



Byron Shire Council



Minutes

Ordinary Meeting

Thursday, 23 November 2017

BYRON SHIRE COUNCIL

Ordinary Meeting Minutes
23 November 2017

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**MINUTES OF THE BYRON SHIRE COUNCIL ORDINARY MEETING HELD ON THURSDAY,
23 NOVEMBER 2017 COMMENCING AT 9.02AM AND CONCLUDING AT 6.10PM**

I2017/1819

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

Staff: Mark Arnold (Acting General Manager)
James Brickley (Acting 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 Adani Contracts

Virginia White, representing Stop Adani Byron Shire, addressed Council in favour of the recommendation.

9.5 Trialling Traffic Lights in Key Byron Intersections

*Ann Reed addressed Council in favour of the recommendation.
Fast Buck\$ addressed Council against the recommendation.*

9.6 Instant Hotel TV Show

David Wallace, representing Victims of Holiday Letting, addressed Council in favour of the recommendation.

10.1 Petition - Tyagarah Airfield Plan Management

Matthew O'Reilly, representing Community Associations Byron Shire, addressed Council against the recommendation.

13.2 Meeting Schedule 2018

Fast Buck\$ addressed Council against the recommendation.

13.10 Sunshine Cycles use of land at First Sun Holiday Park

Luke Young, representing Sunshine Cycles, addressed Council against the recommendation.

13.12 Amended Resolution – Acquisition of land included in Butler Street Reserve R88993

Gyan Moyes, representing the Rainbow Region Store holders Association, and Ian Brown addressed Council against the recommendation.

13.14 PLANNING – Event Sites/Function Centres in Rural Zones

Che Devlin and Taryn McGregor, representing Byron Weddings and Events Industry Association, addressed Council in favour of the recommendation.

Judy Macdonald, representing the Main Arm Rural Residents Association, addressed Council against the recommendation.

13.15 PLANNING – 26.2017.5.1 and 26.2017.6.1 Byron Bay Town Centre Masterplan Implementation – Planning Proposals

John Lazarus addressed Council against the recommendation.

13.17 PLANNING – 26.2017.4.1 – Planning Proposal for Rezoning and Reclassifying Part Lot 22 DP 1073165 Mullumbimby

Malcolm Price, representing Social Habitat Housing, addressed Council in favour of the recommendation.

Matthew Lambourne, Dr Sonia Laverty and Joanne Campbell addressed Council against the recommendation.

PROCEDURAL MOTION

17-557 Resolved that Public Access be extended until 11.15am. (Richardson/Spooner)

The motion was put to the vote and declared carried.

13.18 Report of the Planning Review Committee Meeting held on 19 October 2017

Olga Tresz addressed Council against the recommendation.

13.21 PLANNING – Resolution 17-260 Expression of Interest Land for Affordable Housing Update

Matthew O'Reilly, representing Community Associations Byron Shire and Saddle Ridge Local Area Management Planning Association, addressed Council against the recommendation.

13.22 PLANNING – 10.2017.360.1 Rural Tourist Accommodation Comprising Four (4) cabins at 75 Rifle Range Road, Banalow

Rob Doolan, representing Balanced Systems, addressed Council in favour of the recommendation.
Linda Sparrow, representing Bangalow Koalas, addressed Council against the recommendation.

13.23 PLANNING – 10.2017.270.1 Multi dwelling housing comprising eight (8) dwellings, Strata Title subdivision to create eight (8) Strata Lots and Common Property and Tree Removal (17 trees) at 6 and 6A Canowindra Court South Golden Beach

Mark Delaney and Karl Walden addressed Council against the recommendation.

13.24 PLANNING – Site-specific Planning Proposals considered as part of the rural Land Use Strategy process

James Jackson addressed Council against the recommendation.

13.25 Further update on Resolution 17-191 Secondary Dwelling Conditions

David Wallace addressed Council in favour of the recommendation.

PROCEDURAL MOTION

17-558 Resolved that Public Access be extended until 11.45am. (Richardson/Spooner)

The motion was put to the vote and declared carried.

13.26 Review of the Biodiversity and Sustainability Panel

John Lazarus addressed Council against the recommendation.

13.30 Purchase of the Railway Land Easement for Access to Lot 4 – The Lead Land, Mullumbimby

Sol Farina, representing One Roof Byron, addressed Council in favour of the recommendation.

13.32 Brunswick Heads Parking Strategy

Kim Rosen addressed Council in favour of the recommendation.

13.35 Resolution 17-556 Additional Information on Railway Park

John Lazarus, representing the Byron Environment Centre, addressed Council against the recommendation.

15.2 Sand Quarry

Matthew O'Reilly, representing Community Associations Byron Shire, addressed Council against the recommendation.

PROCEDURAL MOTION

17-559 Resolved that Public Access be extended until 12.00pm. (Richardson/Cameron)

The motion was put to the vote and declared carried.

16.2 CONFIDENTIAL – Council Tender for the Multi Use of Byron Shire Rail Corridor

John Anderson addressed Council against the recommendation.

Question No. 1 Paid Parking in Bangalow

Jenny Coman asked a question of Council regarding paid parking in Bangalow.

The question was taken on notice.

Question No. 2 Paid Parking in Bangalow

Cr Hunter asked Peter Mortimer's question on his behalf regarding paid parking in Bangalow.

The question was taken on notice.

Question No. 3 Lot 2 DP 445771 Coopers Lane West

Duncan Dey asked a question of Council regarding Lot 2 DP 445771 Coopers Lane West.

The Director Sustainable Environment and Economy provided an answer at the meeting.

Question No. 4 Byron Bypass

John Anderson asked a question of Council regarding the proposed Byron Bypass.

The question was taken on notice.

Question No. 5 Tree Removal

John Lazarus asked a question of Council regarding tree removal.

The question was taken on notice.

Question No. 6 Unsuccessful Tender for Surf School License

Vanessa Thompson, representing Mojosurf asked a question of Council regarding Mojosurf's unsuccessful tender for a surf school license.

The question was taken as a submission.

Question No. 7 Traffic and Parking Issues in Bangalow

Cr Richardson asked Joanne Miller's question on her behalf regarding Traffic and Parking Issues in Bangalow.

The question was taken on notice.

13.23 PLANNING – 10.2017.270.1 Multi dwelling housing comprising eight (8) dwellings, Strata Title subdivision to create eight (8) Strata Lots and Common Property and Tree Removal (17 trees) at 6 and 6A Canowindra Court South Golden Beach

Dionne Payn, representing Payn Property Partners, addressed Council in favour of the recommendation.

The meeting adjourned at 12.03pm for lunch and reconvened at 1.05pm.

APOLOGIES

There were no apologies.

