



Byron Shire Council



Minutes

Ordinary Meeting

Thursday, 23 April 2020

BYRON SHIRE COUNCIL

Ordinary Meeting Minutes
23 April 2020

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MINUTES OF THE BYRON SHIRE COUNCIL ORDINARY MEETING HELD ON THURSDAY, 23 APRIL 2020 COMMENCING AT 9:15AM AND CONCLUDING AT 10:50AM

12020/581

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 Holloway (Director Infrastructure Services)
Shannon Burt (Director Sustainable Environment and Economy)
Ralph James (Legal Counsel)
Heather Sills (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:

Public Access

Report No and Title	For/Against	Name	Representing Organisation	Submission Received
13.4 Outcome of Butler Street site investigations	For	Darryl Henniker		via webinar
13.5 Council Delegations & Emergency Decision-Making During COVID-19 Crisis	Against	John Anderson		Written speech read aloud by staff

Submissions

Report No and Title	Name	Representing Organisation	Submission Received
Intended coronation	John Anderson		Photograph displayed by Mayor

Question No. 1 – Mitchell Rainforest Snail Discovery

Jan Barham asked the following question (written question read aloud by staff):

Can council clarify:

- if the relocation area for the 140 Mitchell Rainforest Snails found in the bypass footprint will be protected in perpetuity and if not, why not and*
- what the monitoring and reporting requirements are in relation to the success of the relocation?*

The Director of Infrastructure Services took the question on notice and advised that Council will be distributing some facts about what we are doing.

Question No. 2 – Question to the Mayor

John Anderson asked the following question (written question read aloud by staff):

Given the doubt you expressed during the debate over the Coopers Lane dual occupancy last week (such as "...I am completely ambivalent...I am very uneasy in all of it...I am not too sure how intractable it is...I'm a bit lost on this...I'm really struggling to see that..." 11:55) and given that this was the fourth time the matter had gone before Council, and given furthermore that it is the express responsibility of staff to convey relevant and understandable information on which Councillors are to base their decisions, why didn't you demand that staff clarify their reasoning and the relevant rules rather than finally giving in to their wishes, as you all often do.

The Mayor provided the following response:

I feel very comfortable with the staff report and thought it was very clear. I presume the writer was speaking about perhaps the previous meeting when there did seem to be such ambiguity between what locals were saying and what the RFS were saying. I am certainly very clear on all of it now, now that the RFS have been far more unequivocal with supporting their own original recommendations. So I won't accept the idea that I don't understand the information or that staff didn't provide clear information.

APOLOGIES

PROCEDURAL MOTION

- 20-164 Resolved** that the apology from Cr Martin be accepted and a leave of absence granted.
(Richardson/Ndiaye)
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

There were no declarations of interest.

TABLING OF PECUNIARY INTEREST RETURNS

There were no Pecuniary Interest Returns tabled.

ADOPTION OF MINUTES FROM PREVIOUS MEETINGS

- 20-165 Resolved** that the minutes of the Ordinary Meeting held 26 March 2020 be confirmed.
(Ndiaye/Spooner)
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. 13.4 Outcome of Butler Street Reserve site investigations

Report No. 13.5 Council Delegations & Emergency Decision-Making During COVID-19 Crisis

Corporate and Community Services**Infrastructure Services**

Report No. 13.9 Expression of Interest for Dingo Lane Solar Farm Design, Construct, Operation and Maintenance Contractors

The remaining Recommendations and Committee Recommendation were adopted as a whole, being moved by Cr Richardson and seconded by Cr Lyon. Each recommendation is recorded with a separate resolution number commencing at Resolution No. 20-166 and concluding with Resolution No. 20-185.

