



Byron Shire Council



Minutes

Ordinary Meeting

Thursday, 22 November 2018

BYRON SHIRE COUNCIL

Ordinary Meeting Minutes
22 November 2018

INDEX OF ITEMS DISCUSSED

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

Report No. 11.1	Byron Shire Council Submissions and Grants as at 31 October 2018.....	9
Report No. 13.2	Lilly Pilly Community Pre-School Inc - Lease.....	9
Report No. 13.4	PLANNING - Railway Park Draft Plan of Management - Adoption	10
Report No. 13.5	Annual Report 2017/18.....	10
Report No. 13.7	Budget Review 1 July 2018 to 30 September 2018	10
Report No. 13.8	Investments October 2018.....	11
Report No. 13.9	Mullumbimby Hospital Site Project Reference Group Recommendations: future use of the site	11
Report No. 13.10	Community Initiatives Program (Section 356) - 2018/19 funding round applications	11
Report No. 13.13	Council Resolutions Quarterly Review - 1 April 2018 to 30 June 2018.....	11
Report No. 13.14	Presentation of 2017/2018 Financial Statements.....	12
Report No. 13.15	Operational Plan 2018/19 First Quarter Report - Q1 - 1 July to 30 September 2018.....	12
Report No. 13.18	PLANNING - Development Application 10.2018.86.1 - Installation of a Telecommunications Facility with Ancillary Equipment at Lot 339 DP 755692 Old Pacific Highway Brunswick Heads.....	12
Report No. 13.20	Blues Festival Regulatory Working Group - Expressions of Interest	12
Report No. 13.22	Commercial Activities on Road Reserves Policy.....	13
Report No. 13.23	PLANNING - Bike Share: Initial Investigations.....	13
Report No. 13.24	PLANNING - L&E Court proceedings 2018/116820 DA 10.2017.712.1 Strata Subdivisions and dwelling Alterations, 25 Strand Avenue New Brighton.....	13
Report No. 13.25	Update on Environmental Zone review and Planning Proposal implementation process.....	13
Report No. 13.27	PLANNING - Change of use - dwelling house to incorporate bed and breakfast accommodation, and use of existing shed to create dual occupancy (detached)	14
Report No. 13.29	A proposal from the community to name a section of Heritage Park Mullumbimby 'Maslen Arboretum'	14
Report No. 13.30	The Esplanade, New Brighton	14
Report No. 13.31	Asbestos Policy	15
Report No. 14.1	Report of the Sustainability and Emissions Reduction Advisory Committee Meeting held on 25 October 2018.....	15
Report No. 14.2	Report of the Coastal Estuary Catchment Panel Meeting held on 27 September 2018.....	16
Report No. 14.3	Report of the Water, Waste and Sewer Advisory Committee Meeting held on 1 November 2018	16
Report No. 16.1	CONFIDENTIAL - Request for review of Footpath Dining Fees.....	17
Report No. 16.3	CONFIDENTIAL - TENDER 2018-0033 - PUBLIC AMENITIES CLEANING SERVICES	17
Notice of Motion No. 9.1	Councillor Privacy and Safety	18
Notice of Rescission Motion No. 9.2	Tyagarah Clothes Optional Declaration - Results of the enhanced stakeholder safety initiatives of Res 17-499 and Res 17-715	18
Notice of Rescission Motion No. 9.6	Suffolk Beachfront Holiday Park Dog Friendly Report	19

BYRON SHIRE COUNCIL

Ordinary Meeting Minutes 22 November 2018

Report No. 13.1	Lease for Signage on Ewingsdale Road to Ganra Pty Ltd	20
No. 13.3	Crown Lands Transition.....	21
Report No. 13.17	PLANNING – 26.2018.2.1 - Planning Proposal for an amendment to Byron LEP 2014 and Byron LEP 1988 to permit Community Title subdivision and dwellings at Lot 1 DP 1031848, The Coast Road, Broken Head (The Linnaeus Estate).....	21
Report No. 13.19	CZMP for the Eastern Precincts of the BBE - Request for Ministerial Certification Outcome	21
Report No. 13.21	Update on the release of the Short Term Rental Accommodation Planning Framework by the Department of Planning and Environment	23
Report No. 13.26	West Byron Release Area Zone Application Review.....	24
Report No. 13.28	PLANNING - DA10.2018.296.1 Construct Three New Sheds and approve the use of a fourth existing shed to be used by the Men Shed Organisation ..	24
Report No. 13.32	Pedestrian safety improvements - South Beach Road pathway, Brunswick Heads.....	25
Notice of Motion No. 9.3	Joint Regional Planning Panel assessment of Development Application 2018NTH007	25
Notice of Motion No. 9.4	Community Resilience and Recovery during Natural Disasters.....	25
Notice of Motion No. 9.5	Cycle Racks for Mullumbimby	25
Report No. 13.6	Report of the Public Art Panel Meeting 11 October.....	26
Report No. 13.11	Section 355 Management Committees - resignations and appointments	26
Report No. 13.12	Election of Deputy Mayor 2018-2019.....	27
Report No. 13.16	Coastal Management Conference and potential for Byron Shire Council to host	27
Report No. 16.2	CONFIDENTIAL - 2017-0069 RFT Byron Shire Council Bioenergy Projects – Bankable Feasibility Study.....	28
No. 1	Planning Proposal for the Byron Bay CBD (26.2017.6.1).....	29

BYRON SHIRE COUNCIL

ORDINARY MEETING MINUTES

22 November 2018

MINUTES OF THE BYRON SHIRE COUNCIL ORDINARY MEETING HELD ON THURSDAY, 22 NOVEMBER 2018 COMMENCING AT 9:03AM AND CONCLUDING AT 5:57PM

I2018/2173

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

Staff: Mark Arnold (General Manager)
Vanessa Adams (Director Corporate and Community Services)
Phil Warner (Acting Director Infrastructure Services)
Chris Larkin (Acting Director Sustainable Environment and Economy)
Ralph James (Legal Counsel)
Heather Sills (Minute Taker)
Michael Matthews (Manager Open Spaces & Resource Recovery) – item 9.6
Shannon McKelvey (Executive Officer) – item 13.3
Chloe Dowsett (Coastal and Biodiversity Coordinator) – 13.19
Evan Elford (Team Leader Infrastructure Planning) – item 13.32

The Mayor opened the meeting and acknowledged the Traditional Owners of the land, the Arakwal of the Bundjalung and paid respects to Elders past and present, and extended that respect to the Midjungbul people to the north and the Widjabal people to the west and all the Aboriginal people gathered at the meeting.

PUBLIC ACCESS

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

9.1 Councillor Privacy and Safety

John Anderson addressed Council against the recommendation.

9.2 Tyagarah Clothes Optional Declaration

Shannon Bower, Christopher “Gyan” Moye, and Matthew O’Reilly on behalf of CABS addressed Council in favour of the recommendation.

David Dixon on behalf of Byron Naturists and Maxine Hawker addressed Council against the recommendation.

9.6 Suffolk Beachfront Holiday Park Dog Friendly Report

Mark Dean addressed Council in favour of the recommendation.

