



Byron Shire Council



Minutes

Ordinary Meeting

Thursday, 4 August 2016

BYRON SHIRE COUNCIL

Ordinary Meeting Minutes
4 August 2016

INDEX OF ITEMS DISCUSSED

The following items are listed in the order in which they were dealt with.

Report No. 13.3	Report of the Planning Review Committee Meeting held on 2 June 2016.....	7
Report No. 13.5	Report of the Planning Review Committee Meeting held on 23 June 2016.....	7
Report No. 13.6	PLANNING - Broken Head Quarry rehabilitation works	7
Report No. 13.11	PLANNING - Submissions Report - 26.2014.7.1 - Planning Proposal for Housekeeping Minor Amendments to Byron LEP 2014	7
Report No. 14.1	Report of the Biodiversity and Sustainability Advisory Committee Meeting held on 23 June 2016	8
Report No. 14.2	Report of the Heritage Advisory Committee Meeting held on 21 June 2016	8
Report No. 14.3	Report of the Belongil Catchment Advisory Committee Meeting held on 30 May 2016	9
Report No. 14.4	Report of the Community Infrastructure Advisory Committee Meeting held on 2 June 2016.....	11
Report No. 14.5	Report of the Water, Waste and Sewer Advisory Committee Meeting held on 2 June 2016.....	12
Report No. 14.6	Report of the Transport Advisory Committee Meeting held on 14 June 2016.	14
Report No. 14.7	Report of the Belongil Catchment Advisory Committee Meeting held on 27 June 2016.....	14
Report No. 14.8	Report of the Local Traffic Committee Meeting held on 8 June 2016.....	15
Report No. 16.3	CONFIDENTIAL - Tender 2015-0035 Residential Subdivision Works 70-90 Station Street Mullumbimby Award Recommendation Report.....	20
Report No. 16.5	CONFIDENTIAL - Tender Evaluation Report 2016-0011 Provision of Surf Life Saving Services for Byron and Tweed Shire Councils.....	21
Report No. 16.6	CONFIDENTIAL - Contract 2016-0001 Paid Parking and Beach Locker Cash Collection Outcome	21
Notice of Rescission Motion No. 9.2 (16-334)	10.2016.189.1, 116 Stuart Street Mullumbimby ...	21
Report No. 13.7	PLANNING - Draft Rural Land Use Strategy: Public Submissions Report.....	23
Notice of Rescission Motion No. 9.2 (16-334)	10.2016.189.1, 116 Stuart Street Mullumbimby ...	27
Report No. 13.9	PLANNING - 26.2016.1.1 - Planning Proposal for rezoning of land at Buckleys Road Tyagarah.....	37
Report No. 13.10	PLANNING - Section 96 application 10.2014.230.2 to amend conditions of approval relating to operation of a Rural Tourist Facility (wedding centre) at 440 Bangalow Road Talofa	38
Report No. 13.12	Mullumbimby Masterplan Project Plan.....	40
Report No. 13.13	PLANNING - Draft Byron Shire Residential Strategy	40
Notice of Motion No. 9.1	Mayor's Discretionary Allowance.....	41
Notice of Motion No. 9.3	Councillor Membership Post-Election of Committees.....	41
Report No. 13.14	Handover of Road Assets from Roads & Maritime Services resulting from the Tintenbar to Ewingsdale Pacific Highway Upgrade Project.....	41
Report No. 16.1	CONFIDENTIAL - Grant 5-year Market Licences for Preferred Proposals	41
Report No. 16.2	CONFIDENTIAL - Sale of Operational Land - Periwinkle Children's Centre Inc	42
Report No. 16.4	CONFIDENTIAL - Construction of the Byron Bay Urban Recycled Water Scheme Expansion.....	43
Petition No. 10.1	Speed Bump Needed in Blackwood Crescent, Bangalow	43
Report No. 13.1	Local Government NSW Annual Conference 2016.....	44

BYRON SHIRE COUNCIL

Ordinary Meeting Minutes 4 August 2016

Report No. 13.2	Council Investments June 2016.....	45
Report No. 13.4	Byron Coast Koala Plan of Management	45
Report No. 13.8	PLANNING - 10.2016.152.1 Secondary Dwelling, 30 Pinegroves Road, Myocum.....	45
Report No. 14.4	Report of the Community Infrastructure Advisory Committee Meeting held on 2 June 2016.....	46

**MINUTES OF THE BYRON SHIRE COUNCIL ORDINARY MEETING HELD ON THURSDAY,
4 AUGUST 2016 COMMENCING AT 9.03 AND CONCLUDING AT 6.08PM**

I2016/803

PRESENT: Cr S Richardson (Mayor), Cr B Cameron, Cr C Cubis (arrived 9.18am), Cr D Dey, Cr A Hunter, Cr S Ibrahim, Cr P Spooner, Cr R Wanchap and Cr D Woods

Staff: Ken Gainger (General Manager)
Mark Arnold (Director Corporate and Community Services)
Phil Holloway (Director Infrastructure Services)
Shannon Burt (Director Sustainable Environment and Economy)
David Royston-Jennings/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:

9.2 (16-334) 10.2016.189.1, 116 Stuart Street Mullumbimby

Len Bates addressed Council in favour the recommendation.

John McKenna of North Coast Community Housing and Adam Bennett-Smith of Koho addressed Council against of the recommendation.

13.7 PLANNING - Draft Rural Land Use Strategy: Public Submissions Report

Matthew O'Reilly of Saddle Roads Residents Action Group and Judy MacDonald addressed Council in favour of the recommendation.

13.9 PLANNING - 26.2016.1.1 - Planning Proposal for rezoning of land at Buckleys Road Tyagarah

Dwayne Roberts of Ardill Payne and Partners addressed Council against the recommendation.

13.10 PLANNING – Section 96 application 10.2014.230.2 to amend conditions of approval relating to operation of a Rural Tourist Facility (wedding centre) at 440 Bangalow Road Talofa

Ivan Holland, June Zentvelds and Colin Roden addressed Council against the recommendation.

13.12 Mullumbimby Master Project Plan

David Brown addressed Council in favour of the recommendation.

13.13 PLANNING – Draft Byron Shire Residential Strategy

Matthew O'Reilly addressed Council in favour of the recommendation.

Submission No. 1 Arakwal Native Title

Matthew O'Reilly made a submission to Council regarding Arakwal Native Title

Submission No. 2 Councils Role in Community

Donald Maughan made a submission to Council regarding Councils role in community during the 2012-2016 term of Council.

The General Manager left the meeting at 10.26am.

Submission No. 3 General Managers Contract

Morgan made a submission to Council regarding the General Managers Contract.

The General Manager returned to the meeting at 10.33am

Submission No. 4 Wedding Venues – The Grove

June Zentveld made a submission to Council regarding the Grove Wedding Venue.

The meeting adjourned at 10.35am and reconvened at 10.49am.

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

Crs Dey, Hunter and Wanchap declared a special disclosure of pecuniary interest under s451 of the Local Government Act 1993 in Report 13.7. The nature of the interest being the adoption or otherwise of the Rural Land Use Strategy.

Cr Hunter declared a pecuniary interest in Report 13.8. The nature of the interest being that it relates to the erection of a secondary dwelling. Cr Hunter removed himself from the Council Chamber for this item.

Cr Spooner declared a pecuniary interest in Report 16.1. The nature of the interest being that his employer Byron Bay Community Association is tendering for a license. Cr Spooner removed himself from the Council Chamber for this item.

TABLING OF PECUNIARY INTEREST RETURNS

There were no Pecuniary Interest Returns tabled.

ADOPTION OF MINUTES FROM PREVIOUS MEETINGS

16-356 Resolved that the minutes of the following meetings be confirmed:

- Ordinary Meeting held 9 June 2016
- Extraordinary Meeting held 29 June 2016
- Extraordinary Meeting held 14 July 2016 (Woods/Richardson)

The motion was put to the vote and declared carried.

RESERVATION OF ITEMS FOR DEBATE AND ORDER OF BUSINESS

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

STAFF REPORTS**Corporate and Community Services**

- Report No. 13.1 Local Government NSW Annual Conference 2016
Report No. 13.2 Council Investments June 2016

Sustainable Environment and Economy

- Report No. 13.4 Byron Coast Koala Plan of Management
Report No. 13.7 PLANNING - Draft Rural Land Use Strategy: Public Submissions Report
Report No. 13.8 PLANNING - 10.2016.152.1 Secondary Dwelling, 30 Pinegroves Road, Myocum
Report No. 13.9 PLANNING - 26.2016.1.1 - Planning Proposal for rezoning of land at Buckleys Road Tyagarah
Report No. 13.10 PLANNING - Section 96 application 10.2014.230.2 to amend conditions of approval relating to operation of a Rural Tourist Facility (wedding centre) at 440 Bangalow Road Talofa
Report No. 13.12 Mullumbimby Masterplan Project Plan
Report No. 13.13 PLANNING - Draft Byron Shire Residential Strategy

Infrastructure Services

- Report No. 13.14 Handover of Road Assets from Roads & Maritime Services resulting from the Tintenbar to Ewingsdale Pacific Highway Upgrade Project

REPORTS OF COMMITTEES**Infrastructure Services**

- Report No. 14.8 Report of the Local Traffic Committee held on 8 June 2016
6.2 Coorabell Public School Bus Route - Request for Upgrade and Maintenance at 3 Bus Stops at Federal, Ewingsdale, Mullumbimby

CONFIDENTIAL REPORTS**Corporate and Community Services**

- Report No. 16.1 CONFIDENTIAL - Grant 5-year Market Licences for Preferred Proposals
Report No. 16.2 CONFIDENTIAL - Sale of Operational Land - Periwinkle Children's Centre Inc

Infrastructure Services

- Report No. 16.4 CONFIDENTIAL - Construction of the Byron Bay Urban Recycled Water Scheme Expansion

The remaining Recommendations and Committee Recommendation were adopted as a whole, being moved by Cr Woods and seconded by Cr Cubis. Each recommendation is recorded with a separate resolution number commencing at Resolution No. 16-357 and concluding with Resolution No. 16-397.

STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

Report No. 13.3 Report of the Planning Review Committee Meeting held on 2 June 2016

File No: I2016/613

16-357 Resolved that the report be noted. (Woods/Cubis)

Report No. 13.5 Report of the Planning Review Committee Meeting held on 23 June 2016

File No: I2016/692

16-358 Resolved that the report be noted. (Woods/Cubis)

Report No. 13.6 PLANNING - Broken Head Quarry rehabilitation works

File No: I2016/700

16-359 Resolved that Council note the report. (Woods/Cubis)

The motion was put to the vote and declared carried.

Crs Ibrahim, Dey, Cubis, Woods, Richardson, Cameron, Wanchap, Spooner and Hunter voted in favour of the motion.

No Councillors voted against the motion.

Report No. 13.11 PLANNING - Submissions Report - 26.2014.7.1 - Planning Proposal for Housekeeping Minor Amendments to Byron LEP 2014

File No: I2016/749

16-360 Resolved that Council:

1. Forward the planning proposal to amend Byron LEP 2014, as exhibited and included in Attachment 1 of this report, to NSW Parliamentary Counsel's Office requesting that a draft LEP instrument be prepared.
2. Liaise with Parliamentary Counsel's Office (PCO) as necessary to finalise the content of the draft LEP and to enable PCO to issue an Opinion that the plan can be made.
3. Make the draft LEP under delegated authority and forward the plan to the NSW Department of Planning and Environment for notification on the NSW Government legislation website.

(Woods/Cubis)

The motion was put to the vote and declared carried.

Crs Ibrahim, Dey, Cubis, Woods, Richardson, Cameron, Wanchap, Spooner and Hunter voted in favour of the motion.

No Councillors voted against the motion.