SUBMISSIONS AND GRANTS

Report No. 11.1 Grants Submissions for March 2020

File No: I2020/500

20-166 Resolved that Council notes the report and Attachment 1 (E2020/22750) for Byron Shire Council's Submissions and Grants as at 3 March 2020. (Richardson/Lyon)

STAFF REPORTS - GENERAL MANAGER

Report No. 13.1 Licence to Upper Main Arm Community Association Inc to manage the Kohinur Hall

File No: I2020/337

20-167 Resolved:

1. That Council notes that no public submissions were received on the proposed grant of a five year licence to the Upper Main Arm Community Association Incorporated for the management of the Kohinur Hall and grounds located on Lot 1 DP 771568.
2. That Council authorises the General Manager to enter into licence with the Upper Main Arm Community Association Incorporated for the management of the Kohinur Hall located on Lot 1 DP 771568 on the following terms:
 - a) term 5 years to commence on the lifting of all COVID-19 restrictions as to social distancing;
 - b) purpose of a community hall;
 - c) annual rent to be subsidised by Council to the value of \$19,501 per annum,
 - d) the licensee to pay initial annual rent commencing at \$490 (excluding GST) with annual rent increased thereafter by Consumer Price Index All Groups Sydney for the term;

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- e) Council to subsidise licence preparation costs to the value of \$527 (inclusive GST);
- f) the licensee to pay outgoings to full value of all usage charges for all connected services, all onsite sewerage management system pump outs and repairs, all potable water purchased, interior and grounds maintenance of the Hall and required insurance cover; and
- g) Council to pay outgoings to for the full value of general land rates, fixed water and sewerage charges, building insurances, pest inspections and fire safety compliance.
(Richardson/Lyon)

Report No. 13.2 Licence to Byron Bay Community Association Incorporated for occupation of the Byron Community Cabin.

File No: I2020/365

20-168 Resolved:

1. That Council notes that no submissions were received on the proposed grant of a one year licence to the Byron Bay Community Association Incorporated for the management of the Byron Community Cabin located on Lot 444 Sec 28 DP758207.
2. That Council authorises the General Manager to enter into a licence with the Byron Bay Community Association Incorporated for the management of the Byron Community Cabin located on Lot 444 Sec 28 DP758207 on the following terms:
 - a) term one year to commence 1 June 2020;
 - b) purpose of a community hall;
 - c) the licensee to pay annual rent of \$490 (exclusive of GST);
 - d) the licensee to pay all outgoings for usage costs of all services connected to the premises and required insurance coverage;
 - e) Council to pay outgoings to the full value of general land rates (if applicable), fixed water and sewerage charges, building insurances, pest inspections and fire safety compliance; and
 - f) Council to subsidise all licence preparation costs of \$527 inclusive of GST.
3. That Council authorises the abatement of rent payable under a current licence to the Byron Bay Community Association Incorporated for occupation of the Byron Community Cabin from 1 April 2020 to 31 May 2020 totalling \$81.66 exclusive of GST.
4. That Council authorise the abatement of rent payable under the proposed new licence to the Byron Bay Community Association Incorporated for occupation of the Byron Community Cabin to commence 1 June 2020 on a month by month basis at a total cost of \$40.83 exclusive of GST per month until all COVID-19 social distancing restrictions are lifted.
(Richardson/Lyon)

Report No. 13.3 Amendment to Policy 15/007 Sustainable Community Markets

File No: I2020/413

20-169 Resolved:

1. That Council notes the contents of this report.
2. That Council authorises the public exhibition of the Draft Policy 15/007 Sustainable Community Markets for a period of 28 days.

3. That a separate report be tabled at Council's June Ordinary meeting detailing submissions received for consideration of adoption of the Draft Policy 15/007 Sustainable Community Markets. (Richardson/Lyon)

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

Report No. 13.6 Council Investments - 1 March 2020 to 31 March 2020
File No: I2020/522

- 20-170 Resolved** that the report listing Council's investments and overall cash position as at 31 March 2020 be noted. (Richardson/Lyon)

Report No. 13.7 COVID-19 Financial Assistance and Actions
File No: I2020/543

- 20-171 Resolved** that Council notes and endorses the actions taken or proposed to be taken, as identified in this report, including the following specific recommendations:

Recommendation 1: Council relaxes the owner/occupier rule to also allow payment arrangements from owners with multiple properties provided they enter into a suitable payment arrangement for each individual property.

Recommendation 2: Council suspends debt recovery action beyond issuance of a reminder notice or statement with a review to be conducted in December 2020.

