



Byron Shire Council



Minutes

Ordinary Meeting

Thursday, 23 May 2019

BYRON SHIRE COUNCIL

Ordinary Meeting Minutes
23 May 2019

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MINUTES OF THE BYRON SHIRE COUNCIL ORDINARY MEETING HELD ON THURSDAY, 23 MAY 2019 COMMENCING AT 9:05AM AND CONCLUDING AT 3:50PM
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12019/747

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

Staff: Mark Arnold (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)
Heather Sills (Minute Taker)
Michael Matthews (Manager Open Space and Resource Recovery) – Item 13.7
Tony Nash (Manager Works) – Item 13.14
Andrew Pearce (Traffic Engineer) - Item 13.15

Consultants: Glen Holdsworth (TPS - Traffic and Parking Systems) – Item 13.15
Daniel Williams (GHD) - Item 15.1

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

PUBLIC ACCESS

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

9.1 Audit of development approved under the State Environmental Planning Policy - Affordable Rental Housing 2009

John Anderson addressed Council against the recommendation.

13.3 Code of Conduct

John Anderson addressed Council in favour of the recommendation.

13.5 Byron Community Market temporary relocation

Kate Hardman on behalf of the Byron Bay Community Centre – Byron Markets addressed Council in favour of the recommendation.

13.7 Tyagarah Hall - results of community consultation

Phillip Walters on behalf of the College of Marine Studies (COMS) Maritime Trainers and Assessors addressed Council in favour of the recommendation.

Cleva O'Reilly on behalf of CABS addressed Council against the recommendation.

13.9 Budget Review 1 January 2019 to 31 March 2019

Jan Barham on behalf of Broken Head Protection Committee addressed Council in favour of the recommendation.

13.11 Council Resolutions Quarterly Review - 1 January to 31 March 2019

Luke McConell on behalf of the Broken Head Residents Group addressed Council in favour of the recommendation.

13.14 Brunswick Heads Parking Schemes - Performance Review

Cleva O'Reilly on behalf of CABS addressed Council in favour of the recommendation.

Kim Rosen on behalf of Brunswick Heads Chamber of Commerce addressed Council against the recommendation.

15.1 CONFIDENTIAL - Tender 2018-0062 Construction of the Byron Bay Bypass

Jan Barham on behalf of Broken Head Protection Committee addressed Council in favour of the recommendation.

Paul Jones on behalf of Butler Street Community Network addressed Council against the recommendation.

Submission No. 1 Biodiversity Conservation Strategy

Jan Barham made a submission to Council regarding the Biodiversity Conservation Strategy.

Cr Ndiaye left the meeting at 10:20am.

Submission No. 2 Ardill Payne & Partners v Byron Shire Council (2019) NSWLEC 1125

Cleva O'Reilly on behalf of CABS made a submission to Council regarding Ardill Payne & Partners v Byron Shire Council (2019) NSWLEC 1125.

Submission No. 3 Public Toilets Cleaning in Brunswick Heads

Harry Van de Venne made a submission to Council regarding the cleaning of the public toilets in Brunswick Heads.

Cr Ndiaye returned to the meeting at 10:24am.

Submission No. 4 Process of the Butler Street Bypass

Paul Jones on behalf of the Butler Street Community Network made a submission to Council regarding process of the Butler Street Bypass and the Bus Interchange.

Submission No. 5 Bypass Choice

Richard Jones made a submission to Council regarding bypass choice.

Submission No. 6 Governance and Fibs

John Anderson made a submission to Council regarding governance of the Byron Bypass reporting process.

Submission No. 7 #StopByronBypass

Morgan Knoesen on behalf of Extinction Rebellion made a submission to Council regarding the Byron Bypass.

Submission No. 8 Roadside Grass Slashing

Matthew Lambourne made a submission to Council regarding roadside grass slashing.

Question No. 1 South Byron STP

Kathryn McConnochie on behalf of the South Byron Collective asked the following question:

Previous Council reports suggest that the redevelopment of the South Byron STP may result in a Public Private Partnership as defined by the LGA 2014. Now at the requests for tender stage, is there any greater clarity on whether a PPP is the likely outcome? At what stage will this become clear? If a PPP is the outcome how will Council comply with the Act's numerous requirements in retrospect including seeking OLG approval, and public consultation prior to calling for tenders?

The Mayor took the question on notice.

Question No. 2 Ardill Payne & Partners v Byron Shire Council

Cleva O'Reilly on behalf of CABS asked the following question:

Has Byron Council directed all Planning Staff to implement the decision of Commissioner Walsh of the Land and Environment Court in Ardill Payne & Partners v Byron Shire Council of March 2019 in relation to all tourism development applications (especially rural cabins) and large development applications in rural zones? I am especially interested in planning staff applying the principle outlines at paragraph 51 of the court order, "For me the DCP's provisions calling up the Byron Rural Settlement Strategy 1998 remain live and pertinent, albeit subject to the provisions of s 4.15(3) of the EPA Act" and the commissioner's findings more generally as to the merits of development in rural zones relating to (1) inconsistency with the zone objectives, and (2) adverse impact on the scenic amenity and character of the rural environment and (3) the contention in regard to public interest and precedence. This decision has significance for ALL rural tourism development in Byron Shire and the community wishes to know if the same principals are being applied to ALL such tourism and large scale developments for example the rural tourism development at Montecollum Rd.

The Director of Sustainable Environment and Economy provided the following response:

Council regularly reviews all case law and in particular, matters that Byron Council has participated in. With respect to that case, yes, we are more than cognisant of what has been brought down in terms of the judgement and we are having regard to the principles. We are also undertaking a review of our current planning provisions to ensure that they align with any new principles that are coming through.