COMMITTEE REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

Report No. 14.1 **Report of the Biodiversity and Sustainability Advisory Committee Meeting held on 23 June 2016**
File No: I2016/702

16-361 **Resolved** that Council note the minutes of the Biodiversity and Sustainability Advisory Committee Meeting held on 23 June 2016. (Woods/Cubis)

16-362 **Resolved** that Council does not adopt Committee Recommendation under Business Arising from Previous Minutes as shown in this report and Attachment 1, but instead adopts the Management Recommendation as follows:

BUSINESS ARISING

Management Recommendation

That Council peer review the draft Integrated Weed Management Strategy against Council resolution 13-621 to ensure its compliance and that a detailed costed implementation plan be prepared to inform Council's Financial Sustainability Plan, and that this work be reported to Council along with the draft Strategy for Councils consideration.

That Council consider an allocation of \$20,000 in the quarterly budget review to undertake the peer review and detailed costed implementation plan. (Woods/Cubis)

Report No. 14.2 **Report of the Heritage Advisory Committee Meeting held on 21 June 2016**
File No: I2016/745

16-363 **Resolved** that Council note the minutes of the Heritage Advisory Committee Meeting held on 21 June 2016. (Woods/Cubis)

16-364 **Resolved** that Council adopt the following Committee Recommendation:

Report No. 5.1 Heritage Discussion Topics
File No: I2016/589

Committee Recommendation 5.1.1

That the Heritage Advisory Committee recommend to Council that the draft Byron Shire Heritage Strategy 2016-2019 be adopted with the following amendments:

Under Heading No 1 "*Operate a Heritage Committee to provide community input to heritage matters in the Byron Shire Council Area*"

Remove italics, in Action No 2, and Action No 6.

Under Heading No 7 "*Present Educational and Promotional Programs*"

Add the following words to Action 1 "*Development the webpage to facilitate easy access to the community based heritage study and other information on Council website*".

BYRON SHIRE COUNCIL

ORDINARY MEETING MINUTES

4 August 2016

Under the Heading "Introduction"

Check lines 10 - 20 in terms of the accuracy regarding the wording to traditional custodians of the land and make any changes as required

Under Heading No 2 *"Identify Heritage Items in the Byron Shire and list them in the Local Environmental Plan"*

Action 1 check the wording in terms of appropriate local Aboriginal Land Council and make changes as required

Committee Recommendation 5.1.2

That the Heritage Advisory Committee top high 4 priorities identified from the draft Heritage Strategy 2016-2019 are as follows:

- No 7 "Present Educational and Promotion Programs Education".
- No 3 " Appoint a Heritage Advisor to assist Council, the community and owners of listed Heritage Items, properties in Heritage Conservation Areas or potential items".
- No 4 "Manage heritage in the Byron Shire area in a positive manner".
- No 2 "Identify Heritage Items in the Byron Shire and list them in the Local Environmental Plan".

Committee Recommendation 5.1.3:

That the Heritage Advisory Committee top 'high' actions identified from the draft Heritage Strategy 2016-2019 are as follows:

- Website heritage information and maps.
- Information pamphlet.
- Consider review of notification requirements of development applications.
- A forum aimed at planners, developers, real estate industry supported by media release.
- Consider street signage/plaque, to identify heritage conservation areas.
- SHI link to be placed on Council's website.

that Council adopt the following Committee Recommendations:

(Woods/Cubis)

COMMITTEE REPORTS - INFRASTRUCTURE SERVICES

Report No. 14.3 **Report of the Belongil Catchment Advisory Committee Meeting held on 30 May 2016**

File No: I2016/614

16-365 **Resolved** that Council note the minutes of the Belongil Catchment Advisory Committee Meeting held on 30 May 2016. (Woods/Cubis)

16-366 **Resolved** that Council adopt the following Committee and Management Recommendation(s):

Report No. 5.1 Belongil Catchment Management Plan Review of Actions

File No: I2016/522

Committee Recommendation 5.1.1

1. That Council develop and implement a water monitoring programme for the Belongil Catchment incorporating:

BYRON SHIRE COUNCIL

ORDINARY MEETING MINUTES

4 August 2016

- a) Actions 1, 3, 6, 9, 11, 22, 51, 55, 82, 96, 130, 131, 133, 135, 139, 144 as listed in Attachment 2 to today's Report 5.1
 - b) invitations to relevant local academic institutions such as Southern Cross University to support and add via student and academic projects
2. That Council receive reports via its Belongil Catchment Advisory Committee on the following:
- a) a detailed communication and education plan based on the Plans and Strategies listed in section 2 'Purpose' of this Committee's Constitution and on combining Water, Sewer and Stormwater functions
 - b) a design for the Butler Street drain incorporating a natural channel shape and route, plus a wetlands filter system
 - c) a project plan for the Butler Street drainage upgrade, that work to coincide with the Byron Bay Bypass project
3. That Council notes Actions 29, 31, 32, 51, 80 listed in Attachment 2 to Report 5.1 in Committee Agenda for 30 May 2016 and receive a report via this Committee's next meeting on the opening strategy for the Belongil Estuary including:
- a) DPI Water advice, preferably in person, at the Committee meeting
 - b) copies of:
 - i) the "Belongil Estuary Mouth Opening Plan"
 - ii) the Review of Environmental Factors of 2005
 - iii) the current License in force until 2022
 - iv) six-monthly monitoring reports to date "Byron Estuary Entrance Management Report"
4. That the Committee receive a report at its next meeting on the status of actions 5, 16 – 20, 25, 26, 29, 38 – 41, 43, 49 - 52, 147 – 154, as listed in Attachment 2 to today's Report 5.1.
(Woods/Cubis).

16-367 Resolved that Council adopt the following Committee and Management Recommendation(s):

Report No. 5.2 Data Collection Belongil Drains Technical Note 4

File No: I2016/539

Committee Recommendation 5.2.1

1. That the Committee note the report.
2. That the data logging programme in the Belongil drains is continued.
3. That Council instruct the operator collecting this data to check logger function monthly, so that malfunctions leading to loss of many months of data are avoided.
4. That survey is undertaken to determine the height to AHD of bores and hence new loggers 7 and 8.
5. Council investigate the costs and benefits of conducting a sewage effluent tracer study (stable isotopes or other appropriate method) to 'map' its flow through the upper Belongil catchment
(Woods/Cubis).

BYRON SHIRE COUNCIL

ORDINARY MEETING MINUTES

4 August 2016

16-368 Resolved that Council adopt the following Committee and Management Recommendation(s):

Report No. 5.3 Proposed Belongil Catchment Water Quality Test Programme

File No: I2016/540

Committee Recommendation 5.3.1

That Council undertake water quality sampling as follows for a period of 12 months, to be reviewed before it ends so that continuity is not broken:

1. dry weather sampling monthly
2. event sampling as soon as possible after rain and flow commence, then daily during major events (especially after extended dry weather) down to a flow level to be determined, not exceeding 20 sample days per year
3. consideration of further sites at Clarkes Beach Lagoon, Clarkes Beach at the Cowper Street drain and Bangalow Road between Cooper and Mackay Streets
4. consideration of permanent loggers at key points
5. consideration of 'citizen sampling' data (Woods/Cubis).

16-369 Resolved that Council adopt the following Committee and Management Recommendation(s):

Report No. 5.4 Belongil Swamp Drainage Union Issues

File No: I2016/541

Committee Recommendation 5.4.1

1. That the Committee note the report.
2. That the letter at Attachment 1 to the Agenda (E2016/27767) be amended as follows and issued as Resolved by Council on 19 May (Resolution 16-247) so that the meeting can take place in June 2016:
 - a) in the first paragraph, change the last clause to "... and is therefore not operating in accordance with its obligations"
 - b) in the third paragraph, advise the source of the "purpose" cited (Woods/Cubis).

Report No. 14.4 Report of the Community Infrastructure Advisory Committee Meeting held on 2 June 2016

File No: I2016/621

16-370 Resolved that Council note the minutes of the Community Infrastructure Advisory Committee Meeting held on 2 June 2016. (Woods/Cubis)

- 16-371 Resolved** that Council adopt the following Committee and Management Recommendation:

Report No. 5.1 Strategic Asset Management Plan - General Fund

File No: I2016/140

Committee Recommendation 5.1.1

That Council endorse the draft Strategic Asset Management Plan for the purpose of community consultation to support the planned Special Rate Variation (SRV) as identified in Council's Improvement Plan (CIP). (Woods/Cubis).

- 16-372 Resolved** that Council adopt the following Committee and Management Recommendation:

Report No. 5.2 Status Report for the 2015/16 Local Roads Capital Works Program

File No: I2016/516

Committee Recommendation 5.2.1

That Council notes the successful implementation to date of the 2015/16 Local Roads Capital Works Program (Woods/Cubis).

Report No. 14.5 Report of the Water, Waste and Sewer Advisory Committee Meeting held on 2 June 2016

File No: I2016/622

- 16-373 Resolved** that Council note the minutes of the Water, Waste and Sewer Advisory Committee Meeting held on 2 June 2016. (Woods/Cubis)

- 16-374 Resolved** that Council adopt the following Committee and Management Recommendation:

Report No. 5.1 STP Flow Data Report

File No: I2016/542

Committee Recommendation 5.1.1

That the report regarding STP Flow Data Report be noted (Woods/Cubis)

- 16-375 Resolved** that Council adopt the following Committee and Management Recommendation(s):

Report No. 5.2 History and Future of Inflow and Infiltration in Byron Shire Council's Sewer Systems

File No: I2016/543

Committee Recommendation 5.2.1

That Council receive reports via its Water, Waste & Sewer Advisory Committee, or similar, on:

- a) works to overcome inflow and infiltration as listed at the end of section 1.0 of Council's 'Final Project Review' of June 2010 on the 'Mullumbimby Sewerage System Inflow and Infiltration Programme PRP1 Integrated Strategy' including:
 - i. complete the work on the gravity system in catchments 4001 and 4003b

- ii. continue with inspection of private assets
 - iii. implement routine investigation and repairs for both public and private infrastructure in our operational and maintenance activities
- b) results, if any, from later Pollution Reduction Programmes (PRP) including PRP2
- c) Average Dry Weather Flow (ADWF) to Peak Wet Weather Flow (PWWF) ratios for:
- i. the New Brighton sewer sub-catchment, for comparison of our local Low Pressure Pumping System (LPPS) with traditional gravity systems serving the Shire's other urban areas
 - ii. the Mullumbimby Public School (LPPS) (Woods/Cubis)

16-376 Resolved that Council adopt the following Committee and Management Recommendation(s):

Report No. 5.3 Main Arm Reuse Options

File No: I2016/544

Committee Recommendation 5.3.1

1. That the Committee note the report regarding Main Arm Reuse Options.
2. That Council receive a report via its Water, Waste and Sewer Advisory Committee, or similar, on reuse supplied to Byron Bay Golf Course and amounts irrigated.
3. That consideration be given to potential users along Myocum Road (Woods/Cubis).

16-377 Resolved that Council adopt the following Committee and Management Recommendation:

Report No. 5.4 Container Deposit Scheme (CDS) Information Session

File No: I2016/548

Committee Recommendation 5.4.1

That Council note that the Water Waste and Sewer Advisory Committee was presented information regarding a container deposit scheme (Woods/Cubis).

16-378 Resolved that Council adopt the following Committee and Management Recommendation:

Report No. 5.5 Scope of the Water, Waste and Sewer and Related Committees

File No: I2016/549

Committee Recommendation 5.5.1

That Council note the Water, Waste and Sewer Advisory Committee was provided with information about the recent report to Council reviewing all Committees (Woods/Cubis).