Recommendation 3: Council agrees to a further deferment of six months as of 1 April 2020 of Developer Contributions for Section 64 Sewerage Contributions. The deferment does not mean the required repayments are reduced or written off but means that repayments due do not need to be made for the next six months and will need to recommence on 1 October 2020 subject to a review at that time.

Recommendation 4: Council establishes a bank overdraft facility for \$1,000,000 and authorises the General Manager to establish this facility. (Richardson/Lyon)

STAFF REPORTS - INFRASTRUCTURE SERVICES

Report No. 13.8 Minutes of Coastal Estuary Catchment Panel
File No: I2020/517

- 20-172 Resolved** that Council adopt the following Panel and Management Recommendation(s):

1. That Council note that the Coastal Estuary Catchment Panel received several projects updates by staff.
2. That in relation to Belongil Catchment Drainage Board update:
 - a) That Council note that due to current lack of clarity and mutual understanding as to the roles and responsibilities of Council and Belongil Catchment Drainage Board, the Plan of Management has not been agreed upon by Council.
 - b) That Council meet with DPI and Belongil Catchment Drainage Board to engage in

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resolution of the POM and hence the MoU.

3. That in relation to Additional Flow Path project, the REF, once determined, be placed on Council's website for community information
4. That In relation to Belongil Issues Studies, the outcomes of the recent DPI workshop on ICOLLs be reported to Council. (Richardson/Lyon)

Report No. 13.10 **Tender 2019-0046 Yamble Reservoir Trunk Water Main Renewal**
File No: I2020/307

20-173 Resolved:

1. That Council award Tender 2019-0046 to Demacs Construction (Aust.) Pty Ltd for lump sum \$669,234.00 (excluding GST).
2. That the total budget allocation for this project be increased by \$ 849,800 for the 2019/2020 Financial year with funding provided from available Water Fund Capital Works Reserve.
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 Tender Evaluation Plan and Tender Evaluation Report remain confidential until the contract is finalised. (Richardson/Lyon)

REPORTS OF COMMITTEES - CORPORATE AND COMMUNITY SERVICES

Report No. 14.1 **Report of the Audit, Risk and Improvement Committee Meeting held on 17 March 2020**
File No: I2020/440

20-174 Resolved that Council notes the minutes of the Audit, Risk and Improvement Committee Meeting held on 17 March 2020. (Richardson/Lyon)

20-175 Resolved that Council adopts the following Committee Recommendations:

Report No. 4.1 **Audit Office of NSW Report on Local Government 2019**
File No: I2020/373

Committee Recommendation 4.1.1

That the Audit Risk & Improvement Committee notes the Audit Office of NSW Report on Local Government 2019. (Richardson/Lyon)

20-176 Resolved that Council adopts the following Committee Recommendations:

Report No. 5.1 Business Continuity and Risk Management - Update

File No: I2020/84

Committee Recommendation 5.1.1

1. That the Audit, Risk and Improvement Committee notes the Business Continuity planning progress update.
2. That the Audit, Risk and Improvement Committee endorses the Strategic and Operational Risk Registers, Fraud Control Plan (as Appendix 1 to the Fraud and Corruption Control Policy) and revised Risk Management Strategy.
3. That the Audit, Risk and Improvement Committee notes the strategic and operational risk reports for the quarter ending 31 December 2019. (Richardson/Lyon)

20-177 Resolved that Council adopts the following Committee Recommendations:

Report No. 5.2 Audit Progress Report - January 2020

File No: I2020/87

Committee Recommendation 5.2.1

1. That the Audit, Risk and Improvement Committee notes the Internal Audit Activity Report – January 2020 (E2020/7324).
2. That the Audit, Risk and Improvement Committee endorses the recommendation from the Executive Team to close off 6 recommendations in Appendix C of the attached report (E2020/7324) due to these actions being confirmed as complete. (Richardson/Lyon)

20-178 Resolved that Council adopts the following Committee Recommendations:

Report No. 5.3 IT Update

File No: I2020/119

Committee Recommendation 5.3.1

1. That the Audit, Risk and Improvement Committee notes the update provided in this report.
2. That the Audit, Risk and Improvement Committee receives ongoing reports on the status of priority 1 (P1) incidents (i.e. a standing agenda item).
3. That the Audit, Risk and Improvement Committee receives ongoing reports on the status of cyber incidents, trends and management of cyber risk (i.e. a standing agenda item). (Richardson/Lyon)

