



Byron Shire Council



Minutes

Ordinary Meeting

Thursday, 22 June 2017

BYRON SHIRE COUNCIL

Ordinary Meeting Minutes
22 June 2017

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MINUTES OF THE BYRON SHIRE COUNCIL ORDINARY MEETING HELD ON THURSDAY, 22 JUNE 2017 COMMENCING AT 9.03AM AND CONCLUDING AT 6.50PM.

I2017/831

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: Ken Gainger (General Manager)
Mark Arnold (Director Corporate and Community Services)
Phil Holloway (Director Infrastructure Services)
Shannon Burt (Director Sustainable Environment and Economy)
Phil Warner (Manager Assets and Major Projects - item 9.2)
Michael Matthews (Manager Open Space and Resource Recovery - item 13.27)
Clyde Treadwell (Planner - item 13.15)
Andrew Hill (Community Enforcement Officer - item 13.17)
David Royston Jennings (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:

9.1 National Housing Conference 2017

Fast Buck\$ addressed Council in favour of the recommendation.

9.2 Byron Bay Bypass

Richard Jones, representing the Butler Street Residents Group, addressed Council in favour of the recommendation.

Fast Buck\$ addressed Council against the recommendation.

13.5 Adoption of the Community Strategic Plan 2027, Delivery Program 2017-2021 and Operational Plan 2017-2018

Matthew O'Reilly, representing Saddle Ridge LAMPA, addressed Council on the recommendation.

13.15 PLANNING - 10.2016.663.1 Dual Occupancy (detached) swimming pool, strata subdivision 2 lots and tree removal 9 trees at Granuaille Crescent Bangalow

Heather Rea Francis addressed Council against the recommendation.

13.16 Byron Affordable Housing Summit Issues Action Plan Recommendation

Rob Doolan and Tom Keily addressed Council in favour of the recommendation.

Matthew O'Reilly, representing Saddle Ridge LAMPA, addressed Council against the recommendation.

13.17 Short term Rental Accommodation – Enforcement Options

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

13.18 Road Airspace Policy Review

Brendan Lawless, representing The Middle Pub, addressed Council against the recommendation.

13.30 Byron Bay Urban Recycled Water Connection Policy

Matthew O'Reilly, representing Saddle Ridge LAMPA, addressed Council in favour of the recommendation.

Tom Tabart addressed Council against the recommendation.

17.1 Acquisition of land included in Butler Street Reserve R88993

Christopher (Gyan) Moyes, representing Rainbow Region Stallholders Association, addressed Council against the recommendation.

13.19 PLANNING - 26.2016.3.1 Reclassification of Council owned land - Manfred St, Belongil

John Vaughn addressed Council against the recommendation.

Submission No. 1 Road condition of Coolamon Ave & workmanship of roads in Byron Shire

Ivan Saric made a submission to Council regarding the condition of Coolamon Avenue and the workmanship of roads in the Byron Shire.

Submission No. 2 License to Operate

Luke Young, representing Sunshine Cycles, made a submission to Council regarding a license to operate.

Submission No. 3 Existing Use Rights

Fast Buck\$ made a submission to Council regarding existing use rights.

Question No. 1 Sewage System

Tom Tabart asked the following question:

Why has virtually all the land required by the pipe line from Ocean Shores to Brunswick Valley already been acquired and how much has it cost?

The General Manager took the question on notice.

Question No. 2 Byron Bay Bypass

Fast Buck\$ asked the following question in relation to the Byron Bay Bypass:

Why was this amount of money spent? I would like an explanation in relation of the case and how many hearing days there were, the cost for barristers and solicitors, the cost for expert reports and how many of these there were, I'd also like to know in what authority did the General Manager

commit so many resources to this single case and, given that council won the case, who gets to pay the costs?

The General Manager took the question on notice.

PROCEDURAL MOTION

- 17-209 Resolved** that Public Access be extended and Paul Jones be allowed to address Council on item 9.2. (Spooner/Richardson)

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

9.2 Byron Bay Bypass

Paul Jones, representing the Butler Street Residents Group, addressed Council in favour of the recommendation.

The meeting adjourned at 10.37am and reconvened at 11.03am.

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

There were no declarations of interest.

TABLING OF PECUNIARY INTEREST RETURNS

In accordance with the Local Government Act 1993 Section 450(A), Section 449(3) Returns were tabled for the following members of staff:

Sue Anderson
Stephen McCarthy

ADOPTION OF MINUTES FROM PREVIOUS MEETINGS

- 17-210 Resolved** that the minutes of the following meetings be confirmed:

- Byron Shire Reserve Trust Committee held 25 May 2017
- Ordinary Meeting held 25 May 2017 (Spooner/Ndiaye)

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. 13.2 Mullumbimby Hospital Site Acquisition
Report No. 13.3 Research Report - Towards smoke-free and litter-free beaches in the Byron Shire

Corporate and Community Services

- Report No. 13.5 Adoption of the Community Strategic Plan 2027, Delivery Program 2017-2021 and Operational Plan 2017-2018 (including Statement of Revenue Policy, Budget, Fees and Charges)

Sustainable Environment and Economy

- Report No. 13.15 PLANNING - 10.2016.663.1 Dual Occupancy (detached) swimming pool, strata subdivision 2 lots and tree removal 9 Trees at Granuaille Crescent Bangalow
Report No. 13.16 Byron Affordable Housing Summit Issues Action Plan
Report No. 13.17 Short Term Rental Accommodation - Enforcement Options
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Report No. 13.19 PLANNING - 26.2016.3.1 Reclassification of Council owned land - Manfred St, Belongil
Report No. 13.21 Council Nominations for the Joint Regional Planning Panel
Report No. 13.22 Peer Review of Draft West Byron DCP

Infrastructure Services

- Report No. 13.23 Bangalow Parking Strategy
Report No. 13.27 Proposed Smart Drum Lines - Byron Bay
Report No. 13.29 Draft Plan of Management - The Cavanbah Centre
Report No. 13.30 Byron Bay Urban Recycled Water Connection Policy

Organisation Development

- Report No. 13.31 Supporting Partnerships Policy

Infrastructure Services

- Report No. 16.3 CONFIDENTIAL - Tender 2016-0018 Architectural Design of Mixed-use Building - 10 Lawson Street Redevelopment

LATE REPORTS

- Report No. 17.1 Acquisition of land included in Butler Street Reserve R88993

The remaining Recommendations and Committee Recommendation were adopted as a whole, being moved by Cr Richardson and seconded by Cr Hunter. Each recommendation is recorded with a separate resolution number commencing at Resolution No.17-211 and concluding with Resolution No. 17-252.

PETITIONS

Petition No. 10.1 **Flood Mitigation and Response**
File No: I2017/649

17-211 Resolved:

1. That the petition regarding flood mitigation and response be noted.
2. That action taken to date with respect to the issues raised in the petition be noted.
3. That the petition be referred to the Director Sustainable Environment and Economy and Director Infrastructure Services for appropriate action. (Richardson/Hunter)

The motion was put to the vote and declared carried.

SUBMISSIONS AND GRANTS

Report No. 11.1 **Byron Shire Council Current Grants and Submissions as at 31 May 2017**
File No: I2017/703

17-212 Resolved that Council note the report. (Richardson/Hunter)

The motion was put to the vote and declared carried.

STAFF REPORTS – GENERAL MANAGER

Report No. 13.1 **Competitive Grant Funding**
File No: I2017/749

17-213 Resolved that Council notes the report and:

1. Writes to the state Treasurer and Minister for Local Government and local members seeking a reversal of the practice of including federal and state government agencies among those eligible for grant funding opportunities/programs;
2. Writes to adjoining councils, NOROC and LGNSW seeking their support. (Richardson/Hunter)

The motion was put to the vote and declared carried.

STAFF REPORTS – CORPORATE AND COMMUNITY SERVICES

Report No. 13.4 **Council Resolutions Quarterly Review - 1 January 2017 to 31 March 2017**
File No: I2017/463

17-214 Resolved:

1. That Council receive and note the information provided in this report on outstanding Council Resolutions in Attachment 1 (#E2017/53593).

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2. That Council note the completed Resolutions in Attachment 2 (#E2017/26454).
3. That Council resolve that no further action be taken in respect of the following resolutions and that they be closed:

Resolution 15-589
Resolution 16-202
Resolution 16-469
Resolution 13-655
Resolution 15-157
Resolution 15-193
Resolution 15-196
Resolution 16-219
Resolution 16-432
Resolution 16-438
Resolution 16-643
Resolution 16-644
Resolution 16-472
Resolution 17-039

(Richardson/Hunter)

The motion was put to the vote and declared carried.