BYRON SHIRE COUNCIL

ORDINARY MEETING MINUTES

4 August 2016

Report No. 14.6 **Report of the Transport Advisory Committee Meeting held on 14 June 2016**
File No: I2016/685

16-379 Resolved that Council note the minutes of the Transport Advisory Committee Meeting held on 14 June 2016. (Woods/Cubis)

16-380 Resolved that Council adopt the following Committee and Management Recommendation(s):

Report No. 5.1 Update of Bikeways Plan
File No: I2016/626

Committee Recommendation 5.1.1

That Council note:

1. That the Transport Advisory Committee is reviewing Council's Bike Plan, as adopted in August 2008.
2. That the review include:
 - a) updating of maps and tables within the current, adopted Plan
 - b) Resolution 16-137 of Ordinary Meeting 7 April 2016
 - c) consideration of on-road options more often, due to affordability
 - d) consideration of route options between Mullumbimby and Brunswick Heads, including:
 - i) on-road
 - ii) off-road (beside-the-road)
 - iii) non-road routes (on the floodplain)
 - iv) #79 on Table 6
 - e) consideration of the following routes in Ocean Shores:
 - i) Balemo Drive (#15 on Table 6)
 - ii) Identification of 'squeeze points' etc on the on-road advisory routes #25 to #30 on Table 6
 - iii) #12 on Table 6 – Kolora Way Bridge and whether that upgrade is still a priority
 - f) road width options (e.g. cycle rideable hard shoulder) and their applicability to our road hierarchy, including conflicts between road widening and environmental values in the road reserve (Woods/Cubis)

Report No. 14.7 **Report of the Belongil Catchment Advisory Committee Meeting held on 27 June 2016**
File No: I2016/736

16-381 Resolved that Council note the minutes of the Belongil Catchment Advisory Committee Meeting held on 27 June 2016. (Woods/Cubis)

16-382 Resolved that Council adopt the following Committee and Management Recommendation(s):

Report No. 5.1 Belongil Creek Opening Strategy Overview

File No: I2016/678

Committee Recommendation 5.1.1

That Council:

1. recognise that the mouth of Belongil Creek being 'open' allows ocean energy into the Estuary and can increase flood levels in low-lying areas of the Belongil catchment, in comparison with the mouth being 'closed'
2. fund the preparation of a long term opening strategy for Belongil Creek in accordance with the report to the Belongil Catchment Advisory Committee meeting of 29 June 2016
(Woods/Cubis)

16-383 Resolved that Council adopt the following Committee and Management Recommendation:

Report No. 5.2 Status of Actions

File No: I2016/681

Committee Recommendation 5.2.1

That the report to the Belongil Catchment Advisory Committee outlining the status of actions is noted
(Woods/Cubis).

Report No. 14.8
File No:

Report of the Local Traffic Committee Meeting held on 8 June 2016
I2016/761

16-384 Resolved that Council note the minutes of the Local Traffic Committee Meeting held on 8 June 2016.
(Woods/Cubis)

16-385 Resolved that Council adopt the following Committee Recommendation(s):

Report No. 6.1 Road closure, Lighthouse Road - Byron Bay Lighthouse Run, Sunday 23 October 2016

File No: I2016/384

1. That the 10km Byron Lighthouse Fun Run to be held Sunday 23 October 2016, which includes the temporary road closures below, be endorsed between these times:
 - a) Lighthouse Road between Brooke Drive (at The Pass) and Palm Valley Way (entry to Wategos) between the hours of 7:00am and 08:00am
 - b) Clarkes Beach Car Park between the hours of 6:00am and 10:00am
 - c) Lawson Street, from Massinger Street / Lighthouse Road intersection to the caravan park, between the hours of 7:00am and 7:15am
2. That the approval provided in Part 1 is subject to:

- a) NSW Police approval is obtained;
- b) implementation of the approved Traffic Management Plan
- c) The event organiser:
 - i) advertising the impact of the event via a notice in the local weekly paper a minimum of one week prior to the operational impacts taking effect, noting it must include the event name, specifics of any traffic impacts or road closures and times, alternative route arrangements, event organiser, a personal contact name and a telephone number for all event related enquiries or complaints
 - ii) providing copy of the advert for Council's web page
 - iii) informing community and business that are directly impacted (eg adjacent to the event) via written information which is delivered to the property in a timely manner so as to document, consider and respond to any concerns raised
 - iv) arranging for private property access and egress affected by the event
 - v) liaising with bus and taxi operators and ensuring arrangements are made for provision of services during conduct of the event
 - vi) consulting with emergency services and any identified issues be addressed
 - vii) holding \$20m public liability insurance cover which is valid for the event
 - viii) paying of Council's Road Event Application Fee prior to the event
 - ix) The attainment (by the event proponent) of Cape Byron Headland Trust written concurrence of the event
 - x) Consultation with the Byron Bay Beach Cafe and North Coast Holiday Parks Clarkes Beach
 - xi) consultation with Council's Works Team regarding status of the construction of the roundabout at Lawson / Massinger Streets / Lighthouse Road (Woods/Cubis).

16-386 Resolved:

That Council adopt the following Committee Recommendation(s):

Report No. 6.3 Splendour, 21 July 2016 - Traffic Management Plan

File No: I2016/507

1. That the Splendour in the Grass Music Festival (Friday, 22 July 2016 to Sunday 24 July 2016) temporary traffic management plan and regulatory changes be endorsed, subject to NSW Police approval.
2. The attached Traffic Control Plan and Traffic Management Plan be noted.
3. That the Traffic Management Plan be implemented as approved.
4. That the event organiser:

- i) advertise the impact of the event via a notice in the local weekly paper a minimum of one week prior to the operational impacts taking effect, noting it must include the event name, specifics of any traffic impacts or road closures and times, alternative route arrangements, event organiser, a personal contact name and a telephone number for all event related enquiries or complaints
- ii) provide a copy of the advert for Council's web page
- iii) inform community and business that are directly impacted (eg adjacent to the event) via written information which is delivered to the property in a timely manner so as to document, consider and respond to any concerns raised;
- iv) arranging for private property access and egress affected by the event
- v) liaise with bus and taxi operators and ensuring arrangements are made for provision of services during conduct of the event
- vi) consult with emergency services and any identified issues be addressed
- vii) hold \$20m public liability insurance cover which is valid for the event
- viii) pay Council's Road Event application fee prior to the event
- ix) hold a event debrief within a month following the festival which includes but is not limited to Council, RMS and Police (Woods/Cubis).

16-387 Resolved that Council adopt the following Committee Recommendation(s):

Report No. 6.4 Request for No Stopping - Rural Fire Service Station, Gordon St, Mullumbimby

File No: I2016/509

- 1. That 'No Parking – Authorised Vehicles Excepted' be signed on Gordon Street, Mullumbimby, commencing from 0 m to 15 m covering the Mullumbimby Rural Fire Service (RFS) Station driveway
- 2. That RFS Mullumbimby be advised that RFS-authorized vehicles must be identified by displaying their standard RFS permit on the dashboard of approved vehicles and that vehicles which do not display the RFS permit will be subject to enforcement (Woods/Cubis)

16-388 Resolved that Council adopt the following Committee Recommendation(s):

Report No. 6.5 Request for Speed Reviews - Wilsons Creek Road

File No: I2016/503

That Wilsons Creek Road be referred to the RMS for a speed zone review (Woods/Cubis).

16-389 Resolved that Council adopt the following Committee Recommendation(s):

Report No. 6.6 Road Event - Monthly Criterium Cycle Races, Industrial Estate, Request for 3 Year agreement from September 2016

File No: I2016/505

1. That the Byron Bay Cycle Club's Criterium Racing circuit at Byron Bay Industrial Estate, to be held on the first Sunday of each month from 4 September 2016 to the last Sunday in August 2019, be endorsed between these times:
 - a) Centennial Circuit between Bayshore Drive and Wollongbar Drive, Tasman Way, Wollongbar Drive and Brigantine Street (between Centennial Circuit and Wollongbar Drive) between the hours of 06:00 and 09:00
2. That the approval provided in Part 1 is subject to NSW Police approval being obtained
3. That the attached Traffic Control Plan and Traffic Management Plan be noted
4. That the Traffic Management Plan be implemented as approved
5. That the event organiser:
 - i. provide wording for Council's website noting the impact of the event and including the event name, specifics of any traffic impacts or road closures and times, alternative route arrangements, event organiser, a personal contact name and a telephone number for all event related enquiries or complaints
 - ii. inform community and business that are directly impacted (eg adjacent to the event) via written information which is delivered to the property in a timely manner so as to document, consider and respond to any concerns raised
 - iii. arrange for private property access and egress affected by the event
 - iv. liaise with bus and taxi operators and ensuring arrangements are made for provision of services during conduct of the event
 - v. consult with emergency services and any identified issues be addressed
 - vi. hold \$20m public liability insurance cover which is valid for the event
 - vii. pay Council's Road Event application fee prior to the event (Woods/Cubis).

16-390 Resolved that Council adopt the following Committee Recommendation(s):

Report No. 6.7 Review of Signage location and enforcement - Magic Bus

File No: I2016/512

That the bus zone on Lighthouse Road near the intersection of Tallow Beach Road (as pictured in the Agenda) be extended and signage moved a few metres westward to finish as close as possible to the power pole near the driveway. (Woods/Cubis).

16-391 Resolved that Council adopt the following Committee Recommendation(s):

Report No. 6.8 Request for No Standing signs on Shirley Street, Byron Bay (corner of Dryden St)

File No: I2016/531

That the issue of site distance at intersections on Shirley Street Byron Bay, from Kendall to Wordsworth Street, be reviewed (Woods/Cubis)

16-392 Resolved that Council adopt the following Committee Recommendation(s):

Report No. 7.1 New Roundabout and speed zone, Tweed Valley Way, Yelgun

File No: I2016/510

That the RMS be requested to review speed limits on Tweed Valley Way / Brunswick Valley Way at the motorway link road intersection (Woods/Cubis).

16-393 Resolved that Council adopt the following Committee Recommendation(s):

Report No. 7.2 Development Applications for Local Traffic Committee Advice

File No: I2016/534

That Council notes that the Local Traffic Committee provided no traffic advice to the Development Engineers regarding relevant Development Applications at their meeting held 8 June 2016 (Woods/Cubis)

16-394 Resolved that Council adopt the following Committee Recommendation(s):

Report No. 8.1 Event - Byron Bay Writers Festival & Ideas Market from 5 to 8 August 2016

File No: I2016/593

1. That the temporary traffic management plan for the Byron Bay Writers Festival and Ideas Market, to be held from Friday 5 August to Sunday 7 August 2016, be endorsed, subject to NSW Police approval.
2. That the attached Traffic Management Plan (and Traffic Control Plans provided on 7 June 2016) be noted.
3. That the Traffic Management Plan be implemented as approved.
4. That the event organiser:
 - i) advertise the impact of the event via a notice in the local weekly paper a minimum of one week prior to the operational impacts taking effect, noting it must include the event name, specifics of any traffic impacts or road closures and times, alternative route arrangements, event organiser, a personal contact name and a telephone number for all event related enquiries or complaints;
 - ii) provide a copy of the advert for Council's website
 - iii) inform community and business that are directly impacted (eg adjacent to the event) via written information which is delivered to the property in a timely manner so as to

document, consider and respond to any concerns raised

- iv) arrange for private property access and egress affected by the event
- v) liaise with bus and taxi operators and ensure arrangements are made for provision of services during conduct of the event
- vi) consult with emergency services and any identified issues be addressed
- vii) hold \$20m public liability insurance cover which is valid for the event; and
- viii) pay of Council's Road Event application fee prior to the event. (Woods/Cubis).

