICES

Report No. 14.2 Report of the Byron Shire Floodplain Risk Management Committee Meeting held on 29 November 2018
File No: I2019/2

19-035 Resolved that Council note the minutes of the Byron Shire Floodplain Risk Management Committee Meeting held on 29 November 2018. (Cameron/Hackett)

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19-036 Resolved that Council adopt the following Committee Recommendation(s):

Report No. 4.1 North Byron Floodplain Risk Management Study - Update

File No: I2018/1954

Committee Recommendation 4.1.1

1. That the committee note the report.
2. That Council recognise the weakness of service provided by the consulting company which prepared the Flood Study and consider that in future engagements.
3. That the combination of ocean outlets and dredging is considered as another mitigation option (Cameron/Hackett)

Report No. 14.3 Report of the Coastal Estuary Catchment Panel Meeting held on 29 November 2018

File No: I2019/131

19-037 Resolved that Council note the minutes of the Coastal Estuary Catchment Panel Meeting held on 29 November 2018. (Cameron/Hackett)

19-038 Resolved that Council adopt the following Committee and Management Recommendation(s):

Report No. 4.1 Coastal Projects and Update

File No: I2018/2002

Recommendation:

That the Coastal and Estuary Catchment Panel note the Coastal Projects update. Note: Alternative Flowpath Project Updated to be included in next Agenda. (Cameron/Hackett)

19-039 Resolved:

1. That Council does not adopt Committee Recommendation(s) 4.2 as shown in the attachment to this report, but instead adopts the Management Recommendation(s) as follows:
2. That Council continues the current format of the Coastal Estuary Panel and continue to report the recommendations of the Panel to Council for consideration for the remainder of the term of this Council (Cameron/Hackett)

Report No. 14.6 Report of the Local Traffic Committee Meeting held on 29 January 2019

File No: I2019/193

19-040 Resolved that Council note the minutes of the Local Traffic Committee Meeting held on 29 January 2019. (Cameron/Hackett)

19-041 Resolved that Council adopt the following Committee Recommendation(s):

Report No. 6.1 Council Resolution 18-626 - Free Motor Bike Parking in Byron

File No: I2018/2413

Committee Recommendation 6.1.1

That Council endorse modifications to regulatory parking signage and line marking in Byron Bay

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and Wategos Beach area deemed necessary to implement the proposed motorcycle parking identified in Council Resolution 18-626. (Cameron/Hackett)

19-042 Resolved that Council adopt the following Committee Recommendation(s):

Report No. 6.2 Bayshore Drive Roundabout Project - Traffic Management

File No: I2019/48

Committee Recommendation 6.2.1

1. That the signs at Melaleuca Drive remain permanently as No U-Turn until such time as the entrance to Melaleuca Drive and the formation of Ewingsdale Road is upgraded or modified as part of the Ewingsdale Road duplication project.
2. That the No Parking at the entrance to Banksia Drive remain in place until such time as the entrance to Banksia Drive is upgraded or modified as part of the Ewingsdale Road duplication project.
3. That both of these locations are monitored and reviewed as part of the Ewingsdale Road duplication project to ensure the relevancy of the traffic control measures in place as the project progresses.
4. That the businesses with road frontage that has been directly affected by the No Parking on Banksia Drive be notified of the permanency of the arrangement. (Cameron/Hackett)

19-043 Resolved that Council adopt the following Committee Recommendation(s):

Report No. 6.3 Signage requests from Compliance Team - Lighthouse Road and No Name Lane, Byron Bay

File No: I2019/52

Committee Recommendation 6.3.1

That Council install "No Stopping" signs and yellow line marking where considered appropriate in Lighthouse Road and No Name Road Byron Bay to improve road safety. (Cameron/Hackett)

19-044 Resolved that Council note the following Committee Recommendation(s):

Report No. 6.4 Byron Bay Transport Interchange - Regulatory Signage

File No: I2019/83

Recommendation:

That this item be deferred to an extraordinary Local Traffic Committee meeting on 8 February 2019. (Cameron/Hackett)

19-045 Resolved that Council note the following Committee Recommendation(s):

Report No. 6.5 Railway Hotel and Lawson Street South Carparks - Regulatory Signage