Report No. 13.6	Sub-lease to Mullumbimby and District Neighbourhood Centre
File No:	I2017/581

17-215 Resolved:

1. That Council grant and execute a sub-lease to the Mullumbimby and District Neighbourhood Centre Incorporated, subject to Crown consent for Crown Reserve R540006, being Lot 8 Section 8 DP 758725, 55 Dally Street Mullumbimby NSW 2482, known as the 'Old Council Chambers', on the following terms:
 - a) Commencement date 1 August 2017;
 - b) Term five (5) years with five (5) year option to renew;
 - c) Terminate Date 31 July 2022 and 31 July 2027;
 - d) Initial Rent \$29,880 per annum; and
 - e) Rebate applied for Community Purpose (currently 50 per cent) in accordance with Crown Land Division's relevant Rebate Policy of the day.
2. That Council:
 - a) subsidise the Rent following the application of the Rebate for Community Purpose (50 per cent of the annual sub-lease rent) to the value of \$14,940, by way of a section 356 donation from Council to the Mullumbimby and District Neighbourhood Centre Inc., to be provided for in the 2017/2018 Budget, and the forward Long Term Financial Plan; and
 - b) advertise the section 356 donation proposed to be made; and
 - c) meet the costs of the Crown land application to transfer a Crown holding of \$151.00 and \$500.00 sub-lease preparation fee.

(Richardson/Hunter)

The motion was put to the vote and declared carried.

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Report No. 13.7 **Sub-lease to the Byron Youth Service**
File No: I2017/582

17-216 Resolved:

1. That Council grant and execute a sub-lease to Byron Youth Service Incorporated subject to Crown consent for Crown Reserve R755692, Lot 4 Section 8 DP 758725, 34 Gordon Street Mullumbimby NSW 2482, known as the 'War Widows Cottage', on the following terms:
 - a) Commencement Date 1 July 2017;
 - b) Term five (5) years;
 - c) Terminate Date 30 June 2022;
 - d) Initial Rent \$9,900 per annum; and
 - e) Rebate for Community Purpose (currently 50 per cent) in accordance with Crown Land Division's relevant Rebate Policy of the day.
2. That Council:
 - a) subsidise the Rent following the application of the Rebate for Community Purpose (50 per cent of the annual sub-lease rent) to the value of \$4,950, by way of a section 356 donation from Council to Byron Youth Service Inc, to be provided for in the 2017/2018 Budget, and the forward Long Term Financial Plan; and
 - b) advertise the section 356 Donation proposed to be made; and
 - c) meet the costs of the Crown land application to transfer a Crown holding of \$151 and \$500 sub-lease preparation fee. (Richardson/Hunter)

The motion was put to the vote and declared carried.

Report No. 13.8 **Mayor and Councillor Fees 2017/2018**
File No: I2017/597

17-217 Resolved:

1. That Council fix the fee payable to each Councillor under Section 248 of the Local Government Act 1993 for the period 1 July 2017 to 30 June 2018 at \$19,310.
2. That Council fix the fee payable to the Mayor under section 249 of the Local Government Act 1993, for the period from 1 July 2017 to 30 June 2018 at \$42,120.
3. That Council in accordance with its current practice not determine a fee payable to the Deputy Mayor. (Richardson/Hunter)

The motion was put to the vote and declared carried.

Report No. 13.9 **Public Art Panel - minutes of meetings held in March and May 2017**
File No: I2017/616

17-218 Resolved:

1. That Council note that the Public Art Panel noted the Public Art Panel Constitution, the Public Art Policy and the Public Art Guidelines and Criteria at the first Panel meeting held on 16 March 2017.
2. That Council note that Cr Sarah Ndiaye was elected as the Public Art Panel Chair.

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3. That Council roll-over the unexpended funds from the Public Art budget for 2016/17 to the 2017/18 budget.
4. That Council that staff provided a report to the Public Art Panel meeting on 4 May 2017 about the Development Control Plan for Public Art and development contributions collected/expected.
5. That regarding the public art proposal of 'Feather and The Goddess Pool', whilst the quality of the artwork is acknowledged, Council not purchase the artwork as proposed for the following reasons:
 - a) That Council does not have an appropriate location or conservation strategy for the artwork;
 - b) That Council is focusing on more strategic public art acquisition, rather than individual, unsolicited artwork purchases
6. That Council conduct an Expressions of Interest process to engage an appropriately qualified contractor to develop a Public Art Strategy, with funds of up to \$6,000 from the public art budget approved for this purpose, and that the contractor attends the next scheduled Public Art Panel meeting in September 2017.
7. That Council provide in-principle support for the public art proposal 'A Christmas Installation' for the Argyle / Station St roundabout in Mullumbimby from mid-December through to end January 2018, but do not accept the artwork as a donation and do not provide funds towards the project.
8. That Council:
 - a) Approve the 'Revive' sculpture as part of the Mullumbimby Sculpture Walk based on the information submitted to the Public Art Panel.
 - b) Request Creative Mullumbimby to present to the Public Art Panel in the future about Expression of Interest processes and overall plans for the Mullumbimby Sculpture Walk.
(Richardson/Hunter)

The motion was put to the vote and declared carried.

Report No. 13.10 Council Investments May 2017
File No: I2017/680

- 17-219 Resolved** that the report listing Council's investments and overall cash position as at 30 May 2017 be noted.
(Richardson/Hunter)

The motion was put to the vote and declared carried.

Report No. 13.11 Review of Council Investment Policy
File No: I2017/701

17-220 Resolved:

1. That the Draft Policy - Council Investments 2017 be placed on public exhibition for a period of 28 days.

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2. That in the event:

- a) that any submissions are received on the Draft Policy - Council Investments 2017, that those submissions be reported back to Council prior to adoption of the policy; or
- b) that no submissions are received on the Draft Policy - Council Investments 2017, that the policy be adopted and incorporated into Council's Policy Register.

(Richardson/Hunter)

The motion was put to the vote and declared carried.

Report No. 13.12 Making of the 2017/2018 Ordinary Rates and Charges
File No: I2017/747

17-221 Resolved that in accordance with Sections 533, 534, 535, 543 and 566 of the Local Government Act 1993 (LGA), Council makes the ordinary rates, makes the charges and sets the interest rate to be charged on overdue rates and charges for 2017/2018 listed in the following tables.

1. Ordinary Rates

Name of Ordinary Rate (Rate Notice short name)	*Rate in the Dollar or Ad-Valorem amount (\$)	Minimum Rate (\$)
Ordinary Rate Residential	0.2169	747.00
Ordinary Rate Residential Flood	0.2169	374.00
Ordinary Rate Business	0.3715	747.00
Ordinary Rate Business Byron CBD	0.4730	747.00
Ordinary Rate Mining	0.3715	747.00
Ordinary Rate Farmland	0.1935	747.00
Ordinary Rate Farmland Flood	0.1935	374.00

**Applied to 2016 base date land valuation*

2. Domestic Waste Management Charges

Name of Domestic Waste Collection Charge (Rate Notice short name)	Annual Charge (\$)
Domestic Waste 80L Collection 3 Bins	123.00
Domestic Waste 140L Collection 3 Bins	260.00
Domestic Waste 240L Collection 3 Bins	386.00
Domestic Waste 140L Collect/Wk 3 Bin	680.00
Domestic Waste 240L Collect/Wk 3 Bin	867.00
Domestic Waste Rural Collection 2 Bins	277.00
Domestic Waste Vacant Land Charge Urban	25.00
Domestic Waste Vacant Land Charge Rural	25.00
Domestic Recycling Additional Bin	86.00
Domestic Organics Additional Bin	100.00
Domestic Waste 80L 3Bin Multi Unit Serv	123.00
Domestic Waste 140L 3Bin Multi Unit Serv	260.00
Domestic Waste 240L 3Bin Multi Unit Serv	386.00
Domestic Waste 80L 2Bin Multi Unit Serv	123.00
Domestic Waste 140L 2Bin Multi Unit Serv	260.00

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Domestic Waste 240L 2Bin Multi Unit Serv	386.00
Domestic Waste Strata 2Bin Share Service	207.00
Domestic Waste Strata 3Bin Share Service	207.00

3. Waste Management Charges (Non-Domestic)

Name of Waste Management Charge (Rate Notice short name)	Annual Charges (\$)
Commercial 140L Waste & Recycle Service	420.00
Commercial 240L Waste & Recycle Service	481.00
Commercial Waste 140L Bin Collection	420.00
Commercial Waste 240L Bin Collection	481.00
Commercial Rural Waste & Recycle Service	433.00
Commercial Recycling 240L Bin Collection	108.00
Commercial Organics 240L Bin Collection	100.00
Waste Operations Charge Residential	70.00
Waste Operations Charge Non-Residential	70.00

4. Mixed Waste Bin Changeover Fee

Fee	Charges (\$)
Mixed waste bin – size/capacity changeover fee (first changeover free of charge then all subsequent changes per property per annum per owner/s attracts fee)	55.00

