



Byron Shire Council



Minutes

Ordinary Meeting

Thursday, 25 August 2016

BYRON SHIRE COUNCIL

Ordinary Meeting Minutes
25 August 2016

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MINUTES OF THE BYRON SHIRE COUNCIL ORDINARY MEETING HELD ON THURSDAY, 25 AUGUST 2016 COMMENCING AT 9.04AM AND CONCLUDING AT 4.01PM

I2016/930

PRESENT: Cr S Richardson (Mayor), Cr B Cameron, 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:

9.4 (16-417) 10.2016.189.1, 116 Stuart Street, Mullumbimby

Chris Cooney of the Mullumbimby Residents Association and Brunswick Valley Historical Society addressed Council in favour of the recommendation.

13.10 NSW Crown Holiday Parks Trust - Brunswick Heads Holiday Parks Update

Sean O'Meara of the Brunswick Heads Progress Association addressed Council against the recommendation.

13.17 PLANNING - 10.2015.634.1 Change of use of Cheese Factory to Kitchen, Administrative Facilities, Expansion of Restaurant Areas and Car Parking and New Dwelling House at 11 Ewingsdale Road Ewingsdale

Tony Flick and Colin McJannett of the Ewingsdale Progress and Public Hall Association addressed Council against the recommendation.

14.1.6.4 Report of the Local Traffic Committee Meeting held on 27 July 2016

Michael Worrall of the Wategos Beach Protection Association addressed Council in favour of the recommendation.

The meeting adjourned at 9.31am and reconvened at 9.51am

APOLOGIES

There was an apology received from Cr Cubis

PROCEDURAL MOTION

16-439 Resolved that the apology from Cr Cubis be accepted and a leave of absence granted.
(Woods/Richardson)

The motion was put to the vote and declared carried.

REQUESTS FOR LEAVE OF ABSENCE

There were no requests for leave of absence.

DECLARATIONS OF INTEREST – PECUNIARY AND NON-PECUNIARY

Cr Paul Spooner declared a pecuniary interest in Report 13.4. The nature of the interest being that he has an association with two groups who submitted an application, those being the Byron Bay Community Association and the Liberation Larder. Councillor Spooner elected to leave the Chamber for this item and not participate in the debate or voting.

TABLING OF PECUNIARY INTEREST RETURNS

There were no Pecuniary Interest Returns tabled.

ADOPTION OF MINUTES FROM PREVIOUS MEETINGS

16-440 Resolved that the minutes of the following meetings be confirmed:

- Byron Shire Reserve Trust Committee held 4 August 2016
- Ordinary Meeting held 4 August 2016 (Woods/Hunter)

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 | Review of Outstanding Council Resolutions |
| Report No. 13.5 | Section 355 Management Committees and Boards - Review of Guidelines and process for establishing new committees |
| Report No. 13.10 | NSW Crown Holiday Parks Trust - Brunswick Heads Holiday Parks Update |

Sustainable Environment and Economy

- | | |
|------------------|---|
| Report No. 13.13 | PLANNING - 26.2015.7.1 - Planning Proposal for rezoning of land at 268 Ewingsdale Road Byron Bay (ex Sunnybrand Chicken site) |
| Report No. 13.17 | PLANNING - 10.2015.634.1 Change of use of Cheese Factory to Kitchen, Administrative Facilities, Expansion of Restaurant Areas and Car Parking and New Dwelling House at 11 Ewingsdale Road Ewingsdale |
| Report No. 13.18 | Tweed Rail Trail extension to Billinudgel |

Infrastructure Services

- | | |
|------------------|--|
| Report No. 13.19 | Small Steps to Healthier Rural Roadsides |
| Report No. 13.20 | Update on Proposed Road and Bridge Names |

REPORTS OF COMMITTEES**Infrastructure Services**

Report No. 14.1. Report of the Local Traffic Committee held on 27 July 2016

- 6.4 24.2015.19.1 - Marine Parade, Byron Bay - Regulatory Signage -
Extension of Pay Parking Scheme

The remaining Recommendations and Committee Recommendation were adopted as a whole, being moved by Cr Woods and seconded by Cr Richardson. Each recommendation is recorded with a separate resolution number commencing at Resolution No. 16-441 and concluding with Resolution No. 16-459.

STAFF REPORTS – CORPORATE AND COMMUNITY SERVICES

Report No. 13.2 Operational Plan Review 2015/16 as at 30 June 2016
File No: I2016/766

- 16-441 Resolved** that Council receive and note the report and associated attachment (E2016/39858) on the 2015/16 Operational Plan Review for the period 1 July 2015 to 30 June 2016.
(Woods/Richardson)

Report No. 13.3 Draft Land Acquisition and Disposal Policy
File No: I2016/711

16-442 Resolved:

1. That Council adopt the draft Policy – Land Acquisition and Disposal for public exhibition and that the draft Policy be placed on public exhibition for a minimum period of 28 days.
2. That in the event:
 - a) no submissions are received on the draft Policy – Land Acquisition and Disposal, that it be adopted and incorporated into Council's Policy Register.
 - Or
 - b) that any submissions received on the draft Policy – Land Acquisition and Disposal be reported back to Council for consideration prior to its adoption. (Woods/Richardson)

Report No. 13.4 Donations to Community Organisations, Other Groups and Persons for 2016/2017 - Section 356 Local Government Act
File No: I2016/782

Cr Spooner declared a pecuniary interest in this matter earlier in the meeting.

