



Byron Shire Council



Minutes

Ordinary (Planning) Meeting

Thursday, 15 October 2020

BYRON SHIRE COUNCIL

Ordinary (Planning) Meeting Minutes
15 October 2020

INDEX OF ITEMS DISCUSSED

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ORDINARY (PLANNING) MEETING MINUTES

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MINUTES OF THE BYRON SHIRE COUNCIL ORDINARY (PLANNING) MEETING HELD ON THURSDAY, 15 OCTOBER 2020 COMMENCING AT 11.07AM AND CONCLUDING AT 2.07PM

12020/1566

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

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)
Chris Larkin (Manager Sustainable Development)
Ivan Holland (Planner)
Mila Jones (Minute Taker)

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

PUBLIC ACCESS

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

Public Access

Report No and Title	For/Against	Name	Representing Organisation	Submission Received in form of
13.1 PLANNING - S4.55 Development Application to modify Additional On- Site Car Parking Development Application 10.2017.474.2 Multi Dwelling Housing Consisting of Twenty Five (25) 1 Bedrooms - 70 - 90 Station Street Mullumbimby	Against	Dianne L Davison	Mullumbimby Community Preschool	Read out by staff
13.2 PLANNING - Development Application 10.2020.100.1 Tourist and Visitor Accommodation Comprising Six (6) Cabins at 533 Bangalow Road Talofa	For	Kate Singleton	Planners North / Those Architects	In person
13.5 PLANNING - Development Application 10.2019.180.2 - S4.55 to Modify Condition 8 - 22A Teak Circuit Suffolk Park	For	Lucy Colombo		Read out by staff
	Against	William Billy Mitris		Read out by staff
		Jade Dalitz		Read out by staff

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Report No and Title		For/ Against	Name	Representing Organisation	Submission Received in form of
13.8	Notification of Upgrade Works to Mobile Phone Base Station at 8 Acacia Street, Byron Bay	Against	Ms Lhamo	Northern Rivers for Safe Technology	In person
			Claire Alexander-Johnston		In person

Submissions

Subject	Name	Representing Organisation	Submission Received in form of
DA10.2020.496.1 accepted without legal access & without bushfire access	Duncan Dey		Zoom
Unauthorised dwelling letter to Main Arm residents	Matthew Lambourne		In person
Public Access and COVID safety	John Anderson		Read out by staff

Cr Coorey left the chamber at 11.40am.

Question No. 1 Rural dwellings built before November 1968

Matthew Lambourne asked the following question which was read out by staff:

What legislation, if any, required Council approval for rural dwellings built before November 1968, what form did any such approval take, and what records does Council have of any such approvals?

The Director Sustainable Environment and Economy responded as follows:

I'll first go into some background about planning controls. The earliest form of planning controls in NSW were contained in the Local Government Act 1919 - this allowed local councils to declare "residential districts" to prevent industrial and retail development in certain areas, such as the residential areas - but it doesn't really correlate with planning controls today.

The earliest form of modern planning controls was the County of Cumberland Planning Scheme Ordinance, and that commenced in 1951 and applied to generally the greater metropolitan areas of Sydney. Local councils were then able to develop their own planning schemes in the 1960s and 1970s. Hence our planning scheme was in the 1960s.

In order to determine whether a use lawfully commenced, a land owner or council needs to look at precisely what were the first planning controls for the relevant area, when and where they were in place.

Where a use predates the earliest planning scheme for an area, it is likely that there will be no form of approval that had been, or was, required to initially commence that use or establish that use. A landowner in these circumstances, and this is the case we find ourselves in this Shire, will need to provide evidence of continuity of use, or intention to continue use, by way of a statutory declaration from someone with direct knowledge of the facts of the particular building, or development in these

circumstances and this could be a neighbouring land owner, someone that owns the land now or someone that had previously owned the property.

So with that all being said, again it depends on the time that the development commenced or was in existence. That will vary across the Shire and it will vary then with what level of information we'll need to support that, so it could be a statutory declaration, it could be an early form of approval and so on.

Question No. 2 Confidentiality requirements

Jan Barham asked the following question which was read out by staff:

Could Council explain and provide details of legislative requirements and or any direction from the Office of Local Government in relation to confidentiality that pose limitations on public access to council agendas and other documents of council.