5. Stormwater Management Service Charges

Name of Stormwater Management Service Charge (Rate Notice short name)	Annual Charges (\$)
Stormwater Charge Residential	25.00
Stormwater Charge Residential Strata	12.50
Stormwater Charge Business Strata	\$25.00 per 350m ² of the land area occupied by the strata scheme (or part thereof), proportioned by the unit entitlement of each lot in the strata scheme, minimum charge \$5.00
Stormwater Charge Bus/Mixed Strata Min	12.50
Stormwater Charge Business	\$25.00, plus an additional \$25.00 for each 350m ² or part thereof by which the area of the parcel of land exceeds 350m ²

6. Water Charges

Name of Water Charge (Rate Notice short name)	Annual Charges (\$)
Water Fixed Charge 20mm Residential	179.00
Water Fixed Charge 20mm Non-Residential	179.00
Water Fixed Charge 25mm Residential	280.00
Water Fixed Charge 25mm Non-Residential	280.00
Water Fixed Charge 32mm Residential	459.00
Water Fixed Charge 32mm Non-Residential	459.00

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Water Fixed Charge 40mm Residential	716.00
Water Fixed Charge 40mm Non-Residential	716.00
Water Fixed Charge 50mm Residential	1,119.00
Water Fixed Charge 50mm Non-Residential	1,119.00
Water Fixed Charge 65mm Residential	1,891.00
Water Fixed Charge 65mm Non-Residential	1,891.00
Water Fixed Charge 80mm Residential	2,864.00
Water Fixed Charge 80mm Non-Residential	2,864.00
Water Fixed Charge 100mm Residential	4,475.00
Water Fixed Charge 100mm Non-Residential	4,475.00
Water Fixed Charge Vacant Residential	90.00
Water Fixed Charge Vacant Non-Residential	90.00
Water Fixed Charge Strata Residential	179.00
Water Fixed Charge Strata Non-Residential	179.00
Water Fixed Charge Fire Service Resident	238.00
Water Fixed Charge Fire Service Non-Res	238.00
	Usage Charges (\$)
Water Usage Charge Residential	2.47 per KL to 450 KL 3.70 per KL thereafter
Water Usage Charge Non-Residential	2.65 per KL
Water Usage Charge - Non-Compliance	5.30 per KL

7. Sewer Charges and On Site Sewage Management System Fee

Name of Sewer Charge (Rate Notice short name)	Annual Charges or Fee (\$)
Sewer Fixed Charge 20mm Residential	819.00
Sewer Fixed Charge 20mm Non-Residential	819.00
Sewer Fixed Charge 25mm Residential	1,280.00
Sewer Fixed Charge 25mm Non-Residential	1,280.00
Sewer Fixed Charge 32mm Residential	2,097.00
Sewer Fixed Charge 32mm Non-Residential	2,097.00
Sewer Fixed Charge 40mm Residential	3,276.00
Sewer Fixed Charge 40mm Non-Residential	3,276.00
Sewer Fixed Charge 50mm Residential	5,119.00
Sewer Fixed Charge 50mm Non-Residential	5,119.00
Sewer Fixed Charge 65mm Residential	8,651.00
Sewer Fixed Charge 65mm Non-Residential	8,651.00
Sewer Fixed Charge 80mm Residential	13,104.00
Sewer Fixed Charge 80mm Non-Residential	13,104.00
Sewer Fixed Charge 100mm Residential	20,475.00
Sewer Fixed Charge 100mm Non-Residential	20,475.00
Sewer Fixed Charge Vacant Residential	410.00
Sewer Fixed Charge Vacant Non-Res	410.00
Sewer Fixed Charge Rebated Residential (pods)	794.00
Sewer Fixed Charge Rebated Non-Resident (pods)	794.00
On-Site Sewage Management System (OSMS) Fee	44.00
	Usage Charges (\$)
Sewer Usage Charge Residential	1.85 per KL

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Sewer Usage Charge Non-Residential	*SDF x 2.47 per KL
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**SDF = Individual Property Sewer Discharge Factor (%)*

8. Liquid Trade Waste Charges

Name of Liquid Trade Waste Charge (Rate Notice short name)	Annual Charges (\$)
Liquid Trade Waste Annual Charge Residen	31.00
Liquid Trade Waste Annual Charge Business	31.00
Liquid Trade Waste – Cat 1 Residential	153.00
Liquid Trade Waste – Cat 1 Business	153.00
Liquid Trade Waste – Category 2	255.00
Liquid Trade Waste – Category 2S	255.00
Liquid Trade Waste – Category 3	429.00
Usage Charges (\$)	
Liquid Trade Waste Usage Charge	**TWDF x 2.24 per KL
Liquid Trade Waste Usage Charge – Non-Compliance	**TWDF x 3.70 per KL

**TWDF = Individual Property Trade Waste Discharge Factor (%)*

9. Interest Rate on Overdue Rates and Charges

Name of Interest Rate (Rate Notice short name)	Rate (%)
Interest	7.5%

(Richardson/Hunter)

The motion was put to the vote and declared carried.

Report No. 13.13 2017/2018 Special Rate Variation Outcome
File No: I2017/755

17-222 Resolved:

- That Council note the determination from IPART in relation to its 2017/2018 Special Rate Application including the following conditions imposed by IPART on Council for the:-
 - use of the additional income derived from the special variation for the purposes of reducing its infrastructure backlog and improving financial sustainability; and
 - reporting on this use against the forecasts included in the Council's application as part the Council's annual report for each year from 2017-18 to 2026-27.
- That Council adopt as a Policy Framework the use and reporting conditions imposed by IPART in the SRV determination and further incorporate reporting on the Special Rate Variation into the development of the 2017/2018 Financial Sustainability Plan and the quarterly updates to Council through the Finance Advisory Committee on the implementation of the adopted Financial Sustainability Plan.
- That Council establish as a policy framework that funding for infrastructure renewal and maintenance from general revenue sources is not ever lower then the general revenue baseline indicator established in the 2016/2017 Budget.

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4. That Council establish as a policy framework that any funds generated by the SRV that remain unexpended at the end of each financial year are to be restricted and held in a internal reserve, to be carried forward to subsequent financial year, for expenditure in accordance with the uses imposed in the SRV approval.
5. That Council incorporate the research of potential non resident revenue sources (if any) as part of the Revenue Review chapter in the development of the 2017/2018 Financial Sustainability Plan, and provide quarterly updates to Council through the Finance Advisory Committee.
6. That Council not proceed with the implementation of part 9 and part 11 of resolution 17-020.
(Richardson/Hunter)

The motion was put to the vote and declared carried.

STAFF REPORTS – SUSTAINABLE ENVIRONMENT AND ECONOMY

Report No. 13.14 Related Party Disclosures
File No: I2017/777

17-223 Resolved:

1. That Council adopt the Related Party Disclosures Policy 2017 as shown at Attachment 1 (#E2017/61202) to this report.
2. That Council not advertise this Policy seeking submissions from the public given the Policy is to support a statutory requirement to which guidelines have already been established and to which Council must comply.
(Richardson/Hunter)

The motion was put to the vote and declared carried.

Report No. 13.20 PLANNING - Proposed Amendments to Development Control Plan
File No: 2014 - E5.5 Bayshore Village
I2017/757

17-224 Resolved:

1. That Council support the request from the Applicant (Planners North) to amend Development Control Plan 2014 – Chapter E5.5, as it applies to the Habitat development at LOT 3 DP 1004514, Bayshore Drive BYRON BAY, to reflect the revised 'Masterplan' precincts and 'DCP Amendment Proposal Summary' contained in Attachment 2 to this report; and
2. That the applicant be requested to lodge a formal Development Application that can be exhibited at the same time as the proposed DCP amendments for this site.
(Richardson/Hunter)

The motion was put to the vote and declared carried.

STAFF REPORTS – INFRASTRUCTURE SERVICES

Report No. 13.24 **Former South Byron STP - Options for Redevelopment**
File No: I2017/230

17-225 Resolved:

1. That Council retain ownership of the former South Byron STP site and proceed with the proposed Preliminary Expression of Interest process for the possible redevelopment of the site.
2. That Council complete remediation of the site as proposed in the Draft 2017/18 Budget.
(Richardson/Hunter)

The motion was put to the vote and declared carried.

Report No. 13.25 **Out of Session Local Traffic Committee - Byron Bay to Ballina Coastal Charity Walk for Westpac Rescue Helicopter**
File No: I2017/585

17-226 Resolved that Council notes the LTC recommendation and that the Byron Bay to Ballina Coastal Charity Walk was held on Sunday 21 May 2017.
(Richardson/Hunter)

The motion was put to the vote and declared carried.

Report No. 13.26 **A Further Report on Remediation of Dip Site at Lot 2 DP 747876 Bangalow**
File No: I2017/695

17-227 Resolved that Council note this report as a response to Res 10-457 (Point 4.)
(Richardson/Hunter)

The motion was put to the vote and declared carried.

