

# Minutes Ordinary Meeting

Thursday, 27 October 2022



**BYRON**  
SHIRE  
COUNCIL

# BYRON SHIRE COUNCIL

Ordinary Meeting Minutes  
27 October 2022

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<b>MINUTES OF THE BYRON SHIRE COUNCIL ORDINARY MEETING HELD ON THURSDAY, 27 OCTOBER 2022 COMMENCING AT 9.09AM AND CONCLUDING AT 1:11PM</b>
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I2022/1507

**PRESENT:** Cr M Lyon (Mayor), Cr S Balson, Cr D Dey, Cr S Ndiaye, Cr A Pugh, Cr M Swivel and Cr P Westheimer

Staff: Mark Arnold (General Manager)  
Esmeralda Davis (Director Corporate and Community Services)  
Phil Holloway (Director Infrastructure Services)  
Shannon Burt (Director Sustainable Environment and Economy)  
Ralph James (Legal Counsel)  
Heather Sills (Actin Manager Corporate Services)  
Alex Caras (Land Use Planning Coordinator) – Item 13.5  
Scott Moffett (Flooding and Drainage Engineer) – Item 9.2  
James Flockton (Infrastructure Planning Coordinator) – Item 9.2  
Chris Larkin (Manager Sustainable Development) – Item 13.7  
Amber Evans Crane (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	Via
9.2 Drainage capital works budget	For	Garry Francis Eastburn	N/A	In person
13.5 26.2021.1.1 McAuleys Lane Planning Proposal - Post Exhibition Submissions Report	For	Jack Dods	Tareeda Developments & Boreas Group	In person
	Against	Sharon McGrath	N/A	In person
14.5 Report of the Infrastructure Advisory Committee Meeting held on 7 October 2022	Against	Karl Allen	Mullumbimby Residents Association	In person

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*The meeting adjourned at 9.47am for a short break and reconvened at 10.11am.*

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## APOLOGIES

Crs Coorey and Hunter were apologies in accordance with their previously granted leave of absence, resolution numbers **22-476** and **22-548** respectively.

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## APPLICATIONS TO ATTEND BY AUDIO-VISUAL LINK

There were no applications to attend by audio-visual link.

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## REQUESTS FOR LEAVE OF ABSENCE

### PROCEDURAL MOTIONS

**22-563** **Resolved** that Cr Swivel be granted a leave of absence from the 10 November 2022 Planning Council Meeting. (Lyon/Dey)

*The motion was put to the vote and carried unanimously.*

**22-564** **Resolved** that Cr Pugh be granted a leave of absence from the 24 November 2022 Ordinary Council Meeting. (Lyon/Dey)

*The motion was put to the vote and carried unanimously.*

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## DECLARATIONS OF INTEREST – PECUNIARY AND NON-PECUNIARY

The General Manager declared a pecuniary interest in Report No. 16.1. The nature of the interest being that he is the subject of the Report on the Annual Review of Performance. The General Manager elected to leave the Chamber.

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## TABLING OF PECUNIARY INTEREST RETURNS

There were no Pecuniary Interest Returns tabled.

**ADOPTION OF MINUTES FROM PREVIOUS MEETINGS**

- 22-565 Resolved** that the minutes of the Ordinary Meeting held 29 September be confirmed.  
(Balson/Lyon)  
*The motion was put to the vote and carried unanimously.*
- 

**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. 13.5 26.2021.1.1 McAuleys Lane Planning Proposal - Post Exhibition Submissions Report

Report No. 13.7 PLANNING - Supplementary Report res 22-248 10.2021.470.1 Mullumbimby Ex Services Club at Dalley Street Mullumbimby

**REPORTS OF COMMITTEES**

**Sustainable Environment and Economy**

Report No. 14.2 Report of the Heritage Advisory Committee Meeting held on 15 September 2022

**Infrastructure Services**

Report No. 14.5 Report of the Infrastructure Advisory Committee Meeting held on 7 October 2022

Report No. 14.6 Report of the Floodplain Management Advisory Committee Meeting held on 11 October 2022

**CONFIDENTIAL REPORTS**

**General Manager**

Report No. 16.1 CONFIDENTIAL - Annual Review of GM's Performance

The remaining Recommendations and Committee Recommendation were adopted as a whole, being moved by Cr Lyon and seconded by Cr Balson. Each recommendation is recorded with a separate resolution number commencing at Resolution No. 22-566 and concluding with Resolution No. 22-584.