File No: I2019/86

Recommendation:

That this Item be deferred to an extraordinary Local Traffic Committee meeting on 8 February 2019. (Cameron/Hackett)

19-046 Resolved that Council adopt the following Committee Recommendation(s):

Report No. 7.1 Adoption of Constitution for Local Traffic Committee

File No: I2019/50

Committee Recommendation 7.1.1

That Council adopt the Constitution for the Local Traffic Committee as amended. (Cameron/Hackett)

CONFIDENTIAL REPORTS - INFRASTRUCTURE SERVICES

Report No. 16.1 **CONFIDENTIAL - Tender 2018-0058 Railway Park Upgrade**
File No: I2019/60

19-047 Resolved:

1. That Council award Tender Railway Park Construction Works to Greenwood Landscape Management.
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. (Cameron/Hackett)

Report No. 16.2 **CONFIDENTIAL - Supply and Delivery of Modular Bridge Componentry (Tender 2019-0001)**
File No: I2019/130

19-048 Resolved:

1. That Council appoint InQuik Pty Ltd and Waeger Group to the panel contract for Tender 2019-0001 - Supply and Delivery of Modular Bridge Componentry.
2. That Council makes public its decision, including the name and amount of the successful tenderers, in accordance with Clause 179(b) of the Local Government (General) Regulation 2005. (Cameron/Hackett)

PROCEDURAL MOTION

19-049 Resolved that Council change the order of business to deal with Reports 13.5, 13.13, 13.16, 13.20, 13.21, 13.24, 14.4 next on the Agenda. (Lyon/Hunter)

The motion was put to the vote and declared carried.

STAFF REPORTS – CORPORATE AND COMMUNITY SERVICES

Cr Hackett left the Chambers at 11:30 AM.

Report No. 13.5 **Report of the Public Art Panel meeting 29 November 2018**
File No: I2018/2400

19-050 Resolved that Report No. 13.5 rest on the table. (Lyon/Ndiaye)

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

PROCEDURAL MOTION

- 19-051 Resolved** that Council change the order of business to deal with Report 13.16 next on the Agenda. (Lyon/Ndiaye)

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

Cr Hackett returned to the Chambers at 11:33 AM.

STAFF REPORTS – SUSTAINABLE ENVIRONMENT AND ECONOMY

Report No. 13.16 Compliance Priorities Program Report - 2018
File No: I2019/93

19-052 Resolved:

1. That Council note the report on the Compliance Priorities Program 2018.
2. That Council adopt the proposed Compliance Priorities Program for 2019 as provided in Attachment 1 (E2018/109234).
3. That the Compliance Priorities Program be presented to the next available SPW for the purposes of discussing the priority list and any associated processes and procedures to comply with Council's Enforcement Policy. (Coorey/Cameron)

The motion was put to the vote and declared carried.

PROCEDURAL MOTION

- 19-053 Resolved** that Report No. 13.5 be lifted from the table. (Lyon/Cameron)

The motion was put to the vote and declared carried.

STAFF REPORTS – CORPORATE AND COMMUNITY SERVICES

Report No. 13.5 Report of the Public Art Panel meeting 29 November 2018
File No: I2018/2400

19-054 Resolved:

1. That Council:
 - I) Notes the report of progress of the Public Art Strategy since its adoption in August 2018.
 - II) Endorses the projects for 2019, being:
 - a) Review the Public Art Guidelines and Criteria considering the updated Public Art Policy, new Public Art Strategy and noting these Guidelines were last reviewed in 2014.

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- b) Review the Public Art Commissioning Agreement/Contract so that it provides an effective control mechanism - eg. separation of concept, design development and design documentation, with clearly defined Council approval/rejection mechanisms at each of these stages. To this end, consider employing the assistance (pro bono or otherwise) of an arts lawyer with expertise in Public Art Commissions to ensure any contract documentation in future is fit for purpose.
 - c) Develop a conservation and maintenance framework for existing Council-owned public artworks across the Shire including listing these as assets of Council on Council's Asset Management System.
 - d) Adopt a moratorium until 1 January 2020 on the undertaking of another major Council led public art commission until a preferred way forward for the unfinished Bayshore Drive installation is resolved and budget allocations and capital works programs for future engagement in the public art forum are confirmed.
2. Approves the new sculpture for Mullumbimby Sculpture Walk, 'Elevate' by Ellen Ferrier and requests the final engineering and construction drawings be circulated to the Panel prior to fabrication and construction.
 3. Notes two resignations from the Public Art Panel from Kellie O'Dempsey and Kelly Reiffer.
(Hackett/Spooner)

The motion was put to the vote and declared carried.