Report No. 13.28 **Lot 16 Dingo Lane Myocum Sale**
File No: I2017/702

17-228 Resolved that Council approve the sale of Lot 16 Dingo Lane, Myocum and delegate to the General Manager completion of the sale in accordance with the attached confidential valuation.
(Richardson/Hunter)

The motion was put to the vote and declared carried.

COMMITTEE REPORTS – CORPORATE AND COMMUNITY SERVICES

Report No. 14.1 **Report of the Internal Audit Advisory Committee Meeting held on 18 May 2017**
File No: I2017/694

17-229 Resolved that Council note the minutes of the Internal Audit Advisory Committee Meeting held on 18 May 2017.
(Richardson/Hunter)

The motion was put to the vote and declared carried.

17-230 Resolved that Council adopt the following Committee Recommendation:

Report No. 5.1 Internal Audit Progress Report May 2017
File No: I2017/481

Committee Recommendation 5.1.1

That Council receive and note the Internal Audit Report – Audit Committee (May 2017) (#E2017/30559 and #E2017/30561) prepared by the Internal Auditor, Grant Thornton.

(Richardson/Hunter)

The motion was put to the vote and declared carried.

17-231 Resolved that Council adopt the following Committee Recommendation:

Report No. 5.2 Cash Handling (Head Office) Review
File No: I2017/482

Committee Recommendation 5.2.1

1. That the Internal Audit Report – Cash Handling (Head Office) Review – October 2016 (#2017/25774) be noted by Council along with responses and actions detailed by Management.

2. That Management implement the recommendations made in the report identified as Attachment 1 (#E2017/25774). (Richardson/Hunter)

The motion was put to the vote and declared carried.

17-232 Resolved that Council adopt the following Committee Recommendation:

Report No. 5.3 Asset Management - Key Asset Infrastructure Review Report
File No: I2017/483

Committee Recommendation 5.3.1

1. That the Internal Audit Asset Management – Key Infrastructure Review Report - March 2017 (#2017/16611) be noted by the Committee along with responses and actions detailed by Management.

2. That Management implement the recommendations made in the report identified as Attachment 1 (#E2017/16611). (Richardson/Hunter)

The motion was put to the vote and declared carried.

17-233 Resolved that Council adopt the following Committee Recommendation:

Report No. 5.4 New Constitution of Internal Audit, Risk & Improvement Committee
File No: I2017/484

Committee Recommendation 5.4.1

1. That the amendments made to the Constitution as per the legislative requirements under the Local Government Amendment (Governance and Planning) Act 2016 NSW be noted.

2. That subject to the Committee being renamed the Audit, Risk and Improvement Committee,

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Council adopt the revised Constitution including this amendment.

(Richardson/Hunter)

The motion was put to the vote and declared carried.

17-234 Resolved that Council adopt the following Committee Recommendation:

Report No. 5.5 Business Continuity Review report
File No: I2017/500

Committee Recommendation 5.5.1

1. That the Internal Audit Business Continuity Plan Review Report - April 2017 (#2017/30343) be noted by the Council.
2. That Management implement the recommendations made in the report identified as Attachment 1 (#2017/30343). (Richardson/Hunter)

The motion was put to the vote and declared carried.

17-235 Resolved that Council adopt the following Committee Recommendation:

Report No. 5.6 Initial local government performance audits
File No: I2017/603

Committee Recommendation 5.6.1

That the information contained in the letter from the Auditor-General of NSW dated 27 April 2017 (#E2017/30966) be noted. (Richardson/Hunter)

The motion was put to the vote and declared carried.

17-236 Resolved that Council adopt the following Committee Recommendation:

Report No. 5.7 2016/2017 External Audit Client Service Plan
File No: I2017/491

Committee Recommendation 5.7.1

1. That Council note the External Audit Client Service Plan prepared by the Audit Office of New South Wales for the year ended 30 June 2017 as outlined in Attachment 1 (#E2017/27622) to Report No. 5.7 in the Agenda for the Internal Audit Committee meeting held on 18 May 2017..
2. That the report and Attachment 1 of the closed part of the meeting remain confidential. (Richardson/Hunter)

The motion was put to the vote and declared carried.

17-237 Resolved that Council adopt the following Committee Recommendation:

Report No. 5.8 Management of Conflicts of Interest in Development Matters Procedure
File No: I2017/501

Committee Recommendation 5.8.1

That the Council note the contents of this report and the action taken to date by Management. (Richardson/Hunter)

The motion was put to the vote and declared carried.

Report No. 14.2 **Report of the Finance Advisory Committee Meeting held on 18 May 2017**
File No: I2017/776

- 17-238 Resolved** that Council note the minutes of the Finance Advisory Committee Meeting held on 18 May 2017. (Richardson/Hunter)

The motion was put to the vote and declared carried.

- 17-239 Resolved** that Council adopt the following Committee Recommendation:

Report No. 4.1 Review of Council Investment Policy
File No: I2017/593

Committee Recommendation 4.1.1

That Council:

1. That the Draft Policy - Council Investments 2017 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 Policy - Council Investments 2017, that those submissions be reported back to Council prior to adoption of the policy; or
 - b) that no submissions are received on the Draft Policy - Council Investments 2017, that the policy be adopted and incorporated into Council's Policy Register. (Richardson/Hunter)

The motion was put to the vote and declared carried.

- 17-240 Resolved** that Council adopt the following Committee Recommendation:

Report No. 4.2 Budget Review 1 January - 31 March 2017
File No: I2017/598

Committee Recommendation 4.2.1

1. That Council note that it authorised the itemised budget variations as shown in Attachment 2 (#E2017/31291) which includes the following results in the 31 March 2017 Quarterly Review of the 2016/2017 Budget:
 - a) General Fund – \$3,300 increase in the Estimated Unrestricted Cash Result
 - b) General Fund - \$1,628,300 increase in reserves
 - c) Water Fund - \$870,600 increase in reserves
 - d) Sewerage Fund - \$2,810,300 increase in reservesat its Ordinary meeting held on 25 May 2017.
2. That Council note that it adopted the revised General Fund Estimated Unrestricted Cash Result of \$1,145,200 for the 2016/2017 financial year as at 31 March 2017 at its Ordinary meeting held on 25 May 2017. (Richardson/Hunter)

The motion was put to the vote and declared carried.

17-241 Resolved that Council adopt the following Committee Recommendation:

Report No. 5.1 2016/17 Financial Sustainability Plan - Update on the Action Implementation Plan as at 31 March 2017

File No: I2017/439

Committee Recommendation 5.1.1

That the updated report to 31 March 2017 on the 2016/2017 Financial Sustainability Plan Action Implementation Plan (E2017/9113) be received and noted. (Richardson/Hunter)

The motion was put to the vote and declared carried.

COMMITTEE REPORTS – INFRASTRUCTURE SERVICES

Report No. 14.3 Report of the Transport and Infrastructure Advisory Committee Meeting held on 18 May 2017

File No: I2017/660

17-242 Resolved that Council note the minutes of the Transport and Infrastructure Advisory Committee Meeting held on 18 May 2017. (Richardson/Hunter)

The motion was put to the vote and declared carried.

17-243 Resolved that Council adopt the following Committee Recommendation:

Report No. 4.1 Draft 2017/18 Capital Works Program for Local and Regional Roads
File No: I2017/224

Committee Recommendation 4.1.1

1. That the information in the report to the Transport and Infrastructure Advisory Committee about the Draft 2017/18 Capital Works Program for local and regional roads be noted.
2. That the Committee recommends engaging an external consultant to update the Bikeways Plan. (Richardson/Hunter)

The motion was put to the vote and declared carried.

17-244 Resolved that Council adopt the following Committee Recommendation:

Report No. 4.2 Asset Risk Management
File No: I2017/471

Committee Recommendation 4.2.1

1. That Council notes the report presented to the Transport and Infrastructure Advisory Committee regarding Asset Risk Management (#I2017/471).
2. That the Committee receives a report on different general fund asset classes, which includes a comparison of risk and backlog.
3. That the report is to illustrate a case for an increased budget from the SRV, or other funding

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sources, for culverts and causeways.

(Richardson/Hunter)

The motion was put to the vote and declared carried.

17-245 Resolved that Council adopt the following Committee Recommendation:

Report No. 4.3 2016/17 Local Roads Capital Works Program Progress
File No: I2017/588

Committee Recommendation 4.3.1

That Council notes the actions taken to implement the 2016/17 Local Roads Capital Works Program and that an updated report will be provided to the next meeting of the Transport and Infrastructure Advisory Committee. (Richardson/Hunter)

The motion was put to the vote and declared carried.