13.1 Lease for Signage on Ewingsdale Road to Ganra Pty Ltd

Belinda Hultgren addressed Council against the recommendation.

13.3 Crown Lands Transition

John Dunn on behalf of Brunswick Heads Progress Association addressed Council against the recommendation.

13.17 PLANNING – 26.2018.2.1 - Planning Proposal for an amendment to Byron LEP 2014 and Byron LEP 1988 to permit Community Title subdivision and dwellings at Lot 1 DP 1031848, The Coast Road, Broken Head (The Linnaeus Estate)

*Matthew O'Reilly on behalf of CABS addressed Council against the recommendation.
Steve Connolly addressed Council in favour of the recommendation.*

13.18 PLANNING - Development Application 10.2018.86.1 - Installation of a Telecommunications Facility with Ancillary Equipment at Lot 339 DP 755692 Old Pacific Highway Brunswick Heads

Bob Coyne on behalf of Telstra addressed Council in favour of the recommendation.

13.19 CZMP for the Eastern Precincts of the BBE - Request for Ministerial Certification Outcome

Dailan Pugh addressed Council in favour of the recommendation.

13.21 Update on the release of the Short Term Rental Accommodation Planning Framework by the Department of Planning and Environment

Francesca Esposito on behalf of Byron Hinterland Collective and NSW Approved Accommodation Accord addressed Council in favour of the recommendation.

13.26 West Byron Release Area Zone Application Review

Dailan Pugh addressed Council in favour of the recommendation.

13.28 PLANNING - DA10.2018.296.1 Construct Three New Sheds and approve the use of a fourth existing shed to be used by the Men Shed Organisation

Malcolm Price on behalf of Mullumbimby Men's Shed addressed Council in favour of the recommendation.

Cath Church addressed Council against the recommendation.

13.30 The Esplanade, New Brighton

Gavin Hinton addressed Council in favour of the recommendation.

13.32 Pedestrian safety improvements - South Beach Road pathway, Brunswick Heads

John Dunn on behalf of Brunswick Heads Progress Association addressed Council against the recommendation.

13.30 The Esplanade, New Brighton

Gavin Hinton addressed Council in favour of the recommendation.

Submission No. 1

John Anderson made a submission to Council regarding "the fourth monkey".

Question No. 1

John Anderson asked the following question:

At the meeting of Council I asked the Mayor a question directed to him personally regarding the intimidation of Butler Street residents and the Mayor's efforts, if any, to get to the bottom of the matter. Instead of the Mayor's answer, we got a "response" (a completely different beast) from some unnamed Legal Counsel, a response which consisted entirely of evasion and misdirection and which failed to identify the instigator of the intimidation.

So Mr Mayor, under circumstances where you have consistently refused to get legal advice for Councillors in terms of tricky decisions they must make from meeting to meeting:

- 1. Where do you get off spending ratepayers money on avoiding answering a question to which we all know the anyway (sic), in that it had to be the former G.M. or the Executive Officer who authorised the intimidation*
- 2. Who wrote the legal rant in question and how much did it cost, and*
- 3. Why won't staff answer question No. 2 under F.O.I?*

The Mayor provided the following response:

There was a court case against Council, Council won, and Council sought therefore to recoup costs. Those who lived on the street didn't want more cars on that street, they said 'we are a community group therefore we shouldn't be paying'. Staff and our legal advice quite reasonably suggested the fact that they had a couple of QC's on their books and that they all either lived on the street or lived around the street.

Staff then reasonably did their job and said to us we're not convinced they are a community group and so therefore we wish to see whether they can actually afford to repay ratepayers costs. For example, in Belongil there's a group called Belongil Preservation Association who also call themselves a community group but are largely just land owners in a certain area who want something to happen in their patch and we don't, if they took us to Court, we don't waive funds because they're a community group, this is staffs' reasonable description of what's occurred.

We did have a case where Positive Change for Marine Life, which is a community group, which was defended by the EDO not QC's clearly a community group, when they lost, we as a Council forwent costs because they're a community group. So, when Councillors heard that staff and our legal people were reasonably looking to recoup funds, we enquired into it, the response was as I just described to you but slightly more nuanced and legalistic.

Then after we'd looked into it and got a response, which I think was in the Echo and was very open by the GM describing what took place, Councillors then resolved to not ask/seek full compensation and costs for our ratepayers, nor agree to the peanuts offered by the group but found a compromise position which was very far on the low end of costs and then we all settled and moved on.

The meeting adjourned at 11:06am and reconvened at 11:26am.

APOLOGIES

- 18-713 Resolved** that the apology from Cr Martin be accepted and a leave of absence granted.
(Richardson/Coorey)
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 Spooner declared a pecuniary interest in Report 13.10. The nature of the interest being that his employer, Byron Bay Community Association has put in an application under the program. Cr Spooner elected to leave the Chamber and will not participate in discussion and the vote.

Cr Ndiaye declared a non-pecuniary interest in Report 13.20. The nature of the interest being that she works as a private contractor onsite during the festival. Cr Ndiaye elected to remain in the Chamber and will participate in discussion and the vote.

Cr Lyon declared a non-significant, non-pecuniary interest in Report 13.28. The nature of the interest being that he is the Treasurer of the Mullumbimby Community Gardens. Cr Lyon elected to remain in the Chamber and will participate in discussion and the vote.

TABLING OF PECUNIARY INTEREST RETURNS

There were no Pecuniary Interest Returns tabled.

ADOPTION OF MINUTES FROM PREVIOUS MEETINGS

- 18-714 Resolved** that the minutes of the following meetings be confirmed:
- Byron Shire Reserve Trust Committee held 18 October 2018
 - Ordinary Meeting held 18 October 2018
- (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:

STAFF REPORTS**General Manager**

- Report No. 13.1 Lease for Signage on Ewingsdale Road to Ganra Pty Ltd
Report No. 13.3 Crown Lands Transition

Corporate and Community Services

- Report No. 13.6 Report of the Public Art Panel Meeting 11 October
Report No. 13.11 Section 355 Management Committees - resignations and appointments
Report No. 13.12 Election of Deputy Mayor 2018-2019

Sustainable Environment and Economy

- Report No. 13.16 Coastal Management Conference and potential for Byron Shire Council to host
Report No. 13.17 PLANNING – 26.2018.2.1 - Planning Proposal for an amendment to Byron LEP 2014 and Byron LEP 1988 to permit Community Title subdivision and dwellings at Lot 1 DP 1031848, The Coast Road, Broken Head (The Linnaeus Estate)
Report No. 13.19 CZMP for the Eastern Precincts of the BBE - Request for Ministerial Certification Outcome
Report No. 13.21 Update on the release of the Short Term Rental Accommodation Planning Framework by the Department of Planning and Environment
Report No. 13.26 West Byron Release Area Zone Application Review
Report No. 13.28 PLANNING - DA10.2018.296.1 Construct Three New Sheds and approve the use of a fourth existing shed to be used by the Men Shed Organisation

Infrastructure Services

- Report No. 13.32 Pedestrian safety improvements - South Beach Road pathway, Brunswick Heads

CONFIDENTIAL REPORTS**Infrastructure Services**

- Report No. 16.2 CONFIDENTIAL - 2017-0069 RFT Byron Shire Council Bioenergy Projects – Bankable Feasibility Study

LATE REPORTS

The remaining Recommendations and Committee Recommendation were adopted as a whole, being moved by Cr Richardson and seconded by Cr Hackett. Each recommendation is recorded with a separate resolution number commencing at Resolution No. 18-715 and concluding with Resolution No. 18-746.