CONFIDENTIAL REPORTS - CORPORATE AND COMMUNITY SERVICES

Report No. 16.3 **CONFIDENTIAL - Tender 2015-0035 Residential Subdivision Works
70-90 Station Street Mullumbimby Award Recommendation Report**
File No: I2016/742

16-395 Resolved:

1. That Council decline to accept any of the tenders regarding tender *2015-0035 Residential Subdivision Works 70-90 Station Street Mullumbimby*.
 2. That Council authorise the General Manager to enter into negotiations with J & M Bashforth and Sons with a view to entering a contract in relation to the completion of revised subdivision works at Station Street, Mullumbimby, as sought by the prospective purchaser.
 3. That Council authorises the GM to enter into any contract negotiated as per 2 above.
 4. That Council state that its reasons for declining to invite fresh tenders as referred to in *Local Government (General) Regulation 2005* reg 178(3)(b)-(d) are:
 - a. Having already conducted two tenders, Council has sufficiently tested the market in relation to the provision of subdivision works that J & M Bashforth and Sons represent Council's most advantageous potential contractor to carry out the works.
 - b. A new tender process will take approximately three months, further delaying the project. Further, it is unlikely that a new tender process will result in a more advantageous result and there is a risk that, with Council having advertised the works twice before, tenderers may decline to respond to a third tender.
 5. That Council state that its reasons for determining to enter into negotiations with J & M Bashforth and Sons are:
 - a. Having already tested the market twice regarding the works, and knowing that the revised subdivision works Council seeks to complete are not so different in scope from the tender, there are reasonable grounds for concluding the preferred contractor for the revised works is J & M Bashforth and Sons. (Woods/Cubis)
-

BYRON SHIRE COUNCIL

ORDINARY MEETING MINUTES

4 August 2016

CONFIDENTIAL REPORTS - INFRASTRUCTURE SERVICES

Report No. 16.5 **CONFIDENTIAL - Tender Evaluation Report 2016-0011 Provision of Surf Life Saving Services for Byron and Tweed Shire Councils**
File No: I2016/767

16-396 Resolved:

1. That Council award Tender as detailed within Attachment 1 (#I2016/767).
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. (Woods/Cubis)

Report No. 16.6 **CONFIDENTIAL - Contract 2016-0001 Paid Parking and Beach Locker Cash Collection Outcome**
File No: I2016/773

16-397 Resolved that Council award Contract 2016-0001 Paid Parking and Beach Locker Cash Collection to ASAP Australian Security and Protection for a period of two years with an option for a further year. (Woods/Cubis)

PROCEDURAL MOTION

16-398 Resolved that Council change the order of business to deal with Reports 9.2, 13.9, 13.10, 13.12, 13.13 and 13.7 next on the Agenda. (Richardson/Woods)

The motion was put to the vote and declared carried.

NOTICE OF RESCISSION MOTION

Notice of Rescission Motion No. 9.2 **(16-334) 10.2016.189.1, 116 Stuart Street Mullumbimby**
File No: I2016/718

16-399 Resolved that Council rescind Resolution No. 16-334 from its Extraordinary meeting held on 29 June 2016 which reads as follows:

16-334 Resolved that pursuant to Section 80 of the Environmental Planning & Assessment Act 1979, development application 10.2016.189.1 for multi dwelling housing (10 single bedroom Dwellings) and demolition of existing structures, be granted consent subject to the recommended conditions listed in Attachment 2 #E2016/42093. (Ibrahim/Spooner)
(Cameron/Dey)

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

PROCEDURAL MOTIONS

16-400 Resolved that Cr Spooner be granted a two minute extension to his speech. (Richardson/Woods)

BYRON SHIRE COUNCIL

ORDINARY MEETING MINUTES

4 August 2016

The motion was put to the vote and declared carried.

- 16-401 Resolved** that Cr Wanchap be granted a two minute extension to her speech. (Richardson/Woods)

The motion was put to the vote and declared carried.

- 16-402 Resolved** that Cr Ibrahim be granted a two minute extension to his speech. (Richardson/Woods)

The motion was put to the vote and declared carried.

- 16-403 Resolved** that Cr Woods be granted a two minute extension to her speech. (Richardson/Cubis)

The motion was put to the vote and declared carried.

- 16-404 Resolved** that Cr Richardson be granted a two minute extension to his speech. (Woods/Cubis)

The motion was put to the vote and declared carried.

- 16-405 Resolved** that Cr Dey be granted a two minute extension to his speech. (Richardson/Woods)

The motion was put to the vote and declared carried.

NOTE: THE VOTE ON RESOLUTION 16-406 BELOW WAS LATER RECOMMITTED AND THEREFORE IS NO LONGER VALID. REFER TO RESOLUTION 16-417.

- 16-406 Resolved:**

1. *That Council defer consideration of DA 10.2016.189.1 for multi dwelling units (10 single bedroom units) and demolition of existing structures, to allow for further consultation with the applicant on amendments to the proposal such that:*

- a) *the development is made more compatible with the character of the local area (Clause 16A of the SEPP) which is single households on low density residential lots, and*

- b) *building design is made more compatible with the heritage conservation zone (particularly regarding bulk, scale and form) with a reduction in the number of units.*

2. *That a report be presented back to Council on this consultation and any amendments proposed to the Application.* (Dey/Wanchap)

The motion was put to the vote and declared carried.

Crs Ibrahim, Cubis, Spooner and Hunter voted against the motion.

Council Resolution 16-406 was recommitted and resolved as Council Resolution 16-417

The meeting adjourned at 12.34pm for lunch and reconvened at 1.33pm.

PROCEDURAL MOTION

- 16-407 Resolved** that Council change the order of business to deal with Report 13.7 next on the Agenda. (Richardson/Woods)

The motion was put to the vote and declared carried.

STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

Report No. 13.7 **PLANNING - Draft Rural Land Use Strategy: Public Submissions Report**
File No: I2016/734

Crs Wanchap, Dey and Hunter declared a special interest in this matter earlier in the meeting.

Moved that Council:

- a) Adopt the proposed amendments to the draft Rural Land Use Strategy (RLUS) and supporting documents as contained in Table 1 of this report subject to the amendments to table 1 as detailed below, to enable submission to and final endorsement by Department of Planning & Environment;
- b) Not adopt recommendation (b) as Council should not be responsible for paying for an intersection capacity assessment for a private property.
- c) Not adopt recommendation (c) as it relates to (b) above.
 Amendments to table 1:
 All points of change recommended by staff remain other than for the following -:

- 1. Amend No. 3 (i) a) to the following:
 "If the slope of the land is greater than 25% but less than 32%, suitability of the land can be justified by the provision of a geotechnical report prepared by a suitably qualified engineer.
- 2. A) delete 4 i) a, b, c & d (Attachment 4 from exhibited draft remains in its place)
 B) Amend No. 4 (ii) to the following:
 Amend RLUS to reflect the following localities based on the variation criteria contained in figure 4 to include the following properties:
 - McAuleys Lane/Bilin Road, Myocum
 - Wilsons Creek/Alidenes Rd
 - Coopers Shoot Road, Coopers Shoot
 - Lot 1 DP 1031848 (951 Broken Head Road, Broken Head Linnaeus Estate)
 - Lot 27 DP 1016168, (Mountain View Ct. Billinudgel)
 - Lot 2, DP 859817 & Lot 1 (49 Mullumbimby Road, Myocum)
 - Lot 6, DP792431 (Balraith Lane, Ewingsdale)
 - Lot 21, DP 259447 (Hyrarna Crescent, Brunswick Heads)
 - Lot 7, DP 1091198 (Keys Road, Coorabell)
 - Lot 13, DP 615522 (307 Skinners Shoot Road, Skinners Shoot)
 - Lot 3 DP 592005 (Piccadilly Hill Road, Coopers Shoot)
- 3. Amend No. 5 by deleting this part of the table so Figure 4 is retained. (Page 128)
- 4. Amend No. 7 to the following: (Page 129)
 Rural Economy 3.4 Policy Direction 1 – Remove reference to draft NCRP and farmland variation criteria and replace with:

Byron Shire Farmland Variation Criteria:

Land may have additional uses other than agriculture if:

Agricultural Capability - the land is not significant farmland or capable of supporting sustainable agricultural production;

Land Use Conflict - the land use does not increase the likelihood of significant conflict and does not impact on current or future agricultural activities in the locality;

Infrastructure - the provision of infrastructure (utilities, transport, open space, communications and stormwater) required to service the land is physically and

economically feasible at no cost to State and Local Government. No adverse impacts on adjoining farmland;

Environment and Heritage - the proposed land uses do not have an adverse impact on areas of high environmental value, and Aboriginal or historic heritage significance; and

Avoiding Risk - risks associated with physically constrained land are avoided and identified, including: flood prone; bushfire prone; highly erodible; severe slope; and acid sulfate soils. (Wanchap/Hunter)

AMENDMENT:

Moved that Council:

- a) adopt the proposed amendments to the draft Rural Land Use Strategy (RLUS) and supporting documents as contained in Table 1 of this report, to enable submission to and final endorsement by Department of Planning & Environment;
- b) prior to submitting a final RLUS to the Department of Planning & Environment, undertake an intersection 'capacity and functionality' assessment for priority rural lifestyle living opportunity areas '1' and '2' (as identified in Attachment 3), to determine whether the nearest road intersection servicing each area can accommodate future development; and
- c) incorporate the assessment outcomes from part b above into the RLUS (where applicable) prior to submitting to the Department of Planning & Environment for final endorsement. (Dey/Spooner)

The amendment was put to the vote and declared lost.

Crs, Dey, Richardson, Cameron and Spooner voted in favour of the amendment.

Crs Ibrahim, Cubis, Woods, Wanchap and Hunter voted against the amendment.

PROCEDURAL MOTIONS

- 16-408 Resolved** that Cr Wanchap be granted a two minute extension to her speech. (Woods/Richardson)

The motion was put to the vote and declared carried.

- 16-409 Resolved** that Cr Woods be granted a two minute extension to her speech. (Richardson/Cubis)
- The motion was put to the vote and declared carried.*

- 16-410 Resolved** that Cr Richardson be granted a two minute extension to his speech. (Woods/Dey)

The motion was put to the vote and declared carried.

- 16-411 Resolved** that Cr Ibrahim be granted a two minute extension to his speech. (Richardson/Woods)

The motion was put to the vote and declared carried.

- 16-412 Resolved** that Cr Cameron be granted a two minute extension to his/her speech. (Richardson/Woods)

The motion was put to the vote and declared carried.

FORESHADOWED AMENDMENT

Moved that Council:

- 1. Incorporate changes as outlined in the report and defer submitting the RLUS until completion of Council's Residential Strategy in order to:

- a) Not pre-empt Council's residential strategy and ensure the provision of a 20 year housing supply/demand context, including in RU5 Village zones to inform the draft RLUS, as requested by DPE
 - b) Establish a community consultative committee to ensure the knowledge, skills and insights of the community inform and enhance the RLUS and to reinforce a two-way relationship between the community and Council.
 - c) Engage an agricultural development officer to facilitate and guide development of the agricultural component of the RLUS and partner with the community to ensure the long term future of agriculture in the shire
 - d) Develop a rural tourism and economic strategy that incorporates weddings, rural accommodation and other tourism products and services
 - e) Ensure the RLUS accords with principles and actions within the Far North Coast Regional Conservation Plan, 2010 and that the approved RLUS ensures a net benefit for shire's biodiversity, as requested by OEH
2. Hold a workshop to compile a list of properties considered appropriate for increased housing development. (Richardson/Dey)

The meeting adjourned at 2.27pm to open the Byron Shire Reserve Trust Committee Meeting. Resolution Numbers 16-413 was used during that meeting. The Ordinary Meeting reconvened at 3.10pm.

The amendment was put to the vote and declared lost.

Crs Dey, Richardson, Cameron and Spooner voted in favour of the amendment.

Crs Ibrahim, Cubis, Woods, Wanchap and Hunter voted against the amendment.