The General Manager took the question on notice.

Could council detail what measures council can implement to limit the amount of information that is deemed confidential eg. redaction of those parts that meet confidential requirements or part release.

The General Manager took the question on notice.

Question No. 3 Comment made by Mayor

John Anderson asked the following question which was read out by staff:

During the recent debate over a West Coopers Lane development the Mayor made a remark to the effect that having children had changed his perspective and presumably his political priorities.

Could the Mayor please expand on his insights and explain whether he meant by this that:

A. development must be encouraged in order to provide jobs for his children, regardless of Greens principles

Or

B. The world is in danger from climate change, over population, extinctions, general environmental degrading and Chinese totalitarianism, and that accordingly our development-at-all costs paradigms must be curtailed so that our children have some prospect of a reasonable future.

The Mayor did not expand on his remarks.

Cr Coorey returned to the chamber at 11.47am.

Question No. 4 Development Application 10.2020.496.1

Duncan Dey asked the following question via Zoom:

Why has Council accepted and advertised DA10.2020.496.1 when the property has no legal access and secondly when the bushfire access did not comply prior to lodgement (as required by RFS Planning for Bush Fire Protection - PBP)?

The Manager Sustainable Development responded as follows:

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In regard to the lack of legal access, from my point of view this is just an insertion at this point and is yet to be explored so that will be a matter for consideration by staff. Access is a requirement for consideration under the LEP and that will also be considered.

In terms of what information needs to be submitted with the application - Schedule 1, Part 1 of the EP&A Regulation specify what has to be submitted with the application. At this point in time Council staff are happy with what has been submitted for the application to be registered and for the assessment process to commence.

The meeting adjourned at 11.49am and reconvened at 12.15pm.

APOLOGIES

There was an apology from Cr Hackett.

PROCEDURAL MOTION

20-527 Resolved that the apology from Cr Hackett be accepted.

(Richardson/Ndiaye)

The motion was put to the vote and declared carried.

REQUESTS FOR LEAVE OF ABSENCE

Cr Hackett requested a leave of absence until the end of October 2020.

PROCEDURAL MOTION

20-528 Resolved that Cr Hackett be granted a leave of absence until the end of October 2020.

(Richardson/Ndiaye)

The motion was put to the vote and declared carried.

DECLARATIONS OF INTEREST – PECUNIARY AND NON-PECUNIARY

There were no declarations of interest.

TABLING OF PECUNIARY INTEREST RETURNS

In accordance with clause 4.9 of the Codes of Conduct for Councillors and Staff, Annual Interest Returns of Councillors and Designated Staff for 2019 to 2020 were tabled.

ADOPTION OF MINUTES FROM PREVIOUS MEETINGS

20-529 Resolved that the minutes of the Ordinary (Planning) Meeting held 17 September 2020 be confirmed.

(Ndiaye/Coorey)

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

Sustainable Environment and Economy

- Report No. 13.1 PLANNING - S4.55 Development Application to modify Additional On-Site Car Parking Development Application 10.2017.474.2 Multi Dwelling Housing Consisting of Twenty Five (25) 1 Bedrooms - 70 - 90 Station Street Mullumbimby
- Report No. 13.2 PLANNING - Development Application 10.2020.100.1 Tourist and Visitor Accommodation Comprising Six (6) Cabins at 533 Bangalow Road Talofa
- Report No. 13.8 Notification of Upgrade Works to Mobile Phone Base Station at 8 Acacia Street, Byron Bay

The remaining Recommendations and Committee Recommendation 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. 20-530 and concluding with Resolution No. 20-534.

STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

- Report No. 13.3 PLANNING - Development Application 10.2020.272.1 Use of Converted Farm Shed as Dwelling 2 of Detached Dual Occupancy at 530 Lismore Road, Binna Burra**
- File No:** I2020/1445

20-530 Resolved that pursuant to Section 4.16 of the Environmental Planning & Assessment Act 1979, Development Application No. 10.2020.272.1 for Use of Converted Farm Shed as Dwelling 2 of Detached Dual Occupancy, be granted consent subject to the conditions of approval in Attachment 2 (#E2020/73903). (Richardson/Ndiaye)

*The motion was put to the vote and declared carried.
 Crs Coorey, Martin, Lyon, Ndiaye, Richardson, Cameron, Spooner and Hunter voted in favour of the motion.
 No Councillors voted against the motion.*

- Report No. 13.4 PLANNING - Report of the 17 September 2020 Planning Review Committee**
- File No:** I2020/1457

20-531 Resolved that Council endorses the outcomes of the Planning Review Committee meeting held on 17 September 2020. (Richardson/Ndiaye)

*The motion was put to the vote and declared carried.
 Crs Coorey, Martin, Lyon, Ndiaye, Richardson, Cameron, Spooner and Hunter voted in favour of the motion.
 No Councillors voted against the motion.*

Report No. 13.5 **PLANNING - Development Application 10.2019.180.2 - S4.55 to Modify Condition 8 - 22A Teak Circuit Suffolk Park**
File No: I2020/1461

20-532 Resolved that pursuant to Section 4.55 of the Environmental Planning & Assessment Act 1979, Development Application No. 10.2019.180.2 to Modify Condition 8, be granted approval subject to the following:

Amend Condition 8 to read:

8. Consent required for works within the road reserve
Consent from Council must be obtained for works within the road reserve pursuant to Section 138 of the Roads Act 1993. Three (3) copies of engineering construction plans must accompany the application for consent for works within the road reserve.

Such plans are to be in accordance with Council's current Design & Construction Manuals and are to provide for the following works:

Driveway (residential areas)

A nominal 2.5m wide driveway crossover to be provided to 22a Teak Circuit, Suffolk Park and include the following:

- Provision of 0.3m separation between the existing light pole and the new driveway servicing 22A Teak Circuit; and
- Plans to indicate steel doweling to connect the new driveway with the existing crossover where they join within the road reserve..
- The driveway to comply (other than widths) with the requirements of Council's current "Northern Rivers Local Government Development Design & Construction Manuals and Standard Drawings".

(Richardson/Ndiaye)

The motion was put to the vote and declared carried.

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

No Councillors voted against the motion.

Report No. 13.6 **Draft Development Control Plan 2014 Chapter B1 Biodiversity**
File No: I2020/1403

20-533 Resolved:

1. That Council endorses Development Control Plan Chapter B1 Biodiversity (Attachment 1 #E2020/77224) for public exhibition for 28 days.
2. That staff provide a post-exhibition report to Council, including consideration and recommendations on submissions received during the exhibition period.
3. That staff update DCP Chapter A9 to include the definitions contained within DCP Chapter B1 Biodiversity post public exhibition. (Richardson/Ndiaye)

The motion was put to the vote and declared carried.

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Report No. 13.7 **Draft Plan of Management Charlotte Street Park**
File No: **I2020/1396**

20-534 Resolved:

1. That Council endorses the draft Plan of Management for Charlotte Street Park (Attachment 1 #E2020/72966) for public exhibition 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 including conclusions and recommendations from the Public Hearing, be presented to Council for consideration, and adoption of a Plan of Management for Charlotte Street Park, Bangalow. (Richardson/Ndiaye)

PROCEDURAL MOTION

- 20-535 Resolved** that Council change the order of business to deal with Reports 13.1, 13.2 and 13.8 next on the Agenda. (Richardson/Ndiaye)

The motion was put to the vote and declared carried.

Report No. 13.1 **PLANNING - S4.55 Development Application to modify Additional On-Site Car Parking Development Application 10.2017.474.2 Multi Dwelling Housing Consisting of Twenty Five (25) 1 Bedrooms - 70 - 90 Station Street Mullumbimby**
File No: **I2020/1434**

- 20-536 Resolved** that, pursuant to Section 4.55 of the Environmental Planning & Assessment Act 1979, Application No. 10.2017.474.3 for Additional On-Site Car Parking, be approved by modifying Development consent number 10.2017.474.2 as per the amended conditions in attachment 5 (E2020/78259). (Ndiaye/Lyon)

The motion was put to the vote and declared carried.

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

No Councillors voted against the motion.