In accordance with Cr Spooner's earlier declaration of a pecuniary interest in Item 13.10, Cr Spooner left the meeting at 11:34am and abstained from voting.

SUBMISSIONS AND GRANTS

Report No. 11.1 **Byron Shire Council Submissions and Grants as at 31 October 2018**
File No: I2018/2156

- 18-715 Resolved** that Council note the report and attachment (#E2018/89928) for the Byron Shire Council Submissions and Grants as at 31 October 2018. (Richardson/Hackett)
-

STAFF REPORTS - GENERAL MANAGER

Report No. 13.2 **Lilly Pilly Community Pre-School Inc - Lease**
File No: I2018/1949

18-716 Resolved:

1. That Council delegate to the General Manager, the authority to authorise the holding- over by the Lilly Pilly Community Pre-School Inc under the existing lease terms to permit occupation of Lot 70 DP 851902 after 30 November 2018 and until a new lease is executed.
 2. That Council grant a five (5) year lease with three five (5) year options to renew, for the purpose of early childhood education and care to the Lilly Pilly Community Pre-School Inc over the whole of Lot 70 DP 851902, 96 Kingsford Drive Brunswick Heads NSW 2483.
 3. That Council authorise the publication of the proposed grant of a five (5) year lease with three five (5) year options to renew for the purpose of early childhood education and care to the Lilly Pilly Community Pre-School Inc for a period of 28 days seeking public comment.
 4. That in the event of no comments objecting to the grant of the lease are received, that Council delegate to the General Manager the authority to consider all submissions to enter into the lease referred to in 2 above with the following minimum conditions:
 - a) term of five (5) years with three five (5) year options to renew;
 - b) annual lease rent to commence at \$490 (inclusive of GST);
 - c) annual rent to be increased to annual the value of minimum Crown rent for the same year;
 - d) all lease preparation and registration costs to be met by the Lessee;
 - e) all maintenance to be carried out by the Lessee at the Lessee's cost;
 - f) Council subsidise annual rent to value of \$40,190 being the difference between the market rent \$40,680 and the subsidised rent of \$490 payable by the Lessee on commencement of the lease by a section 356 of the LGA donation of Council;
 - g) Council subsidise annual general land rates payable on the unimproved capital value of the land being \$678,000 in the 2018-2019 financial year.
 5. That in the event that objecting comments are received then Council make an application for the consent from the NSW Minister for Local Government for the lease, referred to in 2 above, to be granted. (Richardson/Hackett)
-

BYRON SHIRE COUNCIL

ORDINARY MEETING MINUTES

22 November 2018

Report No. 13.4 **PLANNING - Railway Park Draft Plan of Management - Adoption**
File No: **I2018/2151**

18-717 Resolved that Council replace Resolution 18-647 with the following:

1. Note the minor amendments of the Plan following public engagement dealing with acknowledging the heritage value of the land and the adjoining railway corridor and the retention of the memorial pole.
2. Adopt the Plan of Management for Railway Park, contained at Attachment 2 (#E2018/78998) to report PLANNING - Railway Park Draft Plan of Management - Submissions Report to Council's Ordinary Meeting on 18 October 2018, categorising the site as General Community Use and not, as was the subject of a public objection, as a Park, because a General Community Use categorisation will:
 - i) provide a greater opportunity for flexibility in the use of Railway Park into the future; and
 - ii) reduce ambiguity in terms of whether existing and potential future activities are consistent with the categorisation of the land, noting that the guidelines within the Local Government (General) Regulation 2005 relating to the categorisation of *park* suggest that any use other than the passive use of the park could be argued to unduly intrude on the peaceful enjoyment of the land by others. (Richardson/Hackett)

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

Nil voted against the motion.

Cr Spooner was not present for the vote.

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

Report No. 13.5 **Annual Report 2017/18**
File No: **I2018/1860**

18-718 Resolved that Council note the Annual Report 2017/2018 (#E2018/80058), included as Attachment 1 to this report, and its submission to the Minister for Local Government.
(Richardson/Hackett)

Report No. 13.7 **Budget Review 1 July 2018 to 30 September 2018**
File No: **I2018/1995**

18-719 Resolved:

1. That Council authorise the itemised budget variations as shown in Attachment 2 (#E2018/89897) which includes the following results in the 30 September 2018 Quarterly Review of the 2018/2019 Budget:
 - a) General Fund – \$37,200 increase to the Estimated Unrestricted Cash Result
 - b) General Fund - \$952,700 increase in reserves
 - c) Water Fund - \$163,900 increase in reserves
 - d) Sewerage Fund - \$208,200 increase in reserves
2. That Council adopt the revised General Fund Estimated Unrestricted Cash Result of \$1,145,200 for the 2018/2019 financial year as at 30 September 2018.
(Richardson/Hackett)

BYRON SHIRE COUNCIL

ORDINARY MEETING MINUTES

22 November 2018

Report No. 13.8 **Investments October 2018**
File No: I2018/2007

- 18-720 Resolved** that the report listing Council's investments and overall cash position as at 31 October 2018 be noted. (Richardson/Hackett)
-

Report No. 13.9 **Mullumbimby Hospital Site Project Reference Group**
Recommendations: future use of the site
File No: I2018/2012

- 18-721 Resolved:**
1. That the Mullumbimby Hospital Site Project Reference Group (PRG) recommendations on the best future use of the site are endorsed.
 2. That the Mullumbimby Hospital Site Project Reference Group (PRG) is dissolved and the members thanked for their contribution. (Richardson/Hackett)
-

Report No. 13.10 **Community Initiatives Program (Section 356) - 2018/19 funding round applications**
File No: I2018/2015

- 18-722 Resolved:**
1. That Council provide funds requested from the unallocated Section 356 budget to each of the projects which met the assessment criteria of the Community Initiatives Program 2018/19 funding round that are recommended for funding in Confidential Attachment 1 (#E2018/82824).
 2. That Council advertise the Section 356 Donations proposed to be made in part 1 if approved by Council.
 3. That Council note that unsuccessful applicants from this funding round will be provided detailed feedback and staff support to work on more complete applications that meet all criteria in future rounds.
 4. That Council staff will continue to work with community groups to support them in submitting high quality applications to future rounds of the program. (Richardson/Hackett)
-

Report No. 13.13 **Council Resolutions Quarterly Review - 1 April 2018 to 30 June 2018**
File No: I2018/2040

- 18-723 Resolved:**
1. That Council note the information provided in this report on active Council Resolutions in Attachment 1 (#E2018/86729).
 2. That Council note the completed Resolutions in Attachment 2 (#E2018/86730). (Richardson/Hackett)

BYRON SHIRE COUNCIL

ORDINARY MEETING MINUTES

22 November 2018

Report No. 13.14 Presentation of 2017/2018 Financial Statements
File No: I2018/2136