FORESHADOWED AMENDMENT

16-414 Resolved that Council:

- a) Adopt the proposed amendments to the draft Rural Land Use Strategy (RLUS) and supporting documents as contained in Table 1 of this report subject to the amendments to table 1 as detailed below, to enable submission to and final endorsement by Department of Planning & Environment;
- b) Not adopt recommendation (b) as Council should not be responsible for paying for an intersection capacity assessment for a private property.
- c) Not adopt recommendation (c) as it relates to (b) above.
Amendments to table 1:
All points of change recommended by staff remain other than for the following:
 1. Amend No. 3 (i) a) to the following:
"If the slope of the land is greater than 25% but less than 32%, suitability of the land can be justified by the provision of a geotechnical report prepared by a suitably qualified engineer.
 2. A) delete 4 i) a, b, c & d (Attachment 4 from exhibited draft remains in its place)
B) Amend No. 4 (ii) to the following:
Amend RLUS to reflect the following localities based on the variation criteria contained in figure 4 to include the following properties:
 - McAuleys Lane/Bilin Road, Myocum
 - Wilsons Creek/Alidenes Rd
 - Coopers Shoot Road, Coopers Shoot
 - Lot 1 DP 1031848 (951 Broken Head Road, Broken Head Linnaeus Estate)
 - Lot 27 DP 1016168, (Mountain View Ct. Billinudgel)

- Lot 2, DP 859817 & Lot 1 (49 Mullumbimby Road, Myocum)
- Lot 6, DP792431 (Balraith Lane, Ewingsdale)
- Lot 21, DP 259447 (Hyrarna Crescent, Brunswick Heads)
- Lot 7, DP 1091198 (Keys Road, Coorabell)
- Lot 13, DP 615522 (307 Skinners Shoot Road, Skinners Shoot)
- Lot 3 DP 592005 (Piccadilly Hill Road, Coopers Shoot)
- Buckley's Road Lot 1 and Lot 2 DP 1126204 and Lot 7 DP 573269.

3. Amend No. 5 by deleting this part of the table so Figure 4 is retained.

4. Amend No. 7 to the following:

Rural Economy 3.4 Policy Direction 1 – Remove reference to draft NCRP and farmland variation criteria and replace with:

Byron Shire Farmland Variation Criteria:

Land may have additional uses other than agriculture if:

Agricultural Capability - the land is not significant farmland or capable of supporting sustainable agricultural production;

Land Use Conflict - the land use does not increase the likelihood of significant conflict and does not impact on current or future agricultural activities in the locality;

Infrastructure - the provision of infrastructure (utilities, transport, open space, communications and stormwater) required to service the land is physically and economically feasible at no cost to State and Local Government. No adverse impacts on adjoining farmland;

Environment and Heritage - the proposed land uses do not have an adverse impact on areas of high environmental value, and Aboriginal or historic heritage significance; and

Avoiding Risk - risks associated with physically constrained land are avoided and identified, including: flood prone; bushfire prone; highly erodible; severe slope; and acid sulfate soils. (Woods/Hunter)

PROCEDURAL MOTION

16-415 Resolved that Cr Ibrahim be granted a two minute extension to his speech. (Woods/Wanchap)

The motion was put to the vote and declared carried.

The foreshadowed amendment (Woods/Hunter) was put to the vote and declared carried.

Crs Ibrahim, Cubis, Woods, Wanchap and Hunter voted in favour of the amendment.

Crs Dey, Richardson, Cameron and Spooner voted against the amendment.

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

Crs Ibrahim, Cubis, Woods, Wanchap and Hunter voted in favour of the motion.

Crs Dey, Richardson, Cameron and Spooner voted against the motion.

PROCEDURAL MOTION

16-416 Resolved that the vote on Resolution No. 16-406 be recommitted. (Spooner/Ibrahim)

The motion was put to the vote and declared carried.

Crs Dey and Cameron voted against the motion.

NOTICE OF RESCISSION MOTION

Notice of Rescission Motion No. 9.2 (16-334) 10.2016.189.1, 116 Stuart Street
Mullumbimby

File No: I2016/718

Continued

16-417 Resolved that pursuant to Section 80 of the Environmental Planning & Assessment Act 1979, development application no. 10.2016.189.1 for Multi dwelling housing under the State Environmental Planning Policy (Affordable Rental Housing), be granted a deferred commencement consent subject to the following conditions:

1. This consent does not operate until Council is satisfied that the plans for the development have been amended to reflect the following:
 - a. Six x One bedroom units;
 - b. Two x Two bedroom units;
 - c. A minimum of two units be provided for affordable housing purposes;
 - d. The amended plans are based on plans submitted to Council by Koho Projects Pty Ltd dated 5 July 2016 and Site Plan dated 10 July 2016.

Evidence of compliance with the above condition(s), sufficient to satisfy the Council as to those matters, must be provided within 2 years of this notice. If satisfactory evidence is produced in accordance with this requirement, the Council will give notice to the applicant of the date from which the consent operates. Council delegate authority to the General Manager to approve the plans.

(N.B. S94 Contributions and Water and Sewer Charges to be amended to reflect the amended plans)

CONDITIONS OF CONSENT:

Parameters of this Consent

1) Development is to be in accordance with approved plans and documents

The development is to be in accordance with plans listed below:

Plan No.	Description	Prepared by	Dated:
DA - 18	Demolition Plan	Koho Projects Pty Ltd	1 April 2016
	Site Waste Minimisation and Management Plan	Duncan Band	12.10.15
And			
The approved plans under deferred commencement consent Condition No.1.			

The approved plans and related documents endorsed with the Council stamp and authorised signature must be kept on site at all times while work is being undertaken.

2) Residential use

This development consent allows only for the purposes of multi dwelling housing. Nothing within this development consent allows for the development to be used as tourist and visitor accommodation.

3) Provision of Affordable Housing

From the date of the issue of an Occupation Certificate for the subject development a minimum of

two (2) dwellings are to be used in perpetuity for the purposes of 'affordable housing' (as defined in the *Environmental Planning and Assessment Act 1979* and *State Environmental Planning Policy [Affordable Rental Housing] 2009*), and these dwellings are to be managed by a registered community housing provider (*registered community housing provider* has the same meaning as in the *Housing Act 2001*).

4) Compliance with Building Code of Australia and insurance requirements under the Home Building Act 1989

- (1) For the purposes of [section 80A](#) (11) of [the Act](#), the following conditions are prescribed in relation to a development consent for development that involves any building work:
 - (a) that the work must be carried out in accordance with the requirements of the Building Code of Australia ,
 - (b) in the case of residential building work for which the [Home Building Act 1989](#) requires there to be a contract of insurance in force in accordance with Part 6 of that Act, that such a contract of insurance is in force before any building work authorised to be carried out by the consent commences.
- (2) This [clause](#) does not apply:
 - (a) to the extent to which an exemption is in force under [clause](#) 187 or 188, subject to the terms of any condition or requirement referred to in [clause](#) 187 (6) or 188 (4), or
 - (b) to the erection of a temporary building.
- (3) In this [clause](#), a reference to the Building Code of Australia is a reference to that Code as in force on the date the [application](#) for the relevant construction certificate is made.

5) Erection of signs

- (1) For the purposes of [section 80A](#) (11) of [the Act](#), the requirements of subclauses (2) and (3) are prescribed as conditions of a development consent for development that involves any building work, subdivision work or demolition work.
- (2) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
 - (a) showing the name, address and telephone number of the principal certifying authority for the work, and
 - (b) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
 - (c) stating that unauthorised entry to the work site is prohibited.
- (3) Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.
- (4) This [clause](#) does not apply in relation to building work, subdivision work or demolition work that is carried out inside an existing building that does not affect the external walls of the building.
- (5) This [clause](#) does not apply in relation to Crown building work that is certified, in accordance with Section 109R of [the Act](#), to comply with the technical provisions of the State's building laws.
- (6) This [clause](#) applies to a development consent granted before 1 July 2004 only if the building work, subdivision work or demolition work involved had not been commenced by that date.

Note: Principal certifying authorities and principal contractors must also ensure that signs required by this [clause](#) are erected and maintained (see [clause](#) 227A which currently imposes a maximum penalty of \$1,100).

6) Notification of Home Building Act 1989 requirements

- (1) For the purposes of [section 80A](#) (11) of [the Act](#), the requirements of this [clause](#) are prescribed as conditions of a development consent for development that involves any residential building work within the meaning of the [Home Building Act 1989](#).
- (2) Residential building work within the meaning of the [Home Building Act 1989](#) must not be carried out unless the principal certifying authority for the development to which the work relates (not being the council) has given the council [written notice](#) of the following information:
 - (a) in the case of work for which a principal contractor is required to be appointed:
 - (i) the name and licence number of the principal contractor, and
 - (ii) the name of the insurer by which the work is insured under Part 6 of that Act,
 - (b) in the case of work to be done by an owner-builder:
 - (i) the name of the owner-builder, and
 - (ii) if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.
- (3) If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under subclause (2) becomes out of date, further work must not be carried out unless the principal certifying authority for the development to which the work relates (not being the council) has given the council [written notice](#) of the updated information.
- (4) This [clause](#) does not apply in relation to Crown building work that is certified, in accordance with Section 109R of [the Act](#), to comply with the technical provisions of the State's building laws.

7) Television reception system

A single common television reception system provided with a design to minimise adverse visual impacts whilst enabling high quality reception for each dwelling.

8) External lighting installation

To maintain safe access, adequate lighting must be provided between sunset and 12.00 PM. All external lighting must be installed in accordance with AS4282-1997: Control of the obtrusive effects of outdoor lighting.

9) No Interference with Amenity of Neighbourhood

The proposed use of the premises shall not interfere with the amenity of the neighbourhood by reason of noise, vibration, smell, fumes, smoke, dust, wastewater or otherwise. In particular:

- a) The noise level emanating from the use of the premises must comply with the New South Wales Industrial Noise Policy.
- b) Only clean and unpolluted water is permitted to be discharged to Councils' stormwater drainage system or any waters.

10) Provision of a share car on site

At all times a dedicated share car for residents of the site is to be provided. When not in use the car is to be parked on site. The share car is to be made available to all residents of the subject site who are registered to use the vehicle. The share car is to be available for use by the residents 24hrs a day, 7 days a week with bookings to be made via the internet. The share car is to be maintained in complete working order, registered and insured by the owner of the property.

The following conditions are to be complied with prior to issue of a Construction Certificate

11) A Demolition Management Plan must be submitted to Council for approval

An Environmental Management Plan (EMP) must be submitted to Council for approval prior to any demolition works commencing. The EMP must be prepared by a suitably qualified professional and contain details of measures to be undertaken to ensure that demolition works do not result in any off-site impacts that could interfere with neighbourhood amenity by reason of noise, vibration, smell, fumes, smoke, dust, wastewater or otherwise.

All works must be in accordance with NSW WorkCover Authority.

12) Engineering Certification

Written certification is to be submitted to the Principal Certifying Authority from a suitably qualified engineer to confirm that the proposed demolition works on the subject site will not detract from the structural integrity of any structure located on an adjoining property.

13) Details of the garbage, composting and recycling storage area required

Details of the waste storage area (garbage, recycling and green bins) are required to be shown on the construction certificate drawings. The details are to include a concrete slab on ground for the waste storage area shown on the approved Site Plan referred to in Condition No.1.

14) Boundary fencing

Acoustically rated boundary fencing is to be provided along the northern, southern and rear (eastern) boundaries to a height of 1.8 metres above ground level. The northern and southern side boundary fencing is to be of concrete, brick, block or AAC (Hebel) construction (excluding the area of 'side return fencing').

Front boundary fencing (including 'side return fencing', that being the sides located between the front building line and the front property boundary to Stuart Street) is to be a maximum of 1.2 metres in height and incorporate plain heritage style picket fencing.

The proposed rear boundary fencing is to include lapped and capped hardwood timber construction or other materials which are compatible with the heritage character of the area. The total cost of all new fencing is to be at the expense of the applicant/developer.

15) Water and Sewerage - Section 68 approval required

An Approval under Section 68 of the Local Government Act 1993 to carry out water supply work and sewerage work must be obtained.