Report No. 13.2 **PLANNING - Development Application 10.2020.100.1 Tourist and Visitor Accommodation Comprising Six (6) Cabins at 533 Bangalow Road Talofa**
File No: **I2020/1439**

- 20-537 Resolved** that, pursuant to Section 4.16 of the Environmental Planning & Assessment Act 1979, Development Application 10.2020.100.1 for Tourist and Visitor Accommodation Comprising Six (6) Cabins, be granted subject to the conditions of consent in Attachment 1 (E2020/77028) with the following amendments:

1. A condition for one car parking space per cabin, and amended conditions of consent that reflects this reduction in car parking.
2. Delete and replace condition 41 with the following:

41. Primary ecological restoration work

Primary ecological restoration works as set out in the approved Vegetation Management Plan (VMP) for the site must be completed prior to the issue of an occupation certificate. "Primary ecological restoration works" includes the following actions as listed in Table 8 of the VMP:

- Primary weeding
- Machine removal
- Planting

A report by a qualified and experienced ecologist and/or bush regenerator, that includes evidence to demonstrate that primary works have been carried out in accordance with the VMP, must be submitted and approved by Council prior to the issue of an occupation certificate. (Cameron/Richardson)

AMENDMENT

Moved: That, pursuant to Section 4.16 of the Environmental Planning & Assessment Act 1979, Development Application 10.2020.100.1 for Tourist and Visitor Accommodation Comprising Six (6) Cabins, be granted subject to the conditions of consent in Attachment 1 (E2020/77028) with the following amendment.

Delete and replace condition 41 with the following:

41. Primary ecological restoration work

Primary ecological restoration works as set out in the approved Vegetation Management Plan (VMP) for the site must be completed prior to the issue of an occupation certificate. "Primary ecological restoration works" includes the following actions as listed in Table 8 of the VMP:

- Primary weeding
- Machine removal
- Planting

A report by a qualified and experienced ecologist and/or bush regenerator, that includes evidence to demonstrate that primary works have been carried out in accordance with the VMP, must be submitted and approved by Council prior to the issue of an occupation certificate. (Ndiaye/Lyon)

The amendment was put to the vote and declared lost.

Crs Martin and Ndiaye voted in favour of the amendment.

Crs Coorey, Lyon, Richardson, Cameron, Spooner and Hunter voted against the amendment.

The motion was put to the vote and declared carried.

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

No Councillors voted against the motion.

Report No. 13.8 **Notification of Upgrade Works to Mobile Phone Base Station at 8 Acacia Street, Byron Bay**

File No: I2020/1536

Moved that Council:

1. Advise Downer that it does not support the proposed upgrade that will facilitate 5G technologies on the mobile phone base station at 8 Acacia Street Byron Bay. In particular

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that the 5G upgrade is only 300m to Busy Kids Day Care Centre and also 300 m to Periwinkle Preschool. The NSW Department of Education has a preference for a distance of at least 500m from boundaries of schools. This distance should be observed as a minimum.

2. Write to Telstra by 28 October 2020 and all other providers requesting that they not propose or undertake any further upgrades to any other phone base stations in Byron Shire for 5G technologies until such time as the previously requested information is provided, including:
 - a) identification of and commitment by a State or Federal Government body to do a comprehensive review of the cumulative impacts of the 5G technology,
 - b) identification of who holds responsibility for the on-going monitoring of any cumulative impacts,
 - c) commitment from the State Government to review the current planning processes for the installation of small cells and consideration of any possible improvements.

(Ndiaye/Lyon)

PROCEDURAL MOTIONS

20-538 Resolved that Cr Spooner be granted a two minute extension to his speech. (Richardson/Ndiaye)
The motion was put to the vote and declared carried.

20-539 Resolved that Cr Lyon be granted a two minute extension to his speech. (Richardson/Ndiaye)
The motion was put to the vote and declared carried.

20-540 Resolved that Cr Ndiaye be granted a two minute extension to her speech. (Richardson/Coorey)
The motion was put to the vote and declared carried.