REQUESTS FOR LEAVE OF ABSENCE

There were no requests for leave of absence

DECLARATIONS OF INTEREST – PECUNIARY AND NON-PECUNIARY

Cr Spooner declared a non-pecuniary interest in Report 13.12. The nature of the interest being that his employer BBKA has a license to operate a market on this site. Cr Spooner elected to remain in the Chamber and will participate in discussion and the vote.

Cr Spooner declared a special disclosure of pecuniary interest under s451 of the Local Government (General) Regulations 2005 in Report 13.15. The nature of the interest being the land adjoins or is adjacent to or is in proximity to the identified land.

Cr Martin declared a non-pecuniary interest in Report 13.17. The nature of the interest being that she was the founder of the Mullumbimby Community Garden situated at lot 22 and while no longer on the Board of Management, she is the public officer and has also spoken voluntarily at a public meeting by Social Habitat in support of “tiny house village” on this site. Cr Martin elected to remain in the Chamber and will participate in discussion and the vote.

Cr Hunter declared a pecuniary interest in Report 13.19. The nature of the interest being that he is the owner of the property. Cr Hunter elected to leave the Chamber, not participate in the debate and not vote. He will not return until the matter is resolved

Cr Spooner declared a non-pecuniary interest in Report 13.19. The nature of the interest being that the applicant is an elected Councillor and believes his association with him makes it inappropriate to vote on this application. Cr Spooner elected to leave the Chamber, not participate in the debate and not vote. He will not return until the matter is resolved.

Cr Martin declared a non-pecuniary interest in Report 13.30. The nature of the interest being that she has attended meetings with One Roof Byron, as a supporter of finding a solution to the homeless situation in Mullumbimby. She does not vote at their meetings. Cr Martin elected to remain in the Chamber and will participate in discussion and the vote.

TABLING OF PECUNIARY INTEREST RETURNS

In accordance with the Local Government Act 1993 Section 450A(2), Section 449(1), a return was tabled for Cr Sarah Ndiaye.

ADOPTION OF MINUTES FROM PREVIOUS MEETINGS

17-560 Resolved that the minutes of the following meetings be confirmed:

- Byron Shire Reserve Trust Committee held 26 October 2017
- Ordinary Meeting held 26 October 2017
- Extraordinary Meeting held 2 November 2017 (Hunter/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:

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ORDINARY MEETING MINUTES

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STAFF REPORTS

Corporate and Community Services

- Report No. 13.1 Review of Natural Disaster Response Protocols
- Report No. 13.2 Meeting Schedule 2018
- Report No. 13.8 Audit, Risk and Improvement Committee Membership
- Report No. 13.11 North Byron Parklands Regulatory Working Group - Community Representatives
- Report No. 13.12 Amended resolution - Aquisition of land included in Butler Street Reserve R88993

Sustainable Environment and Economy

- Report No. 13.14 PLANNING - Event Sites/ Function Centres in Rural Zones
- Report No. 13.15 PLANNING - 26.2017.5.1 and 26.2017.6.1 Byron Bay Town Centre Masterplan Implementation - Planning Proposals
- Report No. 13.17 PLANNING - 26.2017.4.1 - Planning Proposal for Rezoning and Reclassifying Part Lot 22 DP 1073165 Mullumbimby
- Report No. 13.18 Report of the Planning Review Committee Meeting held on 19 October, 2017
- Report No. 13.19 PLANNING -10.2017.393.1 Detached Dual Occupancy Dwelling at 31 Pinegroves Road Myocum
- Report No. 13.20 Biodiversity Conservation Strategy Update
- Report No. 13.21 PLANNING - Resolution 17-260 Expression of Interest Land for Affordable Housing Update
- Report No. 13.22 PLANNING - 10.2017.360.1 Rural Tourist Accommodation Comprising Four (4) Cabins at 75 Rifle Range Road, Bangalow
- Report No. 13.23 PLANNING - 10.2017.270.1 Multi dwelling housing comprising eight (8) dwellings, Strata Title subdivision to create eight (8) Strata Lots and Common Property and Tree Removal (17 trees) at 6 and 6A Canowindra Court South Golden Beach
- Report No. 13.24 PLANNING - Site-specific Planning Proposals considered as part of the Rural Land Use Strategy process
- Report No. 13.25 Further update on Resolution 17-191 Secondary Dwelling Conditions
- Report No. 13.26 Review of the Biodiversity and Sustainability Panel

Infrastructure Services

- Report No. 13.31 Former Mullumbimby Hospital - Contamination Review
- Report No. 13.32 Brunswick Heads Parking Strategy
- Report No. 13.33 Tree Removals Railway Park Byron Bay
- Report No. 13.34 Bangalow STP Membrane Replacement

CONFIDENTIAL REPORTS

Infrastructure Services

- Report No. 16.2 CONFIDENTIAL - Council Tender for the Multi Use of Byron Shire Rail Corridor

Crs Spooner and Hunter left the meeting at 1.22pm in accordance with their earlier declared interest in Report 13.19.

The remaining Recommendations and Committee Recommendations were adopted as a whole, being moved by Cr Richardson and seconded by Cr Ndiaye. Each recommendation is recorded with a separate resolution number commencing at Resolution No. 17-561 and concluding with Resolution No. 17-583.

Crs Spooner and Hunter returned to the meeting at 1.22pm.

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

Report No. 13.3 **Review of Community Donations under Section 356 - new Community Initiatives Program**
File No: I2017/1526

17-561 Resolved:

1. That the draft Community Initiatives Program (Section 356) Policy be placed on public exhibition for a period of 28 days.
2. That in the event:
 - a) that any submissions are received on the draft Community Initiatives Program (Section 356) Policy, that those submissions be reported back to Council prior to the adoption of the policy;
 - b) that no submissions are received on the draft Community Initiatives Program (Section 356) Policy, that the Policy be adopted and incorporated into Council's Policy Register.
3. That the contents of the accompanying Community Initiatives Program Guidelines be noted.
4. That In the event that no submissions are received and the Community Initiatives Program (Section 356) Policy is adopted, that advertising commence in January 2018 to call for applications to the new Program for the 2017/18 financial year. (Richardson/Ndiaye)

Report No. 13.4 **Council Resolutions Quarterly Review - 1 July 2017 to 30 September 2017**
File No: I2017/1532

17-562 Resolved:

1. That Council receive and note the information provided in this report on active Council Resolutions in Attachment 1 (#E2017/104616).
2. That Council note the completed Resolutions in Attachment 2 (#E2017/98426). (Richardson/Ndiaye)

Report No. 13.5 **Code of Conduct Annual Report 1 September 2016 - 31 August 2017**
File No: I2017/1546

- 17-563 Resolved** that the Code of Conduct Annual Report for the period 1 September 2016 to 31 August 2017 be noted. (Richardson/Ndiaye)

Report No. 13.6 **Council Budget Review - 1 July 2017 to 30 September 2017**
File No: I2017/1559

17-564 Resolved:

1. That Council authorise the itemised budget variations as shown in Attachment 2 (#E2017/104035) which includes the following results in the 30 September 2017 Quarterly

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Review of the 2017/2018 Budget:

- a) General Fund – \$161,900 decrease to the Estimated Unrestricted Cash Result
 - b) General Fund - \$1,651,500 increase in reserves
 - c) Water Fund - \$110,000 decrease in reserves
 - d) Sewerage Fund - \$15,000 decrease in reserves
2. That Council adopt the revised General Fund Estimated Unrestricted Cash Result of \$940,600 for the 2017/2018 financial year as at 30 September 2017. (Richardson/Ndiaye)

Report No. 13.7 Council Investments October 2017
File No: I2017/1565

- 17-565 Resolved** that the report listing Council's investments and overall cash position as at 31 October 2017 be noted. (Richardson/Ndiaye)

Report No. 13.9 Presentation of 2016/2017 Financial Statements
File No: I2017/1678

- 17-566 Resolved** that the Audited Financial Statements and Auditors Reports for the 2016/2017 financial year be presented to the Public in accordance with Section 419(1) of the Local Government Act 1993. (Richardson/Ndiaye)

Report No. 13.10 Sunshine Cycles occupation of a site at First Sun Caravan Park (Lot 5 DP 827049)
File No: I2017/1684

- 17-567 Resolved:**
1. That this report be noted.
 2. That pursuant to clause 4.3 of the *Licence for occupation of Council land* between Byron Shire Council and Luke Young, Council terminate the license effective as at 23 December 2017.
 3. That notice of termination be provided to Luke Young forthwith. (Richardson/Ndiaye)

STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

Report No. 13.13 PLANNING - State Environmental Planning Policy No. 1 - Variations to development standards - 1 July to 30 September
File No: I2017/969

- 17-568 Resolved** that Council note the report. (Richardson/Ndiaye)

The motion was put to the vote and declared carried.

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

No Councillors voted against the motion.

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Report No. 13.16 Integrated Pest Management Update
File No: I2017/1527

- 17-569 Resolved** that Council note the update provided in the report by the Integrated Pest Management Working Group on the Directions Document to inform the Byron Shire Integrated Pest Management Policy and Strategy and the revised project timeframe. (Richardson/Ndiaye)

Report No. 13.19 PLANNING -10.2017.393.1 Detached Dual Occupancy Dwelling at 31 Pinegroves Road Myocum
File No: I2017/1547

- 17-570 Resolved** that Pursuant to Section 80 of the Environmental Planning & Assessment Act 1979, development application 10.2017.393.1 detached dual occupancy dwelling development be granted consent subject to the conditions listed in Attachment 2 #E2017/99679 (Richardson/Ndiaye)
- The motion was put to the vote and declared carried*
No Councillors voted against the motion..

Report No. 13.27 Supporting Sustainable Agriculture and Agribusiness in Byron Shire
File No: I2017/1717

- 17-571 Resolved** that Council:
1. Acknowledge the desktop research results and SWOT analysis into agriculture and agribusiness.
 2. Support the next steps of the Byron Shire Sustainable Agriculture and Agribusiness Project with further reports provided to Council following project milestone achievements.
 3. Note that staff will be applying for grant and sponsorship funding to support the Byron Shire Sustainable Agriculture and Agribusiness Project, and should this grant be successful, Council will need to commit funding of \$50,000 in the 2018/2019 and 2019/2020 financial years respectively. (Richardson/Ndiaye)

STAFF REPORTS - INFRASTRUCTURE SERVICES

Report No. 13.28 Mullumbimby Parking Strategy
File No: I2017/1286

- 17-572 Resolved:**
1. That Council endorse the implementation of the changes to parking time limits in the Mullumbimby town centre, in line with Figure 1 in this report, being 1P throughout Burringbar Street and the addition of 4P zones at the ends of Stuart and Dalley Streets, with 2P remaining in place for the remainder of Stuart and Dalley Streets.
 2. That the time limit changes be reported to the Local Traffic Committee (LTC).
 3. That Council approve a budget of \$15,000 to implement the revised parking time limits, from the Infrastructure Renewal Reserve.
 4. That Council receive a report after twelve (12) months, to review:-

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- a) The effectiveness of the time limit changes in managing parking turnover;
- b) Infringement levels throughout the town centre; and
- c) Based on the outcomes of a) and b) above, the introduction a pay parking scheme to manage parking turnover and effectiveness in accordance with the recommendations of the Traffic and Parking Systems Group (TPS) report titled "Mullumbimby Town Centre Parking Management Strategy" (#E2016/80919). (Richardson/Ndiaye)

Report No. 13.29 **Proposed Boundary Adjustment and Sale of Part Council Drainage Reserve Lot 103 DP 842022**
File No: I2017/1529

17-573 Resolved:

1. That Council endorse the Sale of Part Council owned Drainage Reserve Lot 103 DP 842022 Operational Land to adjoining land owner at 11 Banksia Drive Byron Bay SP 89597.
2. That Council accept the Valuation report completed by Opteon Property Group (Confidential Attachment 1).
3. Without limiting the delegation to the General Manager to negotiate a contract suitable to the Council, terms and conditions of the contract will include requirements for:
 - i. the applicant to pay all costs associated with the purchase of Council's operational land Drainage Reserve Part Lot 103 DP 842022, including but not limited to:
 - a) Council application fees
 - b) Council's surveyor's fees and survey, valuation and legal costs
 - c) All registration fees
 - d) Legal costs
4. That the applicant lodges a development application for the boundary adjustment to coincide with the contract of sale.
5. That Council authorise the affixing of the Council seal to and the signing of all documents necessary to affect the sale and boundary adjustment. (Richardson/Ndiaye)

Report No. 13.30 **Land purchase for access to Lot 4 Mullumbimby**
File No: I2017/1530

17-574 Resolved:

1. That Council authorise the General Manager to enter into contracts for the purchase of part of Lot 2, DP1121508 to provide access to Lot 4, DP841856, Station Street. Mullumbimby.
2. That Council allocate a budget from the Sewer Fund for purchase to the value nominated in the confidential attachment.
3. That upon completion of the purchase, do all acts and things necessary to classify the land as operational land. (Richardson/Ndiaye)

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Report No. 13.35 **Resolution 17-556 Additional information on Railway Park**
File No: I2017/1740

17-575 Resolved that Council:

1. Note the report.
2. Request staff to commence work to include Railway Park in an updated Plan of Management with the aim of completing the process by 30 June 2018.
3. Request staff to enter into discussions with the Byron Environment Centre about the future occupation/location of the rotunda structure and bring a report on the outcome of those discussions back to the first Council meeting in 2018. (Richardson/Ndiaye)

REPORTS OF COMMITTEES - INFRASTRUCTURE SERVICES

Report No. 14.1 **Report of the Byron Shire Floodplain Risk Management Committee**
Meeting held on 12 October 2017
File No: I2017/1512