- 18-724 Resolved** that the Audited Financial Statements and Auditors Reports for the 2017/2018 financial year be presented to the Public in accordance with Section 419(1) of the Local Government Act 1993. (Richardson/Hackett)

Report No. 13.15 Operational Plan 2018/19 First Quarter Report - Q1 - 1 July to 30 September 2018
File No: I2018/2160

- 18-725 Resolved:**
1. That Council note the first quarter report on the 2017/18 Operational Plan for the period 1 July to 30 September 2018 (Attachment 1 #E2018/85563).
 2. That Council adopt the proposed amendments to the Operational Plan 2018/19 outlined in Attachment 2 (#E2018/82686) (Richardson/Hackett)

STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

Report No. 13.18 PLANNING - Development Application 10.2018.86.1 - Installation of a Telecommunications Facility with Ancillary Equipment at Lot 339 DP 755692 Old Pacific Highway Brunswick Heads
File No: I2018/1882

- 18-726 Resolved** pursuant to Section 80 of the Environmental Planning & Assessment Act 1979, Development Application No. 10.2018.86.1 for installation of 30m high telecommunications facility and associated ancillary equipment, be approved subject to conditions listed in Attachment 2 #E2018/83848. (Richardson/Hackett)

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

Nil voted against the motion.

Cr Spooner was not present for the vote.

Report No. 13.20 Blues Festival Regulatory Working Group - Expressions of Interest
File No: I2018/1979

- 18-727 Resolved:**
1. That Council nominate the following two community representatives for appointment to the Blues Festival Regulatory Working Group (RWG) on a rotational basis not exceeding four years Nicqui Yazdi and Phillip Mallon.
 2. That Council advise the Chairperson of the Blues Festival Site Regulatory Working Group (RWG) of the nominations. (Richardson/Hackett)

BYRON SHIRE COUNCIL

ORDINARY MEETING MINUTES

22 November 2018

Report No. 13.22 Commercial Activities on Road Reserves Policy
File No: I2018/1994

18-728 Resolved:

1. That Council approve the four (4) locations recommended for class 2 mobile vendor licences.
2. That Council recommend staff under a public tender to allocate the four (4) class 2 mobile vendor licences. (Richardson/Hackett)

Report No. 13.23 PLANNING - Bike Share: Initial Investigations
File No: I2018/2004

- 18-729 Resolved** that Council note the update provided in this report by staff on a bike share pilot project - initial investigations. (Richardson/Hackett)

Report No. 13.24 PLANNING - L&E Court proceedings 2018/116820 DA 10.2017.712.1
Strata Subdivisions and dwelling Alterations, 25 Strand Avenue New Brighton
File No: I2018/2017

- 18-730 Resolved** that pursuant to section 377(1)(u) of the Local Government Act the General Manager is delegated to enter into an agreement pursuant to s34(3) of the *Land and Environment Court Act* for the granting of conditional consent for the alterations, additions and repositioning of an existing dwelling; and the strata subdivision of Lot 2, DP536175 (No 25) The Strand New Brighton to create 2 strata title lots. (Richardson/Hackett)

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

Nil voted against the motion.

Cr Spooner was not present for the vote.

Report No. 13.25 Update on Environmental Zone review and Planning Proposal
implementation process
File No: I2018/2033

18-731 Resolved:

1. That Council re-allocate \$30,000 as part of the December Budget Quarterly Review in order to: continue the staged E zone implementation program, build on the high level of community goodwill generated through the preparation of Planning Proposals 1 and 2; and resolve the deferred matters for our affected rural landowners in a timely manner.
2. That the \$30,000 be re-allocated as follows:
 - Employment Land Strategy (# 2605.106): \$10,000
 - Mullumbimby Masterplan Project Plan (# 2605.112): \$20,000 (Richardson/Hackett)

Report No. 13.27 PLANNING - Change of use - dwelling house to incorporate bed and breakfast accommodation, and use of existing shed to create dual occupancy (detached)
File No: I2018/2109

18-732 Resolved that Pursuant to Section 4.16 of the Environmental Planning & Assessment Act 1979, development application no. 10.2018.288.1 for change of use - dwelling house to incorporate bed and breakfast accommodation, and use of existing shed to create dual occupancy (detached), be granted consent subject to the recommended conditions of consent. (Richardson/Hackett)

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

Nil voted against the motion.

Cr Spooner was not present for the vote.

STAFF REPORTS - INFRASTRUCTURE SERVICES

Report No. 13.29 A proposal from the community to name a section of Heritage Park Mullumbimby 'Maslen Arboretum'
File No: I2018/1521

18-733 Resolved that in relation to the request to name a section of Heritage Park, Mullumbimby to 'Maslen Arboretum', that:

1. Staff proceed to exhibit the proposal for 28 days as per Council's Naming of Public Places and Community Facilities Policy;
2. Staff report any submissions regarding the proposal to Council following this period; and
3. Should no objections be received for the proposal, that the new naming be adopted and submission made to the NSW Geographical Names Board for approval and registration. (Richardson/Hackett)

Report No. 13.30 The Esplanade, New Brighton
File No: I2018/1356

18-734 Resolved:

1. That, subject to a suitable funding source being identified in the next 2018/19 quarterly budget review or being identified the 2019/20 budget:
 - a) Implement parking management Option 1 within the area hatched blue in Figure 1 of this report, being from No.1 to No.13 The Esplanade, New Brighton as detailed on drawing No. 2668-CP1/A and 2668-CP2/A at an estimated cost of between \$75,000 and \$90,000.
 - b) Restrict parking to a maximum of 4hr between the hours of 9.00am and 6.00pm daily and include restrictions for "No Camping".
2. That Council consider the provision of a budget of \$20,000 as part of the 2019/20 budget process to advance further investigation and concept design preparation of parking options and associated indicative costs in the New Brighton beach area generally.
3. That Council receive a further report within 6 months after the implementation of Option 1 on the performance of the parking management measures and additional parking options for the New Brighton beach areas. (Richardson/Hackett)

Report No. 13.31 Asbestos Policy
File No: I2018/1912

- 18-735 Resolved** that Council adopt the Draft Asbestos Policy (Attachment 1 - #E2018/31878).
(Richardson/Hackett)
-

REPORTS OF COMMITTEES - SUSTAINABLE ENVIRONMENT AND ECONOMY

**Report No. 14.1 Report of the Sustainability and Emissions Reduction Advisory
Committee Meeting held on 25 October 2018**
File No: I2018/2104

- 18-736 Resolved** that Council note the minutes of the Sustainability and Emissions Reduction Advisory Committee Meeting held on 25 October 2018.
(Richardson/Hackett)

- 18-737 Resolved** that Council adopt the following Committee Recommendation:

Report No. 4.4 Climate Emergency Declaration
File No: I2018/1987

Committee Recommendation 4.4.1

1. That the Sustainability and Emissions Reduction Advisory Committee provides the following input into terms of reference, membership for, and where Council has a role to play in a community-led Climate Emergency Guidance Group as it develops a Shire-wide Community Climate Emergency Plan:
 - a) That the Terms of Reference for the community-led climate change adaptation plan consider:
 - i) resilience in coastal erosion risk & sea level rise areas
 - ii) agriculture
 - iii) heat waves
 - iv) bush fires
 - v) floods
 - vi) social dislocation / impacts
 - vii) food security.
 - b) That the following be invited via newspaper ad, email, or direct contact to the first meeting to be held in about a month with Cr Coorey to be champion of meeting:
 - Foundation for Rural & Regional Renewal (FRRR),
 - Zero Emissions Byron (ZEB),
 - disaster and emergency response,
 - social services.
 - c) That the Scope be:
 - i) implementation plan/ action checklist;
 - ii) acknowledging and supporting work already being done by existing mitigation groups (including ZEB and Community-Owned Renewable Energy Mullumbimby [COREM])
 - iii) identifying gaps.
 - d) That Council support through facilitation of the initial meeting and identify desirable membership that covers the Shire and areas listed in the first dot point.
(Richardson/Hackett)

REPORTS OF COMMITTEES - INFRASTRUCTURE SERVICES

Report No. 14.2 **Report of the Coastal Estuary Catchment Panel Meeting held on 27 September 2018**
File No: I2018/1951

18-738 Resolved that Council note the minutes of the Coastal Estuary Catchment Panel Meeting held on 27 September 2018. (Richardson/Hackett)

18-739 Resolved that Council adopt the following Committee Recommendation(s):

Report No. 4.1 Water Sensitive Urban Design Policy Strategy
File No: I2018/957

Committee Recommendation 4.1.1

1. That the Panel note the report and commend Council for undertaking this initiative.
2. That staff circulate questions from the presentation to Panel members and Panel provide feedback within 2 weeks.
3. That the Panel will have a workshop to discuss questions in the end of October 2018. (Richardson/Hackett)

18-740 Resolved that Council adopt the following Committee Recommendation(s):

Report No. 4.2 Belongil Entrance Opening Strategy Update
File No: I2018/1654

Committee Recommendation 4.2.1

That the Panel note the report. (Richardson/Hackett)

Report No. 14.3 **Report of the Water, Waste and Sewer Advisory Committee Meeting held on 1 November 2018**
File No: I2018/2150

18-741 Resolved that Council note the minutes of the Water, Waste and Sewer Advisory Committee Meeting held on 1 November 2018. (Richardson/Hackett)

18-742 Resolved that Council adopt the following Committee Recommendation(s):

Report No. 4.1 Effects of water mining in Byron and surrounding shires on groundwater resources
File No: I2018/1920

Committee Recommendation 4.1.1

1. That the committee note the report.
2. That Council request information from surrounding shires, Rous County Council,

BYRON SHIRE COUNCIL

ORDINARY MEETING MINUTES

22 November 2018

Southern Cross University and DOI on:

- a) Current water extraction quantities and locations
- b) Research on short term and long term impacts of these activities on aquifers and ground water resources. (Richardson/Hackett)

18-743 Resolved that Council adopt the following Committee Recommendation(s):

Report No. 4.2 Inflow and Infiltration Update

File No: I2018/1957

Committee Recommendation 4.2.1

1. That the Committee note the report.
2. That the Inflow and Infiltration staff ensure that there is communication plan established for the project.
3. That staff investigate the potential compliance aspects around Inflow and Infiltration defects. (Richardson/Hackett)

18-744 Resolved that Council adopt the following Committee Recommendation(s):

Report No. 4.3 Minutes of 13 September 2018 meeting - Water, Waste and Sewer Advisory Committee

File No: I2018/2020

Committee Recommendation 4.3.1

That the Water, Waste and Sewer Advisory Committee note the minutes of 13 September 2018 meeting which were reported to 18 October 2018 Council meeting. (Richardson/Hackett)

CONFIDENTIAL REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

Report No. 16.1 CONFIDENTIAL - Request for review of Footpath Dining Fees
File No: I2018/2038

18-745 Resolved that Council not change the current fees and charges in relation to Safya Café's use of Council's road reserve for footpath dining. (Richardson/Hackett)

CONFIDENTIAL REPORTS - INFRASTRUCTURE SERVICES

Report No. 16.3 CONFIDENTIAL - TENDER 2018-0033 - PUBLIC AMENITIES CLEANING SERVICES
File No: I2018/2128

18-746 Resolved:

1. That Council decline all tenders and a new performance specification and service schedule be created that considers available budget against desired levels of service.
2. That Council makes public its decision (Richardson/Hackett)

Cr Spooner returned to the chambers at 11:35am.

NOTICES OF MOTION AND RESCISSION**PROCEDURAL MOTION**

- 18-747 Resolved** that Council change the order of business to deal with Reports 9.1, 9.2, 13.1, 13.3, 13.17, 13.19, 13.21, 13.26, 13.28, 13.32 next on the Agenda. (Richardson/Hackett)

The motion was put to the vote and declared carried.

Notice of Motion No. 9.1 Councillor Privacy and Safety
File No: I2018/1990

18-748 Resolved:

1. That Council's Councillor Expenses and Facilities 2018 Policy, section 6.43.1c) be amended to read that 'Councillors can choose to have either; a mobile or landline number made available to the public, or to be contacted by email'
2. That any required adjustments be made to secure the provision for reimbursement of the communication allowance (Coorey/Ndiaye)

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

Notice of Rescission Motion No. 9.2 Tyagarah Clothes Optional Declaration - Results of the enhanced stakeholder safety initiatives of Res 17-499 and Res 17-715
File No: I2018/1992

Moved that Council rescind Resolution No. 18-698 from its Ordinary meeting held on 18 October 2018 which reads as follows:

1. *Acknowledge the improvement in beach safety at Tyagarah and thank the Safe Beaches Committee, NSW Police and stakeholders.*
2. *Confirm the current status and area for the clothes optional beach at Tyagarah with 6 monthly reporting to Council on progress.*
3. *Council establish a Safe Byron Beaches Committee meeting quarterly to cover all beaches and adjacent environs in Byron Shire.*
4. *The Safe Byron Beaches Committee be established with a constitution and paramount objective to identify and promote cooperative actions to ensure a safe environment for all beach users in Byron Shire.*
5. *The Safe Byron Beaches Committee membership include representatives from Council, NPWS, Police, naturists and residents and be chaired by a councillor nominated by Council.*
6. *The nominated Chairperson of the Safe Byron Beaches Committee with the support of Council, consult with stakeholder groups to draft a constitution for endorsement at the November meeting of Council that includes the following key actions*

BYRON SHIRE COUNCIL

ORDINARY MEETING MINUTES

22 November 2018

- *Liaise with NSW Police and other agencies*
 - *Develop rapid response and reporting protocols*
 - *Implement strategies to support beach user groups and individuals*
 - *Focus resources on identified problem locations (eg Grays Lane)*
 - *Consider how digital technologies (eg cameras) can be deployed*
 - *Draft a positive statement of community values*
 - *Provide advice to Council*
 - *Other measures that achieve the paramount objective*
7. That Council allocate a budget of \$10,000, subject to confirmation of funding being available as part of the 30 September 2018 Quarter Budget Review to be submitted to Council at the 22 November 2018 Ordinary Meeting for the installation of up to 20 battery operated cameras recording vehicle registration and personal behaviour in the reserve.
(Spooner/Hackett)

PROCEDURAL MOTIONS

18-749 Resolved that Cr Spooner be granted a two minute extension to his speech. (Richardson/Hunter)

The motion was put to the vote and declared carried.

