



Byron Shire Council



Minutes

Ordinary Meeting

Thursday, 28 March 2019

BYRON SHIRE COUNCIL

Ordinary Meeting Minutes
28 March 2019

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MINUTES OF THE BYRON SHIRE COUNCIL ORDINARY MEETING HELD ON THURSDAY, 28 MARCH 2019 COMMENCING AT 9.05AM AND CONCLUDING AT 1.47PM

I2019/430

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)
Michael Matthews (Manager Open Space and Resource Recovery) Item 9.4, 13.3
Annie Lewis (Media and Communications Coordinator) Item 9.1
Rob Van Iersel (Major Projects Planner) Item 9.3
James Flockton (Flood and Drainage Engineer) Item 13.11
Chloe Dowsett (Coastal and Biodiversity Coordinator) Item 13.11
Mila Jones (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:

9.4 Security Cameras on Council Road Reserve in Grays Lane

Debra Conomy (Byron Naturists) and Matthew O'Reilly (CABS) addressed Council in favour of the recommendation.

Dorset Campbell-Ross (Tyagarah Community Association) addressed Council against the recommendation.

9.6 Draft Charter of Human Rights and Responsibilities

John Anderson addressed Council against the recommendation.

13.7 Crown Lands Transition – Additional Information Various Reserves

Matthew O'Reilly (CABS) addressed Council against the recommendation.

Submission No. 1 Subcranial denial algorithms

John Anderson made a submission to Council regarding Councillors not paying attention to reality due to an algorithm of denial.

Question No. 1 Compliance Matters

John Anderson asked the following question:

Will the compliance section of Council, consistently with transparency and with the public right to information (whether or not enshrined in a formal declaration), assist the elected Council to

properly fulfil its function by providing the next meeting of the so-called Strategic Planning Workshop with the following information, prior to releasing same to the public:

1. A breakdown of the tidal wave of 819 complaints about illegal development made by the public last year into applicable categories such as alleged environmental damage, excessive construction, non-compliant construction, etc.
2. A breakdown of what proportion and type of complaints were dealt with by infringement notices, stop-work orders, prosecution, demolition or remediation orders
3. A breakdown of what proportion of the 700 plus complains staid to be 'completed' were dealt with by taking no action, by ensuring compliance, by the issue of a cation or by counselling, or by commencing civil or criminal proceedings as per clause 4.14 of the Enforcement Policy (which incidentally doesn't mention demolition as an option)?

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

Question No. 2 Illegal Development

Duncan Dey asked the following question:

Councillors, could you please seek legal advice on the following question:

"Is it true that Council cannot accept a DA for a use of a building that Council knows is illegal (e.g. built without any approvals obtained or even sought) and, if so, why does Council encourage developers with illegal buildings to lodge DA's seeking retrospective development consent?"

Legal Counsel provided the following response:

The Environmental Planning and Assessment Act (EP&A Act) provides that one can make a development application for anything even, for example, if the application relates to something that might be prohibited development - an application can still be made. Council staff do not have the ability to reject the application even though staff may know it is something that can't be approved. The application can still be made.

The spirit of the EP&A Act and indeed the enforcement policy is to allow people the opportunity to regularise development or a use before enforcement action is undertaken. That's both in the Act and in the enforcement policy.

The Acting Mayor further asked:

So would it be fair to say that Council isn't the one encouraging people to build first and permit later, it's actually the legislation that's doing it?

Legal Counsel responded:

And indeed Mayor, Council is currently very active in trying to get the message out that people should not do the action first and then ask for forgiveness.

Cr Cameron then asked:

Is there some distinction between the terms that have been used here i.e. "prohibited", "unlawful", the term that Mr Dey used in his presentation was "illegal". Are these all the same thing or do they have distinct meanings in planning law?

Legal Counsel responded:

In planning law, in relation to development control, the better word is perhaps “unauthorised” in that the action or whatever it is does not carry the authority of the development consent. So the word, as I understand it, when those phrases are used, they’re not used to suggest anything other than “unauthorised”. That’s the appropriate word. When I hear “illegal” or whatever, I take that as to mean “unauthorised” unless it’s very clear that something else is meant. Indeed “prohibited” is a land use table term, but again if something were to be prohibited and there was an action taken in that regard, I would still regard it as being unauthorised in terms of the enforcement process.