Cr Ndiaye voted against the motion.

PROCEDURAL MOTION

- 19-055 Resolved** that Cr Hackett be granted a one minute extension to her speech. (Coorey/Hunter)

The motion was put to the vote and declared carried.

Report No. 13.13 Bayshore Drive Roundabout Public Art
File No: I2019/163

Moved: that Council:

1. Implements the learnings and improvements to the Public Art process identified in this report via a review of the Public Art Guidelines and Criteria, most importantly the Commissioned Design Agreement/Contract.
2. Defer the resolution of a preferred way forward for the Bayshore Drive Roundabout installation until the May Ordinary Meeting of Council to allow discussion between the commissioned artist, the PAP, professional representatives from the Byron Shire art community (eg. Byron School of Art staff) and Council. These discussions to consider a new contract which looks at completion, redesign or removal of the work now in place, a new timeline and ways to fund the preferred option over time.
3. Notes that due to the delay associated with the above recommendations, work on the inclusion of the Arts into the Cultural Policy as per resolution 18-450, will be deferred until Q2 of 2019/20.
(Hackett/Coorey)

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PROCEDURAL MOTIONS

19-056 Resolved that Cr Hackett be granted a two minute extension to his/her speech. (Lyon/Ndiaye)

The motion was put to the vote and declared carried.

19-057 Resolved that Cr Ndiaye be granted a two minute extension to his/her speech. (Lyon/Hackett)

The motion was put to the vote and declared carried.

AMENDMENT

Moved that Council:

1. Implements the learnings and improvements to the Public Art process identified in this report via a review of the Public Art Guidelines and Criteria, most importantly the Commissioned Design Agreement/Contract.
2. Note the staff comments regarding Bayshore Drive roundabout sculpture and take no further action
3. Notes that due to the delay associated with the above recommendations, work on the inclusion of the Arts into the Cultural Policy as per resolution 18-450, will be deferred until Q2 of 2019/20.
4. Council, in conjunction with local arts organisation, run a workshop or series of workshops to assist local artists in up skilling in the process of workshops to assist local artist in up skilling local artists in the Expression of Interest application process and their ability to meet the selection criteria.
5. That Staff investigate potential ways to increase the weighting of local artists in the selection criteria in future Expression of Interest processes. (Spooner/Hunter)

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

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

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

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

FORESHADOWED MOTION

Moved that Council:

1. Implements the learnings and improvements to the Public Art process identified in this report via a review of the Public Art Guidelines and Criteria.
2. Proceed with Option 1 as set out in the staff report, of allowing the artist to complete the works, if the conditions as detailed in the report are met.
3. Resolves to fund its preferred option accordingly.
4. Notes that due to the priority work associated with implementing the learnings and improvements identified in this report, work on the Arts and Culture Policy as per resolution 18-450, will be deferred until Q2 of 2019/20
5. Council, in conjunction with local arts organisation, run a workshop or series of workshops

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to assist local artists in up skilling in the process of workshops to assist local artist in up skilling local artists in the Expression of Interest application process and their ability to meet the selection criteria.

6. That Staff investigate potential ways to increase the weighting of local artists in the selection criteria in future Expression of Interest processes. (Ndiaye/Cameron)

*The motion was put to the vote and declared tied.
Crs Lyon, Hackett, Spooner and Hunter voted against the motion.*

PROCEDURAL MOTIONS

- 19-058 Resolved** that this matter rest on the table. (Lyon/Cameron)

The motion was put to the vote and declared carried.

The meeting adjourned at 1:15pm for a lunch break and reconvened at 2:07pm.

- 19-059 Resolved** that Report No. 13.13 be lifted from the table. (Lyon/Coorey)

The motion was put to the vote and declared carried.