18-750 Resolved that Cr Hackett be granted a two minute extension to her speech.
(Richardson/Spooner)

The motion was put to the vote and declared carried.

18-751 Resolved that Cr Ndiaye be granted a one/two minute extension to her speech.
(Richardson/Cameron)

The motion was put to the vote and declared carried.

18-752 Resolved that Cr Richardson be granted a two minute extension to his speech. (Hackett/Spooner)

The motion was put to the vote and declared carried.

Cr Lyon left the Chambers at 12:20pm and returned at 12:24pm

18-753 Resolved that Cr Cameron be granted a two minute extension to his speech. (Richardson/Coorey)

The motion was put to the vote and declared carried.

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

The meeting adjourned at 12:39pm for a lunch break and reconvened at 1:42pm.

Notice of Rescission Motion No. 9.6

Suffolk Beachfront Holiday Park Dog Friendly Report

File No:

I2018/2149

18-754 Resolved that Council rescind Resolution No. 18-625 from its Ordinary meeting held on September 2018 which reads as follows:

BYRON SHIRE COUNCIL

ORDINARY MEETING MINUTES

22 November 2018

1. *That Council adopt Suffolk Beachfront Holiday Park as a Dog Friendly Park in accordance with the dog friendly site map, during off peak times*
2. *Request that the Biodiversity Advisory Committee provide an assessment on potential impacts of the change in status of the Suffolk Beachfront Holiday Park to a Dog Friendly Park on the surrounding environment*
3. *That Council increase ranger patrols in this area, as per availability, to ascertain any increased non-compliance* (Coorey/Richardson)

The motion was put to the vote and declared carried.

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

18-755 Resolved that Council:

1. Notes Council's Responsible Dog ownership strategy and the campaign currently underway in Suffolk Park to implement koala friendly dog ownership
2. Notes the lack of consultation with the Biodiversity Officer of Council who is implementing the Responsible Dog ownership strategy
3. Notes the lack of consultation with key stakeholder groups including local aboriginal groups, National Parks, the resident community and the Biodiversity Committee
4. Does not support the dog friendly status of Suffolk Caravan Park.
5. Directs that no further bookings be taken by patrons with dogs and that any bookings for 2019 be cancelled and the guests referred to other dog-friendly parks in the shire. (Coorey/Richardson)

The motion was put to the vote and declared carried.

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

Cr Lyon left the Chambers at 2:14pm and returned at 2:16pm.

Report No. 13.1

Lease for Signage on Ewingsdale Road to Ganra Pty Ltd

File No:

I2018/1717

18-756 Resolved that Council defer its decision until after its consideration as part of the enquiry by design process commencing in 2019. (Richardson/Cameron)

The motion was put to the vote and declared carried.

Cr Hunter voted against the motion.

*The meeting adjourned at 2:30pm to hold the Reserve Trust Meeting and reconvened at 2:33pm. Resolution number **18-757** and **18-758** was used during that meeting.*

BYRON SHIRE COUNCIL

ORDINARY MEETING MINUTES

22 November 2018

No. 13.3 **Crown Lands Transition**
File No: I2018/2123

18-757 Resolved:

1. That Council resolve to apply to the Minister administering the Crown Lands Management Act for initial classifications and categorisations set out in Attachments 1 and 2 (E2018/90298 and E2018/90299) with the exception of the following parcels of land:
 - i) Reserve 97204 Caravan and Camping Brunswick Heads to be proposed to be classified as Community Land
 - ii) Reserve 65234 Rubbish depot, noted that further review is required
2. That in relation to Sandhills Estate (part reserve number 755695/part Lot 457 in DP 1087879) Council:
 - (a) Confirms its commitment to ongoing discussions with Arakwal / Byron Bay Bundjalung consistent with the Indigenous Land Use Agreement that includes reference to Sandhills Estate and the NSW Aboriginal Land Council as claimants under the Aboriginal Land Rights Act 1983 (NSW), including presentation to the Bundjalung of Byron Bay Aboriginal Corporation (Arakwal) on 13 December 2018.
 - (b) Resolves to apply to the Minister administering the Crown Lands Management Act for a one-off vesting application, subject to the outcome of those ongoing discussions.
 - (c) If the outcome of those discussions does not support the application, a further report be brought back to Council in February 2019. (Cameron/Ndiaye)

The motion was put to the vote and declared carried.

Report No. 13.17 **PLANNING – 26.2018.2.1 - Planning Proposal for an amendment to Byron LEP 2014 and Byron LEP 1988 to permit Community Title subdivision and dwellings at Lot 1 DP 1031848, The Coast Road, Broken Head (The Linnaeus Estate)**
File No: I2018/1773

18-760 Resolved that Council:

1. defer decision on this Planning Proposal;
2. that it be brought to a Strategic Planning Workshop for further consideration, and
3. that a visit to the site by councillors be arranged. (Coorey/Richardson)

The motion was put to the vote and declared carried.

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

Nil voted against the motion.

Report No. 13.19 **CZMP for the Eastern Precincts of the BBE - Request for Ministerial Certification Outcome**
File No: I2018/1973

18-761 Resolved that Council:

1. Request an urgent meeting with the Minister for the Environment, the Hon Gabrielle Upton and the NSW State Premier, Gladys Berejiklian asking for the re-consideration of Ministerial

certification of the Coastal Zone Management Plan of the Eastern Precincts of the Byron Bay Embayment (2018).

2. Writes to the Minister for the Environment, the Hon Gabrielle Upton and the NSW State Premier, Gladys Berejiklian:
 - a. Outlining its extreme disappointment that a cooperative process between state government and Byron Council appears to have been subverted due to disproportionate influence by a few local landowners, as mentioned in the latest letter to council by OEH staff who stated, "The decision to separate the previous CZMP BBE (2016) into two locations and develop a newly formed plan excluding the Belongil Spit has not satisfied key stakeholders within the local community - most notably the landholders of properties at Belongil Beach".
 - b. Outlining the apparent gross disproportionate weight given to the opposition of the CZMP by a few local landowners, as mentioned in the latest letter to council compared to the absence of opposition from the wider community, and therefore seek a formal response from the Minister as to whether she believes that opposition by one stakeholder group should supersede that of the wider community.
 - c. Noting that this response from OEH is conflicting with the Minister's original invitation to re-submit a plan excluding the Belongil Spit and subsequent advice clarifying this avenue for certification of the plan.
 - d. Seeking the Minister's reconfirmation of her position, and the position of OEH and the Coastal Panel that the majority of the plan (with the exception of the Belongil Spit Precinct) met relevant requirements of a CZMP BBE (2016).
 - e. Inquiring as to whether the Minister now believes the further advice from her office received on 27 October 2017 that clarified the Minister's invitation to re-submit a plan excluding the Belongil Spit and urged Council to be working on a Coastal Management Program (CMP) for the Belongil Beach precinct under the new coastal legislation was incorrect.
 - f. Outlining that after receiving this further advice, Council staff worked in close consultation with representatives of the Office of the Environment and Heritage (OEH) for 8 months to develop the CZMP (2018) that conform to the assessment and designated certification criteria of the CP Act and that pursuant to section 55C(2)(b) of the Act, Council gained written correspondence from all public authorities indicating their agreement to the plan and therefore, seek a response from the Minister as to whether she supports this consultation between OEH and council or the changes brought about due to the opposition by a few local landowners, as mentioned in the latest letter to council.
 - g. Outlining Council significant concern that, as the coastal protection works at Main Beach (JSPW) are degraded and not to contemporary engineering standards, any undue delay resultant of the latest conflicting advice from OEH and refusal of certification of the Coastal Zone Management Plan of the Eastern Precincts of the Byron Bay Embayment (2018), puts at extreme risk Council's commitment to the re-design, upgrade and modification of this structure as part of the Jonson Street coastal protection works to protect the Town Centre and improve public safety and amenity.
 - h. That Local Member, Tamara Smith, and Parliamentary Secretary for the North Coast, Ben Franklin, be informed of this resolution and their support sought
(Richardson/Ndiaye)