The meeting adjourned at 9.51am and reconvened at 10.20am.

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 13.5. The nature of the interest being that that his employer, Byron Bay Community Association, is the licence holder. 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

19-101 Resolved that the minutes of the following meetings be confirmed:

- Byron Shire Reserve Trust Committee held 28 February 2019
- Ordinary Meeting held 28 February 2019 (Lyon/Ndiaye)

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. 13.3 Lease to AFL Queensland

Report No. 13.4 Lease to the Bangalow Community Children's Centre Inc

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- Report No. 13.6 Byron Shire Council purchase from Health Administration Corporation of Lot 1 in Deposited Plan 847910 former Byron District Hospital site. Classification of Lot 1 in Deposited Plan 847910 former Byron District Hospital site.
- Report No. 13.7 Crown Lands Transition - Additional Information Various Reserves

Infrastructure Services

- Report No. 13.11 Clarkes Beach Stormwater Gully Remediation and Midden Protection - Update on the Project and Change of Scope

The remaining Recommendations and Committee Recommendation were adopted as a whole, being moved by Cr Lyon and seconded by Cr Ndiaye. Each recommendation is recorded with a separate resolution number commencing at Resolution No. 19-102 and concluding with Resolution No. 19-127.

Cr Spooner left the chamber at 10.25am due to his earlier declared pecuniary interest in Report No 13.5 and returned at 10.26am.

SUBMISSIONS AND GRANTS

- Report No. 11.1** **Byron Shire Council Submissions and Grants as at 28 February 2019**
File No: I2019/254

- 19-102 Resolved** that Council notes the report and attachment (#E2019/17068) for the Byron Shire Council Submissions and Grants as at 28 February 2019. (Lyon/Ndiaye)

STAFF REPORTS – GENERAL MANAGER

- Report No. 13.1** **Adoption of a Code of Meeting Practice**
File No: I2019/23

19-103 Resolved:

1. That Council note that the Code of Meeting Practice (E2019/2001) incorporates the mandatory (as well as some of the non-mandatory provisions) of the Model Code of Meeting Practice for Local Councils in NSW prescribed on 14 December 2018
2. That Council endorse the Code of Meeting Practice and place it on public exhibition for a period of 28 days and invite submissions for a period of 42 days (those periods running concurrently) and that;
 - a) Should no submissions be received the Code of Meeting Practice be adopted, or
 - b) Should any submissions be received those submissions be reported to Council at its 27 June 2019 Ordinary Meeting. (Lyon/Ndiaye)

-
- Report No. 13.2** **Adoption of a Code of Conduct**
File No: I2018/2336

19-104 Resolved:

1. That Council note that the Codes of Conduct (E2019/857, E2019/858 and E2019/859) incorporate the provisions of the Model Code of Conduct for Local Councils in NSW prescribed on 14 December 2018

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2. That Council endorse each Code of Conduct and place each Code of Conduct on public exhibition for a period of 28 days; and
 - a) That should no submissions be received, each Code of Conduct be adopted.
 - b) That should any submissions be received those submissions be reported to Council.
3. That Council endorse the Procedures for the Administration of the Codes of Conduct.

(Lyon/Ndiaye)

Report No. 13.5 **Licence to Byron Bay Community Association for occupation of the Byron Community Cabin**
File No: I2019/202

In accordance with his earlier declared pecuniary interest in this matter, Cr Spooner left the Chamber at 10.25am and returned following the vote at 10.26am.

19-105 Resolved:

1. That Council, authorise the General Manager, to negotiate licence with the Byron Bay Community Association Incorporated over the Byron Community Cabin located on part of folio 444/28/758207 on the following terms:
 - a) Term one (1) year;
 - b) Purpose of a community hall and associated homeless shower access subject to a strict booking system;
 - c) Annual rent set at the value of minimum Crown rent as determined by clause 38 of the *Crown Land Management Regulations 2017* (NSW);
 - d) All licence preparation costs be met by the Licensee;
 - e) The Licensee to pay outgoings including electricity, phone, water and contents insurance costs;
 - f) No alcohol or illicit drugs to be taken on or consumed within the licensed and surrounding areas; and
 - g) The Licensor to pay outgoings including, but not limited to, the value of general land rates (if payable), building insurance, security, pest inspections and fire safety compliance costs.
2. That Council authorise the publication of the proposed grant of a one (1) year licence to the Byron Bay Community Association Incorporated for a period of 28 days seeking public comment.
3. That in the event no submissions are received, that Council delegate to the General Manager the authority to enter into a licence referred to in 1 above.
4. That if submissions are received that a new report be brought back to Council at its April 2019 meeting.