16-443 Resolved:

1. a) That as stated in the 2016/17 Budget the amount of \$7,000 be distributed under Policy 14/002 Assistance for Festivals and Community Functions as follows:

i) Mullum Music Festival 2016	\$ 600
ii) Byron Bay Cycle Club Inc	\$ 385

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iii) Brunswick Valley Woodchop	\$ 360
iv) Mullum2Bruns Paddle 2016	\$ 600
Totals	\$1,945

- b) The applicants be advised they will be responsible for payment of any costs associated to the road closure exceeding the amount donated.
 - c) The remaining \$5,055 and any moneys not expended from the above donations, be advertised as 'Round 2' under Policy 14/002 early in 2017.
2. That funds available for Section 356 donations under Policy 12/011 Donations to Community Groups – *reimbursement of Council application fees* of \$2,000 be advertised again at the same time as Round 2 of remaining funds under Policy 14/002 as described in 1c above.
 3. That as stated in the 2016/17 Budget the amount of \$36,000 be distributed under Policy 3.13 Donations to Community Organisations, Other Groups and Persons as follows:

Applicant	Requested Amount \$	Recommended Amount \$
Arts/Music		
Byron Youth Theatre	5,000	3,250
TOTAL Arts/Music	5,000	3,250
Childcare/Youth Services		
Mullumbimby Community Preschool Association Inc	500	500
Rainbow Club Byron Bay	1,500	975
TOTAL Childcare/Youth Services	2,000	1,475
Animal Welfare Services		
Animal Welfare League	400	400
TOTAL Animal Welfare Services	400	400
Community Buildings/Facilities		
Byron Youth Service	1,878	1,061.45
TOTAL Community Buildings/Facilities	1,878	1,061.45
Educational/Training		
Maim Arm Upper Primary School P&C Assoc	5,000	3,250
Federal Community Children's Centre	500	500
STEER Project	8,000	5,200
TOTAL Educational/Training	13,500	8,950
Environment		
Mullumbimby SEED Inc	5,000	3,250
Bangalow Land and Rivercare Inc	1,426	926.90
Ocean Shores & District Garden Club Inc	100	100
Seaside Scavenge	1,170	760.50
TOTAL Environment	7,696	5,037.40
Events		
Carols by the Sea	800	800
Australia Indonesian Arts Alliance	5,000	3,250
Byron Community Centre	2,500	1,625

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TOTAL Events	8,300	5,675
Homelessness		
Liberation Larder Inc.	7,500	4,875
S.H.I.F.T. Project Byron Inc	3,000	1,950
TOTAL Homelessness	10,500	6,825
Miscellaneous		
Waterlily Community Playscape Inc	1,004.30	1,000
TOTAL Miscellaneous	1,004.30	1,000
Recreation/Sport		
Byron Bay Cycle Club Inc	600	600
TOTAL Recreation/Sport	600	600
TOTAL DISTRIBUTION	50,878.30	34,273.85

4. That all applicants be made aware of Council's Resolution with regard to their application for a donation.
5. That Council advertise the Section 356 Donations proposed to be made.
6. That the remaining moneys (being \$1,726.15) not expended from the Section 356 donations budget be held in reserve for Council's consideration on any possible donations for unanticipated projects with valuable community benefit that may occur throughout the financial year.
7. That any further requests for donations under Policy 3.13 Donations to Community Organisations, Other Groups and Persons be advised that no further funding is available and they be made aware of Council's process for the following financial year's applications.
(Woods/Richardson)

Report No. 13.6
File No:

Council Budget Review - 1 April 2016 to 30 June 2016
I2016/797

16-444 Resolved:

1. That Council authorises the itemised budget variations as shown in Attachment 2 (#E2016/74510) which includes the following results in the 30 June 2016 Quarterly Review of the 2015/2016 Budget:
 - a) General Fund - \$0 increase in accumulated surplus/working funds
 - b) General Fund - \$9,096,400 increase in reserves
 - c) Water Fund - \$1,959,600 increase in reserves.
 - d) Sewerage Fund - \$643,300 increase in reserves
2. That Council adopt the revised estimated General Fund Accumulated Surplus/ (Working Funds) surplus of \$919,100 for the 2015/2016 financial year as at 30 June 2016.
3. That Council further allocate \$2,163,000 to internal reserve funds as indicated in this report under the heading 'Specific Cash Position'.
(Woods/Richardson)

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Report No. 13.7 **Investments July 2016**
File No: I2016/799

- 16-445 Resolved** that the report listing Council's investments and overall cash position as at 31 July 2016 be noted. (Woods/Richardson)

Report No. 13.8 **Carryovers for Inclusion in the 2016/17 Budget**
File No: I2016/801

- 16-446 Resolved** that the works and services, and the respective funding shown in Attachment 1 (#E2016/74385), Attachment 2 (#E2016/74388) and Attachment 3 (#E2016/74387) be carried over from the 2015/2016 financial year and that the carryover budget allocations be adopted as budget allocation revotes for inclusion in the 2016/2017 Budget Estimates. (Woods/Richardson)

Report No. 13.9 **End of Term Report 2016**
File No: I2016/806

- 16-447 Resolved:**
1. That Council notes the Community Strategic Plan and Delivery Plan status (Attachment 2 #E2016/74748).
 2. That Council adopt the End of Term Report 2016 (Attachment 1 #E2016/73302). (Woods/Richardson)

STAFF REPORTS – SUSTAINABLE ENVIRONMENT AND ECONOMY

Report No. 13.11 **Mullumbimby Flying-fox Camp Management Actions**
File No: I2016/399

- 16-448 Resolved** that Council note the Mullumbimby Flying-fox Camp Management Actions report at Attachment 1 (E2016/18741) and the works already commenced to alleviate impacts between residents and the Flying-fox camps. (Woods/Richardson)

Report No. 13.12 **Review of Enforcement Policy**
File No: I2016/709

- 16-449 Resolved:**
1. That Council endorse the Draft Enforcement Policy.
 2. That the Draft Enforcement Policy be placed on public exhibition for a minimum of 28 days with submissions being received up to 42 days from the commencement of the public exhibition period.
 3. That any submissions received as a result of the public exhibition be presented to Council for consideration in determining the adoption of the Draft Enforcement Policy. In the event that there are no submissions received during the exhibition period, then the Draft Enforcement Policy be adopted and notified in the local paper. (Woods/Richardson)

Report No. 13.14 **PLANNING - Submissions Report - 26.2015.3.1 - Planning Proposal for Housekeeping General Policy Amendments to Byron LEP 2014**
File No: I2016/792

16-450 Resolved that Council:

1. Make the following amendments to the planning proposal (Attachment 1, E2016/42116):
 - a) Amend Item O in the planning proposal to include the following map change:
 - Amend map sheet 'LSZ_002' to change the minimum lot size for the RU2 zoned part of Lot 1 DP 394451 Jones Road, Wooyung from 40ha to 2ha.
 - b) Insert the additional information received regarding Bushfire Protection for Lot 1 DP 394451 (refer Attachment 5) into 'Appendix 2 - Supporting Assessment Reports for Item O' of the planning proposal.
2. Forward the planning proposal (as amended) to the NSW Parliamentary Counsel's Office requesting that a draft LEP instrument be prepared.
3. 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.
4. 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/Richardson)

The motion was put to the vote and declared carried.