Report No. 14.4 **Report of the Water, Waste and Sewer Advisory Committee Meeting held on 1 June 2017**
File No: I2017/780

17-246 Resolved that Council note the minutes of the Water, Waste and Sewer Advisory Committee Meeting held on 1 June 2017. (Richardson/Hunter)

The motion was put to the vote and declared carried.

17-247 Resolved that Council adopt the following Committee Recommendation:

Report No. 4.1 Update on the Container Deposit Legislation
File No: I2017/613

Committee Recommendation 4.1.1

1. That Council notes the Water, Waste and Sewer Advisory Committee was provided with an update on the Container Deposit Legislation.
 2. That Council includes in this LGA's roll out of the Container Deposit Legislation at least two other collection points, for example, one at Byron Bay and another at Ocean Shores (shopping centre).
 3. That Council investigate other possibilities for collection points. (Richardson/Hunter)
- The motion was put to the vote and declared carried.*

17-248 Resolved that Council adopt the following Committee Recommendation:

Report No. 4.2 Response to Questions Asked by Committee Member
File No: I2017/650

Committee Recommendation 4.2.1

That Council notes the information provided to the Water, Waste and Sewer Committee regarding Ocean Shores and Brunswick Valley STPs and that the quantum of reduction of nitrogen and phosphorous in response to question 1 (page 24 line 25 of the agenda) may be overstated. (Richardson/Hunter)

The motion was put to the vote and declared carried.

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17-249 Resolved that Council adopt the following Committee Recommendation:

Report No. 4.3 Extension of Second Hand Shop Opening Hours
File No: I2017/658

Committee Recommendation 4.3.1

1. That Council extend the opening hours of the 2nd Hand Shop to align with the opening hours of the Byron Resource Recovery Centre transfer station, including opening Mondays.
2. That a budget be allocated for advertising the alignment of hours, including a sign at the BRRC.
3. That this arrangement be reviewed by the Water, Waste and Sewer Committee after 12 months operation. (Richardson/Hunter)

The motion was put to the vote and declared carried.

17-250 Resolved that Council adopt the following Committee Recommendation:

Report No. 4.4 Ocean Shores to Brunswick Valley STP Transfer Feasibility Study
File No: I2017/678

Committee Recommendation 4.4.1

1. That Council notes the report about the Ocean Shores to Brunswick Valley STP Transfer Feasibility Study, including risks associated with Option 4 in Section 13 recommendations.
2. That Council investigate operational risks cited in the Study and report back to Council via the Committee on the Transfer option, taking into account Council resolution 17-177. (Richardson/Hunter)

The motion was put to the vote and declared carried.

CONFIDENTIAL REPORTS – GENERAL MANAGER

Report No. 16.1 **CONFIDENTIAL - Senior Staff Positions**
File No: I2017/748

17-251 Resolved:

1. That the following staff positions be designated as “senior staff positions” in accordance with Section 223(1)(j) of the Local Government Act 1993 as from 25th November 2017:
 - General Manager
 - Director – Infrastructure Services
 - Director – Corporate and Community Services
 - Director – Sustainable Environment and Economy
2. That the Council's Organisation Structure change to reflect the reduction in senior staff positions. (Richardson/Hunter)

The motion was put to the vote and declared carried.

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Report No. 16.2 **CONFIDENTIAL - Tender for Internal Audit, Risk and Improvement Services Contract**
File No: I2017/686

17-252 Resolved:

1. That Council award Tender for Internal Audit, Risk and Improvement Services to the supplier recommended in the attached report.
 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.
 3. That this report and attachments remain confidential until the contract is finalised.
(Richardson/Hunter)
- The motion was put to the vote and declared carried.*

PROCEDURAL MOTION

- 17-253 Resolved** that Council change the order of business to deal with Reports 9.1, 9.2, 13.15, 13.16, 13.17, 13.18, 13.30, 17.1 and 13.5 next on the Agenda.
(Richardson/Hunter)
- The motion was put to the vote and declared carried.*

NOTICES OF MOTION

Notice of Motion No. 9.1 **National Housing Conference 2017**
File No: I2017/787

- 17-254 Resolved** that Cr. Paul Spooner attend the National Housing Conference 2017 as a Council representative to be held from 29 November to 1 December at the International Convention Centre, Sydney.
(Spooner/Ndiaye)
- The motion was put to the vote and declared carried.*

Notice of Motion No. 9.2 **Byron Bay Bypass**
File No: I2017/788

Moved that Council:

- a) Provide an updated estimate for the full construction costs of the proposed Byron Bay bypass;
- b) Provide an estimate for the full construction costs of a roadway within the rail corridor from Lawson Street to Browning Street Byron Bay; and
- c) Identify the available sources of funds to construct the Byron Bay bypass. (Spooner/Coorey)

The motion was put to the vote and declared lost.
Crs Martin, Lyon, Ndiaye, Richardson and Cameron voted against the motion.

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FORESHADOWED MOTION

17-255 Resolved that Council:

- a) Acknowledge the estimated costs for the full construction of the proposed bypass as approved is \$20 million with \$4 million to be provided by Council, \$10.5 million from a previous commitment from the State Government, and with \$5.5 million sought from State and Federal grant funding opportunities.
- b) That Council write to appropriate State and Federal Government Departments seeking funding for the remaining outstanding costs. (Richardson/Lyon)

The motion was put to the vote and declared carried.

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

PROCEDURAL MOTION

17-256 Resolved that Cr Spooner be granted a three minute extension to his speech.

(Richardson/Hackett)

The motion was put to the vote and declared carried.

PROCEDURAL MOTION

17-257 Resolved that Cr Coorey be granted a three minute extension to her speech.

(Richardson/Spooner)

The motion was put to the vote and declared carried.

PROCEDURAL MOTION

17-258 Resolved that Cr Cameron be granted a three minute extension to his speech.

(Richardson/Ndiaye)

The motion was put to the vote and declared carried.

STAFF REPORTS – SUSTAINABLE ENVIRONMENT AND ECONOMY

Report No. 13.15 PLANNING - 10.2016.663.1 Dual Occupancy (detached) swimming pool, strata subdivision 2 lots and tree removal 9 Trees at Granuaille Crescent Bangalow

File No: I2017/293

Moved that Council:

1. Defer consideration of Agenda Item 13.15 PLANNING - 10.2016.663.1 Dual Occupancy (detached) swimming pool, strata subdivision 2 lots and tree removal 9 Trees at Granuaille Crescent Bangalow.
2. Request the applicant to submit a professionally prepared site and landscape plan indicating, existing vegetation identifying trees to be removed, location and details of any additional planting, residences, garages and driveways for staff to prepare an amended assessment for Council determination.
3. That the matter be reported back to the next available meeting in August. (Hunter/Coorey)

AMENDMENT:**17-259 Resolved:**

That Pursuant to Section 80 of the Environmental Planning & Assessment Act 1979, development application 10.2016.663.1 for Dual Occupancy (Detached), Swimming Pool, Strata Subdivision (Two (2) Lots) and Tree Removal (Nine (9) Trees), be refused for the following reasons.

1. Pursuant to Section 5A of the Environmental Planning & Assessment Act 1979, the applicant has failed to demonstrate the development will not have an adverse impact on threatened species.
2. Pursuant to Section 79C(1)(a)(iii) of the Environmental Planning & Assessment Act 1979, the proposed development is inadequate to permit sufficient compensation for tree removal in accordance with Byron DCP 2014 Chapter B2 Preservation of Trees and Other Vegetation.
3. Pursuant to Section 79C(1)(b) of the Environmental Planning & Assessment Act 1979, the proposal is an over-development of a constrained site, resulting in loss of significant trees and adversely impacting on the visual and scenic amenity of the ridgeline.
4. Pursuant to Section 79C(1)(e) of the Environmental Planning & Assessment Act 1979, the proposal not in the public interest and fails to satisfy Clause 49 of the EPA Regulation 2000 in terms of owner's consent.
(Richardson/Spooner)

The amendment was put to the vote and declared carried.

Crs Ndiaye, Hackett and Hunter voted against the amendment.

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

Crs Coorey, Martin, Lyon, Richardson, Cameron, Hackett and Spooner voted for the motion.

Crs Ndiaye and Hunter voted against the motion.

The meeting adjourned at 12.34pm for lunch and reconvened at 1.25pm

Report No. 13.16 Byron Affordable Housing Summit Issues Action Plan
File No: I2017/594

17-260 Resolved that Council:

1. Note the Housing Issues Plan developed the result of the Byron Affordable Housing Summit and support its use to inform part of the Residential Land Use Strategy recommendations currently under preparation.
2. Support further discussions with landowners of land in Attachment 1, and progression of work necessary to establish the feasibility of the sites in Attachment 1 and Attachment 2 for affordable housing; and also site '17' Saddle Road land identified in the Draft Preliminary Residential Housing Strategy; and where appropriate, invite lodgement of Planning Proposals to rezone the land for this purpose.
3. Request staff to progress, in consultation with the community, work necessary to support a possible Planning Proposal or any possible rezoning of land at the Mullum Hospital Site.
4. Review the mechanisms available to guide Council involvement in any public / private housing development with respect to probity and process.