(Lyon/Ndiaye)

Cr Spooner was not present for the vote.

Report No. 13.8 **Emergency Dashboard**
File No: I2019/387

- 19-106 Resolved** that Council note that the development of an Emergency Dashboard website be placed on hold pending a decision from Open Cities as to whether it will offer this service to Council as part of its existing contract.

(Lyon/Ndiaye)

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES**Report No. 13.9 Investments - 1 February to 28 February 2019****File No:** I2019/294

- 19-107 Resolved** that the report listing Council's investments and overall cash position as at 28 February 2019 be noted. (Lyon/Ndiaye)
-

Report No. 13.10 Items from the Audit, Risk and Improvement Committee scheduled for**File No:** I2019/269**19-108 Resolved:**

1. That Council notes that a quorum was not achieved for the Audit, Risk and Improvement Committee meeting on 14 February and therefore reports are presented directly to Council for consideration.
2. That with respect to Report No. 4.12018 Community Survey, Council notes the 2018 Community Survey Report.
3. That with respect to Report No. 4.2 Credit Card audit, Council:
 - a) Notes the status of the Credit Card reforms as announced by the NSW Government in November 2018
 - b) Notes that the NSW Auditor General will undertake an audit of Council's Credit Card processes (as outlined in its external audit plan)
 - c) Receives further updates as the audit progresses
4. That with respect to Report No. 5.1 Update on IT actions, Council resolves:
 - a) That pursuant to Section 10A(2)(f) of the Local Government Act, 1993 resolves to move into Confidential Session to discuss the report Update on IT actions.
 - b) That the reasons for closing the meeting to the public to consider this item be that the report contains: details of systems and/or arrangements that have been implemented to protect council, councillors, staff and Council property
 - c) 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 exposes information security risks and vulnerabilities that could assist threats in the environment to expose Council data and systems to those without authorisation
5. That with respect to Report No 5.1 Update on IT actions, Council:
 - a) Notes the update provided in the report on IT risk related activities
 - b) Records actions as 'closed' where management has addressed the issue.
6. That with respect to Report No. 5.2 2018 End of Year Audit Management Letter, Council resolves:
 - a) That pursuant to Section 10A(2)(f) of the Local Government Act, 1993, Council resolve to move into Confidential Session to discuss the report 2018 End of Year Audit Management Letter.
 - b) That the reasons for closing the meeting to the public to consider this item be that the report contains: details of systems and/or arrangements that have been implemented to protect council, councillors, staff and Council property
 - c) That on balance it is considered that receipt and discussion of the matter in open Council would be contrary to the public interest, as: the report contains details of

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systems and/or arrangements that have been implemented to protect Council, Councillors, Staff and Council Property