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

No Councillors voted against the motion.

Report No. 13.15 **Enterprising Byron 2025 - Strategy and Action Plan**
File No: I2016/795

16-451 Resolved that Council endorse Enterprising Byron 2025, the Strategy and Action Plan for implementation.
(Woods/Richardson)

Report No. 13.16 **PLANNING - Development Application 10.2015.686.1 - Subdivision to create twenty-four (24) residential allotments, a public reserve, a residual allotment, associated roads and infrastructure - Tuckerroo Avenue, Mullumbimby**
File No: I2016/800

16-452 Resolved that pursuant to Section 80 of the Environmental Planning & Assessment Act 1979, development application 10.2015.686.1 for Subdivision to create twenty-four (24) residential allotments, a public reserve, associated roads and infrastructure, be granted consent subject to the recommended conditions listed in Attachment 2 #E2016/72991.
(Woods/Richardson)

The motion was put to the vote and declared carried.

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

No Councillors voted against the motion.

STAFF REPORTS – INFRASTRUCTURE SERVICES

Report No. 13.21 **Proposed Part Closure of Public Road adjoining Lot 4 in DP 608723, Lots 5-7 in DP 629234, Lot 52 in DP 867837 & Lot 6 in DP 599812 along Federal Drive Goonengerry**
File No: I2016/876

16-453 Resolved:

1. That Council endorse the application for the proposed part road closure of public road adjoining Lot 4 in DP 608723, Lots 5-7 in DP 629234, Lot 52 in DP 867837 & Lot 6 in DP 599812 along Federal Drive Goonengerry as per Figure 2 in this report, and subsequent land swap with adjoining land owners.
2. That upon closure of the road Council intends to give these portions of the closed road as compensation to the adjoining land owners for the purposes of road widening.
(Woods/Richardson)

COMMITTEE REPORTS – INFRASTRUCTURE SERVICES

Report No. 14.1 **Report of the Local Traffic Committee Meeting held on 27 July 2016**
File No: I2016/798

16-454 Resolved that Council note the minutes of the Local Traffic Committee Meeting held on 27 July 2016.
(Woods/Richardson)

16-455 Resolved that Council adopt the following Committee Recommendation:

Report No. 6.1 **Traffic - Myocum Downs Rd, Lagoon Drive, Mountain Blue Close - Speed Review - 60km/hr**

File No: I2016/752

Recommendation 6.1.1

That the committee approves RMS recommendation to reduce the posted speed limit to 60km/hr for the following roads:

- a) Myocum Downs Road, Myocum;
- b) Lagoon Drive, Myocum; and
- c) Mountain Blue Close, Myocum.
(Woods/Richardson)

16-456 Resolved that Council adopt the following Committee Recommendation(s):

Report No. 6.2 **Event - Burringbar St, Mullum - Mullumbimby's Biggest Little Banquet, 3 September 2016 for 5 years**

File No: I2016/717

Recommendation 6.2.1

1. That the Biggest Little Banquet to be held on the first Saturday of September over five years from 2016 to 2020 which includes the temporary road closures below, be endorsed between these times:
 - a) Burringbar Street between 15:00 on first Saturday of September to 02:00 on the following Sunday.
 - b) Annually from the 03 September 2016 to Sunday 06 September 2020.
2. That the approval provided in Part 1 is subject to:
 - a) separate approvals by NSW Police and RMS being obtained;
 - b) Implementation of the approved Traffic Management Plan and Traffic Control 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
(Woods/Richardson)

16-457 Resolved that Council adopt the following Committee Recommendation(s):

Report No. 6.3 Traffic - Lee Ln, Byron - Regulatory Signs - No Stopping Signs

File No: I2016/764

Recommendation 6.3.1

That the 'No Stopping' and 'Parallel Parking' signs installed on Lee Lane, Byron Bay be approved.
(Woods/Richardson)

16-458 Resolved that Council adopt the following Committee Recommendation(s):

Report No. 7.1 Event - Stuart St Mullumbimby - Brunswick Valley Historical Society - Mullum Markets - 3rd & 5th Saturday each month

File No: I2016/755

Recommendation 7.1.1

1. That the Brunswick Valley Historical Society Mullum Market be endorsed to be held on the third and fifth Saturdays for five years, including the temporary road closures between Stuart Street from Myokum Street and the Mullumbimby Community Gardens between 07:00 to 15:00 from September 2016 to September 2020.
2. That the approval provided in Part 1 is subject to:
 - a) separate approvals by NSW Police and RMS being obtained;
 - b) Implementation of the approved Traffic Control Plan
 - c) The event organiser:
 - i) providing copy of the advert for Council's web page
 - ii) 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
 - iii) arranging for private property access and egress affected by the event
 - iv) liaising with bus and taxi operators and ensuring arrangements are made for provision of services during conduct of the event
 - v) consulting with emergency services and any identified issues be addressed
 - vi) holding \$20m public liability insurance cover which is valid for the event
 - vii) paying of Council's Road Event Application Fee prior to the event (Woods/Richardson)

16-459 Resolved that Council adopt the following Committee Recommendation(s):

Report No. 7.2 Byron Bay Bypass - DA 10.2016.77.1 - 70% Drawings for Signage and Linemarking

File No: I2016/743

RECOMMENDATION:

That the Committee comments regarding the Design drawings be provided to the designer.
(Woods/Richardson)

PROCEDURAL MOTION

16-460 Resolved that Council change the order of business to deal with Reports 9.4, 13.10, 13.17 and 14.1.6.4 next on the Agenda.
(Woods/Richardson)

The motion was put to the vote and declared carried.

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/repaired 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 Council's 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 applicant's 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.**

(Dey/Wanchap)

The motion was put to the vote and declared carried.

Crs Spooner, Ibrahim and Cameron voted against the motion.