20-179 Resolved that Council adopts the following Committee Recommendations:

Report No. 5.4 Business Continuity Debrief - Rain Event February 2020

File No: I2020/232

Committee Recommendation 5.4.1

That the Audit, Risk and Improvement Committee notes the Business Continuity Debrief – Rain Event February 2020 as per Attachment 1 (E2020/15619). (Richardson/Lyon)

20-180 Resolved that Council adopts the following committee recommendations:

Report No. 5.5 2019 Year End Audit Management Letter

File No: I2020/1

Committee Recommendation 5.5.1

1. That the Audit, Risk and Improvement Committee notes the 2019 Year End Audit Management Letter (E2020/103).
2. That the Audit, Risk and Improvement Committee receives a quarterly progress report on the recommendations listed in the 2019 Year End Audit Management Letter (E2020/103).
3. That the Audit, Risk and Improvement Committee undertakes a review of its Terms of Reference by December 2020. (Richardson/Lyon)

20-181 Resolved that Council adopts the following committee recommendations:

Report No. 5.6 2019-2020 External Audit Engagement Plan

File No: I2020/368

Committee Recommendation 5.6.1

That Council notes the External Audit Engagement Plan prepared by the Audit Office of New South Wales for the year ended 30 June 2020 as outlined in Confidential Attachment 1 (#E2020/16020). (Richardson/Lyon)

REPORTS OF COMMITTEES - INFRASTRUCTURE SERVICES

Report No. 14.2 Report of the Byron Shire Floodplain Risk Management Committee Meeting held on 24 March 2020

File No: I2020/463

20-182 Resolved that Council note the minutes of the Byron Shire Floodplain Risk Management Committee Meeting held on 24 March 2020. (Richardson/Lyon)

20-183 Resolved that Council adopts the following Committee Recommendations:

Report No. 4.2 Draft North Byron Floodplain Risk Management Study and Plan

File No: I2020/418

Committee Recommendation 4.2.1

1. That Council support the public exhibition of both the Draft North Byron Floodplain Risk Management Study and Plan documents from 27 April to 25 May 2020. Attachments 2 to 7 of this report.
2. That the community should be thanked for the interest and time they have taken to review and comment on the first exhibition stage of this project.
3. That Council continue to have a Floodplain Risk Management Committee to receive reports and help drive all floodplain related actions within Council's Floodplain Management Plans, beyond the current process. (Richardson/Lyon)

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20-184 Resolved that Council adopts the following Committee Recommendations:

Report No. 4.3 Discussion of item requested by committee member Duncan Dey regarding filling in no-fill zone of Marshalls Creek floodplain

File No: I2020/427

Committee Recommendation 4.3.1

That Council note the report.

(Richardson/Lyon)

20-185 Resolved that Council adopts the following Committee Recommendations:

Report No. 4.4 Discussion of item requested by Cr Lyon

File No: I2020/429

Committee Recommendation 4.4.1

That Council note the report.

(Richardson/Lyon)

PROCEDURAL MOTIONS

20-186 Resolved that Council change the order of business to deal with Reports 13.4 and 13.5 next on the Agenda. (Richardson/Spooner)

The motion was put to the vote and declared carried.

20-187 Resolved that Council change the order of business to deal with Report 13.5 next on the Agenda. (Richardson/Coorey)

The motion was put to the vote and declared carried.

STAFF REPORTS - GENERAL MANAGER

Report No. 13.5 Council Delegations & Emergency Decision-Making During COVID-19 Crisis

File No: I2020/510

20-188 Resolved:

1. That, noting the public health situation of the COVID-19 crisis, pursuant to the *Local Government Act 1993* Council delegates to Mayor of the Council all functions of the Council other than those which are non-delegable pursuant to the provisions of section 377(1) of the *Local Government Act*.
2. This delegation may only be exercised:
 - a) in the period between meetings of Council and where it is not reasonable or practical to call an Extraordinary Meeting;
 - b) where the Mayor considers that the exercise of this delegation is necessary in the interests of the local community or the wider public; and
 - c) after the Mayor has consulted with the General Manager as to the proposed exercise of the delegation.
3. The exercise of this delegation must be reported to the next Ordinary Meeting of the Council.