7. That with respect to Report No. 5.2 2018 End of Year Audit Management Letter, Council notes the comments provided by Management in response to matters raised in the 2018 End of Year Audit Management Letter.
8. That with respect to Report No. 5.3 Audit progress report - January 2019, Council resolves:
 - a) That pursuant to Section 10A(2)(f) of the Local Government Act, 1993, Council resolves to move into Confidential Session to discuss the report Internal Activity & Progress Report - November 2018.
 - b) That the reasons for closing the meeting to the public to consider this item be that the report contains: details of systems and/or arrangements that have been implemented to protect council, councillors, staff and Council property
 - c) 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 would expose details of systems and/or arrangements that have been implemented to protect council, councillors, staff and Council property.
9. That with respect to Report No. 5.3 Audit progress report - January 2019, Council:
 - a) Notes the Internal Audit Activity Report – February 2019
 - b) Endorses the completion of recommendations as per Table 1 and Table 2
10. That with respect to Report No. 5.4 2018/2019 External Audit Engagement Plan, Council resolves:
 - a) That pursuant to Section 10A(2)(d)i of the Local Government Act, 1993, Council resolves to move into Confidential Session to discuss the report 2018/2019 External Audit Engagement Plan.
 - b) That the reasons for closing the meeting to the public to consider this item be that the report contains: commercial information of a confidential nature that would, if disclosed prejudice the commercial position of the person who supplied it
 - c) 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 has the potential to prejudice the commercial position of the contracted auditor Thomas Noble and Russell, undertaking the audit on behalf of the Audit Office of New South Wales and disclosure request by the Audit Office of New South Wales
11. That with respect to Report No. 5.4 2018/2019 External Audit Engagement Plan, Council:
 - a) Notes the External Audit Engagement Plan prepared by the Audit Office of New South Wales for the year ended 30 June 2019 as outlined in Attachment 1 (#E2019/9292).
 - b) That the report and Attachment 1 of the closed part of the meeting remain confidential.
12. That with respect to Report No. 5.5 Internal Audit Plan update - Cash Management Audit, Council resolves:
 - a) That pursuant to Section 10A(2)(f) of the Local Government Act, 1993, Council resolves to move into Confidential Session to discuss the report Internal Audit Plan update - Cash Management Audit.
 - b) That the reasons for closing the meeting to the public to consider this item be that the report contains: details of systems and/or arrangements that have been implemented to protect council, councillors, staff and Council property
 - c) 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 contains details of systems and/or arrangements that have been implemented to protect council, councillors, staff and council property.

13. That with respect to Report No. 5.5 Internal Audit Plan update - Cash Management Audit, Council notes the report and attached Terms of Reference (E2019/8478). (Lyon/Ndiaye)
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STAFF REPORTS - INFRASTRUCTURE SERVICES

Report No. 13.12 **Byron Bay Township Open Space Service Review 2019**
File No: I2019/374

19-109 Resolved:

1. That Council note the Byron Bay Township Open Space Service Review 2019 (E2019/18505)
 2. That Staff will arrange a briefing to the Masterplan Guidance Group on the Service Review and outcomes including actions moving forward. (Lyon/Ndiaye)
-

Report No. 13.13 **Draft Plan of Management Suffolk Park Recreation Grounds**
File No: I2019/399

19-110 Resolved:

1. That Council adopt the Draft Plan of Management Suffolk Park Recreation Grounds (#E2019/18823) for public exhibition, and that the draft Plan of Management be placed on public exhibition, in accordance with the requirements of the *Local Government Act 1993*.
 2. That a post-exhibition report be brought to Council, including consideration of and recommendations on any submissions received during the exhibition period. (Lyon/Ndiaye)
-

REPORTS OF COMMITTEES - CORPORATE AND COMMUNITY SERVICES

Report No. 14.1 **Report of the Finance Advisory Committee Meeting held on 14 February 2019**
File No: I2019/215

- 19-111 Resolved** that Council notes the minutes of the Finance Advisory Committee Meeting held on 14 February 2019. (Lyon/Ndiaye)

- 19-112 Resolved** that Council adopts the following Committee Recommendation:

Report No. 4.1 Quarterly Update - Implementation of Special Rate Variation
File No: I2019/119

Committee Recommendation 4.1.1

That the Finance Advisory Committee notes the quarterly update on the Special Rate Variation Implementation as at 31 December 2018. (Lyon/Ndiaye)

19-113 Resolved that Council adopts the following Committee Recommendation:

Report No. 4.2 Long Term Financial Plan 2018-2028 Update

File No: I2019/157

Committee Recommendation 4.2.1

That the Finance Advisory Committee notes the further update provided in respect of the 2018-2028 Long Term Financial Plan. (Lyon/Ndiaye)

19-114 Resolved that Council adopts the following Committee and Management Recommendation:

Report No. 4.3 Budget Review - 1 October 2018 to 31 December 2018

File No: I2019/162

Committee Recommendation 4.3.1

That the Finance Advisory Committee recommends to Council:

1. That Council notes that 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

were adopted by Council at its Ordinary Meeting held on 28 February 2019.