16-462 Resolved that pursuant to Section 80 of the Environmental Planning and Assessment Act 1979, development application 10.2016.189.1 for multi dwelling units (10 single bedroom units) and demolition of existing structures be refused for the following reasons:

1. Pursuant to Section 79C(1)(a)(i) of the Environmental Planning and Assessment Act 1979, it has not been demonstrated the proposed development is compatible with the Mullumbimby Conservation Area pursuant to Clause 5.10 of the Byron Local Environmental Plan 2014 consent is not granted.
2. Pursuant to Section 79C(1)(a)(i) of the Environmental Planning and Assessment Act 1979, it has not been demonstrated the proposed development is compatible with the character of the local area, pursuant to Clause 16A of State Environmental Planning Policy (Affordable Rental Housing) 2009 consent is not granted.
3. Pursuant to Section 79C(1)(c) of the Environmental Planning and Assessment Act 1979, the proposed development is not considered to be suitable for the subject site in view of environmental impacts.
4. Pursuant to Section 79C(1)(b) of the Environmental Planning and Assessment Act 1979, the proposed development is considered to be excessive in bulk and incompatible in scale with development in the locality.
5. Pursuant to Section 79C(1)(e) of the Environmental Planning and Assessment Act 1979, the proposed development is considered to be contrary to the public interest. (Dey/Wanchap)

PROCEDURAL MOTION

- 16-463 Resolved** that Cr Richardson be granted a one minute extension to his speech.
(Woods/Wanchap)

The motion was put to the vote and declared carried.

*The motion (Dey/Wanchap) was put to the vote and declared carried.
Crs Ibrahim and Spooner voted against the motion.*

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

Report No. 13.10 NSW Crown Holiday Parks Trust - Brunswick Heads Holiday Parks Update
File No: I2016/892

- 16-464 Resolved** that Council for the purpose of further consultation by the New South Wales Crown Holiday Parks Trust:
- a) endorse in principle the proposed amendments to the Plan of Management Maps, as detailed in the *Briefing Paper – Amendment of Adopted Plans of Management for the Ferry Reserve, Massey Greene and Terrace Reserve Holiday Parks, Brunswick Heads NSW*.
 - b) note the tabling of the draft Plan of Management Maps (E2016/79046) in the *Briefing Paper – Amendment of Adopted Plans of Management for the Ferry Reserve, Massey Greene and Terrace Reserve Holiday Parks, Brunswick Heads NSW* at the meeting; and
 - c) request that NSW Holiday Parks Trust incorporate the following in the draft plans of management for the operation of the Crown Holiday Parks in Brunswick Heads:
 - i. Tree management strategy that prohibits:
 - use of any land within a 5m radius of a Coastal Cypress Pines to prohibit compaction of soil
 - no discharge of untreated water over the critical root system
 - removal of exotic grasses and introduction of native grasses within the area of the critical root system
 - progressive on site replacement of each memorial pine
 - ii. That Table 3 'Terrace Reserve Holiday Park' (page 73 of agenda) be amended as follows:
 - underneath column Trust Proposal in the first cell change the word 'buildings' to 'built structures'
 - in the third cell include the words at the end of the sentence 'to be completed within 5 years'

The motion was put to the vote and declared carried.

STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

Report No. 13.17 PLANNING - 10.2015.634.1 Change of use of Cheese Factory to Kitchen, Administrative Facilities, Expansion of Restaurant Areas and Car Parking and New Dwelling House at 11 Ewingsdale Road Ewingsdale

File No: I2016/802

16-465 Resolved:

1. That Council refuse DA 10.2015.634.1 for the following reasons:
 - a) Pursuant to Section 79C (1)(a)(i) of the *Environmental Planning and Assessment 1979*, the proposal is inconsistent with objectives of the RU1 Primary Production Zone, in that it would result in an operation that:
 - is not a small-scale rural tourism use consistent with the rural character of the locality, and
 - increases the potential for conflict between land uses within this zone.
 - b) Pursuant to Section 79C (1)(a)(i) of the *Environmental Planning and Assessment 1979*, the proposed development is inconsistent with clause 6.8 (3)(b) of *Byron Local Environmental Plan 2014* in that the uses proposed will result in tourism development in a rural area that is not small scale and low impact.
 - c) Pursuant to Section 79C (1)(a)(i) of the *Environmental Planning and Assessment 1979*, the proposed change of use of the existing dwelling for office/ administration use is considered to be of a scale that is not ancillary to the restaurant use, and therefore prohibited in the RU1 Primary Production Zone.
 - d) Pursuant to Section 79C (1)(a)(i) of the *Environmental Planning and Assessment 1979*, the proposed dwelling-house cannot be approved pursuant to clause 4.2A of the *Byron Local Environmental Plan 2014* as there is an existing dwelling-house on the property.
 - e) Pursuant to Section 79C (c) of the *Environmental Planning and Assessment 1979*, the site is not considered to be suitable for the proposed uses, given the scale of the tourism operation in the RU1 Primary Production Zone.
2. That Council staff undertake a Compliance Audit of the existing operation, particularly in relation to compliance with conditions of approval for DA 10.2013.626.1, and, as a result of the audit, prepare a detailed Audit Action Plan.
3. That Council invites The Farm to lodge a joint Planning Proposal, Master Plan and Development Application, within 60 days of the date of this resolution, to regularise unauthorised activities and uses on the land.
4. That upon lodgement of a planning proposal, Council will suspend enforcement action in relation to matters within the proposal until such time as a determination is made. Council may however use its discretion to take enforcement action in circumstances where it is demonstrated that an unauthorised activity or use imposes significant impacts on the environment. This undertaking does not exclude Council from its regulatory obligations in relation to the Food Act, Local Government Act and Protection of the Environment Operations Act. (Ibrahim/Woods)

PROCEDURAL MOTION

16-466 Resolved that Cr Richardson be granted a one minute extension to his speech. (Woods/Ibrahim)

The motion was put to the vote and declared carried.

The motion (Ibrahim/Woods) was put to the vote and declared carried.

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

No Councillors voted against the motion.