*The motion (Ndiaye/Lyon) was put to the vote and declared tied.
Crs Coorey, Richardson, Spooner and Hunter voted against the motion.
The Mayor used his casting vote against the motion and declared the motion lost.*

FORESHADOWED MOTION

Moved that Council:

1. Provide feedback on the proposal to upgrade the mobile phone base station at 8 Acacia Street Byron Bay.
2. Include the following comments in the feedback provided:
 - a) Council supports the upgrade of the low impact facility from 4G to 5G;
 - b) Acknowledges that the upgrade will lead to an improvement in the service provided by Telstra's mobile phone network within the Byron Shire; and,
 - c) Recognises that the low impact facility complies with Australian government regulations in relation to emission of electromagnetic energy; specifically, Australian Standard Radiation Protection Standard - Maximum Exposure Levels to Radiofrequency Fields - 3kHz to 300 Ghz, as published by the Australian Radiation Protection and Nuclear Safety Agency.

- d) Request identification of and commitment by a State or Federal Government body to do a comprehensive review of the cumulative impacts of the 5G technology,
- e) Request identification of who holds responsibility for the on-going monitoring of any cumulative impacts. (Spooner/Hunter)

The motion was put to the vote and declared lost.

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

FORESHADOWED MOTION

20-541 Resolved that Council provide the following feedback on the proposal to upgrade the mobile phone base station at 8 Acacia Street Byron Bay:

- a) it recognises that the low impact facility complies with current Australian government regulations in relation to emission of electromagnetic energy; specifically, Australian Standard Radiation Protection Standard - Maximum Exposure Levels to Radiofrequency Fields - 3kHz to 300 Ghz, as published by the Australian Radiation Protection and Nuclear Safety Agency;
- b) it requests identification of and commitment by a State or Federal Government body to do a comprehensive review of the cumulative impacts of the 5G technology;
- c) it requests identification of who holds responsibility for the on-going monitoring of any cumulative impacts; and
- d) its preference is that fibre cable is the more equitable and least intrusive technology for internet provision to meet the needs of all Byron Shire residents. (Lyon/Ndiaye)

The motion was put to the vote and declared carried.

MAYORAL MINUTE

There was no Mayoral Minute.

PETITIONS

There were no petitions.

SUBMISSIONS AND GRANTS

There were no submissions or grants.

DELEGATES' REPORTS

There were no delegates' reports.

QUESTIONS WITH NOTICE**Question With Notice No. 14.1 M1 and MR545 Stage 1 Application**
File No: I2020/1533

Cr Basil Cameron asks the following questions in relation to document titled *Byron Shire Council - M1 and MR545 Stage 1 Application and Checklist and Appendices A-H* dated 31 August 2020, being collectively an application to Infrastructure Australia (IA) for an upgrade of the M1 interchange and MR545 as well as Memo to Councillors dated 10 September 2020 (E2020/72369).

- a) *Why were Councillors not shown the application to IA or given meaningful advice on the proposal for an upgrade of the M1 interchange and MR545 costing at \$78 million? (See Attachment 1 - Background Notes)*
- b) *What resolution of Council authorises the preparation and submission of the application to IA?*
- c) *Why were Councillors not advised that Byron Shire Council was the proponent of an application to IA for a road that is the responsibility of TfNSW and only advised of the application on 10 September after the application had been made on 31 August 2020?*
- d) *Despite working on a Transport Strategy and consistently raising the M1 interchange/MR545 as a case study, the Transport and Infrastructure Advisory Committee (TIAC) were not provided with a report or advice on the proposal. Why not?*
- e) *Why has Byron Shire Council endorsed a proposal largely driven by a TfNSW study with a limited study area and no analysis of what this will mean for Byron Bay and the Ewingsdale corridor beyond the study area? Why was no independent assessment undertaken?*
- f) *Appendix H is a letter of support from Hon. Ben Franklin to the Deputy Prime Minister. How was this letter provided? Who requested or suggested the letter?*
- g) *Was the Member for Ballina advised of the proposal and if so was her support sought? If she wasn't advised, why not?*

Response Director Infrastructure Services:

The following response was provided by the Director Infrastructure Services:

a) Why were Councillors not shown the application to IA or given meaningful advice on the proposal for an upgrade of the M1 interchange and MR545 costing at \$78 million? (See Attachment 1 - Background Notes)

There is no single specific resolution on the upgrade of Ewingsdale Road, M1 Interchange and MR545. However, there have been multiple reports, resolutions, strategic planning workshops, and email responses to questions from Councillors that address this issue.