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## SUBMISSIONS AND GRANTS

**Report No. 11.1**      **Grants September 2022**  
**File No:**              I2022/1463

**22-566**   **Resolved** that Council notes the report and Attachment 1 (#E2022/99455) for Byron Shire Council's grant submissions as at 30 September 2022. (Lyon/Balson)

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## STAFF REPORTS - GENERAL MANAGER

**Report No. 13.1**      **Community Engagement Strategy**  
**File No:**              I2022/1469

**22-567**   **Resolved:**

1. That Council endorses the Draft Community Engagement Strategy to be placed on public exhibition for 28 days (Attachment 1 #E2022\100711).
2. That:
  - a) If no submissions are received, the Community Engagement Strategy is adopted.
  - b) If submissions are received, the Community Engagement Strategy and submissions are reported to Council for consideration, prior to adoption of the Strategy. (Lyon/Balson)

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## STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

**Report No. 13.2**      **Annual Community Awards Ceremony**  
**File No:**              I2022/1199

**22-568**   **Resolved** that Council:

1. Notes the feedback received from the community regarding replacing the Australia Day Awards ceremony with a more inclusive event at another time of year.
2. Endorses the Australia Day Awards to be replaced by a new award program, with an event to be held during Local Government Week (1-7 August).
3. Establishes a project reference group to consult with on aspects of the awards program, membership is to consist of:
  - a) A Councillor
  - b) Former Australia Day Award recipients, such as the 2022 Citizen and Young Citizen of the Year
  - c) Two randomly selected survey respondents
4. Notes guidance from the Department of Prime Minister and Cabinet regarding flying flags at Council and on Council owned buildings at half-mast. (Lyon/Balson)

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**Report No. 13.3**      **Termination of Brunswick Valley Community Centre Section  
355 Management Committee**

**File No:**                      I2022/1284

**22-569**   **Resolved** that Council rescinds adopted fees and charges as set in Council's 'Revenue Policy including Fees and Charges 2022 to 2023' for the Brunswick Valley Community Centre. (Lyon/Balson)

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**Report No. 13.4**      **Council Investments - 1 September 2022 to 30 September 2022**

**File No:**                      I2022/1397

**22-570**   **Resolved** that Council notes the report listing Council's investments and overall cash position as at 30 September 2022. (Lyon/Balson)

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## STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

**Report No. 13.6**      **Former Mullumbimby Hospital - Land Use Planning Update**

**File No:**                      I2022/1312

**22-571**   **Resolved** that Council:

1. Notes the draft Site Strategy and Urban Design Protocol (refer Attachment 1 E2022/93131) for the former Mullumbimby Hospital site as a document that will inform the next steps of planning control amendments;
2. Undertakes a pre-planning proposal community feedback period of the draft Site Strategy and Urban Design Protocol for a minimum of 14-days;
3. Receives a report on the outcomes of the community feedback period and a draft planning proposal recommending amendments to the planning controls to support the redevelopment of the site;
4. Notes that the planning proposal can only be submitted to the Department of Planning Industry and Environment after the site auditor concludes the remediation process with the issue of a formal Site Audit Statement. (Lyon/Balson)

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**STAFF REPORTS - INFRASTRUCTURE SERVICES**

**Report No. 13.8      Traffic Calming in Brandon Street, Suffolk Park**  
**File No:                      I2022/867**

**22-572      Resolved** that in relation to traffic calming in Brandon Street, Suffolk Park, Council:

1. Approves the installation of an additional road hump/cushion on Brandon Street, Council staff will seek funding for the installation of these devices following the December budget review.
2. Informs the community of the proposed road humps and locations and allow at least 28 days for members of the community to respond. (Lyon/Balson)

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**Report No. 13.9      Byron Bay Drainage Strategy**  
**File No:                      I2022/1407**

**22-573      Resolved:**

1. That Council awards the Contract 2022-1366 - Byron Bay Drainage Upgrade Design to Engeny Water Management, as identified in the tender evaluation report (Attachment 1 #E2022/90190).
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 2021. (Lyon/Balson)