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5. Request staff to progress an expression of interest process (with a prepared set of guidelines) that will invite land owners to submit affordable housing proposals for other land in the Byron Shire for the consideration of Council as part of an early implementation program to supplement Council's Residential Lands Strategy.

6. Receive a further report on points 2, 3 and 5 above.

(Richardson/Ndiaye)

The motion was put to the vote and declared carried.

AMENDMENT

Moved that Council:

1. Note the Housing Issues Plan developed the result of the Byron Affordable Housing Summit and support its use to inform part of the Residential Land Use Strategy recommendations currently under preparation.
2. Review the mechanisms available to guide Council involvement in any public / private housing development with respect to probity and process and that a further report be provided to Council.
3. That Council is committed to furthering affordable housing on the Leafland and Lot 22 sites where possible subject to suitability.
4. Request staff to progress an expression of interest process that will invite land owners to submit affordable housing proposals for other land in the Byron Shire for the consideration of Council as part of an early implementation program to supplement Council's Residential Lands Strategy.
5. That staff prepare a set of guidelines for potential projects to be presented to Council at its Ordinary Meeting on 3 August 2017. (Coorey/Cameron)

The amendment was put to the vote and declared lost

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

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

Crs Coorey, Cameron and Hackett voted against the motion.

The meeting adjourned at 2.25pm to open the Byron Shire Reserve Trust Committee Meeting. Resolution Numbers 17-261 and 17-262 were used during that meeting. The Ordinary Meeting reconvened at 3.35pm.

Report No. 13.17 Short Term Rental Accommodation - Enforcement Options
File No: I2017/661

17-263 Resolved that Council:

1. Note the report
2. Authorise the General Manager, in cases where a reasonable suspicion of unauthorised short term rental accommodation and unauthorised tourist and visitor accommodation is taking place, to issue Notices to the following to provide information and answer questions about property use:

Real Estate agents
Letting Agents

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Website Hosts
Tenants

3. That Council confirms that:

- a) in order to preserve the availability of long-term letting in the shire for long-term residents that the moratorium on prosecutions has been lifted.
- b) it now intends to prosecute in the most effective manner where merit exists any and all instances of unauthorised short term rental accommodation occurring in the shire.

4. That a media release be shared on this resolution.

5. Compile a confidential list of properties against which it may commence legal proceedings based on the establishment of a prima-facie case of unauthorised short term rental accommodation and unauthorised tourist and visitor accommodation, and that this list is compiled as soon as possible. (Lyon/Richardson)

The motion was put to the vote and declared carried.

Cr Hunter voted against the motion.

PROCEDURAL MOTION

17-264 Resolved that Cr Lyon be granted a two minute extension to his speech. (Richardson/Ndiaye)

The motion was put to the vote and declared carried.

Report No. 13.18 Road Airspace Policy review
File No: I2017/664

17-265 Resolved that Council:

- 1. Note the Road Airspace Policy report.
- 2. Undertake further consultation with impacted businesses, specifically in regard to:
 - i. level of charges; and
 - ii. transitional issues for the businesses involved.
- 3. After the above consultation has been undertaken provide a report back to council.

(Spooner/Richardson)

The motion was put to the vote and declared carried.

STAFF REPORTS – INFRASTRUCTURE SERVICES

Report No. 13.30 Byron Bay Urban Recycled Water Connection Policy
File No: I2017/789

17-266 Resolved:

- 1. That the Draft Urban Recycled Water Connections Policy be placed on public exhibition for a period of 28 days.
- 2. That if no submissions are received, the Policy be adopted.

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3. That any submissions received be reported back to Council.

(Lyon/Coorey)

The motion was put to the vote and declared carried.

LATE REPORTS

Report No. 17.1 **Acquisition of land included in Butler Street Reserve R88993**
File No: I2017/819

17-267 Resolved:

1. That Council proceed to acquire land parcels included in R88993:

Lot 389 DP 28537
Lot 390 DP 728538
Lot 391 DP 728539
Lot 392 DP 28539
PT Lot 393 DP 728539

subject to agreement being reached to the satisfaction of both Council and the landowner on the amount of compensation payable

2. That Council authorise the General Manager in consultation with the Mayor to take the necessary steps to proceed with the land acquisition, including but not limited to:

a) negotiation with the landowner regarding the amount of compensation payable to reach agreement to the satisfaction of both Council and the landowner, and

b) affixing the Council seal to all necessary documents that effect the acquisition
(Spooner/Richardson)

The motion was put to the vote and declared carried.

STAFF REPORTS – CORPORATE AND COMMUNITY SERVICES

Report No. 13.5 **Adoption of the Community Strategic Plan 2027, Delivery Program 2017-2021 and Operational Plan 2017-2018 (including Statement of Revenue Policy, Budget, Fees and Charges)**
File No: I2017/557

17-268 Resolved:

1. That Council consider the submissions received during the public exhibition period for the Integrated Planning and Reporting documents 2017, including the Community Strategic Plan 2027, Delivery Program 2017-2021 and Operational Plan 2017-2018 (including the Statement of Revenue Policy, 2017-2018 Budget and 2017-2018 Fees and Charges).
2. That Council adopt the following Integrated Planning and Reporting documents:
- a) Community Strategic Plan 2027 as exhibited with the only amendment being the inclusion of the updated data from the 2011 census provided by the Australian Bureau of Statistics.
- b) Delivery Program 2017-2021 and Operational Plan 2017-2018 as exhibited.

- c) 2017-2018 Statement of Revenue Policy incorporating the changes outlined in the Report under the heading 'Management Comments – 2017/2018 Revenue Policy' and the 2017/2018 Budget Estimates including:-
- i) the amendments identified in the Financial Implications section and summarised at Table 6 of this Report, and
 - ii) an increase to the budget allocation for north urban and rural drainage maintenance of \$202,300, funded by a reduction of \$202,300 to the proposed budget for the Lighthouse Road project between Massinger Street and Tallows Beach Road.
- d) 2017-2018 Fees and Charges incorporating wording changes outlined in the Report under the heading 'Management Comments - 2017/2018 Fees and Charges' and with the following amendments:-
- i) Addition of a new fee being the Information Technology Service Fee, to be levied against all new Development Applications received at 0.07% of the value of Development Applications.
 - ii) Addition of a new fee relating to Temporary Food Businesses (ie Market Stalls) for inspections to be set at \$80 for high risk, \$60 for medium risk and \$40 for low risk.

subject to the new fees in recommendation 2(d)(i) and 2(d)(ii) above, being exhibited for public comment for a period of 28 days, that the fees be incorporated into Council's adopted Fees and charges for 2017/2018 should no submissions be received during public exhibition.
(Cameron/Lyon)

The motion was put to the vote and declared carried.

DELEGATES' REPORTS

1. Australian Local Government Association National General Assembly 2017, Canberra, ACT, 18-21 June 2017

Cr Ndiaye advised Council:

Just really quickly I just got back from the Local Government Assembly, it was a great experience and our motion to change the model of disaster funding got through. It was quite highly debated but we got there in the end, so to take out on the recommendations that came out in a report of 2014 so disaster funding doesn't all have to be after the event you can do mitigation work and it doesn't have to be like for like so that was good.

The other one that went through that is interest to us was around the bed tax, so the Australian Local Government Association lobby that federal and state government to consider instituting the appropriate taxation systems such as a tariff or booking tax for online accommodation brokers etc.

It was really great to see a national support for that and also a there was the possibility of changing the date of Australia Day which was really interesting hearing indigenous across Australia talk about it. Thanks for the opportunity to go.

STAFF REPORTS - GENERAL MANAGER

Report No. 13.2 **Mullumbimby Hospital Site Acquisition**
File No: I2017/764

17-269 Resolved:

1. That the report be noted.
2. That Council engage independent consultants to peer review the hazmat reports prepared for NSW Health for the former Mullumbimby Hospital site.
3. That a budget of \$50K be approved by the Council to fund the independent peer review and that any remaining funds be used for the forward planning process.
4. That a Project Reference Group (PRG) be established with a sunset period of 12 months comprising up to 15 representatives from critical Mullumbimby stakeholder groups that includes at least two with commercial experience and skills. The PRG to propose and consider potential uses for the former Mullumbimby Hospital site. The PRG constitution to reference the following policy and objectives:
 - A) Gain the best outcome from the future use of the Hospital Hill site for BSC, the Brunswick Valley community and its other stakeholders. The best outcome is defined by a participatory planning process.
 - B) Execute a world's best practice participatory planning process for the future use of the Hospital Hill Site that gives the community and all stakeholders a genuine and meaningful voice in shaping the use of the site and that aligns with the "The community Charter – Planning for the people – a community charter for good planning in NSW".
5. That the General Manager and staff work with the PRG to develop a proposed community engagement strategy.
6. That the expressions of interest for membership to the PRG be published at the next available opportunity with the submissions provided at the next Ordinary Meeting for determination.

