

## Early Childhood Education Directorate

### Convictions and Significant Enforcement Actions

Approved Provider	Byron Shire Council
Service Name	Byron Bay Out of School Hours Care
Type of Service	Centre based education and care service
Action Taken	<p>Prosecution action against Byron Shire Council Ltd for:</p> <ul style="list-style-type: none"> <li>• one offence of failing to ensure adequate supervision of children - section 165(1) of the <i>Children (Education and Care Services) National Law (NSW)</i>; and</li> <li>• two offences of failing to comply with the conditions of a provider approval – section 19(4) of the <i>Children (Education and Care Services) National Law (NSW)</i>.</li> </ul>
Date of conviction	31 May 2019
Sentence	Convicted at Byron Bay Local Court and fined a total of \$6,750

#### **Proven offence:**

On 8 December 2017, there were two staff working at the service from about 2:30pm until about 6:00pm. There were five children signed in to the service, including a six year old child. Between about 5:00pm and 5:10pm, the six year old child left the service premises and walked down a nearby street. Neither educator knew the child had left the premises. After leaving the premises, the child approached two women and asked them to help her find her mother. The child gave the women her mother's phone number, at which time a conversation occurred whereby the child's mother became aware that her daughter was not at the service premises. The two women waited with the child until her mother arrived.

On 24 March 2017, an educator commenced in the role of nominated supervisor. The approved provider did not notify the Department of the appointment of a new supervisor until 15 August 2017.

On 13 December 2017, an educator was added as a new nominated supervisor. The approved provider did not notify the Department of the addition of a new supervisor until 22 January 2018.

Byron Shire Council:

- failed to ensure that adequate supervision was provided when a child left the premises unnoticed by staff; and
- failed to comply with the conditions of the provider approval when, on two occasions, it failed to give the Department notice of the changes with respect to the nominated supervisor either 7 days prior to, or 14 days after, the change.