2. That Council notes that the revised General Fund Estimated Unrestricted Cash Result of \$1,145,200 for the 2018/2019 financial year as at 31 December 2018 was authorised by Council at its Ordinary Meeting held on 28 February 2019. (Lyon/Ndiaye)

REPORTS OF COMMITTEES - SUSTAINABLE ENVIRONMENT AND ECONOMY

Report No. 14.2 Report of the Biodiversity Advisory Committee Meeting held on 11 February 2019

File No: I2019/217

19-115 Resolved that Council note the minutes of the Biodiversity Advisory Committee Meeting held on 11 February 2019. (Lyon/Ndiaye)

19-116 Resolved that Council adopt the following Committee Recommendation

Report No. 4.2 Flying Fox Project Reference Group

File No: I2019/5

Committee Recommendation 4.2.1

That the Biodiversity Advisory Committee:

- 1. Note the outcomes of the two meetings held on 2 October 2018 and 27 November 2018.
- 2. Recommend to Council that the amended Constitution of the Flying Fox Project Reference

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Group (Attachment 4 - E2018/109946) be adopted.

3. Recommend to Council that the Councillor representative not be replaced on the Flying Fox Project Reference Group as it reports to the Biodiversity Advisory Committee on which there are 3 nominated Councillors. (Lyon/Ndiaye)

19-117 Resolved that Council adopt the following Committee Recommendation:

Report No. 4.5 2019 Meeting dates

File No: I2019/42

Committee Recommendation 4.5.1

That the Biodiversity Advisory Committee:

1. Note the 2019 meeting dates, and include two additional field trips in between the scheduled dates.
2. Amend the June meeting date to be Monday 17 June in lieu of Monday 10 June 2019.
3. Extraordinary meetings will be called when required.
4. Future agenda items and field trips to include: fire and biodiversity, wildlife corridors, flying foxes. (Lyon/Ndiaye)

19-118 Resolved that Council adopt the following Committee Recommendations:

Report No. 4.6 Submissions Report on the draft Pest Animal Management Plan

File No: I2019/58

Committee Recommendation 4.6.1

That the Biodiversity Advisory Committee recommend that Council:

1. Note the submissions received during the public exhibition period (9 August to 21 September 2018), issues raised and staff comments.
2. Adopt the Pest Animal Management Plan (Attachment 2- E2018/108387) as amended following public exhibition. (Lyon/Ndiaye)

19-119 Resolved that Council adopt the following Committee Recommendations:

Integrated Pest Management Strategy - mapping and revised timeframes for project delivery

Committee Recommendation 4.4.1

That the Biodiversity Committee:

1. Note the report and update on delivery of the project key milestones.
2. Recommend to Council to endorse in principle the IPM Strategy Communications Plan (Attachment 5 – E2018/115375).
3. Review the Draft IPM exclusion and minimisation mapping, Draft Pesticide Use Decision Tree and provide feedback by 12 March 2019. (Lyon/Ndiaye)

REPORTS OF COMMITTEES - INFRASTRUCTURE SERVICES

Report No. 14.3 Report of the Byron Shire Floodplain Risk Management Committee Meeting held on 19 February 2019

File No: I2019/375

19-120 Resolved that Council note the minutes of the Byron Shire Floodplain Risk Management Committee Meeting held on 19 February 2019. (Lyon/Ndiaye)

19-121 Resolved that Council adopt the following Committee Recommendation(s):

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

File No: I2019/174

Committee Recommendation 4.1.1

1. That Council approve the calibration results provided in attachment 1 (E2019/10202).
2. That Council ask WMA Water to articulate as best they can within their final report, the anomalies between modelled, recorded, and surveyed flood levels at Federation Bridge for 2012 and 2017
3. That Council deem the North Byron Flood Model as fit for the purpose of preparing the Draft Floodplain Risk Management Study.
4. That Council recognise the likely need for more than 2 further committee meetings as scheduled for 2019.
5. That Council recognise that a grant of \$250,000 was announced on the weekend for a Flood Warning Network and that the project should be completed this year. (Lyon/Ndiaye)

Report No. 14.4 Report of the Transport and Infrastructure Advisory Committee Meeting held on 8 March 2019