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**REPORTS OF COMMITTEES - CORPORATE AND COMMUNITY SERVICES**

**Report No. 14.1      Report of the Arts and Creative Industries Advisory Committee**  
**Meeting held on 15 September 2022**  
**File No:                      I2022/1456**

**22-574      Resolved** that Council notes the minutes of the Arts and Creative Industries Advisory Committee Meeting held on 15 September 2022. (Lyon/Balson)

**22-575      Resolved** that Council adopts the following Committee Recommendations:

**Report No. 3.4 Hoop Pine Plantings acknowledging Elders**  
File No: I2022/954

Committee Recommendation 3.4.1

That the Committee:

- a) Notes the proposed project and recommends further consultation with Arakwal be undertaken.
- b) Requests staff continue to explore further funding opportunities to support this project. (Lyon/Balson)



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**REPORTS OF COMMITTEES - SUSTAINABLE ENVIRONMENT AND ECONOMY**

**Report No. 14.3 Report of the Biodiversity Advisory Committee Meeting held on 15 September 2022**

**File No:** I2022/1292

**22-576 Resolved** that Council notes the minutes of the Biodiversity Advisory Committee Meeting held on 15 September 2022. (Lyon/Balson)

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**REPORTS OF COMMITTEES – INFRASTRUCTURE SERVICES**

**Report No. 14.4 Report of the Water and Sewer Advisory Committee Meeting held on 28 September 2022**

**File No:** I2022/1415

**22-577 Resolved** that Council notes the minutes of the Water and Sewer Advisory Committee Meeting held on 28 September 2022. (Lyon/Balson)

**22-578 Resolved** that Council adopts the following Committee Recommendation:

**Report No. 3.1 Adoption of Minutes for Previous Meeting**

File No: I2022/1309

Committee Recommendation 3.1.1

That the minutes of the Water and Sewer Advisory Committee Meeting held on 18 August 2022 be confirmed. (Lyon/Balson)

**22-579 Resolved** that Council adopts the following Committee Recommendations:

**Report No. 4.1 Safe and Secure Yield**

File No: I2022/1281

Committee Recommendation 4.1.1

1. That Council:
  - a) Notes the report; and
  - b) Defers the report to next committee meeting and invite the Rous representatives to discuss regarding future water supply.
2. That the committee receives report on integrated water cycle management in the shire. (Lyon/Balson)

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**Report No. 14.7**      **Report of the Local Traffic Committee Meeting held on 11 October 2022**

**File No:**                I2022/1481

**22-580**    **Resolved** that Council notes the minutes of the Local Traffic Committee Meeting held on 11 October 2022. (Lyon/Balson)

**22-581**    **Resolved** that Council adopts the following Committee Recommendations:

**Report No. 6.1 JHR- McAuleys Lane Overbridge Repairs works- Road Closure**

File No: I2022/856

Committee Recommendation 6.1.1

That:

1. The Local Traffic Committee note the road closures of McAuley's Lane which includes the following temporary road closures dates & times below:

McAuley's Lane – Road Overbridge	<p>Construction Hours:</p> <p><b>Roster 1:</b> 0700hrs to 1700hrs from Tuesday Morning 25<sup>th</sup> October through to Tuesday Afternoon 1<sup>st</sup> November 2022. Including Saturdays &amp; Sunday ( <b>Full Rd Closures Required for 8 days</b>) Detour route Via/ TGS used prior ( Please view attached image )</p> <p>Road open (between rosters) for 6 days</p> <p><b>Roster 2:</b> 0700hrs to 1700hrs from Tuesday Morning 8<sup>th</sup> November through to Tuesday Afternoon 15<sup>th</sup> November 2022. Including Saturdays &amp; Sunday (<b>Full Rd Closures Required for 8 days</b>)</p> <p>Road open (between rosters) for 5 days</p> <p><b>Roster 3:</b> 0700hrs to 1700hrs from Tuesday Morning 22<sup>nd</sup> November through to Tuesday Afternoon 29<sup>th</sup> November 2022. Including Saturdays &amp; Sunday (<b>Full Rd Closures Required 8 days</b>)</p>
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2. The approval provided in Part 1 is subject to:

- a) implementation of the Traffic Guidance Scheme by those with appropriate TfNSW accreditation and the holding of current and appropriate levels of insurance and liability cover;

