

Minutes Ordinary (Planning) Meeting

Thursday, 14 April 2022



BYRON
SHIRE
COUNCIL

BYRON SHIRE COUNCIL

Ordinary (Planning) Meeting Minutes
14 April 2022

INDEX OF ITEMS DISCUSSED

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MINUTES OF THE BYRON SHIRE COUNCIL ORDINARY (PLANNING) MEETING HELD ON THURSDAY, 14 APRIL 2022 COMMENCING AT 11.15AM AND CONCLUDING AT 4.19PM

I2022/312

PRESENT: Cr M Lyon (Mayor), Cr S Balson, Cr C Coorey, Cr D Dey, Cr A Hunter, Cr S Ndiaye, Cr A Pugh, and Cr P Westheimer

VIRTUAL: Cr M Swivel

Staff: Mark Arnold (General Manager)
Vanessa Adams (Director Corporate and Community Services)
Cameron Clark (Acting 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	Name	For/ Against	Representing Organisation	Via
13.3 Byron Shire Council and Landcom Project Agreement for an Affordable Housing Development on 57 Station Street Mullumbimby	Liz Collyer, Nicole Woodrow and Matt Beggs	For		In Person
	Michele Grant		Brunswick Valley Community Care Council Inc	In Person
13.6 PLANNING - DA 10.2021.707.1 - Stage 1: Dwelling House, Stage 2: construction of new dwelling house and change of use of existing dwelling to a secondary dwelling	Luke Houghton	For		In person
	Michelle Wakefield	Against		Read out by staff

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Question No. 1 – Strategic Planning Workshop

John Anderson submitted the following question which was read by staff:

Considering Councillor Swivel's stated reservations about Council's use of the so-called Strategic Planning Workshop to consider a variety of matters which at first blush appear to have absolutely nothing to do with strategic planning or any other kind of planning, might he perhaps heighten public understanding of this searing anomaly by explaining how, why and when a clumsy but transparent committee system was largely replaced with a secretive and un-representative workshop system that undermines public confidence?

Cr Swivel provided the following response:

As a newly elected Councillor I can't explain why and how the committee system has worked over the years, but I don't think it is accurate to say that the committee system had been replaced by anything. In fact, the committee system seems to be in rude health, involving an extraordinary cross section of people from the community. So the assumption of the question just doesn't make sense to me.

The Strategic Planning Workshop this Mr Anderson is talking about; I think again, he is conflating the Community Strategic Planning process and the regular Strategic Planning Workshops. Maybe the proceedings of Council have moved on since Mr Anderson was directly involved, I can't comment precisely on that either.

Long story short, every strategic planning process in every organisation is complex, problematic, and always capable of improvement. Given my personal background working with corporates particularly in the banking sector, but also in arts organisations, my experience is that strategic planning is a lot more goal oriented than it is in local government. At least based on my brief experience to date. The reservations, to the extent that I had any, to pay some respect to this question were about clarifying those objectives, having clearer targets, and in particular having an approach that incorporated Councillors in a fashion that you might expect to see company directors more immediately involved in determining key policy issues.

I guess there is an extraordinary amount of inevitable inertia. I don't mean that in a pejorative sense, just in a practical sense. There's inertia in any bureaucracy as extensive and as regulated as council happens to be anywhere, whether it's this LGA or elsewhere. So it's fairly difficult to incorporate Councillors generally in the determination of a lot of policy. There is a lot of process that needs to be attended to. There are quick, easy, and obvious things that Council can do to enliven and enhance the role of Councillors as more active representatives of the community in the strategic planning processes of local government in our Shire and I have put those thoughts together in a notice of motion on corporate governance for the for the next general meeting of Council.

I think that the ongoing obsession in Mr Anderson with the criticism of the way Council functions is not as helpful as he might intend it to be. And I would like to say very directly that we do have to work as a team, as Councillors together and with Council staff and management obviously. I think that collaboration and cooperative emphasis is just profoundly misunderstood by Mr Anderson.

The meeting adjourned at 12.08pm and reconvened at 12.49pm.

APOLOGIES

There were no apologies.

REQUESTS FOR LEAVE OF ABSENCE

There were no requests for leave of absence.