The following Strategic Planning Workshop (SPW) presentations, resolutions, and Council reports set out the history of decisions taken with the dual lane upgrades of MR545 from McGettigans Lane to the M1 Interchange:

- A dual lane roundabout at McGettigans Lane was first presented to Council at an SPW on

29 November 2012 (#E2012/22999). This was incorporated into the Byron Shire Developer Contributions Plan 2012, adopted on 6 December 2012, by resolution 12-960. All subsequent amendments to the plan have included that work on the plan in accordance with the resolution.

- On 9 October 2014, Council considered Report No. 13.8. "Submission to Department of Planning on Byron Shire Central Hospital". That report addressed the requirement for a dual lane roundabout at the hospital as follows:

"Council is the Roads Authority for Ewingsdale Road, which is a classified road. Concurrence from RMS is required for approval of works on Ewingsdale Road under section 138 of the Roads Act 1993. Approval of traffic regulation (roundabout, traffic islands, etc.) and regulatory signage (signs and line marking) is required through the Local Traffic Committee. The speed reduction will require approval of RMS, probably through the Local Traffic Committee as well. Issues that need to be addressed are as follows:

- I. **A dual lane roundabout is required for the main entry to the site to allow for a future upgrade of Ewingsdale Road to four lanes.** This will improve traffic flow by separating traffic turning into the hospital site from through traffic in the short term. The roundabout construction will more than likely require land dedications from the subject site and adjoining properties. As an alternative to a dual lane roundabout the Department may wish to consider traffic lights at this intersection; and ..."*
(emphasis added)

Council resolved to submit the report and a set of conditions including the requirement for the dual lane roundabout to the Department of Planning.

- In response to a NOM from Cr Hunter in 2016 Council resolved as follows:

16-305 Resolved that Council:

- 1. Receive a report on zoning land fronting Ewingsdale Road from the Pacific Motorway exit round-a-bout to Kendall Street, Byron Bay to SP2 Infrastructure to allow for future road widening including:-*
 - a. the road widening to accommodate for at least 2 lanes of traffic in each direction;*
 - b. cycle way on either side;*
 - c. allow for services;*
 - d. landscaping and acoustic treatments where required; and*
 - e. consideration be given to provide enough room for intersection upgrades;*
- 2. Seek funding for preparation of a concept design to accommodate the works set out in point 1. (Hunter/Woods)*

The motion was put to the vote and declared carried. Crs Richardson and Cameron voted against the motion.

- In 2017, Don Murray, Executive Officer of NSW Department of Premier and Cabinet contacted Council regarding regional investment opportunities. Correspondence to Mr Murray is attached (#E2017/39958).
- On 3 May 2018, in response to an email question from Cr Hunter on the status of the upgrade of the McGettigans Lane roundabout Councillors were advised as follows:

“Council has undertaken preliminary design work and commenced consultation with the RMS. This concept is shown below. The roundabout is part of a suite of works from McGettigans Lane back to the interchange that Council and the RMS is currently working on. These works include resolving the issues with the hospital roundabout, land acquisitions to enable the dual lane upgrade of this section MR545.

The funding is problematic for Council in the medium term. We are unable to fund this intersection from developer contributions in a 5-7 year time horizon. Council staff are working with the RMS to resolve a funding model.”

- On 3 September 2018 Council wrote to the Member for Ballina, Ms Tamara Smith MP, to advise her of the issues on Ewingsdale Road and at the interchange and the work being undertaken by Council and the RMS to resolve the issues. A copy of that letter (#E2018/70868) is attached.
- On 13 November 2018 in response to a question from the Mayor about congestion at the interchange the Director Infrastructure Services sent an email describing the concept plans for the dual lane upgrade.

This email was sent to all Councillors.