Question No. 3 Mercato

John Anderson asked the following question:

Even though Mercato's arguments as put to last week's planning meeting were suss, and even though Mercato stood to save around \$50k per year if they were exempted from having to lease Council airspace above the footpath on Jonson Street, nevertheless it seems unlikely that they would simply invent the claim that they were given to understand that no payment would be required.

Given the rumours that you Mr Mayor, were significantly involved in early negotiations with Mercato, could you throw some light on what was proposed by you or Council staff in exchange for what promises by Mercato, or what delegated authority you or your staff relied upon in those negotiations, and could you please answer this question without wasting ratepayers money on an evasive legal response.

The Mayor provided the following response:

First of all, about the question whether I was significantly involved in negotiations, of course I was as any Mayor should be on a development which is going to significantly change Jonson Street. So I was there pretty much from the very first meeting with the then head of planning, Ray Darney, as is appropriate.

For example at that meeting, I managed through my negotiations to make sure KFC didn't come to town; I also made sure Dan Murphys didn't come to town; I also made sure, at that negotiation, that the original design was thrown up, not the one that was printed in the paper, that's ignorant, that's the second design, not the first design. The first was even worse than that. So yes, all through this process I have tried to use any influence I have, which in formal power is very little, but been willing to negotiate. I have been part of that process for 2 years and I think on behalf of my community it lead to significant changes and lessening of the impact.

As far as the question itself about the airspace fees, yes that was raised, just like I have probably had a thousand meetings per year where people give me an idea, whether its through their development - what do you think about this idea, or that idea – or someone coming with an idea more broadly. I normally say you need to put it in the DA and it can be considered or the policy needs to be reviewed and changed. And that question, I was at quite a few meetings with staff where the question of airspace fees was raised. One of the ideas or solutions proposed to use by the proponent was 5 year peppercorn rent, then full rent, etc and our response was always the same, put it in the DA or the airspace it can be considered during an airspace policy review.

John Anderson further asked:

What about the delegated authority question, who gave you delegated authority to ban KFC, that's what I would like to know.

The Mayor responded:

No one gave delegated authority.

Question No. 4 Operational Plan

Jan Barham on behalf of the Broken Head Protection Committee asked the following question:

With regard to the Bypass, but more importantly about the Zero Emissions Byron Plan, will you consider providing a section within the ZEB and in every report that contains construction works to offset the emissions that Council is creating by its own infrastructure construction works.

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

The meeting adjourned at 10:54am and reconvened at 11:21am.

APOLOGIES

There were no apologies.

REQUESTS FOR LEAVE OF ABSENCE

- 19-219 Resolved** that Cr Spooner be granted a leave of absence from the 20 June 2019 Planning Meeting. (Richardson/Ndiaye)

The motion was put to the vote and declared carried.

- 19-220 Resolved** that Cr Cameron be granted a retrospective leave of absence for the 9 May 2019 Extraordinary Meeting of Council. (Cameron/Ndiaye)

The motion was put to the vote and declared carried.

DECLARATIONS OF INTEREST – PECUNIARY AND NON-PECUNIARY

Cr Spooner declared a pecuniary interest in Report 13.5. The nature of the interest being that his employer is the license holder for this market. Cr Spooner elected to leave the Chamber and 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

- 19-221 Resolved** that the minutes of the following meetings be confirmed:

- Ordinary Meeting held 18 April 2019
- Extraordinary Meeting held 9 May 2019 (Lyon/Hackett)

*The motion was put to the vote and declared carried.
Cr Richardson abstained from voting.*

RESERVATION OF ITEMS FOR DEBATE AND ORDER OF BUSINESS

The Mayor suspended standing orders to allow for items to be reserved for debate, being:

STAFF REPORTS

General Manager

- | | |
|-----------------|---|
| Report No. 13.1 | Re-establishment of Alcohol Free Zones |
| Report No. 13.3 | Code of Conduct |
| Report No. 13.5 | Byron Community Market temporary relocation |

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Corporate and Community Services

Report No. 13.7 Tyagarah Hall - results of community consultation

Infrastructure Services

Report No. 13.12 Bangalow Parking Schemes - Performance Review

Report No. 13.14 Brunswick Heads Parking Schemes - Performance Review

Report No. 13.15 Mullumbimby Parking Schemes - Performance Review

Report No. 13.17 Dingo Lane Solar Farm - Preliminary Business Case and Project Progression

CONFIDENTIAL REPORTS

Infrastructure Services

Report No. 15.1 CONFIDENTIAL - Tender 2018-0062 Construction of the Byron Bay Bypass

The remaining Recommendations were adopted as a whole, being moved by Cr Richardson and seconded by Cr Ndiaye. Each recommendation is recorded with a separate resolution number commencing at Resolution No. 19-222 and concluding with Resolution No. 19-231.

SUBMISSIONS AND GRANTS

Report No. 11.1 Byron Shire Council Submissions and Grants as at 1 May 2019

File No: I2019/658

19-222 Resolved that Council notes the report and Attachment (#E2019/29454) for the Byron Shire Council Submissions and Grants as at 1 May 2019. (Richardson/Ndiaye)

STAFF REPORTS - GENERAL MANAGER

Report No. 13.2 Byron Shire Council purchase from Health Administration of Lot 1 in Deposited Plan 847910 the former Byron District Hospital site.

Classification of Lot 1 in Deposited Plan 847910 as operational.