16) Remediation of contaminated land

The application for a construction certificate must be accompanied by a Detailed Contaminated Land Assessment, and Remedial Action Plan (if required) prepared by a suitably qualified contaminated land specialist with experience in the remediation of contaminated land. The Remedial Action Plan must conform to NSW EPA *Guidelines for Consultants Reporting on Contaminated Sites 1997* and all other applicable standards.

The Remedial Action Plan must be approved as part of the Construction Certificate for Building Works.

17) On-site stormwater detention - Section 68 approval required

An approval under Section 68 of the Local Government Act 1993 to carry out on-site detention drainage system and connection to a Council approved drainage system.

The plans must be in compliance with the Northern Rivers Local Government Development Design and Construction Manuals, Byron Shire Council Comprehensive Guidelines for Stormwater

Management and relevant Australian Standards. Refer to Council's website for copies of Council documents.

18) Sediment and Erosion Control Management Plan required

The application for a Construction Certificate is to include plans and specifications that indicate the measures to be employed to control erosion and loss of sediment from the site. Control over discharge of stormwater and containment of run-off and pollutants leaving the site/premises must be undertaken through the installation of erosion control devices such as catch drains, energy dissipaters, level spreaders and sediment control devices such as filter fences and sedimentation basins.

Such plans and specifications must be approved as part of the Construction Certificate.

NOTE: The plans must be in compliance with Council's current "Northern Rivers Local Government Development Design & Construction Manuals and Standard Drawings".

19) 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:

Driveways - McCoughans Lane	Construct 2 new driveways from the edge of pavement seal through to the property boundary; inclusive of piped culverts with precast concrete headwalls. The driveways are to be generally in accordance with Council's standard "Northern Rivers Local Government Development Design & Construction Manuals and Standard Drawings".
Road pavement and drainage – McCoughans Lane	A minimum 3m wide bitumen sealed pavement for the full width of the subject site and either North to join the existing sealed section adjoining the car park at the rear of No. 108 Stuart Street or South to the existing bitumen sealed section at the rear of 93 Station Street. The table drains are to be cleared out, re-profiled and stabilised.
Stuart Street	Remove the existing vehicle bridge over the table drain. Replace any damaged sections of the concrete table drain in front of the property to improve drainage along Stuart Street.
Adjustment of Services	The road works are to include the adjustment and/or relocation of services as necessary to the requirements of the appropriate service authorities and to ensure that the services are constructed flush with the finished surface levels.

20) Traffic Management Plan

Consent from Council must be obtained for a Traffic Management Plan pursuant to Section 138 of the Roads Act 1993. The plans and specifications are to include the measures to be employed to control traffic (inclusive of construction vehicles) during construction of the development. The traffic control plan is to be designed in accordance with the requirements of the Roads and Traffic Authority's Manual, Traffic Control at Work Sites Version 2, and the current Australian Standards, Manual of Uniform Traffic Control Devices Part 3, 'Traffic Control Devices for Works on Roads'.

"The plan shall incorporate measures to ensure that motorists using road adjacent to the development, residents and pedestrians in the vicinity of the development are subjected to minimal time delays due to construction on the site or adjacent to the site".

The traffic control plan must be prepared by a suitably qualified and RTA accredited Work Site Traffic Controller.

21) Car parking layout, vehicle circulation and access plans required.

The application for a Construction Certificate is to include plans and specification that indicate access, parking and manoeuvring details in accordance with the plans approved by this consent.

The access, parking and manoeuvring for the site is to comply with the requirements of Council's Development Control Plan 2014, AS 2890.1-2004: Parking facilities, Part 1: Off-street car parking and AS 2890.2 – 2010 - Parking facilities, Part 2: Off-street commercial vehicle facilities. Plans are to include, but not be limited to, the following items:

- a) pavement description;
- b) site conditions affecting the access;
- c) existing and design levels;
- d) longitudinal section from the road centreline to the car space(s);
- e) cross sections every 15 metres;
- f) drainage (pipes, pits, on-site detention, etc.);
- g) turning paths;
- h) linemarking and signage.
 - i) Sight distances for the fences at the entry onto the lane are to comply with AS 2890.1 clause 3.2.4

The engineering plans and specifications are to be designed by a qualified practising Civil Engineer. The Civil Engineer is to be a corporate member of the Institution of Engineers Australia or is to be eligible to become a corporate member and have appropriate experience and competence in the related field.

Such plans and specifications must be approved as part of the Construction Certificate.

NOTE: The plans must be in compliance with Council's current "Northern Rivers Local Government Development Design & Construction Manuals and Standard Drawings".

22) Flood Planning Level for new buildings

The flood planning level for this development is 4.45m A.H.D. The plans and specifications to accompany the construction certificate application are to indicate a minimum habitable floor level that is at or above the flood planning level.

The plans and specifications to accompany the construction certificate application are also to indicate the use of flood compatible materials and services below the flood planning level in accordance with the requirements of Council's Development Control Plan 2014 – Chapter C2 – Areas Affected by Flood.

23) Bond required to guarantee against damage to public land

A bond of \$4000 is to be paid to Council as guarantee against damage to surrounding public land and infrastructure during construction of the proposed development. Evidence is to be provided to Council indicating the pre development condition of the surrounding public land and infrastructure. Such evidence must include photographs. The proponent will be held responsible for the repair of any damage to roads, kerb and gutters, footpaths, driveway crossovers or other assets.

Such bond will be held until Council is satisfied that the infrastructure is maintained/repared to pre development conditions and that no further work is to be carried out that may result in damage to Council's roads, footpaths etc.

24) Certificate of Compliance – Water Management Act 2000

A Certificate of Compliance will be issued upon payment of developer charges for water and sewer as calculated in accordance with Byron Shire Council and Rous Water Development Servicing Plans.

Byron Shire Council acts as Rous Water's agent in this matter and will issue a Certificate of Compliance on behalf of Rous Water upon payment of the Rous Water Development Servicing Charge to this Council.

Note: Copies of the application forms for Certificates of Compliance are available on Council's website http://www.byron.nsw.gov.au/files/Forms/Section_305_Certificate.pdf or from Council's Administration Office. Copies of Byron Shire Council's Development Servicing Plans are available at Council's Administration Office.

Developer charges will be calculated in accordance with the Development Servicing Plan applicable at the date of payment. A check must be made with Council to ascertain the current rates by contacting Council's Principal Engineer Systems Planning, Water on 02 6626 7081. Applicable charges can be found on Council's website: <http://www.byron.nsw.gov.au/development-contributions-plans-section-94-and-64>

The contributions payable will be adjusted in accordance with relevant plan and the amount payable will be calculated on the basis of the contribution rates that are applicable at the time of payment. Payment by Personal or Company Cheque will not be accepted.

25) Compliance with BASIX Certificate requirements

The development is to comply with BASIX Certificate No.716163M_02, dated 10 June 2016. The commitments indicated in the Certificate are to be indicated on the plans submitted for approval of the Construction Certificate.

The plans submitted must clearly indicate all windows numbered or identified in a manner that is consistent with the identification on the BASIX Certificate.

Minor changes to the energy efficiency measures may be undertaken without the issue of an amendment under Section 96 of the Act, provided that the changes do not affect the form, shape or size of the building.

Proposed external colours/materials must be consistent with those shown on the approved plans referred to in Condition No.1 of this consent. Such plans and specifications must be approved as part of the Construction Certificate.

26) Developer Contributions to be paid

Contributions set out in the schedule at the end of this consent are to be paid to Council prior to the release of a construction certificate. Contributions are levied in accordance with the Byron Shire Developer Contributions Plan 2012 (as amended).

The Plan may be viewed on line at <http://www.byron.nsw.gov.au/> or during office hours at the Council Offices located at Station Street, Mullumbimby. These contributions are to fund public amenities and services as listed in the schedule. Additional details on the specific amenities are to be found in the Byron Shire Developer Contributions Plan 2012 (as amended).

The contributions in the schedule are current at the date of this consent. The contributions payable will be adjusted in accordance with the relevant plan and the **amount payable will be calculated on the basis of the contribution rates that are applicable at the time of payment.** The schedule contains a date for which the schedule remains valid, after this date you will have to contact Council for an updated schedule. Payments will only be accepted by cash or bank cheque.

27) Landscaping plan required

The application for a Construction Certificate is to include plans and specifications that indicate the landscaping of the site. Such landscaping plan must incorporate adequate detail to demonstrate compliance with the provisions of Chapter B9 (Landscaping) of Byron Development Control Plan 2014. Species are to be chosen from Byron Council's Native Species Planting Guide, available at www.byron.nsw.gov.au/publications/native-species-planting-guide. The landscaping plan must indicate:

- a) proposed location for planted shrubs and trees
- b) botanical name of shrubs and trees to be planted
- c) mature height of trees to be planted
- d) location of grassed and paved areas, and
- e) The plan is to be prepared by a suitably qualified person/s who has appropriate experience and competence in landscaping.
- f) The area of proposed landscaping of indigenous or low water use species as specified on the BASIX Certificate.

Such plans and specifications must be approved as part of the Construction Certificate.

The following conditions are to be complied with prior to commencement of building works

28) Traffic Management Plan

The approved traffic management plan is to be implemented.

29) Builders rubbish to be contained on site

All builders rubbish is to be contained on the site in a 'Builders Skips' or an enclosure. Footpaths, road reserves and public reserves are to be maintained clear of rubbish, building materials and all other items.

30) Prevention of water pollution

Only clean and unpolluted water is to be discharged to Council's stormwater drainage system or any watercourse to ensure compliance with the Protection of Environment Operations Act.

31) Erosion and Sediment Control Management Plan required

Erosion and sedimentation controls are to be in place in accordance with the approved Erosion and Sediment Control Plan.

Sediment and erosion control measures in accordance with the approved Erosion and Sedimentation Control plan/s must be maintained at all times until the site has been stabilised by permanent vegetation cover or hard surface.

Any such measures that are deemed to be necessary because of the local conditions must be maintained at all times until the site is made stable (i.e. by permanent vegetation cover or hard surface).

Note: Council may impose on-the-spot fines for non-compliance with this condition.

32) Remediation of contaminated land (if required)

Prior to the commencement of any works associated with this development consent, the following is required:

- a) A suitably qualified contaminated land specialist with experience in the remediation of contaminated land must be engaged by the proponent to oversee and be responsible for all works associated with the implementation of the Remedial Action Plan and subsequent site and soil validation.
- b) A notice of commencement of the remediation work and a copy of the Remedial Action Plan must be provided to Council's Health and Environment Section prior to commencement of the -work.
- c) The notice of commencement must include contact details of the responsible person, including an emergency 24-hour phone number.

33) Remediation of contaminated land

If required remedial works must be undertaken in conformance with the approved Remedial Action Plan and NSW EPA *Guidelines for Consultants Reporting on Contaminated Sites 1997* and all other applicable standards.

34) Removal of wastes

All wastes associated with these works are to be handled and disposed of in accordance with the requirements of the Work Cover Authority. The applicant/owner is to produce documentary evidence that this condition has been met. Wastes must be disposed of at a Licensed Waste Facility. All wastes removed from the site must be managed and disposed of in accordance with *NSW DECC Waste Classification Guidelines (2014)*

www.environment.nsw.gov.au/resources/waste/08202classifyingwaste.pdf

35) Erosion & sediment measures

Erosion and sedimentation controls are to be in place in accordance with the *Guidelines for Erosion & Sediment Control on Building Sites*. A summary of these guidelines is attached. A full copy may be downloaded from Council's web site at www.byron.nsw.gov.au.

36) WorkCover Authority

All works must be undertaken in accordance with the requirements of the WorkCover Authority.

The following conditions are to be complied with during demolition and construction

37) Site Waste Minimisation and Management Plan (SWMMP)

Construction works are to be undertaken in accordance with the approved SWMMP referred to in Condition No.1 of this Development Consent.