Copies of the plans of the upgrade were provided. (#E2018/90705)

- At the Council meeting of 13 December 2018, Council considered report 13.9 –“Update on Planning Proposal for The Farm - Voluntary Planning Agreement”. That report noted:

“In considering Council’s request, the Department undertook preliminary consultation with State government agencies. In response, NSW Roads and Maritime Services (RMS) advised:-

Roads and Maritime is looking for a Voluntary Planning Agreement with the applicant and provision within the agreement to contribute to offsetting the development’s contribution to the traffic and safety issues around access to the site. Roads and Maritime has not yet received an offer from the Applicant, but is working with Council to progress short, medium and longer term solutions to the current traffic and safety issues and hopes to negotiate a suitable contribution arrangement with The Farm in the coming months

Subsequent meetings have been held with RMS and the proponent to discuss the traffic issues, potential solutions and The Farm’s contribution to those solutions.

While agreed solutions / network updates are yet to be fully considered and determined, it is evident that effective solutions will need to involve increased capacity within the RMS network (primarily the southbound off ramp and eastern roundabout), the hospital roundabout and along Ewingsdale Road itself (including a new roundabout at McGettigans Lane).

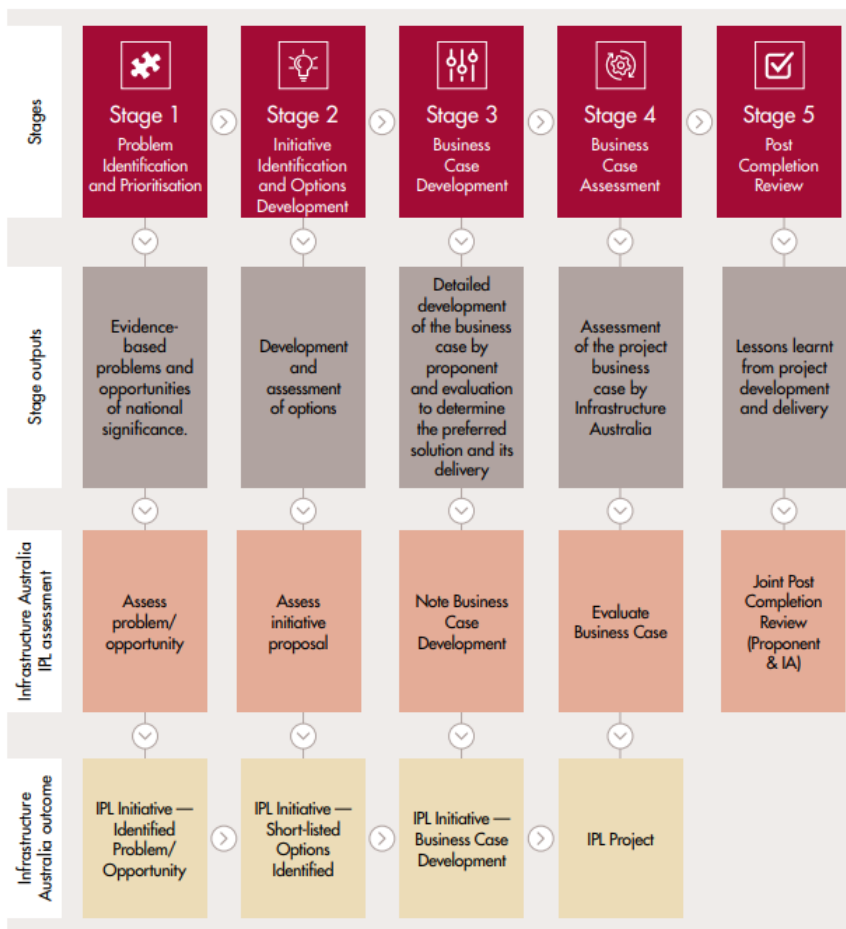
Within that scenario, it is very likely that land along the Ewingsdale Road frontage of The Farm’s property will be required for the purpose of road widening, to facilitate the future upgrade of Ewingsdale Road.”

- Council’s adopted Operational Plan 2020-21 states under Objective 1.2 “Provide essential services and reliable infrastructure which meet an acceptable community standard”, includes Operational Plan Activity 1.2.6.4 to: *Progress infrastructure planning for the Ewingsdale Road corridor.*

Based on the previous reports, strategic planning workshops, resolutions, and correspondence, there has been advice to Councillors on the work being undertaken to resolve the traffic issues at the western end of Ewingsdale Road and at the interchange. The work undertaken by Council staff is consistent with these documents, and is in accordance with the adopted Operational Plan.

b) What resolution of Council authorises the preparation and submission of the application to IA?