File No: I2019/581

19-223 Resolved:

1. That Council purchase Lot 1 in Deposited Plan 847910 the former Byron District Hospital site from Health Administration Corporation on the terms and conditions set out in the contract submitted by the Health Administration Corporation.
2. That Council authorise the General Manager to take all steps necessary to enter into the contract, as amended, and to sign and counter-sign all documents associated with the purchase of the site.
3. That subject to Council resolving as per 1 above, Council give notice for not less than 28 days of the following proposed resolution pursuant to Section 34 of the *Local Government Act 1993*:

“That Lot 1 in Deposited Plan 847910, being the former Byron District Hospital site, be classified “operational” under the Local Government Act 1993.” (Richardson/Ndiaye)

Report No. 13.4 **Sub-licences Zephyr Horses and Cape Byron Seahorses Riding Centre**
File No: I2019/548

19-224 Resolved:

1. That Council authorise the General Manager to grant a sub-licence to Cape Byron Seahorses Riding Centre for a term of six (6) months for the purpose of access though part of Lot 428 DP 729272 being Reserve R81980 on condition that:
 - a) Cape Byron Seahorses Riding Centre holds a permit with Cape Byron Marine Park for the term of the sub-licence; and
 - b) Cape Byron Seahorses Riding Centre takes all steps necessary to ensure all horse droppings are removed from the sub-licensed area during and at the end of each access session.

2. That Council authorise the General Manager to grant a sub-licence to Zephyr Horses for a term of six (6) months for the purpose of access though part of Lot 409 DP 729057 being part of Reserve R755695 on condition that:
 - a) Zephyr Horses holds a permit with Cape Byron Marine Park for the term of the Sub-licence; and
 - b) Zephyr Horses takes all steps necessary to ensure all horse droppings are removed from the sub-licensed area during and at the end of each access session. (Richardson/Ndiaye)

Report No. 13.6 **Lease for Massenger Street treehouse**
File No: I2019/703

19-225 Resolved:

1. That Council authorise the General Manager to negotiate a licence with Ms Mell Coppin over an unused portion of road reserve adjoining 77 Massinger Street Byron Bay on the following terms:
 - a) term one (1) year;
 - b) for the purpose of a children's treehouse; and
 - c) annual rent \$1.00 if requested.

2. That Council authorise the publication of the proposed one year licence to Ms Mell Coppin for a period of 28 days in accordance with s154(2)(c) of the *Roads Act 1993*.

3. That in the event no submissions are received, Council delegate to the General Manager the authority to enter into the licence referred to in 1 above.

4. That if submissions are received that a new report be reported to Council at its August ordinary meeting. (Richardson/Ndiaye)

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES**Report No. 13.8 Investments - 1 April 2019 to 30 April 2019****File No:** I2019/592

- 19-226 Resolved** that the report listing Council's investments and overall cash position as at 30 April 2019 be noted. (Richardson/Ndiaye)
-

Report No. 13.9 Budget Review 1 January 2019 to 31 March 2019**File No:** I2019/652

- 19-227 Resolved:**
1. That Council authorises the itemised budget variations as shown in Attachment 2 (#E2019/31364) which include the following results in the 31 March 2019 Quarterly Review of the 2018/2019 Budget:
 - a) General Fund – \$0 change to the Estimated Unrestricted Cash Result
 - b) General Fund - \$5,141,900 increase in reserves
 - c) Water Fund - \$3,003,000 increase in reserves
 - d) Sewerage Fund - \$3,062,200 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 March 2019. (Richardson/Ndiaye)
-

Report No. 13.10 Operational Plan 2018/19 Third Quarter Report - Q3 - 1 January to 31 March 2019**File No:** I2019/653

- 19-228 Resolved:**
1. That Council notes the 2018/19 Operational Plan Third Quarter Report for the period ending 31 March 2019 (Attachment 1 #E2019/28971).
 2. That Council adopts the proposed amendments to the Operational Plan 2018/19 outlined in Attachment 2 (#E2019/29009). (Richardson/Ndiaye)
-

Report No. 13.11 Council Resolutions Quarterly Review - 1 January to 31 March 2019**File No:** I2019/654

- 19-229 Resolved:**
1. That Council notes the information provided in this report on active Council Resolutions in Attachment 1 (#E2019/27193).
 2. That Council notes the completed Resolutions in Attachment 2 (#E2019/29342). (Richardson/Ndiaye)

STAFF REPORTS - INFRASTRUCTURE SERVICES

Report No. 13.13 **Part Road Reserve Closure Pandanus Lane**
File No: I2019/432

19-230 Resolved:

1. That Council acknowledge the application for closure of part road reserve adjoining Lot 1 DP 244699 17 Marine Parade, Byron Bay (Wategos).
 2. The Council cease the road closure process and application from proceeding any further in accordance with Roads Act 1993, Part 4 Closing of Public Roads, Division 3 Closing of council public roads by councils, Section 38C Public submissions and formal objections, due to an objection by NSW Fire and Rescue, a notifiable authority.
 3. That Council, due to the nature and confinements of Pandanus Lane, not accept any further applications for road closure along any section of this lane. (Richardson/Ndiaye)
-

Report No. 13.16 **Draft Plan of Management Byron Bay Memorial Recreation Ground**
File No: I2019/665

- 19-231 Resolved** that Council adopt the Plan of Management for the Byron Bay Memorial Recreation Ground as exhibited with amendments as per recommendations proposed in Byron Bay Memorial Recreation Ground Public Hearing Report (#E2019/31479). (Richardson/Ndiaye)
-

PROCEDURAL MOTION

- 19-232 Resolved** that Council change the order of business to deal with Reports 9.1, 13.3, 13.5, 13.7, 13.14, 15.1 next on the Agenda. (Richardson/Ndiaye)

The motion was put to the vote and declared carried.