17-576 Resolved that Council note the minutes of the Byron Shire Floodplain Risk Management Committee Meeting held on 12 October 2017. (Richardson/Ndiaye)

17-577 Resolved that Council adopt the following Committee Recommendation(s):

Report No. 4.1 March 2017 Flood Event
File No: I2017/1156

Committee Recommendation 4.1.1

1. That Council note the report and existence of further report by Manly Hydraulics Laboratory, prepared on a regional basis.
2. That Committee members should provide feedback within 2 weeks regarding the draft, with staff sending a reminder after one week. (Richardson/Ndiaye)

17-578 Resolved that Council adopt the following Committee Recommendation(s):

Report No. 4.2 North Byron Floodplain Risk Management Study and Plan Tender
File No: I2017/1356

Committee Recommendation 4.2.1

1. That Council note the North Byron Floodplain Risk Management Study and Plan Technical Brief (E2017/92200) including final updates from OEH.
2. That Council staff and OEH note dissatisfaction expressed by some committee members on consultants' performance in preparing the preceding Flood Study.
3. That Council review and update its Climate Change Policy on the basis of recent findings, including findings on regional rainfall changes. (Richardson/Ndiaye)

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17-579 Resolved that Council adopt the following Committee Recommendation(s):

Report No. 4.3 Introduction to the Floodplain Risk Management Process

File No: I2017/1360

Committee Recommendation 4.3.1

That Council note the report.

(Richardson/Ndiaye)

**Report No. 14.2 Report of the Transport and Infrastructure Advisory Committee
Meeting held on 2 November 2017**

File No: I2017/1713

17-580 Resolved that Council note the minutes of the Transport and Infrastructure Advisory Committee Meeting held on 2 November 2017. (Richardson/Ndiaye)

17-581 Resolved that Council adopt the following Committee Recommendation(s):

**Report No. 4.1 Byron Bay (Browning St) to Suffolk Park (Clifford St) Cycleway
Investigation**

File No: I2017/1562

Committee Recommendation 4.1.1

1. That the Committee:

- a) thanks PSA Consulting for the presentation on the draft Byron Bay (Browning St) to Suffolk Park (Clifford St) Cycleway Investigation Report.
- b) receives further details and information regarding possible cost of infrastructure relocation and parking implication within the Northern Section.
- c) meets for on-site inspection of Northern Section and considers issues arising on extraordinary meeting.

2. That the Council consider active transport wayfinding strategy for the Shire with the particular attention to signage. (Richardson/Ndiaye)

CONFIDENTIAL REPORTS - INFRASTRUCTURE SERVICES

**Report No. 16.1 CONFIDENTIAL - Tender 2017-0009 Construction of Sewerage Pump
Station SPS5004 Ocean Shores**

File No: I2017/1685

17-582 Resolved:

1. That Council award the Lump Sum Price Contract 2017-0009 Construction of Sewerage Pump Station SPS5004 to Ledonne Construction Pty Ltd for the value of \$946,114.00 (exclusive of GST).
2. That the project's total budget allocation be adjusted to \$1,136,000 for the 2017/2018 Financial year with funding provided from the available reserves held within the Sewer Fund.
3. 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.

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4. That Council authorise the affixing of the Council seal to all documents that may require it, in regards to the Contract.
5. 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.
6. That the report remains confidential until the contract is finalised. (Richardson/Ndiaye)

Report No. 16.3 **CONFIDENTIAL - Customer Service Front Foyer Renovation Works**
File No: I2017/1718

17-583 Resolved:

1. That Council award Tender Customer Service Front Foyer Renovation Works to Quadracon Building.
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. (Richardson/Ndiaye)

PROCEDURAL MOTION

- 17-584 Resolved** that Council change the order of business to deal with Reports 9.2, 13.32, 9.5, 10.1, 13.12, 13.14, 13.15, 13.17, 13.18, 13.21, 13.22, 13.23, 13.24, 13.25 and 13.26 next on the Agenda. (Richardson/Lyon)

The motion was put to the vote and declared carried.

MAYORAL MINUTE

There was no Mayoral Minute.

NOTICES OF MOTION

Notice of Motion No. 9.2 **Adani Contracts**
File No: I2017/1722

17-585 Resolved that Council:

1. Notes the Stop Adani campaign event in Byron Bay and events around Australia for the National Stop Adani Day of Action on 7 October 2017 to support the farmers directly affected and the wider community's concerns over this mine.
2. Resolves not to contract or engage in services under any existing contract with Downer EDI or any of its subsidiaries, including the RPQ Group and NSW Spray Seal, until they publicly withdraw from their agreement with Adani to construct and operate the Carmichael mine and publicly renounce any further involvement with Adani and the Carmichael mine.
3. Investigates further companies to which at present or in the future Council may award

contracts that may have any involvement in contracting for the development and operation of the Carmichael mine, or otherwise have ties to Adani.

4. Resolves not to award future contracts to those companies identified in point three that are involved with Adani or the construction of the Carmichael mine until they renounce any involvement with Adani and the Carmichael mine.
5. Writes to Downer EDI, the RPQ Group, NSW Spray Seal and any other companies identified in point three alerting them to this motion and similar actions in neighbouring Councils, and urging them to reconsider their involvement with Adani and the construction of the Carmichael mine.
6. Writes to the Prime Minister, the Hon. Mr Malcolm Turnbull and Queensland Premier, the Hon. Anastacia Palaszczuk and to all councils across Australia (addressed to mayors and councillors) to express in the most respectful terms our extreme concern about the Adani mine and alert them to the contents of this motion. (Lyon/Ndiaye)

PROCEDURAL MOTION

17-586 Resolved that Cr Spooner be granted a two minute extension to his speech. (Richardson/Ndiaye)

The motion was put to the vote and declared carried.