DECLARATIONS OF INTEREST – PECUNIARY AND NON-PECUNIARY

Cr Ndiaye declared a pecuniary/non-pecuniary interest in Report 14.1. The nature of the interest being that she works at Bluesfest. Cr Ndiaye elected to leave the Chamber and will not participate in discussion and the vote.

TABLING OF PECUNIARY INTEREST RETURNS

Under section 440AAB of the Local Government Act, and in accordance with clause 4.9 of the Code of Conduct for Councillors, the Mayor tabled the first Returns of Interests for the new term for the following Councillors:

Cr Sama Balson
Cr Cate Coorey
Cr Duncan Dey
Cr Alan Hunter
Cr Michael Lyon
Cr Sarah Ndiaye
Cr Asren Pugh
Cr Mark Swivel
Cr Peter Westheimer

ADOPTION OF MINUTES FROM PREVIOUS MEETINGS

22-114 Resolved that the minutes of the Ordinary (Planning) Meeting held 10 March 2022 be confirmed. (Hunter/Lyon)

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

Sustainable Environment and Economy

- Report No. 13.2 Supplementary Report - Resolution 21-221 - Report No 9.2 - Multiple Occupancies and Rural Workers Cottages
- Report No. 13.3 Byron Shire Council and Landcom Project Agreement for an Affordable Housing Development on 57 Station Street Mullumbimby
- Report No. 13.4 Selection of community representatives for Northern Joint Regional Planning Panel
- Report No. 13.6 PLANNING - DA 10.2021.707.1 - Stage 1: Dwelling House, Stage 2: construction of new dwelling house and change of use of existing dwelling to a secondary dwelling

REPORTS OF COMMITTEES

Infrastructure Services

- Report No. 14.1 Report of the Local Traffic Committee Meeting held on 4 April 2022
- 6.1 2022 Bluesfest - Traffic Management Plan

The remaining Recommendations and Committee Recommendation were adopted as a whole, being moved by Cr Lyon and seconded by Cr Ndiaye. Each recommendation is recorded with a separate resolution number commencing at Resolution No. 22-115 and concluding with Resolution No. 22-116.

STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

- Report No. 13.1 PLANNING - 10.2021.524.1 - Use of Existing Building as a Secondary Dwelling including Alterations and Additions**
- File No:** I2022/162

22-115

Resolved that pursuant to Section 4.16 of the Environmental Planning & Assessment Act 1979, Development Application No. 10.2021.524.1 for use of existing building as a secondary dwelling including alterations and additions, be granted consent subject to the conditions of approval shown at Attachment 1 (E2022/27570) (Lyon/Ndiaye)

Crs Coorey, Hunter, Lyon, Ndiaye, Dey, Swivel, Westheimer, Balson and Pugh voted in favour of the motion.

Nil voted against the motion.

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Report No. 13.5 **PLANNING - Report of the Planning Review Committee held 17 March 2022**

File No: I2022/232

22-116 **Resolved** that Council endorses the outcomes of the Planning Review Committee meeting held on 17 March 2022. (Lyon/Ndiaye)

PROCEDURAL MOTION

22-117 **Resolved** that Council change the order of business to deal with Reports 14.1, 13.3, and 13.6 next on the Agenda. (Lyon/Balson)

The motion was put to the vote and declared carried.

REPORTS OF COMMITTEES - INFRASTRUCTURE SERVICES

Report No. 14.1 **Report of the Local Traffic Committee Meeting held on 4 April 2022**

File No: I2022/306

In accordance with her earlier declared interest, Cr Ndiaye left the Chamber during the discussion and vote on this item.

22-118 **Resolved** that Council notes the minutes of the Local Traffic Committee Meeting held on 4 April 2022. (Westheimer/Lyon)

22-119 **Resolved** that Council adopt the following Committee Recommendations:

Report No. 6.1 2022 Bluesfest - Traffic Management Plan

File No: I2022/297

Committee Recommendation 6.1.1

1. That Council endorse the regulatory traffic management facilities and devices, including signs and traffic controller provisions proposed for the Council controlled public road network as outlined in attachments 1, 2 and 3 (E2022/29888, E2022/29889, E2022/29894) for the Byron Bay Bluesfest 2022 to be held on Thursday 14 April 2022 to Monday 18 April 2022. Subject to:
 - a) Separate approvals by NSW Police and TfNSW being obtained, noting that the event is on a state road or may impact the state road network;
 - b) The event be held through the implementation of the events Traffic Management Plan and Traffic Control Plan(s) as per attachments 1, 2 and 3 (E2022/29888, E2022/29889, E2022/29894).
 - c) The Traffic Management Plan is to include contingency measures in case the level of queuing fails to meet KPI requirements. It is noted that such queuing may be caused by the introduction of paid parking.