Hunter/Cameron)

The motion was put to the vote and declared carried.

Report No. 13.3 **Research Report - Towards smoke-free and litter-free beaches in the Byron Shire**
File No: I2017/784

17-270 Resolved that Council consider the following propositions, namely:-

1. Enact Councils existing 'Smoke-free outdoor areas policy 11/010' and invest in signage and enforcement resourcing;
2. Support the development of an overarching policy for litter reduction, which could include enforcement of the 'Smoke-free outdoor areas policy' as well as Council's Dumping Action Plan and a new education campaign to enforce the anti-litter messages including consideration of design competitions for signage and messaging; and

3. Explore grant funding options to support relevant infrastructure and educational programs.
(Ndiaye/Richardson)

The motion was put to the vote and declared carried.

STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

Report No. 13.19 **PLANNING - 26.2016.3.1 Reclassification of Council owned land - Manfred St, Belongil**
File No: I2017/692

- 17-271** **Resolved** that this item be deferred until Councillors have received a workshop on the matters, which will include legal advice. (Richardson/Coorey)

The motion was put to the vote and declared carried.
The vote was unanimous.

Report No. 13.21 **Council Nominations for the Joint Regional Planning Panel**
File No: I2017/772

- 17-272** **Resolved** that Council:
1. Nominate Councillor Richardson to the Joint Regional Planning Panel with David Milledge as the alternate.
 2. Affirm the membership of the Director of Sustainable Environment and Economy to the Joint Regional Planning Panel and nominate the Manager Environmental and Economic Planning as their alternate. (Richardson/Ndiaye)

The motion was put to the vote and declared carried.

Cr Cameron left the Chambers.

Report No. 13.22 **Peer Review of Draft West Byron DCP**
File No: I2017/778

- 17-273** **Resolved** that Council:
1. Note the Peer Review prepared by GHD Consulting.
 2. Approve the Byron Shire Development Control Plan 2014 – Chapter E8 West Byron Urban Release Area and associated amendments to Part A and Part D of the Byron Shire Development Control Plan 2014 in Attachments 1 and 2, and that the DCP be altered where necessary to take into account the following whole of site issues where these issues are not adequately addressed:
 - i. A Koala Plan of Management complying with SEPP 44 be prepared for the whole site, that recognises the importance of the site as a stepping stone between koala populations to the north and south, and prohibits the keeping of dogs, retains all food trees (i.e. the Swamp Mahogany resource) and integrates them into any development outcome, and ensures fences are sited and designed to enable koalas to move freely around their individual home range areas and between habitat areas.
 - ii. All wallum sedge frog and wallum froglet habitat is identified for protection, with

appropriate buffers and water management, as per the National Recovery Plan for the 'Wallum Sedge Frog and other wallum dependent frog species' and in accordance with the ecological assessment prepared by Australian Wetland Partners for the West Byron Landowners ("a specific habitat management plan will be prepared for the Wallum Sedge Frog species to oversee the retention, protection and restoration of habitat").

- iii. the stream through the western portion of the site, that runs from adjacent to the Wallum Sedge Frog wetland through to the E-zone, be retained in its entirety and appropriately buffered.
 - iv. a whole of site assessment assess the impacts of proposed modifications to the central watercourse, including impacts on the drainage of surrounding soils (particularly Acid Sulfate Soils), impacts of E2 and E3 zones, impacts on vegetation, impacts on Koala habitat, impacts on SEPP 14 wetlands, impacts on aquatic species, and impacts on the Belongil estuary and Cape Byron Marine Park.
 - v. there is identification of the levels and volumes of fill required for the whole site, sources for the fill, traffic management for transport of the fill, and likely offsite impacts on streams and flooding.
 - vi. the acoustic barrier for the development be taken off Council's road reserve and placed on the proponents' land, with sufficient setback to accommodate a footpath, bicycle track and any potential future widening of Ewingsdale road.
 - vii. there is an assessment of the impacts that full potential development of the site will have on traffic volumes, congestion and level of service on Ewingsdale Road and in town, both with and without a bypass being in place.
- 4. Staff notify the decision in a local newspaper within 28 days of this decision being made.
 - 5. Staff notify the Minister for Planning of the decision made in (1) and (2) above.
 - 6. Staff liaise with the various Northern Rivers Councils that use Northern Rivers Local Government Development Design and Construction Manuals in relation to updating the manuals to reflect the Australian Rainfall and Runoff 2016 guidelines.

(Coorey/Richardson)

The motion was put to the vote and declared carried.

Cr Hunter voted against the motion

Cr Cameron was not present for the vote.

Cr Cameron returned to the Chambers.

STAFF REPORTS - INFRASTRUCTURE SERVICES

Report No. 13.23 Bangalow Parking Strategy
File No: I2017/349

- 17-274 Resolved** that Council defer this item until the 24 August 2017 Ordinary Meeting of Council.
(Richardson/Lyon)

The motion was put to the vote and declared carried.

Report No. 13.27 Proposed Smart Drum Lines - Byron Bay
File No: I2017/699

- 17-275 Resolved** that Council Support the deployment of Smart Drumlines along the Byron Coastline outside designated Sanctuary Zones. (Spooner/Richardson)

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

PROCEDURAL MOTION

- 17-276 Resolved** that in accordance with the Code of Meeting Practice, the meeting be extended for 1 hour. (Richardson/Ndiaye)

The motion was put to the vote and declared carried.

Report No. 13.29 Draft Plan of Management - The Cavanbah Centre
File No: I2017/751

- 17-277 Resolved** that Council proceed with the adoption of the amended Plan of Management for the Cavanbah Centre as exhibited. (Ndiaye/Richardson)

The motion was put to the vote and declared carried.

STAFF REPORTS - ORGANISATION DEVELOPMENT

Report No. 13.31 Supporting Partnerships Policy
File No: I2017/792

- 17-278 Resolved:**

1. That the Draft Supporting Partnerships 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 Supporting Partnerships Policy, they be reported back to Council prior to adoption of the policy; or
 - b) that no submissions are received on the Supporting Partnerships Policy, the policy be adopted and incorporated into Council's Policy Register.

(Cameron/Richardson)

The motion was put to the vote and declared carried.

QUESTIONS WITH NOTICE

Question With Notice No. 15.1 Flood Response in Byron Shire
File No: I2017/705

At Council's Ordinary Meeting held on 25 May 2017, Angela Dunlop asked the following question

which was taken on notice:

I represent SGBCA and residents living in the north of the Shire who experienced the flood event of March.

As a demonstration of Council's duty of care why, after two months, have you not provided the opportunity for flood affected residents of South Golden Beach, New Brighton and Ocean Shores to provide feedback to Council of their experiences so that Council could collate and review flood data in order to improve on their strategies before, during and after a flood event? Surely those who experienced the flood first hand were in a position to provide constructive recommendations that should have been welcomed by Council, yet this opportunity has not been granted.

Additionally, we wish to know what, if any, risk management strategies or emergency evacuation procedures Council has in place, when they were drafted and when they are due for review?

Response Manager Works (LEMO) and Flood and Drainage Engineer:

Tweed Shire Council and Byron Shire Council have formed a single Local Emergency Management Committee (LEMC) for both local government areas in compliance with the State Emergency and Rescue Management Act 1989.

In accordance with the required legislation, the Tweed and Byron local Emergency Management Plan (EMPLAN) was prepared and approved by the Local Emergency Management Committee on 30 August 2016 and by the North Coast Regional Emergency Management Committee on 21 September 2016.

A copy of the EMPLAN can be found on Council's website at the following address:

www.byron.nsw.gov.au/.../emplan_tweed_byron_2016_external.pdf

A meeting with residents, Councillors and staff was held on 1 June 2017 at the Ocean Shores Country Club.

Council also issued the following media release requesting flood information on 18th April 2017.

"Byron Shire Council is encouraging residents to submit snapshots of the recent flood event, to help determine information including where the flood waters peaked, and how high they reached across the shire.

The information collected will form part of Council's flood mark survey, which aims to investigate in more detail the impact and scope of the recent event.

"On March 31 this year, we experienced a significant flood event.

"Now it is crucial we collect evidence from this day, to help factor this into future flood assessments for the shire," Byron Shire Council Flood Engineer James Flockton said.

"This will also enable us to compare flood heights with our existing modelling and assist with the assessment of development applications in the future.

"The more accurate the data we gather now is, the better we can calibrate our future flood models.