*The motion (Lyon/Ndiaye) was put to the vote and declared carried.
Crs Spooner and Hunter voted against the motion.*

STAFF REPORTS - INFRASTRUCTURE SERVICES

Report No. 13.32 Brunswick Heads Parking Strategy
File No: I2017/1556

Moved:

1. That Council endorse the implementation steps recommended in the Brunswick Heads Parking Management Strategy as modified to implement revised time limits in the town centre immediately (as per point 2 below);
2. That Council endorse the implementation of the changes to the parking time limits in Brunswick Heads, using the layout provided by the Brunswick Heads Chamber of Commerce, Progress Association and Brunswick Heads School shown at Figure 2 and incorporating the third amendment identified in Table 2.
3. That Council seek Local Traffic Committee (LTC) endorsement of the parking time limit changes.
4. That Council negotiate any necessary agreement with Crown Lands to implement parking schemes.
5. That at the end of 12 months, Council re-engage TPS to undertake a review of the new arrangements. Then, if necessary, consult on further improvements and consider various options, including the desirability of paid parking.
6. That staff report to council by mid 2018 on the cost of infrastructure upgrade requirements in

the following areas;

- a) Booyun Street, east of Park Street, in order to implement a Kiss and Ride School drop off zone in this area;
 - b) Park Street, between Fingal Street and Slessor Lane, to formalise parking whilst maintaining the existing bus zone;
 - c) Dedicated parking for up to four Horse floats at the end of South Beach Road; and,
 - d) The creation of additional parking spaces by conversion of some parallel parking spaces to nose-in parking spaces where appropriate eg on the southern side to Mullumbimby Street between Park Street and Tweed Street.
7. That Council approve the allocation of \$25,000 for the implementation or revised time limits (including line marking) be funded from the existing Operating Budget. (Spooner/Hunter)

AMENDMENT

17-587 Resolved:

1. That Council endorse the implementation steps recommended in the Brunswick Heads Parking Management Strategy as modified to:
 - a) Implement revised time limits in the town centre immediately (as per point 2 below);
 - b) Closely monitor parking demands, durations and infringements in the Town Centre Area in particular with the objective to continuously quantify the appropriateness of duration limits and to 'track' trends in the level of infringement; and
 - c) Assess the compliance with the revised time limits and associated infringements in the management of parking turnover, following the implementation of the revised time limits, in conjunction with any future consideration by Council of the implementation of a pay parking scheme in Brunswick Heads.
2. That Council endorse the implementation of the changes to the parking time limits in Brunswick Heads, using the layout provided by the Brunswick Heads Chamber of Commerce shown at Figure 2, incorporating the amendments identified in Table 2.
3. That Council seek Local Traffic Committee (LTC) endorsement of the parking time limit changes.
4. That Council negotiate any necessary agreement with Crown Lands to implement parking schemes.
5. That prior to the consideration of any Pay Parking Scheme for Brunswick Heads, staff undertake further investigations and consultation and report to Council in mid 2018 on revised parking arrangements and the cost of infrastructure upgrade requirements in the following areas;
 - a) Booyun Street, east of Park Street, in order to implement a Kiss and Ride School drop off zone in this area;
 - b) Park Street, between Fingal Street and Slessor Lane, to formalise parking whilst maintaining the existing bus zone;
 - c) Parking arrangements on South Beach Road, including dedicated parking for up to four (4) Horse floats at the end of South Beach Road; and
 - d) Parking arrangements in South Beach Lane
6. That Council approve:

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- a) an allocation of \$115,000 to be funded from Section 94 Car Parking Brunswick Heads to undertake the investigation works in items 5a) to 5d), inclusive; and
- b) the allocation of \$25,000 for the implementation or revised time limits (including line marking) be funded from the existing signage program. (Richardson/Lyon)

PROCEDURAL MOTION

17-588 Resolved that Cr Richardson be granted a two minute extension to his speech. (Lyon/Ndiaye)

The motion was put to the vote and declared carried.

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

Crs Cameron, Hackett, Spooner and Hunter voted against the amendment.

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

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

NOTICES OF MOTION

Notice of Motion No. 9.5 **Trialling Traffic Lights in Key Byron Bay Intersections**
File No: I2017/1727

17-589 Resolved:

1. That Council receive a late report to the Ordinary Meeting of 14 December 2017 including a comparative study between roundabouts and traffic lights that considers costs, safety (for pedestrians, vehicles and cyclists) and efficiency.
2. That the potential for trialling or installing traffic lights in Byron Shire be referred to the Local Traffic Committee for advice.
3. That Council suspend any preparatory works on roundabout construction, tender and land acquisition until after the Ordinary Meeting on 14 December 2017. (Hackett/Cameron)

PROCEDURAL MOTIONS

17-590 Resolved that Cr Hackett be granted a two minute extension to her speech. (Richardson/Cameron)

The motion was put to the vote and declared carried.

17-591 Resolved that Cr Hackett be granted a one minute extension to her speech. (Richardson/Cameron)

The motion was put to the vote and declared carried.

The motion (Hackett/Cameron) was put to the vote and declared carried.

PETITIONS

Petition No. 10.1 **Tyagarah Airfield Plan Management**
File No: I2017/1508

17-592 Resolved that staff and Councillors meet on-site with Matthew O'Reilly and other airstrip stakeholders and ground truth assertions made in his address in public access and present a

report on this meeting to Council.

(Richardson/Lyon)

Cr Hackett left the meeting at 3.18pm.

The motion was put to the vote and declared carried.

Cr Hackett was not present for the vote.

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

Report No. 13.12 **Amended resolution - Acquisition of land included in Butler Street Reserve R88993**

File No: I2017/1746

17-593 **Resolved** that Council make an application to the Minister and the Governor for approval to acquire land described as land parcels included in R88993:

Lot 389 DP 728537
Lot 390 DP 728538
Lot 391 DP 728539
Lot 392 DP 728539
PT Lot 393 DP 728539

by compulsory process under section 186(1) of the *Local Government Act 1993*, and in accordance with the requirements of the *Land Acquisition (Just Terms Compensation) Act 1991*, for the purpose of: 1) ensuring Council complies with clause 61 of Crown licence RI 574216; 2) allowing the land to be used consistently with Council's adopted Byron Bay town centre master plan; and 3) enabling the land to be retained in community hands and used for a variety of public purposes, including those contained in the current Plan of Management for the Butler Street Reserve.
(Ndiaye/Richardson)

Cr Hackett returned to the meeting at 3.24pm.

The motion was put to the vote and declared carried.

Cr Cameron voted against the motion.

STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

Report No. 13.14 **PLANNING - Event Sites/Function Centres in Rural Zones**

File No: I2017/1485

17-594 **Resolved** that Council, for the purposes of community consultation:

1. Prepare a draft Planning Proposal to amend Byron Local Environmental Plan 2014 to insert a clause permitting function centres with consent in zones RU1, RU2 and R5 subject to a range of controls which will manage impacts on existing residents.
2. Conduct information sessions in all rural communities where the proposal may have affect.
3. Issue a media release and Council website post at least two weeks prior to the first information session to advise the community of the planning proposal with notice of all information sessions.
4. Following completion of the information sessions and other community consultation, a report

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be received by Council with a review of the community meetings and consultation.

(Cameron/Richardson)

AMENDMENT

Moved: That Council prepare a draft Planning Proposal to amend Byron Local Environmental Plan 2014 to insert a clause permitting function centres with consent in zones RU1 and RU2, subject to a range of controls which will manage impacts on existing residents.

(Spooner/Hunter)

The amendment was put to the vote and declared lost.

Crs Hackett, Spooner and Hunter voted in favour of the amendment.

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

The motion was put to the vote and declared carried.

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

Crs Spooner and Hunter voted against the motion.