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- d) The Traffic Management Plan and the Traffic Control Plan(s) to be implemented by those with relevant and current TfNSW accreditation;
- e) Traffic camera data recorders or similar be used to obtain an accurate record of traffic impacts at KPI queue locations;
- f) That the impact of the event be advertised via a notice in the local weekly paper a minimum of one week prior to the operational impacts taking effect, noting it must include the event name, specifics of any traffic impacts or road closures and times, alternative route arrangements, event organiser, a personal contact name and a telephone number for all event related enquiries or complaints;
- g) Raises at the next Bluesfest regulatory working group the following matter of a review of the Traffic Management Plan for future events in terms of the 40km speed limit on Yarun Road from Grays Lane to the southern boundary to the festival site.

2. That the event organiser:

- i) advertise the impact of the event via a notice in the local weekly paper a minimum of one week prior to the operational impacts taking effect, noting it must include the event name, specifics of any traffic impacts or road closures and times, alternative route arrangements, event organiser, a personal contact name and a telephone number for all event related enquiries or complaints;
- ii) provide a copy of the advert for Council's web page;
- iii) give consideration of any submissions received;
- iv) inform community and businesses that are directly impacted (e.g. adjacent to the event) via written information which is delivered to the property in a timely manner so as to document, consider and respond to any concerns raised;
- v) arrange for private property access and egress affected by the event;
- vi) liaise with bus and taxi operators and ensuring arrangements are made for provision of services during conduct of the event;
- vii) consult with emergency services and any identified issues be addressed;
- viii) holding \$20m public liability insurance cover which is valid for the event;
- ix) paying of Council's Road Event Application Fee prior to the event.

(Westheimer/Lyon)

*The motions (22-118 and 22-119) was put to the vote and declared carried.
Cr Ndiaye was not present for the vote.*

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Report No. 13.6 **PLANNING - DA 10.2021.707.1 - Stage 1: Dwelling House, Stage 2: construction of new dwelling house and change of use of existing dwelling to a secondary dwelling**

File No: I2022/245

Moved:

That pursuant to Section 4.16 of the Environmental Planning & Assessment Act 1979, Development Application No. 10.2021.707.1 for Stage 1: New Dwelling House Stage 2: New Dwelling House and Change of Use of Existing Dwelling House to a Secondary Dwelling, be granted consent subject to the conditions of approval shown at Attachment 1 (E2022/27735) and the following condition be inserted as 8A:

8A Amended Plans

Amended plans are to be submitted with the Construction Certificate for dwelling 2 to be sited 4m off the rear boundary. Such plans are to be approved as part of the Construction Certificate. (Coorey/Dey)

- 22-122 Resolved** that pursuant to Section 4.16 of the Environmental Planning & Assessment Act 1979, Development Application No. 10.2021.707.1 for Stage 1: New Dwelling House Stage 2: New Dwelling House and Change of Use of Existing Dwelling House to a Secondary Dwelling, be granted consent subject to the conditions of approval shown at Attachment 1 (E2022/27735) (Lyon/Westheimer)

PROCEDURAL MOTION

- 22-123 Resolved** that Cr Ndiaye be granted a two minute extension to her speech. (Lyon)

The motion was put to the vote and declared carried.

The amendment was put to the vote and declared carried.

Crs Hunter, Lyon, Swivel, Westheimer and Balson voted in favour of the motion.

Crs Coorey, Ndiaye, Dey and Pugh voted against the motion.

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

Crs Coorey, Hunter, Lyon, Ndiaye, Dey, Swivel, Westheimer, Balson and Pugh voted in favour of the motion.

Nil voted against the motion.