REPORTS OF COMMITTEES - INFRASTRUCTURE SERVICES

Report No. 14.1 Report of the Local Traffic Committee Meeting held on 27 July 2016

File No: I2016/798

16-467 Resolved that Council adopt the following Committee Recommendation(s):

Report No. 6.4 24.2015.19.1 - Marine Parade, Byron Bay - Regulatory Signage - Extension of Pay Parking Scheme

File No: I2016/770

Recommendation 6.4.1

That subject to the concurrence of the LTC Council adopt:

1. That a meter registration pay parking scheme be implemented upon Marine Parade, Wategos between the intersections of Palm Valley Drive and Julian Place on the proviso it is the same as the Byron Bay scheme, for example the same hourly rates, regulations, restrictions, exemption benefits, etc.
2. That the following time limits and ratios be implemented upon the full length of Marine Parade, Wategos and that they apply Monday-Sunday inclusive including public holidays between the hours of 9am-6pm and that outside of such hours the existing sign-posted regulations remain:
 - a) a 4-hour (4P) limit apply to approximately 98% of parking supply, and that it first be allocated from Palm Valley Drive to the turning circle, and the balance (if any) apply the east end of Marine Parade, from Julian Place; and
 - b) the remaining 2% of parking supply provide dedicated motorcycle-parking and mobility permit parking, preferably next to beach and commercial property access.
3. That the Byron Bay Resident and Resident Visitors Permit Parking Scheme be implemented in the Wategos area and it include a 4P time limit effective 9am-6pm each day, subject to LTC approval (to be sought as soon as possible).
4. At first possible opportunity that a review be conducted on the paid parking in the Wategos area.

(Wanchap/Ibrahim)

AMENDMENT

Moved:

1. That a meter registration pay parking scheme be implemented upon Marine Parade, Wategos between the intersections of Palm Valley Drive and Julian Place on the proviso it is the same

as the Byron Bay scheme, for example the same hourly rates, regulations, restrictions, exemption benefits, etc.

2. That the following time limits and ratios be implemented upon the full length of Marine Parade, Wategos and that they apply Monday-Sunday inclusive including public holidays between the hours of 9am-6pm and that outside of such hours the existing sign-posted regulations remain:
 - a) a 2-hour (2P) limit apply to approximately 40% of parking supply, and that it first be allocated along the beachfront between the turning circle and Julian Place and the balance (if any) apply immediately south of the turning circle on the west-side of the street only;
 - b) a 4-hour (4P) limit apply to approximately 58% of parking supply, and that it first be allocated from Palm Valley Drive to the turning circle, and the balance (if any) apply the east end of Marine Parade, from Julian Place; and
 - c) the remaining 2% of parking supply provide dedicated motorcycle-parking and mobility permit parking, preferably next to beach and commercial property access.
3. That the Byron Bay Resident and Resident Visitors Permit Parking Scheme be implemented in the Wategos area and it include a 4P time limit effective 9am-6pm each day, subject to LTC approval (to be sought as soon as possible). (Cameron/Dey)

The amendment was put to the vote and declared lost.

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

The motion (Wanchap/Ibrahim) was put to the vote and declared carried.

Crs Cameron and Dey voted against the motion.

MAYORAL MINUTE

There was no mayoral minute.

NOTICES OF MOTION

Notice of Motion No. 9.1 Councillor Membership Post-Election of Committees
File No: I2016/679

Moved that Council:

1. Offer each Councillor serving on an Advisory Committee, Section 355 Committee or Project Reference Group short-term “community membership” of that committee or PRG, up to the post-election disbandment of the Committee or PRG.
2. Revise the standard template constitution for Advisory Committees and PRGs to incorporate the above provision into the following clauses or similar:
 - a) on membership, by a note that any retiring Councillor is offered community membership until disbandment;
 - b) on quorum, by notes (i) that re-elected Councillors may retain Councillor membership until disbandment and (ii) that the new Mayor can make up Councillor quorum until disbandment; and
 - c) a new clause on duration, that the Committee or PRG may meet after the end of term of

BYRON SHIRE COUNCIL

ORDINARY MEETING MINUTES

25 August 2016

that Council until disbandment with community members retaining their status, returning Councillors retaining their status, the new Mayor being able to attend the meeting(s) and retiring Councillors being installed if they wish as community members.

3. Make the offers required in Part 1 above by email in the week after the election and on the basis of the arrangements in Part 2 above, or similar. (Dey/Richardson)

The motion was put to the vote and declared lost.

Crs Ibrahim, Woods, Richardson, Cameron, Wanchap, Spooner and Hunter voted against the motion.

Notice of Motion No. 9.2 Butler Street Toilets

File No: I2016/880

- 16-468 Resolved** that Council take immediate action to upgrade and or improve the amenities block on the Butler Street Reserve and identify funds from the Trust and or Council's General Fund to do so (refer to Council Resolution 16-031). (Woods/Wanchap)

AMENDMENT

Moved: That Council acknowledges the need to upgrade and improve the amenities block and to consider this upgrade within a wider review of demand and consideration of opening hours and access to the public (refer also to Council Resolution 16-031). (Richardson/Dey)

Cr Spooner left the Chamber at 12.33pm.

The amendment was put to the vote and declared lost.

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

Cr Spooner was not present for the vote.

The motion was put to the vote and declared carried.

Cr Richardson voted against the motion.

Cr Spooner was not present for the vote.

The meeting adjourned at 12.38pm for lunch and reconvened at 1.34pm. Cr Spooner returned to the Chamber at this time.

Notice of Motion No. 9.3 Consistent Speed Limits on the Shire's Road Network

File No: I2016/881

- 16-469 Resolved** that Council:

1. Change Procedures in relation to requests by individuals for new speed limits, by no longer requesting RMS to do spot "speed reviews" which could lead to localised changes to limits on sectors of our Shire's road network, and
2. Receive a report on our approach to speed reviews, with the report to examine reviewing speed limits on the network as a system and achieving consistency across the Shire, including at its boundaries with neighbouring Shires. (Dey/Woods)

The motion was put to the vote and declared tied.

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

The Mayor used his casting vote in favour of the motion and declared the motion carried.

PETITIONS

There were no petitions.

SUBMISSIONS AND GRANTS

There were no submissions or grants.