The Acting Mayor abstained from using his casting vote and declared the motion(Ndiaye/Cameron) lost.

- 19-060 Resolved** that the matter 13.13 be recommitted. (Ndiaye)

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

- 19-061 Resolved** that Council:

1. Implements the learnings and improvements to the Public Art process identified in this report via a review of the Public Art Guidelines and Criteria.
2. Proceed with Option 1 as set out in the staff report, of allowing the artist to complete the works, if the conditions as detailed in the report are met; but subject to the matter being reconsidered by Council before the option is implemented.
3. Resolves to fund costs up to \$2000 from the Public Art Panel budget accordingly.
4. Notes that due to the priority work associated with implementing the learnings and improvements identified in this report, work on the Arts and Culture Policy as per resolution 18-450, will be deferred until Q2 of 2019/20.
5. Council, in conjunction with local arts organisation, run a workshop or series of workshops to assist local artists in up skilling in the Expression of Interest application process and their ability to meet the selection criteria.
6. That staff investigate potential ways to increase the weighting of local artists in the selection criteria in future Expression of Interest processes and bring a report to both the Public Art Panel and Council in relation to this. (Ndiaye/Lyon)

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

STAFF REPORTS – INFRASTRUCTURE SERVICES

Report No. 13.20 **Butler Street Reserve Access During Byron Bay Bypass Construction**
File No: I2019/47

Cr Spooner left the Chamber at 2:21PM in accordance with his earlier declared pecuniary interest in this matter.

19-062 Resolved:

1. That Butler Street Reserve be closed to the public after the 7 July Community Market for a period of 6 months while the section of the Byron Bay Bypass (including the Somerset Street Roundabout and its western and southern legs and the area of works within Butler Street north of the roundabout) is constructed.
2. That lockable steel gates be installed at the entry points to the Reserve to restrict vehicle access during the closure period and during the 'no parking' periods overnight.
3. That staff provide market managers with any information available regarding viability of other potential relocation sites identified by the markets, including planning approvals required.
4. That staff ensure The Cav has all relevant approvals in place to host markets during the closure period, should that be required, and provide details to market managers regarding power and water access, amenities and traffic management plans for the site.
5. That the Butler Street Reserve be made available as a site compound for the Contractor for the duration of the closure and one (1) week after this section is constructed and open to traffic, to allow relocation of the site compound.
6. That staff continue to liaise with market managers to facilitate the return of markets to Butler Street Reserve once relocation of the site compound has occurred. (Lyon/Hunter)

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

Cr Spooner returned to the Chambers at 02:30 PM.

PROCEDURAL MOTION

19-063 Resolved that Council change the order of business to deal with Report 13.19 next on the Agenda. (Lyon)

The motion was put to the vote and declared carried.

STAFF REPORTS – SUSTAINABLE ENVIRONMENT AND ECONOMY

Report No. 13.19 **Reflections Holiday Parks - exhibition of draft Plans of Management for Ferry Reserve and Massy Greene Reserve, Brunswick Heads**
File No: I2019/124

19-064 Resolved that Council:

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1. That Council receives the report from Reflections Holiday Park on the exhibition of the draft Plans of Management for Ferry Reserve and Massy Greene Reserve, Brunswick Heads and the advice that compliance with Resolution 17-184 is achieved from a staff perspective.
2. That in line with Resolution 17-184 , Council makes a submission to Reflections Holiday Parks that requests the Plan of Management for Ferry Reserve be amended such that:
 - a) the northern boundary of the operational area of the Ferry Reserve Holiday Park aligns with the northern side of the existing road formation
 - b) all grassed foreshore area as a consequence of this change is left as a foreshore parkland for shared use with members of the general public and the park's patrons
3. That Council's submission:
 - a) Notes the degradation of the foreshore area and the loss of mature trees and vegetation on Ferry Reserve foreshore and does not support a Plan of Management that will enable intensification of activity in the foreshore area as it further degrades the area
 - b) Notes lack of compliance at Ferry Reserve regarding the regular incursion into foreshore areas by park visitors as noted in photographs and videos provided by residents
 - c) Provides the photographic evidence provided by residents of recent incursions onto the Ferry Reserve foreshores
 - d) Urges Reflections to prioritise the rehabilitation of riparian zones in Ferry Reserve
 - e) Request clear, verifiable actions diagrams, and surveyed maps be incorporated into the Plan of Management that address items 3(a-d) above
4. That Council writes to the relevant Minister to advise them of Council's concerns as per point 3 and advises Reflections of same
5. That any subsequent changes required to the Approval to Operate for Ferry Reserve Holiday Park be considered at the time of renewal or new application. (Coorey/Ndiaye)

The motion was put to the vote and declared carried.