NOTICES OF MOTION

Notice of Motion No. 9.1 **Audit of development approved under the State Environmental Planning Policy - Affordable Rental Housing 2009**
File No: I2019/544

- 19-233 Resolved** that staff prepare a report for Council consideration on the following:

- a) the number and type of developments approved under the State Environmental Planning Policy (Affordable Rental Housing) 2009 since this Policy came into effect; and
- b) where able, the status of compliance these developments have with post approval requirements for affordable housing imposed by Council on development consents including current rental costs. (Ndiaye/Richardson)

The motion was put to the vote and declared carried.

STAFF REPORTS - GENERAL MANAGER

Report No. 13.3 **Code of Conduct**
File No: 12019/536

19-234 Resolved:

1. That Council note that the Codes of Conduct (E2019/857, E2019/858 and E2019/859) have been exhibited for a period of 28 days.
2. That a clause 4.28 be added stating Byron Shire Council's preferred practice is to adjourn a meeting where no quorum is present 30 minutes after the published meeting time, rather than seeking to invoke the provisions of clause 4.26 to achieve a quorum; and make consequential amendments to the other codes.
2. That Council, having considered the submission made, adopts each Code of Conduct, as amended. (Coorey/Ndiaye)

The motion was put to the vote and declared carried.

Report No. 13.5 **Byron Community Market temporary relocation**
File No: 12019/648

In accordance with his earlier declared pecuniary interest in this matter, Cr Spooner left the Chamber at 11:36am and returned following the vote at 11:50am.

19-235 Resolved:

1. That Council acknowledge that construction of the Byron Bay Bypass requires the temporary suspension of the Byron Community Market's existing licence for Butler Street Reserve and rent shall abate under that licence for a period of six months.
2. That Council endorse the temporary relocation of the Byron Community Market to the foreshore at a reduced scale of 290 stalls.
3. That the conditions detailed in Table 3 be included in the market sub-licence to minimise environmental and community impacts.
4. That Council allocate \$60,000 from the Property Reserve to:
 - a) Provide financial support to market managers to assist with relocation;
 - b) Develop a Review of Environmental Factors, Traffic Impact Study, Traffic Management Plan and Traffic Control Plan required for temporary relocation; and
 - c) Install required infrastructure on the Reserve to facilitate temporary relocation.
5. That Council allocate up to \$50,000 from the Property Reserve for implementation of traffic management plans and environmental controls and that any costs over and above this amount be borne by the Byron Community Markets.
6. That Council have discussions with the Byron Bay Railroad Company, Chamber of Commerce, Destination Byron and other stakeholders to develop a comprehensive movement strategy that includes a park and ride utilising the Solar Train and other possible active and share transport options and experiences.
7. That Council work with market managers and other stakeholders to develop a

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comprehensive communications and promotional strategy aimed at encouraging a shift towards alternative transport options. (Cameron/Coorey)

The motion was put to the vote and declared carried.

Cr Spooner was not present for the vote.

PROCEDURAL MOTION

19-236 Resolved that Cr Cameron be granted a two minute extension to his speech. (Richardson/Hackett)

The motion was put to the vote and declared carried.

Report No. 13.7 **Tyagarah Hall - results of community consultation**
File No: **12019/477**

19-237 Resolved that Council:

1. Notes the consultation results summarised in the report.
2. Call for expressions of interest for not-for-profit community groups/organisations to manage the hall and surrounds as defined under the lease, with the terms of lease to be negotiated under delegation of the General Manager and brought back to Council for adoption.
3. In the event a lease is granted to a local community group/organisation, consider the installation of night lights and cameras as a deterrent for anti-social behaviour and public safety in the event of evening activities. (Hackett/Richardson)

The motion was put to the vote and declared carried.

STAFF REPORTS – INFRASTRUCTURE SERVICES

Report No. 13.14 **Brunswick Heads Parking Schemes - Performance Review**
File No: **12019/597**

19-238 Resolved that Council defer any decision on changing the current parking arrangements in Brunswick Heads until the next Ordinary Meeting of Council. (Hunter/Spooner)

PROCEDURAL MOTION

19-239 Resolved that Cr Cameron be granted a one minute extension to his speech. (Richardson/Lyon)

The motion was put to the vote and declared carried.

AMENDMENT

Moved that Council:

1. Expand the Brunswick Heads parking schemes, as follows:
 - i) West along Fawcett St, Mullumbimbi Street and Fingal Street through to Tweed Street
 - ii) East across the South Arm Bridge through to the Surf Life Saving Club
 - iii) South along Park St from Fingal Street to Booyun Street.
2. Modify the Brunswick Heads parking scheme time limits, as follows:

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- i) Increase the number of 1P spaces from 81 up to 97
 - ii) Increase the number of 2P spaces from 151 up to 244
 - iii) Change all 31 3P time limited space to 2P
3. Consult with the Chamber of Commerce and other organisations regarding the proposed expansion and modification of time limits and that the results of this consultation be included in the report in 8.
4. Undertake an expanded Automated Number Plate Recognition (ANPR) survey of the Brunswick Heads parking scheme to assess if the above modifications result in a change in demand, duration rates and parking patterns. The expanded ANPR survey area is to include:
- i) The existing Brunswick Heads parking scheme area
 - ii) Fawcett St, Mullumbimbi Street and Fingal Street through to Tweed Street
The survey is to commence after items 1 and 2 have been implemented and the survey is to be done for a minimum of six (6) months.
 - iii) East across the South Arm Bridge through to the Surf Life Saving Club South along Park St through to Booyun Street.
5. Acknowledge the report's finding that the Brunswick Heads parking schemes is currently operating at or near capacity with an expectation it will exceed capacity within 5 years
6. Acknowledge the information presented within the Byron Shire Council – Tourism scale and impact analysis report, November 2018 including:
- i) Daytrippers increased by 74% over the last decade, with the most figure estimated at 1,024,000, or an average of nearly 3000 per day,
 - iii) Gold Coast Airport is undergoing an expansion to meet a forecast growth of an extra 10 million visitors over 20 years,
 - ii) The cost of servicing this temporary population is estimated at \$23 million per year.
7. Acknowledge the significant portion of the community's desire to find ways to raise revenue from day visitors in order to offset costs of the infrastructure and amenity currently borne by residents.
8. In view of the information acknowledged in 5, 6, and 7 and with an intent to install parking meters in Brunswick Heads from the commencement of the 2019/20 Summer Holiday period with a review to be conducted at the conclusion of the 2020 Easter holiday period, and after 12 months; council expedite a report outlining:
- i) the preferable locations of meters
 - ii) the amount of meters required beyond the amount of un-utilised meters that Council currently leases
 - iii) the cost of installation and a preferred funding source and program
 - iv) a list of possible projects within Brunswick Heads that could be funded by ongoing paid parking revenue
 - v) can we consider our legal and/or regulatory ability to operate the parking scheme only at holiday periods and weekends (Richardson/Ndiaye)

PROCEDURAL MOTIONS

19-240 Resolved that Cr Richardson be granted a one minute extension to his speech.

(Cameron/Ndiaye)

The motion was put to the vote and declared carried.

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19-241 Resolved that Cr Ndiaye be granted a two minute extension to her speech. (Richardson/Cameron)

The motion was put to the vote and declared carried.

*The amendment (Richardson/Ndiaye) was put to the vote and declared lost.
Crs Lyon, Coorey, Cameron, Hackett, Spooner, Hunter voted against the amendment.*

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

The meeting adjourned at 1:00pm for a lunch break and reconvened at 1:50pm.

CONFIDENTIAL REPORTS - INFRASTRUCTURE SERVICES

Report No. 15.1 CONFIDENTIAL - Tender 2018-0062 Construction of the Byron Bay Bypass

File No: I2019/24

19-242 Resolved that pursuant to Section 11(3) of the Local Government Act, 1993, that the Annexures to the report, Tender 2018-0062 Construction of the Byron Bay Bypass are to be treated as confidential as they relate to matters specified in s10A(2)(d)i of the Local Government Act 1993. (Coorey/Cameron)

The motion was put to the vote and declared carried.

MOVED that Council:

1. Notes the concerns raised via email submissions and in Public Access regarding possible shortfalls in Council's requirements concerning biodiversity, biobanking and impacts of fill on SEPP 14 wetland;
2. Notes the offer from NSW Office of Environment and Heritage to work with Council to achieve clarity and compliance;
3. Defers consideration of the tenders for the construction of the Byron 'bypass' for one month to allow resolution of issues raised in (1) and (2) to consider
 - a) biodiversity assessments and the subsequent Biobanking approvals and
 - b) the scale and impact of excavation and fill in the SEPP 14 Wetland 104.
4. Notes that awarding a tender in advance of these issues could have negative commercial implications. (Coorey/Cameron)

PROCEDURAL MOTIONS

19-243 Resolved that Cr Coorey be granted a two minute extension to her speech. (Richardson/Cameron)

The motion was put to the vote and declared carried.

19-244 Resolved that Council move into Committee to allow for free debate. (Richardson/Ndiaye)

The motion was put to the vote and declared carried.

19-245 Resolved that Council move out of Committee and resume the Ordinary Meeting. (Richardson/Spooner)

The motion was put to the vote and declared carried.

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19-246 Resolved that Cr Richardson be granted a two minute extension to his speech. (Lyon/Ndiaye)

The motion was put to the vote and declared carried.

AMENDMENT

19-247 Resolved:

1. That Council award Tender 2018-0062 – Byron Bay Bypass Construction Works to Hazell Bros QLD Pty Ltd, with a Lump Sum amount of \$14,093,143.
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. (Spooner/Richardson)

PROCEDURAL MOTIONS

19-248 Resolved that Cr Spooner be granted a two minute extension to his speech. (Richardson/Hackett)

The motion was put to the vote and declared carried.

19-249 Resolved that Cr Cameron be granted a two minute extension to his speech.

(Richardson/Ndiaye)

The motion was put to the vote and declared carried.

19-250 Resolved that Cr Ndiaye be granted a two minute extension to her speech. (Richardson/Martin)

The motion was put to the vote and declared carried.

The amendment (Spooner/Richardson) was put to the vote and declared carried.

Crs Coorey and Cameron voted against the amendment.

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

Crs Coorey and Cameron voted against the motion.

The meeting adjourned at 2:48pm to hold the Byron Shire Reserve Trust Committee Meeting and reconvened at 2:55pm. Resolution number 19-251 and 19-252 were used during that meeting.

MAYORAL MINUTE

No. 1 Enhancement of Biodiversity Values within Byron Bay Wetlands

19-253 Resolved that Council receive a report on establishing a biodiversity enhancement program separate to, and above that which is required by the BioBanking component within the Byron Bay alternate route construction, and that this report contain:

1. Sites within the Byron Bay Wetland SEPP area suitable for enhancement
2. Possible sites adjacent, or close to the area in 1.
3. Estimated costs of works
4. Potential funding sources
5. Potential partners and collaborative organisations

(Richardson/Ndiaye)

The motion was put to the vote and declared carried.

PETITIONS

There were no petitions tabled.