DELEGATES' REPORTS

Delegate's Report No. 12.1 **Wilsons Creek Public School, Opening Bus Day on 22 June 2016**
File No: I2016/894

Refer to the agenda for this report

Delegate's Report No. 12.2 **Far North Coast Bush Fire Management Committee Meeting of 5 July 2016**
File No: I2016/895

Refer to the agenda for this report

1. Public Arts Committee

Cr Richardson advised Council:

The Public Arts Committee is a committee where the people involved are very skill based and they appreciate being involve. Since this committee has been formed, we've generated tens of thousands of dollars of public art, whether it be working with water or sewerage areas because they know this process is there. They have been given a lot of support to do massive murals on their big water towers in Ocean Shores and Byron, which will be unveiled shortly. They support community groups to do their own public art including toilet blocks, etc. It's been a really flexible, fast moving skills based and committed group and committee and it's just been an example of a committee that's out getting runs on the board and achieving. I just wanted to give a plug to a group that has worked particularly well.

2. Richmond Tweed Regional Library Committee meeting 12 August 2016

Cr Dey advised Council:

- (a) The RTRL Committee resolved in February 2016 to form a steering committee of senior staff from each Council (Byron, Ballina, Lismore, Tweed) tasked with formulating a new governance model for libraries in those Shires. Next step is a workshop hoping for outcomes:
 - 1) By the end of February 2017 to have a signed RTRL Deed of Agreement with the Member Councils including the governance model/contribution formula and agreement in respect of the service levels under that model.

- 2) To have the above approved by the RTRL Committee in principle by November/December 2016 and the RTRL Senior Council Staff group by September 2016 in time for the 17/18 budget development process.

A draft Brief for consultant to carry out RTRL's "Governance Service Review" is attached to the RTRL Committee meeting agenda. Tenders closed on 12 August. The constituent Councils will fund the consultancy.

- (b) Tweed Library runs a the Murwillumbah Seed Library, which donated seeds to Pottsville Beach Public School. The seed saving / sharing program is expanding to other schools as well.
- (c) 'Genre labelling' helps readers to browse in the libraries. It has been completed at Alstonville Library and could be rolled out elsewhere.

3. Rous Water Meeting 17 August 2016

Cr Dey advised Council:

- (a) Review of Rous' direct Retail Customer base: Councillors were presented briefly on Rous's intent to conduct a Review as requested by GMs (Byron in particular). Direct customers have a different "level of service" such as water pressure fluctuations due to tapping direct into regional supply lines rather than being supplied from a reservoir. They also pay less per kilolitre than neighbours who are supplied by the Shire. In our case 629 Rous customers pay \$2.12 / kL versus Shire customers \$2.47 / kL. In Lismore LGA that margin is far bigger.

As many of Rous's customers have complex connections to the water supply network, Rous may not be recovering costs on its retail activity. This will be examined more deeply.

My view is that at least the remoteness of Rous's service to such customers would be better handled by the Shire operating such connections.

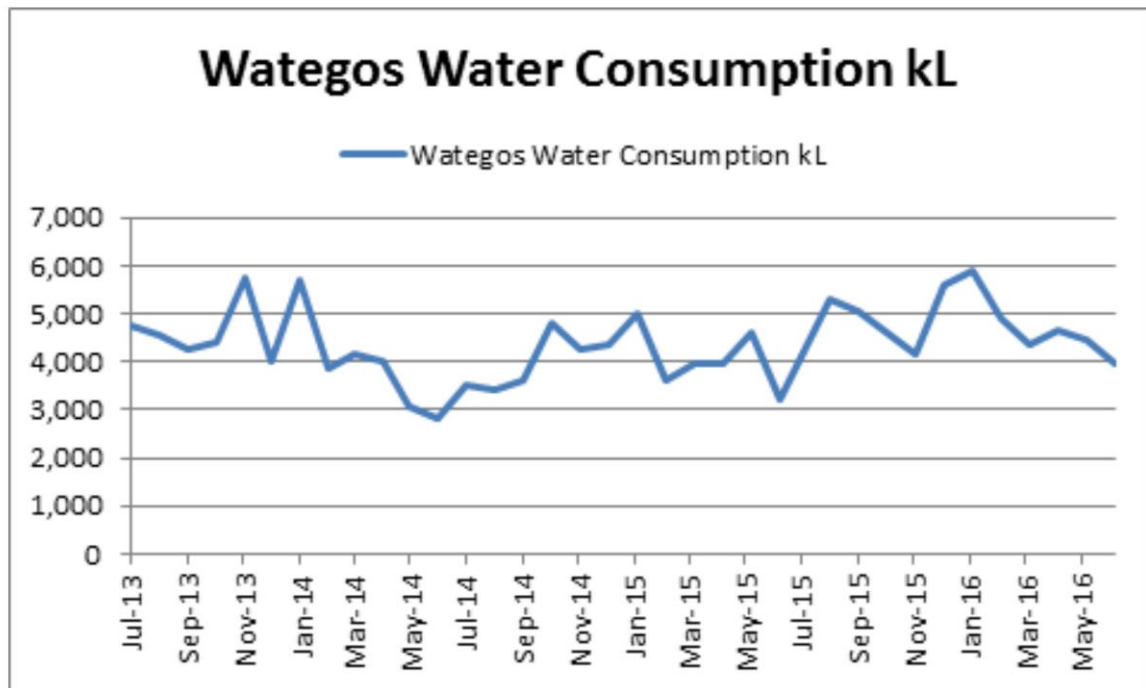
Likewise, if all customers were 'migrated' to their Shires for payment, there would be a huge saving in not having Rous operate a fifth payment system that duplicates those of the four constituent Shires (Byron, Ballina, Lismore, Richmond Valley).

I believe division of duties on the basis of the network's hardware is an outdated approach.

- (b) Rous adopted its Regional Drought Management Plan and will now ask the four constituent Shires to do the same. Thought will be needed around independent water supplies within each Shire's area. Mullumbimby's supply is an example, though it is not strictly independent. The Mullum supply is backed up by an 'emergency line' connecting the town to the Rous network at Uncle Toms. The line was installed after the 2002-03 drought but has not been used to date.
- (c) each monthly Rous Council meeting Agenda includes monthly water supply figures compared with previous years, for that month. Supply from the Wategos reservoir in the months of June & July (2014 to 2016) indicate a rise in consumption over the last three years:

kL / month	2014	2015	2016	increase 2014 to 2016
June	2,837	3,211	3,969	40%
July	3,501	4,110	5,489	57%

Byron staff have supplied the following graph however, which much better illustrates the pattern of growth in consumption at Wategos over that period:



The numbers captured in the Rous report were a low one in 2014, medium in 2015 and high in 2016. The graph is a better tool than just the numbers. There is an upward trend from about May 2014 to May 2016 and an increase of about 70% for that period. It was preceded however by a fall in consumption up to May 2014.