PROCEDURAL MOTION

- 19-065 Resolved** that Cr Coorey be granted a two minute extension to her speech. (Lyon/Ndiaye)

The motion was put to the vote and declared carried.

STAFF REPORTS – INFRASTRUCTURE SERVICES

**Report No. 13.21 Results of the Public Exhibition of the Byron Bay to Suffolk Park
Cycleway Investigation Report**
File No: I2019/125

19-066 Resolved:

1. That the results of the public exhibition of the Byron Bay to Suffolk Park Cycleway Investigation be noted.
2. That the public submissions, which are confidential attachments to the report, be noted and replies provided advising of Council's decision.
3. That Council:

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- a) Proceed with the Proposed Option Concept Design (Option 2B for the northern section and Option 1 for the Central and Southern sections) as the basis for development of the Byron Bay to Suffolk Park Cycleway.
- b) Proceed with Option 2B for the Northern Section, noting that:
 - i) Parking, impact to resident access and safety is carefully considered during the development of the detailed design.
 - ii) Option 4 should continue to be considered as a potential option for additional future works beyond the upgrade of the study corridor.
- c) Consider each of the suggestions submitted as part of the public exhibition process during the development of the detailed design, and implement/include in the design if suitable and feasible.
- d) Undertake consultation with The Byron Bay General Store during the development of the detailed design and further progress of the project.
- e) Endorse the proposed naming of the of the cycleway, as the 'Ben Donohoe Memorial Cycle Way'.
(Spooner/Hunter)

The motion was put to the vote and declared carried.

Report No. 13.24 Parking Options for Teachers and Staff at Byron Bay Public School
File No: I2019/182

19-067 Resolved:

1. That Byron Bay Public School teachers and staff receive a free interim parking permit, upon application, for the school's precinct residential parking scheme area with the purchase of an ePermit.
2. That the Byron Community Primary School teachers and staff receive a free interim parking permit, upon application, for the Tennyson / Massinger Street residential parking scheme area with the purchase of an ePermit.
(Lyon/Spooner)

AMENDMENT

Moved:

1. That Byron Bay Public School teachers and staff receive a free interim parking permit, upon application, for the school's precinct residential parking scheme area with the purchase of an ePermit.
2. That the Byron Community Primary School teachers and staff receive a free interim parking permit, upon application, for the Tennyson / Massinger Street residential parking scheme area with the purchase of an ePermit.
3. Staff living outside the area that work at either primary school be charged at the same rate as a resident of the shire and that both schools be provided with 10 interim permits free of charge that can be allocated to casual workers.
(Ndiaye/Coorey)

The amendment was put to the vote and declared lost.

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

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

COMMITTEE REPORTS – INFRASTRUCTURE SERVICES

Report No. 14.4 **Report of the Water, Waste and Sewer Advisory Committee Meeting held on 31 January 2019**

File No: I2019/160

19-068 **Resolved** that Council note the minutes of the Water, Waste and Sewer Advisory Committee Meeting held on 31 January 2019. (Ndiaye/Lyon)

19-069 **Resolved** that Council does not adopt the following Committee Recommendation(s) 4.1 as detailed in the Report , but instead adopts the Management Recommendation(s) as follows