MAYORAL MINUTE

There was no Mayoral Minute.

NOTICES OF MOTION

Notice of Motion No. 9.1 Non-compliant companion animals

File No: 12022/283

The notice of motion was deferred to the 28 April Ordinary Meeting.

Cr Coorey left the meeting at 3.23pm and did not return.

STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

PROCEDURAL MOTIONS

22-124 Resolved that Council change the order of business to deal with Report 13.4 next on the Agenda. (Lyon/Balson)

The motion was put to the vote and declared carried.

Cr Dey voted against the motion.

Cr Coorey was not present for the vote.

22-125 Resolved:

1. That pursuant to Section 10A(2)(a) refer to relevant part of Act below) of the Local Government Act, 1993, Council resolve into Confidential Session to discuss the following report, namely *Selection of community representatives for Northern Joint Regional Planning Panel*.
2. That the reasons for closing the meeting to the public to consider this item be that:
(a) personnel matters concerning particular individuals (other than councillors)
3. That on balance it is considered that receipt and discussion of the matter in open Council would be contrary to the public interest, as the nominations contain personal information. (Dey/Hunter)

The motion was put to the vote and declared carried.

Cr Coorey was not present for the vote.

22-126 Resolved that Council move into Committee to allow for free debate. (Lyon)

The motion was put to the vote and declared carried.

Cr Coorey was not present for the vote.

22-127 Resolved that Council move out of Committee and resume the Ordinary Meeting. (Lyon)

The motion was put to the vote and declared carried.

Cr Coorey was not present for the vote.

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22-128 Resolved that the meeting move out of confidential session.

(Lyon)

*The motion was put to the vote and declared carried.
Cr Coorey was not present for the vote.*

**Report No. 13.4 Selection of community representatives for Northern Joint
Regional Planning Panel**

File No: I2022/221

22-129 Resolved that Council:

1. Nominates Simon Richardson and Joe Vescio as the community members and Ian Pickles as the alternate to Joe Vescio and David Brown as the alternate to Simon Richardson for appointment to represent Council on the Northern Regional Planning Panel.
2. Notifies the Planning Panel Secretariat of the community members.
3. Thanks all nominees for their interest and time in submitting an Expression of Interest. (Dey/Ndiaye)

*The motion was put to the vote and declared carried.
Cr Coorey was not present for the vote.*

Cr Ndiaye left the meeting at 3.51pm and did not return.

STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

**Report No. 13.2 Supplementary Report - Resolution 21-221 - Report No 9.2 -
Multiple Occupancies and Rural Workers Cottages**

File No: I2022/212

22-130 Resolved that Council endorses the closure of Resolution 21-221.

(Swivel/Lyon)

*The motion was put to the vote and declared carried.
Cr Coorey and Ndiaye were not present for the vote.*

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URGENCY MOTIONS

No. 1 **Matter of Urgency - Bangalow Showgrounds s355 Committee membership**

22-131 **Resolved** that the matter of “Bangalow Showgrounds s355 Committee membership” be considered at the meeting as the committee needs to be established to continue operations. (Pugh/Dey)

*The motion was put to the vote and declared carried.
Crs Coorey and Ndiaye were not present for the vote.*

The Mayor ruled the matter of great urgency.

22-132 **Resolved** that Council appoint Heather Fenn, Michael J Omeara, Peter James Hill, Neville Barry Maloney, Murray Jonathan Hand, Jed Patterson, Heidi Oliveira, Richard Millyard, Shane Gregory Olive, Steve Jarrett and Ian Grissell to the Bangalow Showground 355 Committee. (Pugh/Dey)

*The motion was put to the vote and declared carried.
Crs Coorey and Ndiaye were not present for the vote..*

No. 2 **Matter of Urgency - Temporary Accommodation - Flood Response**

The Mayor ruled that the matter of “Temporary Accommodation – Flood Response” is not of great urgency and is to be submitted as a Notice of Motion to the 28 April Ordinary Meeting.

There being no further business the meeting concluded at 4.19pm.

I hereby certify that these are the true and correct Minutes of this Meeting
as confirmed at Council’s Ordinary Meeting on 12 May 2022.



.....
Mayor Michael Lyon