38) Construction/demolition times

Construction/demolition works must not unreasonably interfere with the amenity of the neighbourhood. In particular construction/demolition noise, when audible from adjoining residential premises, can only occur:

- a) Monday to Friday, from 7 am to 6 pm.
- b) Saturday, from 8 am to 1 pm.

No construction/demolition work to take place on Saturdays and Sundays adjacent to Public Holidays and Public Holidays and the Construction Industry Awarded Rostered Days Off (RDO) adjacent to Public Holidays.

Note: Council may impose on-the-spot fines for non-compliance with this condition.

39) Construction/demolition Noise

Construction/demolition noise is to be limited as follows:

- a) For construction/demolition periods of four (4) weeks and under, the L10 noise level measured over a period of not less than fifteen (15) minutes when the construction site is in operation must not exceed the background level by more than 20 dB(A).
- b) For construction/demolition periods greater than four (4) weeks and not exceeding twenty-six (26) weeks, the L10 noise level measured over a period of not less than fifteen (15) minutes when the construction site is in operation must not exceed the background level by more than 10 dB(A)

Note: Council may impose on-the-spot fines for non-compliance with this condition.

40) Builders rubbish to be contained on site

All builders rubbish is to be contained on the site in a 'Builders Skips' or an enclosure. Footpaths, road reserves and public reserves are to be maintained clear of rubbish, building materials and all other items.

The following conditions are to be complied with prior to issue of a Final Occupation Certificate

41) Works to be completed prior to issue of a Final Occupation Certificate

All of the works indicated on the plans and approved by this consent, including any other consents that are necessary for the completion of this development, are to be completed and approved by the relevant consent authority/s prior to the issue of a Final Occupation Certificate.

Any Security bond paid for this application will be held until Council is satisfied that no further works are to be carried out that may result in damage to Councils road/footpath reserve.

42) Access and parking areas to be completed.

The access and parking areas are to be constructed in accordance with the approved plans and Roads Act consent.

43) Floor Levels – Certification for Flooding

Prior to the issue of an Occupation Certificate, a certificate from a registered surveyor must be submitted to the Principle Certifying Authority confirming the height of habitable and non-habitable floors. An Occupation Certificate must not be issued unless the floor levels are at or above the relevant flood planning levels.

44) Maintenance Bond

A maintenance bond of 5% (**minimum bond amount of \$1,000.00**) of the value of the road works constructed is to be lodged with Council. A copy of the contract construction cost of the road works is to be submitted with the bond. The maintenance period is 6 months in accordance with Council's current Design & Construction Manuals and will commence from the date of issue of the **Occupation Certificate**. The security may be provided, at the applicant's choice, by way of cash bond or a satisfactory bank guarantee. An application in writing for the release of the bond must be made at the satisfactory completion of the maintenance period.

45) Record of Infrastructure

A record of infrastructure coming into Council ownership is to be submitted to Council. The information is to be submitted in the form of Council's Standard Form titled "Asset Creation Record". This form is available from Council's Local Approvals Section.

46) Water service and meter to be connected to each dwelling

A water service and water meter must be connected to each residential dwelling in the development using an approved backflow prevention device. It is the applicant's responsibility to engage a licensed plumber who shall liaise with council during this process.

Any new water service and meter will be at the applicants cost.

47) Sewer and water to be connected

A Certificate of Compliance under Section 307 of the Water Management Act 2000 is to be obtained from Byron Shire Council prior to the issue of an Occupation Certificate for works on water and/or sewer mains.

Application forms are available from Council's administration building or online at

http://www.byron.nsw.gov.au/files/Forms/Section_305_Certificate.pdf to be submitted for a Certificate of Compliance.

48) Remediation of contaminated land (where required)

A notice of completion must be provided to Council's Health and Environment Section within 30 days of completion of the remediation work. The notice of completion must be accompanied by a Validation Report prepared by a suitably qualified person with experience in the remediation of contaminated land.

The Validation Report must specify the standard of remediation achieved and certify that the site is suitable for the proposed use. The report must conform to the NSW EPA *Guidelines for Consultants Reporting on Contaminated Sites 1997* and all other statutory requirements.

Documentary evidence must be provided confirming the method of disposal and destination of all contaminated soil removed from the site.

Reasons for conditions

- To comply with the provisions of the Local Environmental Planning Instrument.
- To preserve the environment and existing or likely future amenity of the neighbourhood.
- To protect the environment.
- To preserve the amenity of the area.
- To ensure adequacy of services to the development.
- In the interests of public health and safety.
- To ensure compliance with Section 68 of the Local Government Act 1993.

Notes

Schedule of Development Contributions

The following contributions are current at the date of this consent. The contributions payable will be adjusted in accordance with the relevant plan and the **amount payable will be calculated on the basis of the contribution rates that are applicable at the time of payment.** The current contribution rates are available from Council offices during office hours. **Payments will only be accepted by cash or bank cheque.** (Spooner/Ibrahim).

PROCEDURAL MOTION

16-418 Resolved that the motion be put. (Woods/Cubis)

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

*The motion (Spooner/Ibrahim) was put to the vote and declared carried.
Crs Ibrahim, Cubis, Woods, Wanchap, Spooner and Hunter voted in favour of the motion.
Crs Dey, Richardson and Cameron voted against the motion.*

Report No. 13.9	PLANNING - 26.2016.1.1 - Planning Proposal for rezoning of land at Buckleys Road Tyagarah
File No:	I2016/744

Moved that Council:

- a) Consider the planning proposal from Ardill Payne and Partners on behalf of Tyagarah Holdings P/L to rezone approximately 21 hectares of RU2 Rural Landscape (and Deferred Matter) zoned land to R5 Large Lot Residential (Attachment 1 #E2016/54224);

BYRON SHIRE COUNCIL

ORDINARY MEETING MINUTES

4 August 2016

- b) Support this planning proposal to amend Byron LEP 2014 (or Byron LEP 1988).
- c) Request the Minister for Planning to determine that the matter proceed. (Woods/Wanchap)

PROCEDURAL MOTION

- 16-419 Resolved** that Cr Woods be granted a two minute extension to her speech. (Richardson/Cubis)

The motion was put to the vote and declared carried.

*The motion (Woods/Wanchap) was put to the vote and declared lost.
Crs Cubis, Woods, Wanchap and Spooner voted in favour of the motion.
Crs Ibrahim, Dey, Richardson, Cameron and Hunter voted against the motion.*

FORESHADOWED MOTION

Moved that Council:

- a) Consider the planning proposal from Ardill Payne and Partners on behalf of Tyagarah Holdings P/L to rezone approximately 21 hectares of RU2 Rural Landscape (and Deferred Matter) zoned land to R5 Large Lot Residential (Attachment 1 E2016/54224));
- b) Not proceed with this planning proposal to amend Byron LEP 2014 (or Byron LEP 1988) for the reasons outlined in this report and notify the applicant of its decision;
- c) Request the Minister for Planning to determine that the matter not proceed. (Dey/Richardson)

*The foreshadowed motion was put to the vote and declared lost.
Crs Dey, Richardson, Cameron and Spooner voted for the motion.
Crs Ibrahim, Cubis, Woods, Wanchap and Hunter voted against the motion.*

Report No. 13.10 PLANNING - Section 96 application 10.2014.230.2 to amend conditions of approval relating to operation of a Rural Tourist Facility (wedding centre) at 440 Bangalow Road Talofa
File No: I2016/748

- 16-420 Resolved** that pursuant to Section 96 of the Environmental Planning & Assessment Act 1979, application no. 10.2014.230.2 to modify Conditions 41(f) and 45 relating to the Operation of the Rural Tourist Facility, be approved by modifying development consent 10.2014.230.1 as outlined in #E2016/73184.

DELETE:

41) No interference with the Amenity of Neighbourhood

The proposed use of the premises shall not interfere with the amenity of the neighbourhood by reason of noise, vibration, smell, fumes, smoke, dust, wastewater or otherwise. In particular:

- a) The noise level emanating from the use of the premises in accordance with this development must not cause or permit "offensive noise" as defined by the Protection of the Environment Operations Act 1997 to impact upon neighbouring residential dwellings at any time.
- b) Only clean and unpolluted water is permitted to be discharged to any waters.
- c) All wastes shall be contained within appropriate containers fitted with a tight-fitting vermin-proof lid.
- d) All amplified music and public address systems must operated so that they are not audible outside of the boundary of the property between 10:00 pm on any day, and

10.00 am on the following day.

- e) An approval to operate the on-site sewage management system shall be maintained for the on-site sewage management system. Any failure or overloading of the system which is likely to cause harm to the environment or a risk to public health shall be reported to Council within 24 hours of the pollution incident being detected by any person.
- f) No private fireworks displays are permitted unless conducted by a licensed pyrotechnician under the Explosives Regulation 2013 and in strict compliance with all NSW Workcover Authority requirements. Neighbours with domestic pets or animals likely to be affected by the loud noise from fireworks shall be notified at least 24 hours before any private fireworks event so that they can make appropriate alternative

45) Marquees

Marquees are to be erected for no more than four days in a row, and are to be removed the day after the wedding.

INSERT:

41) No interference with the Amenity of Neighbourhood

The proposed use of the premises shall not interfere with the amenity of the neighbourhood by reason of noise, vibration, smell, fumes, smoke, dust, wastewater or otherwise. In particular:

- a) The noise level emanating from the use of the premises in accordance with this development must not cause or permit "offensive noise" as defined by the Protection of the Environment Operations Act 1997 to impact upon neighbouring residential dwellings at any time.
- b) Only clean and unpolluted water is permitted to be discharged to any waters.
- c) All wastes shall be contained within appropriate containers fitted with a tight-fitting vermin-proof lid.
- d) All amplified music and public address systems must operated so that they are not audible outside of the boundary of the property between 10:00 pm on any day, and 10.00 am on the following day.
- e) An approval to operate the on-site sewage management system shall be maintained for the on-site sewage management system. Any failure or overloading of the system which is likely to cause harm to the environment or a risk to public health shall be reported to Council within 24 hours of the pollution incident being detected by any person.
- f) No private fireworks displays are permitted on the site in association with the Rural Tourist Facility.

45) Marquees

Marquees are to be erected for no more than four days in a row, and are to be removed the first standard working day after the wedding. (Dey/Ibrahim)

The motion was put to the vote and declared carried.

Crs Ibrahim, Dey, Cubis, Woods, Richardson, Cameron, Wanchap, Spooner and Hunter voted in favour of the motion.

No Councillors voted against the motion.

BYRON SHIRE COUNCIL

ORDINARY MEETING MINUTES

4 August 2016

Report No. 13.12 **Mullumbimby Masterplan Project Plan**
File No: I2016/754

16-421 Resolved:

1. That Council endorse the Mullumbimby Masterplan Project Plan as presented in Attachment 1.
2. That Council allocate funds as follows for the development of the Mullumbimby Masterplan:
 - \$12,000 from section 94 'Open Space Mullumbimby' for the Masterplan
 - \$30,000 from section 94 'Urban Road Mullumbimby' for the Movement Study
 - \$30,000 from section 94A for the Place Activation Seed Funding
 - \$43,000 from Land and Natural Environment reserve (Cameron/Richardson)

The motion was put to the vote and declared carried.

Report No. 13.13 **PLANNING - Draft Byron Shire Residential Strategy**
File No: I2016/762

16-422 Resolved:

1. That Council exhibit those parts of the working draft Byron Shire Residential Strategy contained in Attachment 2 (#E2016/65098) for public comment.
2. That the Housing Needs Report (Attachment 1 #E2016/63711) be made available as supporting information.
3. That Council in progressing Resolution 16-292 consider the economic and social benefits of adopting a 30% affordable housing provision into the shire's planning instruments. Any dwellings identified through these provisions to be managed by a community housing provider to ensure ongoing compliance and support.
(Spooner/Richardson).