Report No. 4.1 **Murtagh Wetlands Report Update**

File No: I2019/10

Management Recommendation 4.1.1

1. That Council note the report State and performance of Byron Bay STP Constructed Wetlands and 24 Ha (E2019/4107) and undertake the recommendations of the report.
2. That Council also consider monitoring phosphorus level in the soil of the Wetland area in order to monitor sequestration of phosphorus over future years.
3. That Council note the report Belongil Water Cycle Study, Scoping Brief -BSC E2019/3137 and undertake the recommendations of the report
4. That Council note the report Sandmining drain/track status and impact on Belongil catchment E2019/3138 and undertake the recommendations of the report
5. That Council consider to undertake piezometric monitoring along the track in preparation for in depth hydrological studies to determine the possible role or impact of the mining drain in the upper Belongil catchment as part of an Integrated Belongil Catchment Management Plan.
6. That outcomes of point 5 are reported back to the Waste, Water, and Sewer Committee for consideration (Ndiaye/Lyon)

19-070 **Resolved** that Council adopt the following Recommendation(s):

Report No. 4.2 **Mullumbimby Inflow and Infiltration Update**

File No: I2019/11

Committee Recommendation 4.2.1

That the Committee note the report

(Ndiaye/Lyon)

19-071 **Resolved** that Council adopt the following Committee Recommendation(s):

Report No. 4.3 **Items Requested by Duncan Dey**

File No: I2019/12

Recommendation:

That Council note that the Committee meeting ran over time and this item has been not discussed and have been referred to a meeting of this Committee as the first item in the Agenda. (Ndiaye/Lyon)

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19-072 Resolved that Council adopt the following Committee Recommendation(s):

Report No. 4.4 Update on alternate flow path for treated effluent from West Byron STP

File No: I2019/14

Committee Recommendation 4.4.1

1. That Council consider further options for the Additional Flow Path due to the fact that the one currently being considered (Option 2) cannot be used during moderate to heavy rainfall periods.
2. That the options could include (but not limited to) the creation of biodiversity stewardship sites on private property, seeking contributions from developments to strategic environmental repair in locations confirmed as the highest priority for the catchment, an environmental levy and grant funding. (Ndiaye/Lyon)

19-073 Resolved that Council adopt the following Committee Recommendation(s):

Report No. 4.5 The remediation & rehabilitation of the Myocum Quarry Landfill

File No: I2019/17

Committee Recommendation 4.5.1

That WWSC receive further information on the status and obligations of rehabilitation on Council's quarry and other quarries. (Ndiaye/Lyon)

19-074 Resolved that Council adopt the following Committee Recommendation(s):

Report No. 4.6 Make the Switch Program - Six Month Report

File No: I2019/59

Committee Recommendation 4.6.1

That the Council note the December 2018 - Six Month progress report for the Plastic Free Byron Make the Switch program and communicate successes to key stakeholders. (Ndiaye/Lyon)

19-075 Resolved that Council adopt the following Committee Recommendation(s):

Report No. 4.7 Illegal Dumping and Litter Education and Enforcement Plan

File No: I2019/66

Committee Recommendation 4.7.1

That Council endorse the implementation of the Illegal Dumping and Litter Education and Enforcement Plan 2019. (Ndiaye/Lyon)

The motions were put to the vote and declared carried.

STAFF REPORTS - GENERAL MANAGER

Report No. 13.2 Railway Park rotunda location

File No: I2019/46

19-076 Resolved:

1. That Council relocate the rotunda to the road reserve at Wordsworth St during the Railway Park construction period, unless it can be shown that moving it to Site B as part of the initial stage of construction results in overall cost savings for the project.

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2. That Council nominate the permanent location of the Railway Park rotunda post construction identified as Site B in the report, as the permanent location for the rotunda.
3. That Council undertake an Expression of Interest process for the use of the rotunda by community groups as adopted in the Railway Park Plan of Management. (Spooner/Hackett)

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

Report No. 13.3 **Former Byron hospital project update**
File No: I2019/71

19-077 Resolved:

1. That Council note the work undertaken to date to progress the Byron hospital project.
2. That no decision regarding the governance of the site be made until the terms of the sale contract are known and agreed by council.
3. That Council continue to receive progress updates on the project including:
 - Proposed site uses
 - Financial modelling
 - Detailed governance model implications
 - Proposed lease terms
4. That staff work with NSW Health to negotiate sale conditions that meet the project objectives adopted by Council and submitted to the State Government. (Spooner/Hackett)

The motion was put to the vote and declared carried.