The reality of consumption at Wategos is 'all over the shop', ranging from 3,000 kL/month in winter to 6,000 kL/month in summer.

This would be a great locality in which to investigate the potential for Demand Management.

4. Belongil Swamp Drainage Union

Cr Dey advised Council:

Council called a public meeting at the Cavanbah Centre on the night of Tuesday 23 August, to commence processes for sorting out the Union's future. Council is not the auspicing authority, it's State Government business. The NSW DPI sent their representative, Patrick Parlow.

The Drainage Union has been going for about 100 years, it's all about cutting drains into swamps and getting the water out so that you can farm on the land that is thus made drier. Like many such systems, that administering the Belongil low-lands has fallen apart. The Union's Board hasn't met for 6 or 8 years, has run out of money and is not fulfilling its requirements to have Board meetings, elections, etc.

Council is a member of the Union and is the main funder of the maintenance of the drains. That's partly because the Main Drain serves the sewerage treatment plant. It takes treated sewage effluent from the Byron STP to Belongil Creek. That makes the Drainage Union a major issue for Council.

It's likely that the Drainage Union will be reinstated and that its members will elect a new Board. At some stage, this matter will be reported to the new Council.

*The meeting adjourned at 2.08pm to open the Byron Shire Reserve Trust Committee Meeting. Resolution Numbers **16-470 and 16-471** was used during that meeting. The Ordinary Meeting reconvened at 2.12pm.*

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

Report No. 13.1 Review of Outstanding Council Resolutions
File No: I2016/747

16-472 Resolved:

1. That Council receive and note the information provided in this report on outstanding Council resolutions in Attachment 1 (#E2016/54837).
2. That Council note the completed resolutions in Attachment 2 (#E2016/54853).
3. That median works in Station Street Mullumbimby at the entrance / exit to Woolworths (Resolutions 15-181, 15-182 and 15-190) be considered for funding at each quarterly budget review for the 2016/17 financial year and, if not thus carried out, be then considered for the 2017/18 budget. (Dey/Richardson)

The motion was put to the vote and declared carried.

Report No. 13.5 Section 355 Management Committees and Boards - Review of
File No: Guidelines and process for establishing new committees
I2016/794

16-473 Resolved:

1. That the following Section 355 Committees and Boards of Management remain active until appointment of new membership.
 - Bangalow Parks (Bangalow Showground) S355 Committee
 - Brunswick Heads Memorial Hall S355 Committee
 - Brunswick Valley Community Centre S355 Committee
 - Byron Bay Library Exhibition Space (managing the Lone Goat Gallery) Section 355 Committee
 - Cook Pioneer Centre Mullumbimby S355 Committee
 - Durrumbul Community Hall S355 Committee
 - Heritage house Bangalow and Tennis Court S355 Committee
 - Ocean Shores Community Centre S355 Committee
 - South Golden Beach Community Centre S355 Committee
 - Suffolk Park Community Hall S355 Committee

- a) That all community representatives be advised:
 - i) that the term of office for these committees will continue for a further 3 months after the Local Government Election (ie. to 31 December 2016);
 - ii) that they be officially thanked for their contribution on this committee and their management of the facility;
 - iii) that advertising will take place for community representation on these Section 355 Committees and they be invited to reapply.
 - b) That a new S355 Committee be established for the Byron Bay Senior Citizen's Hall in accordance with Resolution 16-192.
2. That the following Boards of Management remain active until the appointment of new membership for the following facilities.
- Bangalow A&I Hall Board of Management
 - Mullumbimby Civic Memorial Hall Board of Management
- a) That the Community Representatives be advised:
 - i) that the term of office for these committees will continue for a further 3 months after the Local Government Election (ie. to 31 December 2016);
 - ii) that they be officially thanked for their contribution on this committee and their management of the facility;
 - iii) that advertising will take place for community representation on these Section 355 Boards of Management and they be invited to reapply.
 - b) That the Byron Bay Library Exhibition Space (managing the Lone Goat Gallery) Section 355 Management Committee become a Board of Management with the new name being: Lone Goat Gallery Section 355 Board of Management effective from 1 January 2017.
3. That Council accept the resignations from Prue Regan and Turiya Bruce on the Byron Bay Library Exhibition Space (Lone Goat Gallery) Section 355 Management Committee and officially thank them for their contribution on this committee.
4. That Council accept the resignations from Jacqueline Walsh and Kathy Norley on the South Golden Beach Community Hall Section 355 Management Committee and officially thank them for their contribution on this committee, and that Zerina Millard be appointed to the committee for a short-term period to the end of the existing committee's term.
5. That the new Council receive a report appointing Councillor representatives on the Section 355 Committees / Boards of Management stated in 1 and 2 above.
6. That the attached draft Guidelines (Attachment 1; Council document E2016/53594) for s355 Management Committees and Boards be adopted after the following amendments:
- (i) at Section 3.2 remove the first sentence; change the next sentence to "... not less than four and ...".
 - (ii) at Section 3.3 in the second section a) change to "Assist the Committee to re-establish its numbers".
 - (iii) at Section 3.4 d) change to "... to Council".
 - (iv) at Section 3.4 f) remove "unless the Committee otherwise resolves".
 - (v) Sections 3.4 i) and j) delete these clauses.
 - (vi) at Section 3.5 remove the first clause a).