The meeting adjourned at 4.14pm and reconvened at 4.37pm.

**Report No. 13.15 PLANNING - 26.2017.5.1 and 26.2017.6.1 Byron Bay Town Centre
Masterplan Implementation - Planning Proposals**
File No: I2017/1499

17-595 Resolved that this matter rest on the table. (Richardson/Lyon)

The motion was put to the vote and declared carried.

PROCEDURAL MOTION

17-596 Resolved that Cr Ndiaye be granted a two minute extension to her speech. (Richardson/Martin)

The motion was put to the vote and declared carried.

**Report No. 13.17 PLANNING - 26.2017.4.1 - Planning Proposal for Rezoning and
Reclassifying Part Lot 22 DP 1073165 Mullumbimby**
File No: I2017/1528

17-597 Resolved that Council:

1. Agree to initiate the planning proposal to amend Byron LEP 2014 (Attachment 1) for the reasons outlined in this report.
2. Forward the planning proposal to the NSW Department of Planning and Environment for a Gateway determination.
3. Agree that staff can proceed to public exhibition of the planning proposal and government agency consultation based on the Gateway determination issued by the NSW Department of Planning and Environment, and report back to Council as part of post-exhibition reporting. (Spooner/Richardson)

The motion was put to the vote and declared carried.

Crs Coorey, Martin, Lyon, Ndiaye, Richardson, Cameron, Hackett, Spooner and Hunter voted in

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favour of the motion.

No Councillors voted against the motion.

PROCEDURAL MOTION

17-598 Resolved that Report No. 13.15 be lifted from the table.

(Richardson/Lyon)

The motion was put to the vote and declared carried.

Report No. 13.15 **PLANNING - 26.2017.5.1 and 26.2017.6.1 Byron Bay Town Centre Masterplan Implementation - Planning Proposals**

File No: I2017/1499

17-599 Resolved:

1. That Planning Proposal 26.2017.5.1 (excluding that part relating to the Butler Street Reserve) be approved by Council to proceed to gateway determination and for public exhibition.
2. That the balance of Planning Proposal 26.2017.5.1 (relating to the Butler Street Reserve) and Planning Proposal 26.2017.6.1 be deferred for public consultation including the following:
 - a) conducting community information sessions and collating feedback.
 - b) issuing a media release and Council website post at least two weeks prior to the first information session to advise the community of the planning proposals with notice of all information sessions.
3. That following completion of the information sessions and other community consultation, a report be received by Council, no later than the March Ordinary meeting, with a review of the community meetings and consultation. (Ndiaye/Richardson)

The motion was put to the vote and declared carried.

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

Cr Cameron voted against the motion.

Report No. 13.18 **Report of the Planning Review Committee Meeting held on 19 October, 2017**

File No: I2017/1536

17-600 Resolved that Development Application 10.2017.516.1 be determined by Council.

(Cameron/Richardson)

The motion was put to the vote and declared carried.

Cr Hunter voted against the motion.

Report No. 13.21 **PLANNING - Resolution 17-260 Expression of Interest Land for Affordable Housing Update**

File No: I2017/1569

17-601 Resolved:

1. That council adopt recommendations 1.(a) – 1.(p) for the Expression of Interest sites and Resolution 17-260 'Attachment 1' sites, as contained in Table 1 of this report; and that those

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- category 1 sites recommended for exclusion be reviewed at a SPW for further consideration;
2. That Council require any further work to establish the feasibility of the supported sites in Table 1 of this report to be consistent with the Supporting Partnership Policy, as adopted by Council;
 3. That Council in relation to the Saddle Road EOI sites, no further action is to be taken under Res 17-260 (Item 5) until the Planning Proposal assessment for this locality has been completed and considered by Council in December;
 4. That in relation to the Council and Crown land EOI sites a further report will be presented to Council on their potential for affordable housing against the assessment criteria and methodology outlined in this report and any current Council resolutions pertaining to the land.
(Coorey/Ndiaye)

PROCEDURAL MOTION

- 17-602 Resolved** that Cr Richardson be granted a two minute extension to his speech. (Coorey/Ndiaye)

The motion was put to the vote and declared carried.

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

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

No Councillors voted against the motion.

PROCEDURAL MOTION

- 17-603 Resolved** that Council change the order of business to deal with Item 9.1 next on the Agenda.
(Richardson/Ndiaye)

The motion was put to the vote and declared carried.

NOTICES OF MOTION

Notice of Motion No. 9.1 Parking Permit Fee
File No: I2017/1721

- 17-604 Resolved:**

1. That Council hold the current pay parking permit fees and administrative charges at their current rates as follows for a period of three years:
 - a) The Shire resident or ratepayer exemption permit at \$55.00;
 - b) The non-shire resident worker/volunteer exemption at \$110.00.
2. That after this period of three years above these fees and charges revert to their CPI indexing.
3. That residents of Clunes, Newrybar, Rosebank, Nashua, Brooklet and Booyong and Repentance Creek be included into the residents exemption for paid parking in Byron Shire.
(Lyon/Richardson)

AMENDMENT

Moved:

1. That Council change the current pay parking permit fees and administrative charges to the following for a period of three years:
 - a) The Shire resident or ratepayer exemption permit at \$50.00;
 - b) The non-shire resident worker/volunteer exemption at \$100.00.
2. That after this period of three years above these fees and charges revert to their CPI indexing.
3. That residents of Clunes, Newrybar, Rosebank, Nashua, Brooklet and Booyong and Repentance Creek be included into the residents exemption for paid parking in Byron Shire.
(Ndiaye/Coorey)

The amendment was put to the vote and declared lost.

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

The motion was put to the vote and declared carried.

Cr Hunter voted against the motion.

PROCEDURAL MOTION

- 17-605 Resolved** that the remaining Agenda items listed below be deferred to an Extraordinary Meeting to be held on 28 November 2017 at 4.00pm.

Notices of Motion

- 9.3 Compliance - Belongil and Brunswick Dunes
- 9.4 Biosecurity
- 9.6 Instant Hotel TV Show

Petitions

- 10.2 No Paid Parking in Brunswick Heads
- And: Petitions to be tabled

Submissions and Grants

- 11.1 Byron Shire Council Submissions and Grants as at 1 November 2017

Staff Reports

- 13.1 Review of Natural Disaster Response Protocols
- 13.2 Meeting Schedule 2018
- 13.8 Audit, Risk and Improvement Committee Membership
- 13.11 North Byron Parklands Regulatory Working Group - Community Representatives
- 13.20 Biodiversity Conservation Strategy Update
- 13.22 PLANNING - 10.2017.360.1 Rural Tourist Accommodation Comprising Four (4) Cabins at 75 Rifle Range Road, Bangalow
- 13.23 PLANNING - 10.2017.270.1 Multi dwelling housing comprising eight (8) dwellings, Strata Title subdivision to create eight (8) Strata Lots and Common Property and Tree Removal (17 trees) at 6 and 6A Canowindra Court South Golden Beach
- 13.24 PLANNING - Site-specific Planning Proposals considered as part of the Rural Land Use Strategy process
- 13.25 Further update on Resolution 17-191 Secondary Dwelling Conditions
- 13.26 Review of the Biodiversity and Sustainability Panel
- 13.31 Former Mullumbimby Hospital - Contamination Review
- 13.33 Tree Removals Railway Park Byron Bay

13.34 Bangalow STP Membrane Replacement

Confidential Report

16.2 CONFIDENTIAL - Council Tender for the Multi Use of Byron Shire Rail Corridor

(Richardson/Lyon)

The motion was put to the vote and declared carried.