File No: I2019/386

19-122 Resolved that Council note the minutes of the Transport and Infrastructure Advisory Committee Meeting held on 8 March 2019. (Lyon/Ndiaye)

19-123 Resolved that Council adopt the following Committee Recommendation(s):

Report No. 4.1 RMS Active Transport Grant Applications for 2019/20

File No: I2018/2409

Committee Recommendation 4.1.1

That the grant applications for 2019/20 for the RMS Active Transport grant program be noted. (Lyon/Ndiaye)

19-124 Resolved that Council adopt the following Committee Recommendation(s):

Report No. 4.2 Status Update - Bike Plan and PAMP

File No: I2019/19

Committee Recommendation 4.2.1

1. That the Committee note the status update on the development of the Bike Strategy and Action Plan (Bike Plan) and Pedestrian Access and Mobility Plan (PAMP).
2. That Option 2 is endorsed for the target completion dates for both Plans, as per the Updated Delivery Schedule (Option 2). (Lyon/Ndiaye)

19-125 Resolved that Council adopt the following Committee Recommendation(s):

Report No. 4.3 Roadside Barrier Audit and Condition Assessment

File No: I2019/35

Committee Recommendation 4.3.1

1. That the Committee note the report;
2. That the Committee note the progressive renewal of roadside barriers is currently unfunded and that urgent repairs are funded from the annual road maintenance budget;
3. The Council consider the potential allocation of funding to support a progressive and long term road side barrier renewal program. (Lyon/Ndiaye)

19-126 Resolved that Council adopt the following Committee Recommendation(s):

Report No. 4.4 Buildings Asset Management Plan

File No: I2019/55

Committee Recommendation 4.4.1

That the Committee support the ongoing development of the Buildings Asset Management Plan and the associated community consultation and engagement plan. (Lyon/Ndiaye)

19-127 Resolved that Council adopt the following Committee Recommendation(s):

Report No. 4.5 Development of a Shire-wide Transport Strategy

File No: I2019/80

Committee Recommendation 4.5.1

1. That the Council note the following sections including amendments of a Shire-wide Transport Strategy:
 - a) Scope and context
 - b) Vision
 - c) Principles
 - d) Issues and challenges
2. That Council note the formation of a Transport Strategy Working group under the guidance of TIAC:
 - a) To develop a RFQ for the engagement of a specialist consultant to undertake the

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- preparation of the Shire-wide Transport Strategy
- b) To consider the method of consultation
 - c) To meet as frequently as required
- (Lyon/Ndiaye)
-

PROCEDURAL MOTION

- 19-128 Resolved** that Council change the order of business to deal with items 9.4, 9.6 and 13.7 next on the Agenda. (Lyon/Ndiaye)

The motion was put to the vote and declared carried.

MAYORAL MINUTE

There was no Mayoral Minute.

NOTICES OF MOTION

Notice of Motion No. 9.4 Security Cameras on Council Road Reserve in Grays Lane
File No: I2019/396

19-129 Resolved:

1. That Council install surveillance cameras in the Council managed road reserve along Grays Lane in order to record traffic movements and vehicle registrations to assist in the overall management of the inappropriate behaviour in and around the Tyagarah beach and reserve
2. That Council proceed installing cameras and associated signage on Crown land where needed and appropriate
3. That Council not install surveillance cameras on or in the Tyagarah Nature Reserve until such time as council receives owner's consent for such action
4. That Council allocate up to \$15,000 to support life guards at Tyagarah Beach during the Easter holiday period. (Hunter/Coorey)

PROCEDURAL MOTION

- 19-130 Resolved** that Cr Hackett be granted a two minute extension to her speech. (Lyon/Coorey)

The motion was put to the vote and declared carried.

AMENDMENT

Moved: That prior to Council undertaking the actions listed in 1-3 below it undertakes a 12 month trial of 'No Clothes Optional (Nude) Bathing' at Tyagarah Beach. This trial to be reviewed in 12 months' time.