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

Report No. 13.6 **National General Assembly of Local Government 2019**
File No: I2019/3

19-078 Resolved that Council:

1. Authorises two Councillors, Cr Lyon and Cr Ndiaye, to attend the 2019 National General Assembly of Local Government to be held at the National Convention Centre in Canberra from 16 to 19 June 2019 and nominates Cr Ndiaye as the voting delegate.
2. Considers endorsement of any motions for submission to the National General Assembly, at its Ordinary meeting scheduled for Thursday, 28 March 2019, to meet the lodgement deadline with ALGA of Friday, 29 March 2019. (Lyon/Coorey)

The motion was put to the vote and declared carried.

Report No. 13.8 **Section 355 Management Committees - resignations and appointments**

File No: I2019/31

19-079 Resolved:

1. That Council considers a new Councillor appointment to the Lone Goat Gallery Board of Management, and appoints Councillor Lyon.
2. That the resignation of Melissa Tonnet from the South Golden Beach Hall Management Committee be accepted and that a letter of thanks be provided. (Lyon/Coorey)

The motion was put to the vote and declared carried.

Report No. 13.9 **Council Resolutions Quarterly Review - 1 October to 31 December 2018**

File No: I2019/64

19-080 Resolved:

1. That Council notes the information provided in this report on active Council Resolutions in Attachment 1 (#E2019/4388).
2. That Council notes the completed Resolutions in Attachment 2 (#E2019/4390).
3. That future Council Resolutions Quarterly Review be provided with the Council business papers in a revised format that:
 - a) is more condensed
 - b) is in a portrait format
 - c) is text searchable (Coorey/Lyon)

The motion was put to the vote and declared carried.

STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

Report No. 13.17 **Sustainable Agriculture and Agribusiness Project update**

File No: I2019/100

19-081 Resolved:

1. That Council endorse the Byron Shire Agricultural Cluster Group Terms of Reference (Attachment 1 – E2018/90392) with the addition to objective e as follows: e) Work collaboratively within industry, commerce, the wider community and Council on shared interests towards a common goal including the right to farm land responsibly.
2. That the Council members of the Strategic Business Panel be appointed to the Agricultural Cluster Group.
3. That the next meeting of the Group include a wider discussion on the Groups purpose, remit and objectives to inform a review of these to be presented to a subsequent council meeting for final endorsement. (Hunter/Ndiaye)

Cr Hackett left the Chambers at 04:10 PM and returned 04:13 PM.

The motion was put to the vote and declared carried.

STAFF REPORTS - INFRASTRUCTURE SERVICES

Report No. 13.23 **Byron Bay Memorial Recreation Grounds Draft Plan of Management**
File No: I2019/136

19-082 Resolved:

1. That Staff arrange for the public exhibition of the draft Plan of Management, in accordance with the requirements of the *Local Government Act 1993*; including arrangements for an independently chaired Public Hearing at the completion of the exhibition period.
2. That a post-exhibition report be brought to Council, including conclusions and recommendations from the Public Hearing, to allow the adoption of a Plan of Management for the Byron Bay Memorial Recreation Grounds. (Ndiaye/Coorey)

The motion was put to the vote and declared carried.

REPORTS OF COMMITTEES - INFRASTRUCTURE SERVICES

Report No. 14.5 **Report of the Local Traffic Committee Meeting held on 8 February 2019**
File No: I2019/179

19-083 Resolved that Council note the minutes of the Local Traffic Committee Meeting held on 8 February 2019. (Cameron/Lyon)

19-084 Resolved that Council adopt the following Committee Recommendation(s):

Report No. 6.1 **Byron Bay Transport Interchange - Regulatory Signage**
File No: I2019/121

Committee Recommendation 6.1.1

That Council adopt the Line Marking and Signage Plan for the Byron Bay Transport Interchange as per Attachment 1 (#E2019/5213). (Cameron/Lyon)

19-085 Resolved that Council adopt the following Committee Recommendation(s):

Report No. 6.2 **Railway Hotel and Lawson Street South Carparks - Regulatory Signage**
File No: I2019/122

Committee Recommendation 6.2.1

That Council adopt the Line Marking and Signage Plan for the Railway Hotel and Lawson Street South Carparks as per Attachment 1 (#E2019/9818) (Cameron/Lyon)

The motion was put to the vote and declared carried.