- (vii) at Section 3.7.1a) remove "also known as the President".
 - (viii) at Section 4.1(a) replace with "A quorum is reached when more than half the members are present. For a Committee with an even number of voting members, half that number plus one must be present. For a Committee with an odd number of voting members, a majority must be present".
 - (ix) at Section 4.4 change in two places "correspondence" to "significant correspondence".
7. That the reviewed Section 377 Delegation of Authority, including the increased financial delegation to \$5,000 per committee, be adopted.
8. That the attached draft Terms of Reference (Attachment 3; Council document E2016/68163) for s355 Management Committees and Boards be adopted after the following amendments:
- (i) at Section 8 for Durrumbul Community Centre add a further ToR "To see that negative impacts on the environment and neighbours are minimised".
 - (ii) at Section 10 for Mullumbimby Civic Hall add a further ToR "To see that negative impacts on the environment and the neighbours are minimised".
9. That advertising and recruitment (Call for Nominations) for the new Section 355 Management Committees and Boards be commenced following the Council elections on 10 September, using the revised Committee/ Board Nomination form.
10. that Duncan Dey be appointed after 10 September 2016 as a community member to the Durrumbul Community Hall s355 Committee for a short term period to the end of the existing committee's term. (Dey/Richardson)

The motion was put to the vote and declared carried.

STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

Report No. 13.13 PLANNING - 26.2015.7.1 - Planning Proposal for rezoning of land at 268 Ewingsdale Road Byron Bay (ex Sunnybrand Chicken site)
File No: I2016/740

Moved: That Council not proceed with the Planning Proposal at this time and request that a range of additional studies be prepared to address:

- 1. aboriginal cultural heritage;
- 2. soil and site contamination;
- 3. flood impacts, including cumulative impacts if West Byron development goes ahead as zoned;
- 4. drainage issues including through-flow from the catchment upstream (including full development of that catchment) and capacity downstream (with or without drain maintenance by the local Drainage Union);
- 5. acid sulphate soils;
- 6. traffic;

and the matter be brought back to Council for consideration as part of an updated Planning Proposal. (Dey/Richardson)

AMENDMENT**16-474 Resolved** that Council:

- a) Forward the Planning Proposal to amend Byron LEP 2014 (Attachment 1) to the NSW Department of Planning and Environment for a Gateway Determination, conditional on the applicant:
 - i) as part of the planning proposal, formally entering into a voluntary planning agreement to upgrade the Cavanbah roundabout to a 'dual lane, concrete roundabout' with a fourth leg to the south required to service the proposed industrial development of the subject land; and
 - ii) completing site specific studies on flooding impacts (including filling and drainage), traffic, water and sewerage, bushfire hazard, acid sulfate soils, ecology, Aboriginal heritage and land contamination from past use. These studies must be prepared to Council's satisfaction prior to public exhibition of the Planning Proposal; and
- b) Request the Department of Planning and Environment retain delegated authority to make the LEP Amendment, as the subject land is not identified as a future urban release area and is outside the Town and Village Growth Boundary for Byron Bay in the Far North Coast Regional Strategy. (Ibrahim/Wanchap)

The amendment was put to the vote and declared carried.

Crs Dey and Cameron voted against the amendment.

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

Report No. 13.18 Tweed Rail Trail extension to Billinudgel
File No: I2016/883

16-475 Resolved:

- 1. That Council progress a discussion with Tweed Shire Council to extend the Tweed Rail Trail project concept (Murwillumbah to Crabbes Creek) through to Billinudgel, an extension of 4.9km.
- 2. That Council support Tweed Shire Council to attract funding.
- 3. That council explore its social, environmental and economic impacts on the north of the Shire. (Hunter/Woods)

AMENDMENT

Moved: That Council progress a partnership with Tweed Shire Council to extend the Tweed Rail Trail project concept (Murwillumbah to Crabbes Creek) through to Billinudgel, an extension of 4.9km. (Ibrahim/Spooner)

The amendment was put to the vote and declared tied.

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

The Mayor used his casting vote against the amendment and declared the amendment lost.

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

STAFF REPORTS - INFRASTRUCTURE SERVICES

Report No. 13.19 Small Steps to Healthier Rural Roadsides
File No: I2016/777

16-476 Resolved that the report be noted and the prescribed actions for initiating the RIPS be endorsed. With the following amendments.

1. That the *Care of Public Land* policy be reviewed to include an opt out provision for residents who wish to care for road frontage to their properties and to better reflect all aspects of the RIPS.
2. That Council consider a funding allocation at the next budget review to provide Council operators and contractors with access to GIS spatial fencing technology in the 2016/2017 financial year. (Cameron/Wanchap)

The motion was put to the vote and declared carried.

Report No. 13.20 Update on Proposed Road and Bridge Names
File No: I2016/780

16-477 Resolved:

1. That the road names proposed in Table 4 of this report be submitted to the NSW Land and Property Information (LPI) for concurrence, and if gained, for gazettal.
2. That Council accept the Arakwal Memorandum of Understanding Advisory Committee's objection to the proposed road name 'Gali', and endorse that the alternative names of 'Balun' and 'Jalum' be submitted to the LPI for concurrence, and if gained, gazettal.
3. That further consultation be undertaken with the adjacent property owners regarding the proposal to name the unnamed lane running between Cedar Street and Myokum Street, Mullumbimby and the results reported back to Council.
4. That there be no change to the road name of Short Street, New Brighton.
5. That the submissions received, as listed in Table 5 of this report, be considered as part of the upcoming review of the Street Name Register.
6. That responses be provided to all the submissions received. (Woods/Wanchap)

The motion was put to the vote and declared carried.

URGENCY MOTION

PROCEDURAL MOTION

16-478 Resolved that the matter of the LGNSW Conference 2016 be discussed as a matter of urgency; the urgency being that the motions are to be submitted prior to the next Council meeting. (Spooner/Ibrahim)

The motion was put to the vote and declared carried.

Urgency Motion 1 Matter of Urgency - LGNSW Annual Conference 2016

16-479 Resolved that the following motions be submitted to the Local Government NSW Conference 2016:

Motion 1:

That Local Government NSW maintain a list of authorised deposit taking institutions that are committed to Environmentally and Socially Responsible lending and investing.


Motion 2:

That LGNSW requests the NSW State Government to consider the inclusion of a 30% affordable housing provision into NSW planning instruments. (Spooner/Ibrahim)

The motion was put to the vote and declared carried.

There being no further business the meeting concluded at 4.01pm.

I hereby certify that these are the true and correct Minutes of this Meeting
as confirmed at Council's Ordinary Meeting on 29 September 2016.


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Mayor