1. That Council install surveillance cameras in the Council managed road reserve along Grays Lane in order to record traffic movements and vehicle registrations to assist in the overall management of the inappropriate behaviour in and around the Tyagarah beach and reserve

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2. That Council proceed installing cameras and associated signage on Crown land where needed and appropriate
3. That Council not install surveillance cameras on or in the Tyagarah Nature Reserve until such time as council receives owner's consent for such action (Spooner/Hackett)

PROCEDURAL MOTIONS

19-131 Resolved that Cr Ndiaye be granted a two minute extension to her speech. (Cameron/Martin)

The motion was put to the vote and declared carried.

19-132 Resolved that Cr Coorey be granted a two minute extension to her speech. (Cameron/Ndiaye)

The motion was put to the vote and declared carried.

The amendment was put to the vote and declared lost.

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

The motion was put to the vote and declared carried.

Crs Lyon, Hackett and Spooner voted against the motion.

Notice of Motion No. 9.6 Draft Charter of Human Rights and Responsibilities

File No: I2019/402

19-133 Resolved that Council support the *Charter of Human Rights and Responsibilities - Byron Shire* and implement its principles consistently with Council's powers and responsibilities and with current laws. (Lyon/Ndiaye)

The motion was put to the vote and declared carried.

Cr Hunter voted against the motion.

STAFF REPORTS – GENERAL MANAGER

Report No. 13.7 Crown Lands Transition - Additional Information Various Reserves

File No: I2019/290

19-134 Resolved that for the following Crown Reserves, Council resolve to apply to the Minister administering the Crown Lands Management Act for:

- a) Sportsfield category for Reserve R78676;
- b) General Community Use category for Reserves R73711;
- c) Natural Area category for Reserve R97604;
- d) Operational Land classification for part of Reserve R97066 (small part on which the Suffolk Park Caravan Park operates) and Community Land classification for the balance of the reserve.
- e) Recommended classification of Reserve 97139 be further considered at an SPW. (Cameron/Ndiaye)

The motion was put to the vote and declared carried.

NOTICES OF MOTION

Notice of Motion No. 9.1 Call for Public Submissions - Design and Functioning of Byron Shire Council Website

File No: I2019/363

19-135 Resolved:

1. That Council call for public submissions relating to the design and functioning of Byron Shire Council's website with an aim to improving the site to enable the community to be better informed and to engage with Council processes.
2. That a report be provided to Council within three months regarding the submissions. (Coorey/Lyon)

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

Notice of Motion No. 9.2 Leg Rope Campaign

File No: I2019/367

19-136 Resolved:

1. That Council, through the Byron Safe Beaches committee and its stakeholder groups, investigate a public safety awareness campaign focusing on inexperienced surfers and surfers that are not using leg ropes.
2. That this matter be included as an item on the committee's first agenda. (Coorey/Hunter)

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

Notice of Motion No. 9.3 West Byron - Alternate Zoning Plan

File No: I2019/384

- 19-137 Resolved** that Council proceed with the preparation of a planning proposal to rezone the West Byron Urban Release Area as per the Alternate Zoning Map in Attachment 1 (#E2019/19623) for submission to the Department of Planning for gateway determination. (Lyon/Ndiaye)

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

Notice of Motion No. 9.5 Climate Emergency Guidance Group changes

File No: I2019/397

19-138 Resolved:

1. That the Climate Emergency Guidance Group, be renamed the Climate Emergency Working Group;
2. That Council endorse the Climate Emergency Working Group as an adjunct group of the

Sustainable Emissions Reduction Advisory Committee (SERAC), subject to the approval of the SERAC. (Coorey/Ndiaye)

The motion was put to the vote and declared carried.

The meeting adjourned for lunch at 12.25pm and reconvened at 1.17pm.

PETITIONS

There were no petitions tabled.

DELEGATES' REPORTS

There were no delegate's reports.