QUESTIONS WITH NOTICE

Question With Notice No. 15.1 Lot 2 DP 445771 Coopers Lane West
File No: I2017/1662

At Council's Ordinary Meeting held on 26 October 2017, Duncan Dey asked the following question which was taken on notice:

"Has the current owner and has a prospective buyer of this property been given an indication that the two unapproved dwellings (for which an Order to Demolish was issued in June 2017 for execution in July) need now not be demolished and, if so, why?"

Response Director Sustainable Environment and Economy:

The Order to demolish was withdrawn as result of the owner entering into an undertaking to cease use of the dwellings and to progress a development application (DA) for their authorisation. There is a current Order in place to cease use of the dwellings that remains in place until a DA has been submitted and determined. The dwellings in the meantime have been vacated. The Order remains on the property even if the property is sold. The property owner, prospective purchasers and the sales agent are aware of the Order.

Question With Notice No. 15.2 Sand Quarry
File No: I2017/1663

At Council's Ordinary Meeting held on 26 October 2017, Matthew O'Reilly asked the following question which was taken on notice:

"Why has Byron Council failed to take enforcement action, impose significant fines and make an order to undertake full rehabilitation over the illegal unauthorised Sand Quarry at 150 Tandy's lane, beyond gaining an undertaking from the developer that they will not take any more sand from the quarry in the future and what are the circumstances by which Council has allowed this sand obtained illegally for substantial commercial benefit to remain on the Myocum site and not have it returned to the Tandy's lane quarry site where it was illegally obtained."

Response Director Sustainable Environment and Economy:

The present owner of the land comprising Wilson's sand quarry at 150 Tandys Lane Brunswick Heads inherited an existing lease agreement over the quarry. That lease agreement permitted a third party, with no interest in the land, to extract sand from the quarry. Therefore the land owner had no authority to have the quarry closed.

In April 2016 the land owner and his planning consultant sought advice from Council about closure of the quarry. At that time Council had reason to believe the quarry was being operated in accordance with continuing use rights which Council assessed to be a significant argument to be considered in any proposed enforcement action under the Environmental Planning and Assessment Act.

Council continued to carry out surveillance of the quarry.

As a result of a further complaint in October 2016 Council had reason to issue a proposed Protection of the Environment Operations Act Prevention Notice upon the operator of the quarry on 9 November 2016. After negotiations with the quarry operator Council was able to successfully facilitate closure of the quarry in January 2017 without the need for any enforcement action or litigation.

The quarry pit has been reshaped and the land owner has had discussions with Council about rehabilitation of the site, including establishment of a natural wetland. Council was not in a position to use the Environmental Planning and Assessment Act as a means of ordering rehabilitation of the quarry or the taking of punitive enforcement action.

Council has investigated the Myocum Road premises and is not in the possession of evidence to establish that a concrete batching plant or other similar type of business is unlawfully operating from those premises.

Question With Notice No. 15.3 Dangerous Dogs
File No: I2017/1664

At Council's Ordinary Meeting held on 26 October 2017, Angela Dunlop asked the following question which was taken on notice:

"Given that council's compliance priority program identifies dangerous dogs as a very high priority and given the recent spate of reported dog attacks in our shire why do compliance staff not have the common courtesy to acknowledge victims of attacks or indeed provide an update of punitive actions taken regarding dogs and their owners in response to the attacks. I am referring to actual, not alleged, incidents where photographic evidence was supplied to staff and where a dog owner admitted that his dog had indeed been involved in menacing a person. In fact, I have been attacked in three separate incidents in the past six months in South Golden Beach and New Brighton. Does one have to be hospitalised before these aggressive dogs are taken off our streets, parks and beaches? I am aware of many attacks that have gone unreported to council and is it any wonder, as many people do not have the faith that staff will follow through on their mandate to protect residents of our shire. One only has to cross our shire's boundaries into Tweed and Ballina shires to see that unleashed and roaming dogs are a rarity, as they are, in most developed countries throughout the world, yet in Byron shire they abound. Why is that so? Surely, it's time that all breaches of the Companion Animals Act were seriously enforced. A firm message needs to be sent to those who routinely and flagrantly breach these regulations. When will uncontrolled and aggressive dogs finally be given the highest of compliance priorities so that our community can rightfully and fearlessly reclaim our streets, parks and beaches?"

Response Director Sustainable Environment and Economy:

Council's Enforcement Team takes dangerous dogs and dog attacks as a serious matter and responds to all reported incidents as a high priority. This includes attacks of other animals as well as attacks of persons. There is no requirement for a victim to be hospitalised for Council to prioritise an incident.

Three recent examples of Council's approach to dog attacks are as follows:

On 15 August 2017, Council received notification that a dog attack of another animal had occurred in Federal. The complainant had not obtained the name or address of the dog owner but gave a description of the person to Council staff. As a result of enquiries by Council's Animal

and Enforcement Support Officer a male person was identified as the offender and as being in charge of a declared menacing dog at the time of the attack. The male person was issued a Court Attendance Notice for being in charge of a menacing dog which attacks and bites an animal. The owner of the declared menacing dog was issued a Court Attendance Notice for failing to comply with menacing dog requirements – i.e. no muzzle, no collar and not under effective control. Both matters were listed for a hearing at Mullumbimby Local Court where the two offenders both entered pleas of guilty. The Court gave the owner of the menacing dog a Section 10 and no monetary penalty. The person in charge of the menacing dog at the time of the attack was fined \$1,000, costs of \$500 and ordered to pay the veterinary expenses of the victim. Council wrote to the victim informing them of the Court Order and outlining the process to obtain the relevant funds. If Council had issued fines in relation to the offences, it is likely they would have been greater than those issued by the Court. However, as this matter related to an attack by a menacing dog, the legislation required the matter to go before the Local Court.

On 28 September 2017, Council received notification that a dog attack of other animal had occurred at Mullumbimby Creek. Council identified and located the owner of the offending dog. Council identified that the dog had been declared menacing by Lismore Shire Council. The dog was seized by Council staff and held at Council's pound until the dog was surrendered by its owner. The dog was euthanized on 5 October 2017. The owner was issued a fine of over \$1,300 for failing to comply with menacing dog control requirements. During this process the complainant was informed of all steps taken by Council staff. The complainant and another person advised Council, in writing, that they were very happy with the outcome.