DELEGATES' REPORTS

1. Transport Infrastructure Committee

Cr Richardson advised Council:

I'll give a very brief update as a delegate to the Transport Infrastructure Committee. There is some really good work that is being done. It's been one of those ones that I can sometimes get frustrated by the long cycle of process, but it is also necessary, particularly for funding for things like Bike Plans and Access and Mobility Movement Studies, etc. We have got a draft of each of those that's about to pop into the community for response. We have already had fantastic response by our community. Council is often denigrated for its lack of consultation, but the take up by community to respond to everything we are putting out at the moment is fantastic, we had massive input. Our Bike Plan is looking terrific, our Integrated Transport Strategy is looking great, our Access and Mobility Plan is looking really good which is crucial for those who have got some special needs or have some difficulties to traverse some of our pretty ordinary footpaths and road crossings, etc. So hopefully, you will have a good read of that when it comes out and our community will engage with it. But its some good work being done and the committees are a very broad cross section of care and expertise and it's been great being part of the process.

Cr Cameron further added:

I would like to add a few bits to that because I think it is something worth talking about, all the fantastic achievements that you have just mentioned. Some of those have been a long time coming. They are very big, they are about to go through our system. They will have a big impact on how we think about transport and support the sorts of things we have been talking about a couple of times today. But there is also probably a few other things that have been going on there, things from an asset management point of view. As you know, we have been constrained over the long term financially and we have actually done quite well over the last 10 years of improving our situation. I am not going to go back through how we have done that, it is obvious to anyone who looks back a few years. But it has allowed us to come back and start addressing some of those other less obvious bits of transport infrastructure around our Shire that have not been able to be funded for so long. So in this year's program we've started replacing culverts and causeways, some of which have got to quite a state. So there is a whole program of those rolling out. We have just completed the roll out of the six new bridges in the south of the Shire, that was a great achievement in its own right. We are getting to things like the safety railings, these are sorts of things that have had to go to the bottom of the list for an awful long time but now we are starting to get to them as well. Now, overall, it's a really good story that we have got to tell about how we are going with transport management in this Shire.

2. Planning Regimes and Character Statements

Cr Ndiaye advised Council:

A few of us attended a very exciting afternoon of acronyms with the Department of Planning to find out more about planning regimes and the character statements. It was interesting to learn a bit more about how they could potentially have some teeth when it comes to planning, as opposed to our DCP and other things that we are dealing with. Three of us went down there, Cr Hackett, Cr

Coorey, and myself. Staff had a two day workshop as well. It was informative and hopefully will help us in developing a character statement that will have some influence when it's needed.

Cr Coorey further advised:

I think what's good that came out of it was that it actually did give us some power that we thought we might be losing and the suggestion was that we did write our narratives or character statements in a way that they were going to a planning regime at a higher level than we can currently put them, so it gives us greater certainty and that was the impression I took away from that and some of that was encouraging.

Cr Ndiaye then added:

And it also gave the opportunity for multiple councils to vent over the excessive amount of work that is being requested from NSW Department of Planning with no extra funds to resource them and now staff are having to come off other projects that we wanted to do because they have to do another "this" and another "that" and it was good to hear that we weren't the only ones, we shared the floor on that one.

STAFF REPORTS - GENERAL MANAGER

Report No. 13.1 **Re-establishment of Alcohol Free Zones**
File No: 12019/563

19-254 Resolved that Council authorise the General Manager to undertake the process as outlined in Section 642-644C of the Local Government Act 1993 to establish the following alcohol free zones for a period of four years commencing 1 July 2019:

BYRON BAY

- Jonson Street from Bay Street to Browning Street including Main Beach car park
- Browning Street from Jonson Street to Tennyson Street
- Bangalow Road from the intersection of Browning Street and Tennyson Street to the southern property boundary of Byron Tourist Park on Bangalow Road
- Kingsley Street and Carlyle Street from Jonson Street to Cowper Street
- Marvell Street from Jonson to Massinger Street
- Byron Street and Bay Lane from Jonson Street to Middleton Street
- Middleton Street from Bay Street to Kingsley Street
- Bay Street from First Sun Caravan Park boundary fence to Middleton Street
- Fletcher Street from Bay Street to Kingsley Street
- Lawson Street from Butler Street to Massinger Street
- Lighthouse Road from Massinger Street to Captain Cook Lookout eastern boundary
- Jonson Street north carpark between Bay Street and Lawson Street
- Jonson Street south carpark between Lawson Street and Railway Park
- Tennyson Street between the Sandhill's Estate and Browning Street
- Cowper Street between Carlyle Street and the Sandhill's Estate
- Butler Street from Shirley Street to cover whole of new Bypass area through to Browning Street
- Somerset Street from Butler Street to Wordsworth Street
- Burns Street from Butler Street to Wordsworth Street
- Wordsworth Street from Somerset Street to Gordon Street
- Gordon Street from Wordsworth Street to Milton Street
- Milton Street from Gordon Street to Wentworth Street
- Wentworth Street from Milton Street to Skinners Shoot Road

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- Shirley Street from Butler Street to Kendall Street
- Ewingsdale Road from Kendall Street to Banksia Drive at the Byron Bay Industrial Estate
- Kendall Street from Shirley Street to Border Street
- Border Street from Kendall Street to Childe Street
- Childe Street from Border Street to Manfred Street
- Manfred Street from Childe Street to the frontal dune at Belongil Beach
- Giaour Street from Childe Street to Belongil Creek
- Don Street from Border Street to the frontal dune at Belongil Beach