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4. This delegation remains current for a period of 3 months from its issue or for such other shorter or longer period as shall be resolved by the Council.
5. That Council note and endorse the resolution of Council made by the Mayor on 9 April 2020 in exercise of his role pursuant to the provisions of section 226(d) of the *Local Government Act*.
6. A weekly report on the exercise of these functions is provided to all Councillors.

(Coorey/Ndiaye)

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

Report No. 13.4 Outcome of Butler Street Reserve site investigations
File No: I2020/419

20-189 Resolved that Council:

1. notes the advice from the EPA and proceeds with the development of an Environmental Management Plan for Butler Street Reserve;
2. notes the strategic value of the Butler Street Reserve in relation to promoting masterplan objectives, specifically the need for periphery parking outside the Byron Bay CBD; and
3. completes both its transport and car parking studies to understand the degree of car parking required on that site to fulfil its objectives in point 2 and its consultation with market managers, prior to engaging a landscape architect. (Cameron/Richardson)

*The motion was put to the vote and declared carried.
Cr Hackett voted against the motion.*

NOTICES OF MOTION

Notice of Motion No. 9.1 Mayor's Discretionary Allowance
File No: I2020/527

20-190 Resolved:

1. That Council confirms the following donations from the Mayor's Discretionary Allowance 2019/20:
 - a) \$155 – Local Byron Shire Business Directory (online)
 - b) \$1,000 – Resilient Byron
2. That Council advertises the donations in accordance with Section 356 of the Local Government Act 1993. (Richardson/Ndiaye)

The motion was put to the vote and declared carried.

Notice of Motion No. 9.2 Restoration and Regeneration of Riparian Zones
File No: I2020/550

20-191 Resolved:

1. That Council staff provide a report on work done in the Shire by Byron Shire Council, in the last 5 years on the restoration and regeneration of riparian zones, including:
 - a) any work or progress with cattle-holding landowners to fence off riparian areas;
 - b) any riparian rehabilitation done with a view to effecting/reducing sediment runoff;
 - c) any grant funding opportunities used, or available for use in this area;
 - d) the effect of dams of waterways and the legality of creating new dams on private property that block a water course.

2. Where able to collate information, the staff report to also include, work done by Brunswick Valley Land Care, Local Land Services, other local environmental groups and private land owners in the last 5 years on the restoration and regeneration of riparian zones as per points 1 a-d.

3. That a report be brought to Council responding to points 1 & 2 before September 2020.

(Lyon/Ndiaye)

The motion was put to the vote and declared carried.

PETITIONS

The Mayor tabled the following petition:

Title	No. of Signatures
Petition from Tallowood residents regarding unfair approval of Development Application 10.2018.512.1 at Corella Crescent Mullumbimby	9

DELEGATES' REPORTS

There were no delegates reports.

STAFF REPORTS - INFRASTRUCTURE SERVICES

Report No. 13.9 Expression of Interest for Dingo Lane Solar Farm Design, Construct, Operation and Maintenance Contractors
File No: I2020/501

20-192 Resolved:

1. That Council nominate five (5) short-listed respondents to be invited to participate in the next stage of the procurement process, being:
 - Autonomous Energy Pty Ltd
 - Todae Solar Pty Ltd
 - Solgen Energy Pty Ltd
 - Gildemeister LSG Solar Australia Pty Ltd
 - Coolamon Energy P/L

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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. (Ndiaye/Richardson)

The motion was put to the vote and declared carried.

URGENCY MOTIONS

PROCEDURAL MOTION

Moved: That the matter of 'Work on Daley Street tower by Telstra' be dealt with as a matter of urgency due to its imminent and current nature at this time and the health implications of this. (Ndiaye/Lyon)

The motion was put to the vote and declared lost.

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

There being no further business the meeting concluded at 10:50M.

I hereby certify that these are the true and correct Minutes of this Meeting
as confirmed at Council's Ordinary Meeting on 28 May 2020.

.....
Mayor Simon Richardson