"We will then be in a more informed position to predict flood levels we may experience in the future," Mr Flockton said.

In coming weeks, surveyors will be out canvassing flood impacted areas for indicators of flood marks.

To assist Council with the collection of flood data, locals are encouraged to do the following: If you know or can see somewhere that the flood peaked, please mark it with a marker (for example a pen, nail or paint).

Next, take a photo of the mark and email it to floodsurvey@byron.nsw.gov.au, with the following details:

- *The address of the mark, and or any specific details you can provide on the location*
- *The accuracy of the mark (in your opinion).*
- *The approximate time of the flood peak at that location (if you have this information).*
- *Your contact details (Please advise if you do not wish to be contacted by Council.)*
- *Please also advise whether the mark is in a public space or private property, as this will help our surveyors when verifying the data provided.*

Peak flood marks from the 31st of March are the only levels required for this study. If you provide permission for our surveyors to contact you, they will be in touch soon to arrange a date and time for inspection.

For more information on the Flood Survey email floodsurvey@byron.nsw.gov.au"

The inbox for this email address will be closed shortly.

After this closure, all the data and responses will be collated and assessed and used for future flood planning and preparedness.

Question With Notice No. 15.2 Sewerage
File No: I2017/706

At Council's Ordinary Meeting held on 25 May 2017, Tom Tabart asked the following question which was taken on notice:

Has the information that the Councillors down graded the Ocean Shores sewage works to 1.1 prominently over time been communicated to the EPA or issued you a licence?

Response Director Infrastructure Services:

Council has not advised the EPA that the information on Council's web site relating to ADWF has been reduced from 1.6ML/d to 1.1ML/d.

The EPA licence for the site does not reference either directly or indirectly average dry weather flow (ADWF). There is no mechanism under the licence to advise any assessment of average dry weather flow capacity of a treatment plant. Council has however, had dialogue with the EPA regarding possible plans to upgrade the OSSTP and have advised them of the recent studies undertaken regarding the treatment options for the plant.

Under Section 60 of the Local Government Act 1993, local water utilities are required to obtain ministerial approval for the construction or modification of water or sewage treatment works. The Section 60 approval provides an independent assessment of the proposed works to ensure they are fit for purpose and provide robust, safe, cost-effective and soundly based solutions that meet public health and environmental requirements.

Each proposed water or sewage treatment works project requires an options study, concept design report and detailed design. These need to be prepared by suitably qualified and experienced practitioners and submitted to the NSW Office of Water for review. The information provided must clearly define the proposed activity and detail how the environment will be protected.

Council has not as yet contacted the DPI Water but will do so if / when Council approves the project. Council has, however, arranged a meeting with the DPI Water area representative for the 8 June 2017 to have preliminary discussions about this project.

Question With Notice No. 15.3 NSW Crown Holiday Parks Trust
File No: I2017/798

At Council's Ordinary Meeting held on 25 May 2017, Cr Paul Spooner asked the following questions:

Cr Spooner: Just a clarification from staff. We've just rescinded a motion that was put up by Councillor Coorey at the last meeting, is there any impetus for us to be putting forward another motion in regards to these negotiations at this point in time?

Cr Spooner: No, my question goes to the heart of the negotiations with the holiday trust. We have another motion in front of us and I'm just wondering why that motion is there. Is there anything driving this currently from the holiday trust to put this motion forward?

Management Response:

The Council has been in negotiations with the NSW Crown Holiday Parks Trust for a number of years. During this period both Council and the Trust have sought to reach a position where the Plans in the adopted Plans of Management for each of the Brunswick Heads Crown Holiday Parks could be amended to take into account community concerns and submissions. It was acknowledged by the Trust in the further consultation undertaken in 2016, that the Plans in the Plans of Management adopted by the Minister in April 2014, for each of the Brunswick Heads Crown Holiday Parks, did not adequately incorporate or address community and / or Council concerns or submissions in relation to a number aspects such as foreshore setbacks. The Trust through the negotiations have advised Council, that should agreement be reached then it would seek to lodge an application for an Approval to Operate for each of the Brunswick Heads Crown Holiday Parks.

The Trust following being notified of Resolution 17-120 adopted by Council on 20 April 2017, formed the view that through the adoption of Resolution 17-120, that Council had abandoned any further prospect of the Trust developing a revised concept plan for each of the Crown Holiday Parks, which could be exhibited as an amendment to the adopted Plans of Management. This would mean that the Trust would need to lodge any application for an Approval to Operate on the basis of the Plans contained in the adopted Plans of Management. The Trust having considered the terms for approval set out in Resolution 17-120, formed the view that any application for an Approval to Operate which was inconsistent with the terms of the resolution, would be met with refusal. Hence they took the view that terms as set out, could be viewed as a "deemed refusal" for any (inconsistent) application. This view was formed on the basis of provisions with Sections 72, 73 and 105 of the Local Government Act 1993.

The use of the term "deemed refusal" by the Trust in this context however, is not consistent with the term in a planning sense, where an application for an Approval to Operate has been lodged.

The need or the impetus for the Council to consider the alternate motion came from the need to respond to the views formed by the Trust and communicated to Councillors, and to provide guidance to the Trust on the preparation of any future application for an Approval to Operate, following the rescinding of Resolution 17-120, beyond the default position of the Plans in the adopted Plans of Management. On the basis that no alternate motion was considered then the default position would have remained as the Plans in the adopted Plans of Management.

CONFIDENTIAL REPORTS - INFRASTRUCTURE SERVICES

Report No. 16.3 **CONFIDENTIAL - Tender 2016-0018 Architectural Design of Mixed-use Building - 10 Lawson Street Redevelopment**
File No: I2017/643

17-279 Resolved:

1. That Council award Tender 2016-0018 Architectural Design of Mixed-use Building - 10 Lawson Street Redevelopment to Bark Design & Harley Graham Architects (Architects in Association).
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/Spooner)

The motion was put to the vote and declared carried.

URGENCY MOTIONS**PROCEDURAL MOTION**

- 17-280 Resolved** that the business of 2017NTH013 DA & DA 10.2017.201.1 Staged Development Application for Subdivision of Land West Byron be dealt with at the meeting, the urgency being the need to make a determination on the development application prior to the next scheduled Ordinary Meeting of Council. (Richardson/Ndiaye)

The motion was put to the vote and declared carried.

No. 18.1 **Matter of Urgency - 2017NTH013 DA & DA 10.2017.201.1 Staged Development Application for Subdivision of Land West Byron**

- 17-281 Resolved** that Council hold an Extraordinary Meeting on 6 July 2017 at 4pm to consider Councils position on DA 10.2017.201.1 and sign off on the submission. (Richardson/Ndiaye)

The motion was put to the vote and declared carried.

PROCEDURAL MOTION

- 17-282 Resolved** that the business of an Innovative Business Incubation Program be dealt with at the meeting, the urgency being that the business referred to in point 3 of the proposed motion is scheduled to remove their business from the site prior to the next scheduled Ordinary Meeting of

Council.

(Richardson/Ndiaye)

The motion was put to the vote and declared carried.

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

No. 18.2 Matter of Urgency - Innovative Business Incubation Program

17-283 Resolved:

1. That council prepare a report to outline the establishment of an Innovative Business Incubation Program.
2. That this report consider the following:
 - i. Providing set term leases for start ups, with no capacity to extend or double up or repeat
 - ii. The business required to front up all establishment and infrastructure costs that need to be relocatable, or possibly Council purchasing a temporary space charge a low rate to pay back purchase costs
 - iii. The advertising for expressions of interest on a cyclical basis for projects and businesses to utilise council spaces to develop their innovative businesses
 - iv. Creation of a criteria to adjudicate on applications, possibly including sustainability, innovation, potential for scalability or employment growth
 - v. Identification of possible sites for incubation spaces
 - vi. Possible mentoring and incubation support
 - vii. Liaisons and relationships with permanent businesses
 - viii. Levels of subsidisation
3. That the current business utilising the Council space at First Sun Holiday park continue its operation until the program commences and the next recipient of support takes its place and that the General Manager receives delegated authority to negotiate a temporary lease.
4. That the report authors consult mentoring and business incubation groups and chambers to assist the formulation of the program. (Richardson/Ndiaye)

The motion was put to the vote and declared carried

Crs Cameron and Spooner voted against the motion..

PROCEDURAL MOTION

Moved that the business of Council staff investigating and implementing insurance to cover Councillors, the urgency being that Councillors are not currently covered by insurance.

(Ndiaye/Richardson)

The motion was put to the vote and declared lost.

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

There being no further business the meeting concluded at 6.50pm.

BYRON SHIRE COUNCIL

ORDINARY MEETING MINUTES

22 June 2017

I hereby certify that these are the true and correct Minutes of this Meeting
as confirmed at Council's Ordinary Meeting on 3 August 2017.



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Mayor Simon Richardson