MULLUMBIMBY

- Station Street from the unnamed lane (Lane 9) opposite the Council Chambers to Tincogan Street
- McGougan's Lane from the unnamed lane (Lane 9) behind the southern property boundary of the commercial premises on Burringbar Street to the intersection of Tincogan Street
- Stuart Street from Whian Street intersection to Tincogan Street intersection
- Stuart Lane from Whian Street intersection to Tincogan Street intersection
- Dalley Street from Whian Street intersection to Tincogan Street intersection
- Gordon Street from Burringbar Street intersection to Tincogan Street intersection
- Burringbar Street from Gordon Street intersection to Station Street intersection
- River Terrace from Burringbar Street intersection to Whian Street intersection
- Tincogan Street from Gordon Street intersection to Station Street intersection
- Whian Street from River Terrace intersection to Stuart Street intersection
- Brunswick Terrace from Burringbar Street to Mill Street, and Mill Street from Gordon Street to Station Street

BRUNSWICK HEADS

- Fawcett Street from Tweed Street to Park Street
- Park Street from Fawcett Street to Fingal Street
- Mullumbimbi Street from Tweed Street to the Terrace
- The Terrace from Mullumbimbi Street to Fingal Street
- Fingal Street from the Terrace to Tweed Street
- Tweed Street from Fingal Street to Fawcett Street
- South Beach Road (including the traffic bridge) between The Terrace and the end of South Beach Road including the Surf Club area

OCEAN SHORES AND NEW BRIGHTON

- Rajah Road between northern boundary of Lot 1 DP 626518 (approx 50 metres south of Bindaree Way intersection) and southern boundary of Lot 1114 DP241074 No 43 Rajah Road (approx 60 metres north east from Durroon Court)
- Ocean Shores Community Centre carpark (Lots 1154 and 1156 DP 116000)
- The Esplanade south from the intersection with The Strand to the southern boundary of Lot 5 Sec 3 DP 5318 (approx 200 metres south from the intersection)
- 'North Head Road Carpark' located on unnamed road New Brighton

SUFFOLK PARK

- Clifford Street between Broken Head Road and Alcorn Street
- Armstrong Street between Clifford Street and Wareham Street
- Brandon Street between Clifford Street and Wareham Street
- Alcorn Street between Clifford Street and southern boundary of the community titled property at No. 2 Alcorn Street
- Broken Head Road from Clifford Street to the northern boundary of the Serviceman's Home

- property
- Beech Drive (south) from Broken Head Road to the northern property boundary of Lot 60 DP 817888 being the Council Reserve on Beech Drive (Cameron/Richardson)

The motion was put to the vote and declared carried.

Cr Coorey left the Chambers at 3:11pm and returned at 3:15pm.

STAFF REPORTS - INFRASTRUCTURE SERVICES

Report No. 13.12 **Bangalow Parking Schemes - Performance Review**
File No: **I2019/293**

19-255 Resolved that Council:

1. Modify the Bangalow Parking Scheme, as follows:
 - a) Replace one 1P space with motorcycle spaces in front of the Bangalow Hotel
2. Ensure all work undertaken in creating the Bangalow Village Plan and recommendations provided by the Bangalow Village Plan Group are considered when modifying the Bangalow parking scheme; in particular, the recommendation to create a shared Loading Zone / Bus Stop near the Lismore Road / Byron Street intersection and modify the Bangalow Parking Scheme if the proposal is supported and is complimentary to the Bangalow Village Plan recommendation for this area.
3. Undertake an expanded Automated Number Plate Recognition (ANPR) survey of the Bangalow parking scheme to assess if the above modifications result in a change in demand, duration rates and parking patterns. The ANPR survey area is to be expanded to include:
 - a) The existing Bangalow parking scheme area
 - b) The full length of Deacon Street
 - c) Station Street between Byron Street and Deacon StreetThe survey is to commence after items 1 and 2 have been implemented and the survey is to be done for a minimum of six months.
4. Investigate options to help increase compliance within the Bangalow parking scheme through a combination of the following options:
 - a) Increase patrolling through increasing the number of enforcement officers and associated patrolling equipment.
 - b) Introduce parking technology, such as:
 - i) In ground parking sensors
 - ii) Parking meters
5.
 - a) Investigate which combination of the above options is the most cost effective and appropriate for the parking scheme and report recommendations back to Council approximately seven months after ANPR survey commences.
 - b) within the report in 5a) include most costs and revenue raised from each option.
 - c) within the report in 5a) include a break down of local and visitor parking numbers, a break down of weekend/holiday and weekday parking particulars, and an overview on the compliance figures for prior and post the introduction of changes in times and compliance levels. (Richardson/Spooner)

The motion was put to the vote and declared carried.

PROCEDURAL MOTION

19-256 Resolved that Cr Cameron be granted a two minute extension to his speech.

(Richardson/Hackett)

The motion was put to the vote and declared carried.

Cr Lyon voted against the motion.

AMENDMENT

Moved that Council:

1. Modify the Bangalow Parking Scheme, as follows:
 - a) Replace one 1P space with motorcycle spaces in front of the Bangalow Hotel
2. Ensure all work undertaken in creating the Bangalow Village Plan and recommendations provided by the Bangalow Village Plan Group are considered when modifying the Bangalow parking scheme; in particular, the recommendation to create a shared Loading Zone / Bus Stop near the Lismore Road / Byron Street intersection and modify the Bangalow Parking Scheme if the proposal is supported and is complimentary to the Bangalow Village Plan recommendation for this area.
3. Undertake an expanded Automated Number Plate Recognition (ANPR) survey of the Bangalow parking scheme to assess if the above modifications result in a change in demand, duration rates and parking patterns. The ANPR survey area is to be expanded to include:
 - a) The existing Bangalow parking scheme area
 - b) The full length of Deacon Street
 - c) Station Street between Byron Street and Deacon StreetThe survey is to commence after items 1 and 2 have been implemented and the survey is to be done for a minimum of six months.
4. Investigate options to help increase compliance within the Bangalow parking scheme through a combination of the following options:
 - a) Increase patrolling through increasing the number of enforcement officers and associated patrolling equipment
 - b) Introduce parking technology, such as in ground parking sensors
5.
 - a) Investigate which combination of the above options is the most cost effective and appropriate for the parking scheme and report recommendations back to Council approximately seven months after ANPR survey commences.
 - b) within the report in 5a) include most costs and revenue raised from each option.
 - c) within the report in 5a) include a break down of local and visitor parking numbers, a break down of weekend/holiday and weekday parking particulars, and an overview on the compliance figures for prior and post the introduction of changes in times and compliance levels. (Cameron/Coorey)

Cr Lyon left the Chambers at 3:23pm and returned at 3:26pm.