On 29 September 2017, a female tourist was attacked by a dog on New Brighton Beach. The victim of the attack reported the incident to the police who forwarded the job to Council. Council contacted the victim who provided descriptions of the dog but was unable to identify/describe the dog owner. Despite this, Council's Animal and Enforcement Support Officer investigated the incident and identified the owner. The owner initially denied involvement in the incident but further steps by Council's Animal and Enforcement Support Officer resulted in the owner providing a full statement to Council and an intention to fully compensate the victim. The victim was updated on each step of the investigation – she was visited in person by Council staff on at least four occasions and spoken to via telephone by Council staff on at least eight occasions. The victim requested the full details of the dog owner and was provided with those details by Council so that she could pursue civil action. Council issued an Intention to Declare the dog Menacing in NSW and the owner was issued with fines of over \$1,600. Local police and the victim have advised Council, in writing that they are very happy with the outcome and the support that Council provided during the investigation. The actions by Council resulted in the dog owner being fined more than recent Court decisions and in the dog being subject to future control requirements to ensure safety of the community.

Since **1 January 2017**, Council have responded to 48 dog attacks, 437 complaints of nuisance dogs/barking dogs, 8 complaints of nuisance dogs/unrestrained dogs, 177 missing dogs that were located and 10 miscellaneous dog complaints. During this period Council's two Animal and Enforcement Support Officers have also undertaken 137 patrols of off-lead and on-lead dog exercise areas within the Shire.

Between **1 January 2017 and 31 October 2017**, the following fines were issued by Council in relation to dogs:

- Seven fines for dog not wearing collar tag
- Seventeen fines for dog not under effective control in public place
- Two fines for greyhound not muzzled in public place
- Five fines for dog not under control in prohibited place
- Seven fines for failing to prevent dog from escaping
- Twenty-six fines for failing to register dog

Seven fines for failing to comply with a nuisance order
Six fines for dog rushes/attacks
One fine for dangerous/menacing dog not under control
One fine for failing to comply with menacing dog requirements
Five warning notices in relation to dogs and over 100 verbal warnings relating to dogs off-lead (educational) were also given during this period.

Education is also a key component of the work that the team undertakes. A current initiative with regard to responsible pet ownership is the school calendar colouring competition which will result in the calendars printed and available free of charge at a range of places around the Shire including libraries. It will be a year-long reminder about the importance of being a responsible pet owner. See <http://www.byron.nsw.gov.au/responsible-pet-ownership>

Further to the above, the team has been contacted recently by other councils about our policies and processes (operating procedures) about dogs, as they see Byron as a exemplar council given work loads and resourcing. Staff are to be commended in this regard.

Question With Notice No. 15.4 Byron Bypass
File No: I2017/1665

At Council's Ordinary Meeting held on 26 October 2017, John Anderson asked the following question which was taken on notice:

"Given the stringent conditions attached to the Court's approval of the wetlands portion of the Byron Bypass;

- i. What is Council's latest estimate of the total cost of the project and the timeline for completion;
- ii. What processes must Council follow in assessing the Butler Street portion of the Bypass in terms of a Part V Application? (SEPP); and,
- iii. Who is to prepare the application and take the final determination?"

Response Director Infrastructure Services:

What is Council's latest estimate of the total cost of the project and the timeline for completion

The latest cost estimate for total project cost is \$22.5 million.

Completion of the project will be subject to obtaining additional funding. The timing for additional funding is unknown.

What processes must Council follow in assessing the Butler Street portion of the Bypass in terms of a Part V Application? (SEPP)

The key requirements for an application under Part 5 of the *Environmental Planning and Assessment Act 1979 (EPA Act)* are that a determining authority is to examine and take into account to the fullest extent possible all matters affecting or likely to affect the environment by reason of an activity. The examination and account of those matters takes the following form:

1. A written assessment, known as a "Review of Environmental Factors" (**REF**), is undertaken. The REF has been prepared by GHD.
2. The REF is the document that records the examination and account of effects of the environment under

Part 5 of the EPA Act. The REF considers the following matters (in summary only):

- a. An assessment of whether there is likely to be a significant effect on the environment (including critical habitat) or threatened species, populations or ecological communities, or their habitats (section 112 of the EPA Act). If so, an Environmental Impact Statement (**EIS**) is required. In respect of the REF prepared for the Butler Street portion, it has been determined that there is not likely to be a significant effect on the environment and as such it has been determined that an EIS is not required.*
 - b. The REF examines and takes into account to the fullest extent possible all matters affecting or likely to affect the environment by reason of the Butler Street portion of the bypass (section 111 of the EPA Act).*
 - c. The REF considers a list of prescribed factors which must be considered in determining the impact of a proposal on the environment, as set out in clause 228 of the Environmental Planning and Assessment Regulation 2000 (**EPA Regulation**).*
- 3. In light of these matters and requirements, the REF considers a broad range of matters in respect of the Butler street portion of the bypass, including acoustic impacts, proposed acoustic measures, associated heritage considerations, community submissions in respect of the proposed bypass, landscape character, visual impacts, social and amenity impacts.*

Who is to prepare the application and make the final determination?

The REF has been prepared by GHD.

For the purposes of Part 5 of the EPA Act, Council as the proponent of the activity is the "determining authority" with respect to the carrying out of the Butler Street portion of the bypass. Council is required to determine whether the requirements of Part 5 of the EPA Act have been satisfied having regard to the assessment carried out in the REF.

Some discrete parts of the Butler Street proposal require separate approvals from the Heritage Council and the RMS.

In those circumstances RMS and the Heritage Council also fit within the definition of "determining authorities" for the assessment under Part 5 of the EPA Act. For example, the Heritage Council becomes a "determining authority" under Part 5 of the EPA Act when assessing the application for approval under section 57 of the *Heritage Act 1977*, which relates to works within the curtilage of the Byron Railway Station and yard group, which is listed on the State Heritage Register.

Although RMS and the Heritage Council fall within the definition of "determining authorities", there is an exception that applies to the application of Part 5 given that Council has already undertaken the REF.

Section 110E(c) of the EPA Act provides that determining authorities are not subject to the key requirements of Part 5 of the EPA Act (sections 111 and 112) if an activity has been approved, or is to be carried out, by another determining authority (in this case, Council) after environmental assessment has already occurred under Part 5. RMS and the Heritage Council are likely to decide that section 110E(c) applies to its assessment such that they are not required to make a separate assessment under Part 5.

The meeting closed at 6.10pm.

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I hereby certify that these are the true and correct Minutes of this Meeting
as confirmed at Council's Ordinary Meeting on 14 December 2017.



.....
Mayor Simon Richardson