PROCEDURAL MOTIONS

16-423 Resolved that Cr Spooner be granted a one minute extension to his speech. (Richardson/Dey)

The motion was put to the vote and declared carried.

16-424 Resolved that Cr Richardson be granted a one minute extension to his speech.
(Cameron/Spooner)

The motion was put to the vote and declared carried.

*The motion (Spooner/Richardson) was put to the vote and declared carried.
Crs Dey, Richardson, Cameron, Wanchap and Spooner voted for the motion.
Crs Ibrahim, Cubis, Woods and Hunter voted against the motion.*

MAYORAL MINUTE

There was no mayoral minute.

NOTICES OF MOTION

Notice of Motion No. 9.1 Mayor's Discretionary Allowance
File No: I2016/616

16-425 Resolved:

1. That Council note the following donation from the Mayor's Discretionary Allowance 2015/16:
 - Byron Zero Emissions – Zero Emissions Baseline Research - \$950
2. That Council advertise the donation in accordance with Section 356 of the Local Government Act 1993. (Richardson/Dey)

The motion was put to the vote and declared carried.

Notice of Motion No. 9.3 Councillor Membership Post-Election of Committees
File No: I2016/679

16-426 Resolved that this matter be deferred to the Ordinary Meeting of 25 August 2016. (Dey/Richardson)

The motion was put to the vote and declared carried.

PROCEDURAL MOTION

16-427 Resolved that Council adopt the staff recommendations for reports 13.14, 16.1, 16.2 and 16.4 en bloc. (Woods/Richardson)

The motion was put to the vote and declared carried.

STAFF REPORTS - INFRASTRUCTURE SERVICES

Report No. 13.14 Handover of Road Assets from Roads & Maritime Services resulting from the Tintenbar to Ewingsdale Pacific Highway Upgrade Project
File No: I2016/719

16-428 Resolved that the information in this report be noted, including the handover by the Roads and Maritime Services (RMS) on midnight 14 August 2016 of old Pacific Highway assets, now Hinterland Way, between Bangalow Road and the southern Council boundary. (Woods/Richardson) .

CONFIDENTIAL REPORTS - CORPORATE AND COMMUNITY SERVICES

Report No. 16.1 CONFIDENTIAL - Grant 5-year Market Licences for Preferred Proposals
File No: I2016/737

16-429 Resolved:

1. That Council grant the following 5-year Market Licenses in accordance with section 46 of

BYRON SHIRE COUNCIL

ORDINARY MEETING MINUTES

4 August 2016

the Local Government Act, subject to the execution of an Agreement to Lease where development consent or section 68 approvals are required:

- a) North Byron Farmers Market Incorporated, subject to the following:
 - i. For the purpose of conducting a Farmers Market,
 - ii. Within license area as shown in "Map E: New Brighton Oval New Brighton Market Site", Lot 335 DP755687 Park Street New Brighton, contained in the Request for Proposal documentation,
 - iii. Conducted every Tuesday from 8am to 11am for a total of 52 market days per annum,
 - iv. A Licence Rental Fee of \$6,344 (\$122 x 52 market days) per annum, inclusive of GST, (based on 35 market stalls) to be paid monthly in advance.
 - v. Special conditions, in accordance with the proposal, for market operations.
 - b) Byron Bay Community Association Incorporated, subject to the following:
 - i. For the purpose of conducting an Artisan Market,
 - ii. Within license area as shown in "Map F: Railway Park Jonson Street Byron Bay Market Site", Lot 2 DP 827049 Jonson Street, Byron Bay, contained in the Request for Proposal documentation,
 - iii. Conducted every Saturday from 3pm to 9pm for a total of 52 market days per annum,
 - iv. A Licence Rental Fee of \$6,344 (\$122 x 52 market days) per annum, inclusive of GST, (based on 35 market stalls) to be paid quarterly in advance.
 - v. Special conditions, in accordance with the proposal, for market operations.
2. That Council's seal be affixed to the relevant documents.
 3. That Council makes public its decision, including the name of the successful respondents.
(Woods/Richardson)

Report No. 16.2 **CONFIDENTIAL - Sale of Operational Land - Periwinkle Children's Centre Inc**
File No: I2016/746

16-430 Resolved:

1. That Council dispose of operational land known as Lot 45/DP 714410 located at 5 Sunrise Boulevard Byron Bay by way of sale to Periwinkle Children's Centre Incorporated for \$236,500 (GST Inclusive).
2. That Council enter into a mortgage agreement with Periwinkle Children's Centre on the basis of a twenty five year loan at an interest rate of one per cent per annum with monthly repayments.
3. As sale proceeds are received from the loan repayments, the proceeds be transferred to the Property Development Reserve.
4. That Council authorise the General Manager to execute the contract of sale and any other associated document associated with the sale.
5. In accordance with Regulation 400 of the Local Government (General) Regulation 2005, Council authorise the affixing of the Council seal to any document required to execute this resolution that requires it.
6. That this Report remain confidential.
(Woods/Richardson)

CONFIDENTIAL REPORTS - INFRASTRUCTURE SERVICES

Report No. 16.4 **CONFIDENTIAL - Construction of the Byron Bay Urban Recycled Water Scheme Expansion**

File No: I2016/765

16-431 Resolved:

1. That Council award the Lump Sum Price Construct Contract 2016-0010 Construction of the BBURWS Expansion - Tender 2016-0010 to Fewster Brothers Contracting Pty Ltd for the value of \$466,500.00 (exclusive of GST).
2. That Council delegate to the General Manager the authority to administer this contract to the contract value plus the contingency value nominated in this report.
3. That Council authorise the affixing of the Council seal to all documents that may require it, in regards to the Contract.
4. 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.
5. That the report remains confidential until the contract is finalised. (Woods/Richardson)

PETITIONS

Petition No. 10.1 **Speed Bump Needed in Blackwood Crescent, Bangalow**

File No: I2016/623

16-432 Resolved:

1. That the petition regarding speed bump needed in Blackwood Crescent, Bangalow be noted.
2. That the petition be referred to the Director Infrastructure Services for investigation of options.
3. That viable options be reported to Council (or to an appropriate Advisory Committee for on-reporting to Council) along with funding implications.
4. That any options endorsed by Council be reported to the Local Traffic Committee for advice and or approval of statutory requirements. (Dey/Richardson)

The motion was put to the vote and declared carried.

The Mayor tabled the following petition:

BYRON SHIRE COUNCIL

ORDINARY MEETING MINUTES

4 August 2016

	Title of Petition	No. of Signatures
1.	Request for speed zone review on section of Broken Head Road #S2016/7897 "We support the proposal to improve safety and reduce the risk of accidents near Broken Head hall by lowering the speed limit on Broken Head Road to 50 kph along the section of road in front of the hall"	160

SUBMISSIONS AND GRANTS

There were no submissions or grants.

DELEGATES' REPORTS

1. Rous Water Meeting

Cr Dey advised Council:

Rous Water met in June but not in July. More importantly, the 3-way merger took place in June so as of 1 July 2016 the three organisations Rous Water, Far North Coast Weeds and Richmond River County Council are now one. Councillors on Rous Water seem to still be meeting but those on the other two authorities must have now ceased their roles.

2. Meeting with Ministers

Cr Richardson advised Council:

On Tuesday 2 August 2016, the Mayor, General Manager and two Directors travelled to Sydney to meet with three Ministers Minister for Primary Industries Blair Niall, Minister for the Environment Mark Speakman and the Minister for Roads Duncan Gay. Of particular discussion was the relationship with Crown Lands. The Mayor thanked Ben Franklin, Member of Legislative Council, for facilitating the day.

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

Report No. 13.1 **Local Government NSW Annual Conference 2016**
File No: I2016/710

16-433 Resolved that Council:

1. Authorise three Councillors to attend the Local Government Association of NSW Annual Conference 2016 to be held at the WIN Entertainment Centre, Wollongong, NSW from 16 to 18 October 2016.
2. Determine the three Councillors to attend the Local Government Association of NSW Annual Conference 2016 at its Ordinary Meeting on 29 September 2016.

(Woods/Richardson)

The motion was put to the vote and declared carried.

Report No. 13.2 Council Investments June 2016
File No: I2016/714

- 16-434 Resolved** that the report listing Council's investments and overall cash position as at 30 June 2016 be noted. (Spooner/Richardson)

The motion was put to the vote and declared carried.

STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

Report No. 13.4 Byron Coast Koala Plan of Management
File No: I2016/690

- 16-435 Resolved** that Council:

1. Adopt the Byron Coast Koala Plan of Management, as reported to 27 August 2015 meeting, incorporating any changes made in accordance with recommendations listed in Table 1 of this report with the following amendment:

Delete the sentence from section 12:

"Under this definition it is clear core koala habitat extends to areas where there have been records of breeding females, recent sighting or historical records."
2. Submit the Byron Coast Koala Plan of Management to the Director of the Department of Planning and Environment for approval in accordance with SEPP 44.
3. Delegate to the General Manager the authority to make any non-policy amendments or minor changes required to the Byron Coast Koala Plan of Management prior to submitting the Plan to the Department of Planning and Environment, including those that may be required by the Department following submission of the Plan.
4. Receive a report detailing any changes required by the Department of Planning and Environment in response to recommendation 3. (Ibrahim/Wanchap)

The motion was put to the vote and declared carried.

PROCEDURAL MOTION

- 16-436 Resolved** that the meeting be extended past 6.00pm to 6.15pm. (Richardson/Ibrahim)

The motion was put to the vote and declared carried.

Report No. 13.8 PLANNING - 10.2016.152.1 Secondary Dwelling, 30 Pinegroves Road, Myocum
File No: I2016/741

Cr Hunter left the meeting at 6.01pm in accordance with his earlier declared pecuniary interest in this matter.

- 16-437 Resolved** that, pursuant to Section 80 of the Environmental Planning & Assessment Act 1979, development application no. 10.2016.152.1 for a secondary dwelling, be granted consent subject

to the conditions in Attachment 1 (#E2016/53838) with the following amendment to Condition No 1(a):

- The secondary dwelling to be sited 4.5m from the road boundary (Woods/Cubis)

The motion was put to the vote and declared carried.

Crs Ibrahim, Dey, Cubis, Woods, Richardson, Cameron, Wanchap and Spooner voted in favour of the motion.

No Councillors voted against the motion.

Cr Hunter was not present for the vote.

Cr Cubis left the meeting at 6.08pm and did not return.

REPORTS OF COMMITTEES - INFRASTRUCTURE SERVICES

Report No. 14.8 **Report of the Local Traffic Committee Meeting held on 8 June 2016**
File No: I2016/621

16-438 Resolved that Council adopt the following Committee Recommendation(s):

Report No. 6.2 **Coorabell Public School Bus Route - Request for Upgrade and Maintenance at 3 Bus Stops at Federal, Ewingsdale, Mullumbimby**
File No: I2016/506

1. That the Local Traffic Committee receive a further report on the following three locations proposed as bus zones (school days only 07:45 - 09:15 and 15:00 - 16:15), subject to design and consultation with the relevant bus companies:
 - a) Lot 3 Federal Drive (opposite Australia Post)
 - b) 61 Myocum Road, Ewingsdale
 - c) 1149 Myocum Road, Myocum
2. That each location be investigated and any improvements be reviewed with assistance from the Coorabell Public School and the relevant bus service
3. That the bus zone at 61 Myocum Road, Ewingsdale be incorporated into the design of Myocum Road Pavement Rehabilitation Project, expected to start in 2016 / 2017
(Cameron/Dey)

The motion was put to the vote and declared carried.

Cr Cubis was not present for the vote.

There being no further business the meeting concluded at 6.08pm.

I hereby certify that these are the true and correct Minutes of this Meeting
as confirmed at Council's Ordinary Meeting on 25 August 2016.



.....
Mayor Simon Richardson