The amendment was put to the vote and declared lost.

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

The motion was put to the vote and declared carried.

Cr Cameron voted against the motion.

The Mayor left the meeting at 3:31pm and did not return. The Deputy Mayor took the Chair.

Report No. 13.15 **Mullumbimby Parking Schemes - Performance Review**
File No: 12019/598

Moved that Council:

1. Expand the Mullumbimby parking schemes, as follows:
 - a) 2P zone on Tincogan Street between Dalley Street and Stuart Street.
2. Modify the Mullumbimby parking scheme time limits, as follows:
 - a) Increase the number of 1P spaces from 72 to 125
 - b) Increase the number of 2P spaces from 202 to 213
3. Undertake an expanded Automated Number Plate Recognition (ANPR) surveys of the Mullumbimby parking scheme to assess if the above modifications result in a change in demand, duration rates and parking patterns. The expanded ANPR survey area is to include:
 - a) The existing parking scheme area.
 - b) Along Tincogan Street between Dalley Street and Stuart Street.
 - c) Along Station Street, both sides, between Burringbar Street through to the first Council car park entrance.

The survey is to commence after items 1 and 2 have been implemented and the survey is to be done for a minimum of six months. To surveying is to monitor the performance of other ancillary parking zones (such as: loading zones, bus zones, taxi ranks, mobility spaces, car share spaces and EV car charging spaces etc) and provide recommendations to improve the performance and location of these spaces.

4. Note the submission from the Chamber of Commerce detailing work undertaken by the community to develop a Master Plan for Mullumbimby and that this incorporates a movement and access study with significant potential changes to traffic movement and parking.
5. Investigate options to increase enforcement of the Mullumbimby parking schemes through a combination of the following enforcement options:
 - a) Increased patrolling through increasing the number of enforcement officers and associated patrolling equipment.
 - b) Introduce parking technology, such as in ground parking sensors
6.
 - a) Investigate which combination of the above options is the most cost effective and appropriate for the parking scheme and report recommendations back to Council approximately seven months after ANPR survey commences.
 - b) within the report, include costs and revenue raised from each option, a break down of local and visitor parking numbers, weekend/holiday and weekday parking particulars, and an overview on the compliance figures for prior and post the introduction of changes in times and compliance levels. (Cameron/Martin)

AMENDMENT**19-257 Resolved** that Council:

1. Expand the Mullumbimby parking schemes, as follows:
 - a) 2P zone on Tincogan Street between Dalley Street and Stuart Street.
2. Modify the Mullumbimby parking scheme time limits, as follows:
 - a) Increase the number of 1P spaces from 72 to 125
 - b) Increase the number of 2P spaces from 202 to 213
3. Undertake an expanded Automated Number Plate Recognition (ANPR) surveys of the Mullumbimby parking scheme to assess if the above modifications result in a change in demand, duration rates and parking patterns. The expanded ANPR survey area is to include:
 - a) The existing parking scheme area.
 - b) Along Tincogan Street between Dalley Street and Stuart Street.
 - c) Along Station Street, both sides, between Burringbar Street through to the first Council car park entrance.

The survey is to commence after items 1 and 2 have been implemented and the survey is to be done for a minimum of six months. To surveying is to monitor the performance of other ancillary parking zones (such as: loading zones, bus zones, taxi ranks, mobility spaces, car share spaces and EV car charging spaces etc) and provide recommendations to improve the performance and location of these spaces.

4. Note the submission from the Chamber of Commerce detailing work undertaken by the community to develop a Master Plan for Mullumbimby and that this incorporates a movement and access study with significant potential changes to traffic movement and parking.
5. Investigate options to increase enforcement of the Mullumbimby parking schemes through a combination of the following enforcement options:
 - a) Increased patrolling through increasing the number of enforcement officers and associated patrolling equipment.
 - b) Introduce parking technology, such as:
 - i) In ground parking sensors
 - ii) Parking meters
6.
 - a) Investigate which combination of the above options is the most cost effective and appropriate for the parking scheme and report recommendations back to Council approximately seven months after ANPR survey commences.
 - b) within the report, include costs and revenue raised from each option, a break down of local and visitor parking numbers, weekend/holiday and weekday parking particulars, and an overview on the compliance figures for prior and post the introduction of changes in times and compliance levels. (Spooner/Ndiaye)

*The amendment was put to the vote and declared carried.
Crs Martin and Cameron voted against the amendment.*

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

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Report No. 13.17 **Dingo Lane Solar Farm - Preliminary Business Case and Project Progression**
File No: I2019/667

19-258 Resolved that \$465,000 is allocated to the draft 2019/20 budget from the non-domestic waste reserve to progress the Dingo Lane Solar project to detailed feasibility (pre-build) and procurement phase. (Ndiaye/Lyon)

The motion was put to the vote and declared carried.

There being no further business the meeting concluded at 3:50pm.

I hereby certify that these are the true and correct Minutes of this Meeting as confirmed at Council's Ordinary Meeting on 27 June 2019.

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Mayor Simon Richardson