PROCEDURAL MOTION

- 18-762 Resolved** that Cr Richardson be granted a two minute extension to his speech.
(Richardson/Cameron)

The motion was put to the vote and declared carried.

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

Report No. 13.21 Update on the release of the Short Term Rental Accommodation Planning Framework by the Department of Planning and Environment
File No: I2018/1993

- 18-763 Resolved** that Council:

1. Note the update on the release of the short term rental accommodation planning framework by the Department of Planning and Environment provided in the report.
2. Write (again) to the Minister for Planning to seek an urgent meeting to request a deferral of Byron Shire from the new state-wide planning rules (pause to implementation). This pause is necessary to enable a full consideration of the current impact of, and that of the proposed planning rule changes to legitimise short term rental accommodation on Byron Shire in terms of environmental, social and economic impacts. That Council also include reference in the letter to the undermining of decades of planning of residential zones in Byron Shire that has been caused by the sudden increase of short-term letting businesses in residential areas. That Council also provide examples of areas where the approach of restricting short term letting to owner occupiers has proven effective, such as Santa Monica
3. Concurrent with 2 above, write to the Department of Planning and Environment to advise that Council has significant concerns in relation to the planning rules as exhibited including:
 - i) the burden to be placed on council to enforce the planning rules;
 - ii) the lack of a coherent registration system including fees for short term rental accommodation to resource council with the enforcement role of short term rental accommodation;
 - iii) the absence of a Code of Conduct to inform the planning rules;
 - iv) the ambiguity in the planning rules due to the definition of 'short term rental accommodation' and exempt and complying criteria applicable to same;
 - v) the known impact of short term rental accommodation on local neighbourhoods, community, and other tourist accommodation and failure to address this;
 - vi) the known impact on housing availability and affordability and failure to address this;
 - vii) the lack of recognition of the clear detriment to local communities with high tourist numbers caused by commercial investors in residential areas.
 - vii) the number of days policy position which conflicts with other State Government policy initiatives to address housing affordability, local character and place planning and needs review.
4. Concurrent with 2 and 3 above, make a formal submission to Department of Planning and Environment to the planning rules as exhibited to include the following as local exceptions to the planning rules for Byron Shire through either a state wide planning policy schedule or Byron local environmental plan amendment:
 - i) require the 'dwelling' used for short term rental accommodation to be the principle place of residence of the owner;

BYRON SHIRE COUNCIL

ORDINARY MEETING MINUTES

22 November 2018

- ii) a reduction in the number of days that short term rental accommodation is permissible from 365 days to 90 days (not 180 days);
- iii). In the event that a reduction to 90 days is not possible, than under the current rules, an application for 180 days be made in its place
- iv) require the owner or manager of a property used for short term rental accommodation to register on a Byron Shire Council Short Term Rental Accommodation Register;
- v) exclude short term rental accommodation from (to be nominated) areas in the Byron Shire that are needed for permanent residential and key worker accommodation.

(Lyon/Richardson)

The motion was put to the vote and declared carried.

Cr Hunter voted against the motion.

The meeting adjourned at 3:38pm and reconvened at 4:00pm.

Report No. 13.26 West Byron Release Area Zone Application Review
File No: I2018/2105

18-764 Resolved that Council:

1. Notes the report on the West Byron Release Area zone application review
2. Considers the alternate West Byron Release Area zone application plan (Attachment #E2018/88447) for the purpose of preparing a formal planning proposal for the West Byron Release Area.
3. Embeds where appropriate the design parameters as shared during public access in the planning proposal mapping.
4. Through the Mayor, request an urgent meeting with the Minister for the Planning, the Hon Anthony Roberts and the NSW State Premier, Gladys Berejiklian to discuss the importance of the West Byron area zone application review and the need to expedite a planning proposal for the West Byron Release Area. (Coorey/Richardson)

PROCEDURAL MOTION

18-765 Resolved that Cr Coorey be granted a two minute extension to her speech. (Richardson/Coorey)

The motion was put to the vote and declared carried.

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

Cr Hunter voted against the motion.

Report No. 13.28 PLANNING - DA10.2018.296.1 Construct Three New Sheds and
approve the use of a fourth existing shed to be used by the Men
Shed Organisation
File No: I2018/2113

18-766 Resolved:

1. That the existing shed be approved with any appropriate conditions as per #E2018/108326
2. That the Community Gardens Policy and Plan of Management be reviewed to allow the community to consider further uses and application for further sheds. (Hunter/Lyon)

BYRON SHIRE COUNCIL

ORDINARY MEETING MINUTES

22 November 2018

The motion was put to the vote and declared carried.

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

Nil voted against the motion.

Report No. 13.32 **Pedestrian safety improvements - South Beach Road pathway, Brunswick Heads**

File No: I2018/2152

18-767 Resolved:

That Council allocate \$10,000 from the Sect 94A levy reserve to provide pedestrian safety improvements with materials and design to be finalised in consultation with the Brunswick Heads Progress Association and other key stakeholders. (Cameron/Coorey)

The motion was put to the vote and declared carried.

NOTICES OF MOTION AND RESCISSION

Notice of Motion No. 9.3 **Joint Regional Planning Panel assessment of Development Application 2018NTH007**

File No: I2018/2133

Cr Lyon withdrew the Notice of Motion.

Notice of Motion No. 9.4 **Community Resilience and Recovery during Natural Disasters**

File No: I2018/2134

18-768 Resolved that Council facilitate a meeting between the SES and residents groups in Mullumbimby to provide an update on the Community Action Team (CAT) initiative and consider future actions. (Cameron/Richardson)

The motion was put to the vote and declared carried.

Notice of Motion No. 9.5 **Cycle Racks for Mullumbimby**

File No: I2018/2135

Moved: that Council allocate \$15,000 from S94 funds to manufacture and install cycle racks at various locations in Mullumbimby. (Cameron/Hunter)

The Mover and Seconder withdrew the Notice of Motion.