The General Manager of Byron Shire Council possesses the delegation to authorise a Stage 1 submission (Problem Identification and Prioritisation) to Infrastructure Australia for its annual Priority List. The Infrastructure Australia Priority List involves a staged process:



Source: Infrastructure Australia.

There is the opportunity, should Council’s Stage 1 submission progress further, to integrate multi-mode transportation options as part of the Stage 2 “Initiative Identification and Options Development”. This stage is expected to include a short-list of options to address the nationally significant problem including the adoption of “...a robust methodology to short-list options on the basis of their economic, environmental and social merit” (Infrastructure Australia – Assessment Framework). The further Stage 3 is the Business Case Development stage. Only once this stage is assessed will Council be advised if the issue of the M1 and MR545 interchange capacity will be included on Infrastructure Australia’s Priority List for 2021.

An Infrastructure problem included on the Infrastructure Australia Priority List can be removed from the list because an alternative option to address the problem is put forward and positively assessed by the Infrastructure Australia Board.

Should the issue be included on the Priority List there is no guarantee of funding.

The Priority List is made of up of two groups:

- **Projects** are infrastructure solutions to a defined problem or opportunity for which a full business case has been completed by the proponent and positively evaluated by Infrastructure Australia.
- **Initiatives** are potential infrastructure problems / opportunities or 'early stage' solutions for which a business case has not yet been completed. Initiatives are identified through a collaborative process between proponents and Infrastructure Australia, using the Australian Infrastructure Audit and other data as evidence of infrastructure needs.

c) Why were Councillors not advised that Byron Shire Council was the proponent of an application to IA for a road that is the responsibility of TfNSW and only advised of the application on 10 September after the application had been made on 31 August 2020?

Refer to response above.

d) Despite working on a Transport Strategy and consistently raising the M1 interchange/MR545 as a case study, the Transport and Infrastructure Advisory Committee (TIAC) were not provided with a report or advice on the proposal. Why not?

There is no presently adopted Transport Strategy, however, the expression of interest to Infrastructure Australia is not inconsistent with the draft Byron Shire Transport Strategy currently with Transport for NSW.

e) Why has Byron Shire Council endorsed a proposal largely driven by a TfNSW study with a limited study area and no analysis of what this will mean for Byron Bay and the Ewingsdale corridor beyond the study area? Why was no independent assessment undertaken?

As part of the Stage 1 submission to Infrastructure Australia, Council was required to quantify the problem to demonstrate that it is nationally significant (the current definition of a problem of national significance is a threshold value of \$30 million per annum). The study provided by TfNSW contained the latest data available to Council and as a result its data was used for the Business Cost Analysis. Stage 2 of the Priority List process provides for options to be explored.

f) Appendix H is a letter of support from Hon. Ben Franklin to the Deputy Prime Minister. How was this letter provided? Who requested or suggested the letter?

Refer to response below.

g) Was the Member for Ballina advised of the proposal and if so was her support sought? If she wasn't advised, why not?

The Parliamentary Secretary for Energy and the Arts, Hon Ben Franklin MLC, met with the General Manager in August 2020 and representations were made with respect to traffic congestion at the M1 and MR545 interchange. Mr Franklin offered to seek a letter of support to accompany Council's submission to the Infrastructure Australia Priority List from the NSW Minister for Regional Transport and Roads, the Hon Paul Toole MP. Council accepted Mr Franklin's offer and two letters of support were provided, however, due to tight time constraints a response from the Minister for Regional Transport and Roads was not received, however, Mr Franklin did provide a letter of support.

Letters of support were not sought from either the Member for Ballina or Parliamentary Secretary for Energy and the Arts for Council's 2019 submission to Infrastructure Australia.

There being no further business the meeting concluded at 2.07pm.

BYRON SHIRE COUNCIL

ORDINARY (PLANNING) MEETING MINUTES

15 October 2020

I hereby certify that these are the true and correct Minutes of this Meeting
as confirmed at Council's Ordinary Meeting on 19 November 2020.

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Mayor Simon Richardson