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FORESHADOWED MOTION

Moved that Council:

1. Note the minutes of Local Traffic Committee of 8 February 2019 and particularly:
 - a) Concerns 'relating to pedestrian safety at shared crossing' raised by the Member for Ballina.
 - b) RMS request that 'Council investigate other opportunities to improve connectivity and safety'
 - c) Committee comments that 'acknowledges that due to site constraints compromises have had to be made with regards to pedestrian share path crossing points and path way and vehicle conflict arrangements'.
2. Note the submissions period for the Office of Environment and Heritage only closed on 20 February 2019 and these submissions need to be properly considered prior to finalisation of the design.
3. Write to the NSW Premier and NSW Minister for Transport to advise of the constraints of the current location and design that compromises pedestrian safety with a request that TFNSW reconsider the design of the interchange that is consistent with the Byron Town Centre Masterplan principles of supporting pedestrian movement and safety as the top priority.
4. Provide copies of the letter in point 3 to Ben Franklin and Hon. Tamara Smith, MP for Ballina.
5. Not support the Management intention to seek extension of the project area 'within TFNSW land'.
(Cameron/Coorey)

PROCEDURAL MOTIONS

19-086 Resolved that the motion be put. (Spooner)

*The motion was put to the vote and declared carried.
Crs Coorey, Ndiaye, Cameron voted against the motion.*

*The motion was put to the vote and declared tied.
Crs Lyon, Hackett, Spooner and Hunter voted against the motion.
The Acting Mayor abstained from using his casting vote and declared the motion lost.*

19-087 Resolved that the item be recommitted. (Ndiaye)

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

Moved that Council:

1. Note the minutes of Local Traffic Committee of 8 February 2019 and particularly:
 - a) Concerns 'relating to pedestrian safety at shared crossing' raised by the Member for Ballina.
 - b) RMS request that 'Council investigate other opportunities to improve connectivity and safety'
 - c) Committee comments that 'acknowledges that due to site constraints compromises have had to be made with regards to pedestrian share path crossing points and path way and vehicle conflict arrangements'.

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2. Note the submissions period for the Office of Environment and Heritage only closed on 20 February 2019 and these submissions need to be properly considered prior to finalisation of the design.
3. Write to the NSW Premier and NSW Minister for Transport to advise of the constraints of the current location and design that compromises pedestrian safety with a request that TFNSW reconsider the design of the interchange so that it is consistent with the Byron Town Centre Masterplan principles of supporting pedestrian movement and safety as a top priority.
4. Provide copies of the letter in point 3 to Ben Franklin and Hon. Tamara Smith, MP for Ballina.
5. Not support the Management intention to seek extension of the project area 'within TFNSW land'.
(Cameron/Martin)

AMENDMENT

Moved that Council:

1. Note the minutes of Local Traffic Committee of 8 February 2019 and particularly:
 - a) Concerns 'relating to pedestrian safety at shared crossing' raised by the Member for Ballina.
 - b) RMS request that 'Council investigate other opportunities to improve connectivity and safety'
 - c) Committee comments that 'acknowledges that due to site constraints compromises have had to be made with regards to pedestrian share path crossing points and path way and vehicle conflict arrangements'.
2. Note the submissions period for the Office of Environment and Heritage only closed on 20 February 2019 and these submissions need to be properly considered prior to finalisation of the design.
3. Write to the NSW Premier and NSW Minister for Transport to advise of the constraints of the current location and design that compromises pedestrian safety with a request that TFNSW reconsider the design of the interchange so that it is consistent with the Byron Town Centre Masterplan principles of supporting pedestrian movement and safety as a top priority.
4. Provide copies of the letter in point 3 to Ben Franklin and Hon. Tamara Smith, MP for Ballina.
(Ndiaye/Coorey)

The amendment (Ndiaye/Coorey) was put to the vote and declared tied.

Crs Martin, Cameron, Hackett and Spooner voted against the amendment.

The Acting Mayor abstained from using his casting vote and declared the amendment lost.

The motion (Cameron/Martin) was put to the vote and declared lost.

Crs Ndiaye, Lyon, Hackett, Spooner and Hunter voted against the motion.