PETITIONS

Cr Spooner tabled a petition dated 4 November 2018 containing 82 signatures which states:

“We the undersigned residents of Byron Shire request Byron Shire Council to remove the clothes optional status of Tyagarah Beach due to the ongoing prevalence of sexual misconduct. Safety should be the top priority”

DELEGATES' REPORTS

There were no delegates reports.

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

Report No. 13.6 **Report of the Public Art Panel Meeting 11 October**
File No: **I2018/1985**

18-769 Resolved that with respect to the Public Art Panel meeting held on 11 October 2018, Council:

1. Grant the preferred artist, as per attachment 1, the commission for the Railway Square Public Art Project.
2. Not accept any of the artist submissions for the commission for the Bus Shelters Public Art Project and note that the Public Art Panel's sub-committee on this project has worked with staff to provide the options in this report incorporating public art.
3. That Council:
 - a) Council select the two shortlisted bus shelter designs from attachment 2: NWR Shelter (Asco) and Shelter Transit Byron 3 Bay (Moodie Outdoor) that will:
 - i) Standardise the replacement of over forty bus shelters throughout the Byron Shire as funding becomes available.
 - ii) Allow flexibility for Council officers to choose the best bus shelter to suit the location and dimensions of each bus stop with the priority being that the choice of shelter is capable of providing decent protection of users from sun, wind and rain.
 - b) Delegate the choice of a colour pattern to be used in the two shortlisted bus shelter designs to the Public Art Panel.
 - c) Council request quotes from each of the three shortlisted artists that responded to the Bus Shelter Public Art Project Expression of Interest to provide a design for artwork that can be stencilled into a durable material for incorporation into the Bus Shelters.
4. That Council note that the Public Art Panel provided feedback and comments to the planner and representatives of the Mercato development about the proposed public artwork and that endorsement was provided for the concepts presented of the 'feather' seat in the public domain and the second piece of canopy art at the side of the building.
5. Provide in-principle support for a new sculpture for Mullumbimby Sculpture Walk – 'Elevate' by Ellen Ferrier, however before recommending approval for the sculpture, that engineering and structural designs be provided with the height risks resolved and that these be provided to the next available Public Art Panel meeting. (Ndiaye/Richardson)

The motion was put to the vote and declared carried.

Report No. 13.11 **Section 355 Management Committees - resignations and appointments**
File No: **I2018/2019**

18-770 Resolved:

1. That the resignation of Adrienne Lester from the Bangalow A&I Hall Board of Management be accepted and a letter of thanks be provided.

BYRON SHIRE COUNCIL

ORDINARY MEETING MINUTES

22 November 2018

2. That the nominee in Confidential Attachment 1 (#E2018/85809) be appointed to the Mullumbimby Civic Hall Board of Management.
3. That the nominees in Confidential Attachment 1 (#E2018/85809) be appointed to the Durrumbul Community Hall Management Committee.
4. That the nominee in Confidential Attachment 1 (#E2018/85809) be appointed to the Suffolk Park Community Management Hall Management Committee. (Lyon/Cameron)
The motion was put to the vote and declared carried.

Report No. 13.12 **Election of Deputy Mayor 2018-2019**
File No: I2018/2039

18-771 Resolved:

1. That Council elect a Deputy Mayor for the period from 22 November 2018 until the first meeting of Council in September 2019.
2. That the method of election of the Deputy Mayor be by way of ordinary ballot.
3. That Council acknowledge and thank Cr Cameron for his role as Deputy Mayor over the previous 2 years (Spooner/Richardson)
The motion was put to the vote and declared carried.

The returning officer advised that there were two nominations for Deputy Mayor being Cr Lyon and Cr Hunter.

Following the election the returning officer declared Cr Lyon elected as Deputy Mayor for the ensuing 12 month period.

STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

Report No. 13.16 **Coastal Management Conference and potential for Byron Shire Council to host**
File No: I2018/609

18-772 Resolved:

1. That Council note the unsuccessful outcome of the bid to host both the NSW Coastal Conference 2019 and the next unallocated Australian Coastal Councils Conference.
2. That Council pursue the option of co-hosting the next available NSW Coastal Conference with a neighbouring coastal Council in 2020. (Hackett/Richardson)

The motion was put to the vote and declared carried.

CONFIDENTIAL REPORTS - INFRASTRUCTURE SERVICES

Report No. 16.2 **CONFIDENTIAL - 2017-0069 RFT Byron Shire Council Bioenergy Projects – Bankable Feasibility Study**
File No: I2018/1892

18-773 Resolved:

1. That pursuant to Section 10A(2)(c), (d)i, (d)ii and (d)iii of the Local Government Act, 1993, Council resolve into Confidential Session to discuss the report 2017-0049 RFT Bioenergy Facility.
2. That the reasons for closing the meeting to the public to consider this item be that the report contains:
 - a) information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business
 - b) commercial information of a confidential nature that would, if disclosed prejudice the commercial position of the person who supplied it
 - c) information that would, if disclosed, confer a commercial advantage on a competitor of the council
 - d) information that would, if disclosed, reveal a trade secret
3. That on balance it is considered that receipt and discussion of the matter in open Council would be contrary to the public interest, as:
 - a) disclosure could adversely impact Council's position in any upcoming negotiations.

(Cameron/Richardson)

The motion was put to the vote and declared carried.

18-774 Resolved:

1. That Council award Tender 2018-0069 Byron Shire Council Bioenergy Projects – Bankable Feasibility Study be awarded to both HZ-Inova for amount of \$100,000 (ex GST).and Skala for the amount of \$190,707 (ex GST).
2. That the project's total budget allocation be adjusted from \$250,000 to \$856,000 for the 2018/2019 Financial year with additional funding of \$606,000 provided from available Sewerage S64 Fund Reserves.
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.
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 it 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.

(Cameron/Richardson)

The motion was put to the vote and declared carried.

18-775 Resolved that the meeting move out of confidential session.

(Cameron/Richardson)

The motion was put to the vote and declared carried.

URGENCY MOTION

PROCEDURAL MOTION

- 18-776 Resolved** that the matter of 'Planning Proposal for the Byron Bay CBD (26.2017.6.1)' be dealt with as a matter of urgency due to the Planning Proposal in question has already been forwarded onto the Department of Planning, it is reasonable to request an amendment as quickly as possible to avoid unnecessary assessments. (Richardson/Coorey)

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

**No. 1 Matter of Urgency - Planning Proposal for the Byron Bay CBD
(26.2017.6.1)**

18-777 Resolved:

1. The Planning Proposal for the Byron Bay CBD (26.2017.6.1) be amended to maintain the maximum building height control for the southern end of Jonson Street at 9 metres, as currently mapped under Byron LEP 2014. This will apply to those properties in Byron Bay that are currently zoned B2, located on the eastern side of Jonson Street, between Kingsley and Browning Streets and bound by Ruskin and Middleton Lanes.
2. That Council advise the Department of Planning and Environment of this change to the Planning Proposal, for their consideration in relation to a Gateway Determination.

(Richardson/Coorey)

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

There being no further business the meeting concluded at 5:57pm.

I hereby certify that these are the true and correct Minutes of this Meeting
as confirmed at Council's Ordinary Meeting on 13 December 2018.



.....
Mayor Simon Richardson