STAFF REPORTS - GENERAL MANAGER

Report No. 13.3 **Lease to AFL Queensland**
File No: I2019/175

19-139 Resolved:

1. That Council, authorise the General Manager, to negotiate a lease to AFL Queensland for 40m² of office and storage space at the Multi-Purpose Facility at the Cavanbah Centre 349 Ewingsdale Road Byron Bay on the following terms:
 - a) Term five (5) years;
 - b) Annual rent to commence at \$14,700 and thereafter increased at each anniversary by CPI all groups Sydney for the term of the lease;
 - c) All lease preparation costs to be met by the Lessee;
 - d) Rent to include the cost of utility outgoings including rates, electricity and water;
 - e) Rent to include free use of a meeting room, when available, up to two hours per month otherwise the standard free for use of indoor facilities must be paid;
 - f) Security call-outs caused by the Lessee to be paid by the Lessee;
 - g) Lessee to have ancillary use of change rooms, toilets and shared office kitchen; and
 - h) Wet weather and urgent indoor access by the Lessee will be dependent on availability of existing bookings.
2. That Council authorise the publication of the proposed grant of a five (5) year lease to AFL Queensland for a period of 28 days seeking public comment.
3. That in the event no submissions are received, that Council delegate to the General Manager the authority to enter into the lease referred to in 1 above.
4. That if submissions are received that a new report be brought back to Council.
(Cameron/Lyon)

The motion was put to the vote and declared carried.

Report No. 13.4 **Lease to the Bangalow Community Children's Centre Inc**
File No: I2019/188

19-140 Resolved:

1. That Council, having considered the submissions made delegate to the General Manager the authority to enter into two (2) successive five (5) year leases with the Bangalow Community Children's Centre Inc for the purpose of early childhood education and care under the following terms:
 - a) annual rent payable by the Lessee commence at the value of minimum Crown rent as determined by clause 38 of the *Crown Land Management Regulations 2018* (NSW) excluding GST;
 - b) the Lessor provide subsidised rent to the value of market rent as calculated at 6% of the land Unimproved Capital Value less rent payable by the Lessee set at \$20,570 per annum excluding GST;
 - c) all lease preparation and registration costs to be met by the Lessee;
 - d) the Lessee to pay all outgoings other than annual general land rates; and
 - e) the Lessee carry out all maintenance, except structural building maintenance, at the Lessee's cost.
2. That, on granting the lease, Council provide for a section 356 of the *Local Government Act 1993* (NSW) financial assistance donation to the value of \$20,570 and provide details of the donation in Council's Operational Plan, Budget and that the donation is provided to the Bangalow Community Children's Centre Inc for subsidised rent.
3. That, on granting the lease, Council authorise the General Manager to affix the Council Seal on the Lease in accordance with clause 400 of the *Local Government (General) Regulations 2005* (NSW).

(Lyon/Spooner)

The motion was put to the vote and declared carried.

Report No. 13.6 **Byron Shire Council purchase from Health Administration Corporation of Lot 1 in Deposited Plan 847910 former Byron District Hospital site. Classification of Lot 1 in Deposited Plan 847910 former Byron District Hospital site.**
File No: I2019/243

19-141 Resolved:

1. That Council supports the purchase of the Old Byron Bay Hospital and continued negotiations around this contract.
2. That Council note the report.
3. That Council invite members of the Old Byron Bay Hospital site steering committee to attend a workshop with Councillors at the April Strategic Planning Workshop to discuss:
 - The financial modelling for the project;
 - The governance model options for the project; and
 - Answer any Councillor questions.

(Spooner/Ndiaye)

BYRON SHIRE COUNCIL

ORDINARY MEETING MINUTES

28 March 2019

PROCEDURAL MOTION

19-142 Resolved that Cr Spooner be granted a two minute extension to his speech. (Lyon/Cameron)

The motion was put to the vote and declared carried.

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

STAFF REPORTS - INFRASTRUCTURE SERVICES

Report No. 13.11 **Clarkes Beach Stormwater Gully Remediation and Midden Protection
- Update on the Project and Change of Scope**

File No: I2019/201

19-143 Resolved that Council request as a priority a workshop with Reflections Holiday Parks and key stakeholders (considering including representatives of Clean & Green Awareness Team; Coastal Estuary Catchment Panel; and Water Places Group) to discuss the change in scope of the project, and re-establish key priorities. (Ndiaye/Lyon)

The motion was put to the vote and declared carried.

There being no further business the meeting concluded at 1.47pm.

I hereby certify that these are the true and correct Minutes of this Meeting
as confirmed at Council's Ordinary Meeting on 18 April 2019.

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Acting Mayor Michael Lyon