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- b) the Road closure be notified on Council's web page;
- c) That the UGL Regional Linx:
  - inform the community and businesses that are directly impacted (eg with driveway access to McAuleys within 500m of Rail over bridge via written information which is delivered to the property in a timely manner so as to document, consider and respond to any concerns raised;
  - liaising with bus, taxi and waste operators and ensuring arrangements are made for provision of services during conduct of the event;
  - consulting with emergency services and any identified issues be addressed;
  - holding \$20m public liability insurance cover which is valid for the event;
  - Road closures not occur during NSW School Holiday periods.
3. The approval extend to include the signs and devices necessary to effect the temporary road closures. (Lyon/Balson)

**22-582 Resolved** that Council adopts the following Committee Recommendation:

**Report No. 6.2 Durrumbul Pre-School Road Safety Improvements**

File No: I2022/1290

Committee Recommendation 6.2.1

That Council endorses the installation for 'No Stopping' signage to be installed as shown in the signage installation plan - Figure 3 in document I2022/1290, subject to changes as discussed. (Lyon/Balson)

**22-583 Resolved** that Council adopts the following Committee Recommendations:

**Report No. 7.1 Event - Falls Festival 2022/23**

File No: I2022/1294

Committee Recommendation 7.1.1

1. That the Local Traffic Committee support Falls Festival 2022-23 to be held from 31 December 2022 to 2 January 2023 (with campers arriving from 29<sup>th</sup> December 2022 and allowed to depart no later than 3<sup>rd</sup> January 2023).
2. That the Local Traffic Committee's support in Part 1 is subject to:
  - a) Approval from NSW Police and TfNSW respectively;
  - b) The development of a Traffic Management Plan and Traffic Control Plan(s) by those with relevant TfNSW accreditation. These plans are to be submitted to Byron Shire Council at least 2 months prior to the event for approval of traffic regulation on roads under Byron Shire control;

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- c) The Traffic Management Plan and the Traffic Control Plan to be implemented by those with relevant and current TfNSW accreditation;
  - d) The temporary 'No Stopping' where applied, including on Brunswick Valley Way and Tweed Valley Way (between Shara Boulevard and north to the Shire boundary), is implemented prior to the event and in accordance with relevant state requirements and Australian Standards;
  - e) A communications protocol be developed and maintained by those involved in the implementation of traffic management, including monitoring during the event and ability to implement contingency plans as and when directed;
  - f) Monitoring of vehicle volumes that arrive and depart the festival site and on the local road network;
  - g) The holding of an event debrief within the month following the festival which should include but not be limited to Council, TfNSW and Police.
3. The event organiser is to:
- a) 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;
  - b) provide a copy of the advert to Council for the Council website;
  - c) give consideration to any submissions received;
  - d) inform the 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. Document, consider and respond to any concerns raised;
  - e) arrange for private property access and egress affected by the event;
  - f) liaise with bus and taxi operators and ensure arrangements are made for provision of services during the event;
  - g) consult with emergency services and address any identified issues;
  - h) hold \$20m public liability insurance cover which is valid for the event; and
  - i) pay Council's Road Event Application Fee and Local Traffic Committee Fee prior to the event.
4. The approval extend to include the signs and devices necessary to effect the changed traffic conditions. (Lyon/Balson)

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**22-584 Resolved** that Council adopts the following Committee Recommendations:

**Report No. 7.2 DA10.2022.372.1 - North Byron Hotel Traffic Management Plan -  
Byron Bay Craft Beer and Cider Festival/ Caper Event**

File No: I2022/1338

Committee Recommendation 7.2.1

1. That Council endorses the submitted Traffic Management Plan and Traffic Guidance Scheme for the Byron Bay Craft Beer and Cider Festival/ Caper Byron Festival at the North Byron Hotel on 11 – 13 November 2022.
2. That the approval is subject to:
  - a) Separate approvals by NSW Police and Transport for NSW being obtained.
  - b) The Traffic Management Plan be amended to document, the persons who are authorised to change the TGS on the day for unforeseen circumstances.
  - c) The Traffic Guidance Scheme to be implemented by those with relevant and current Transport for NSW accreditation.
3. That the event organiser must:
  - a. 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. The notification 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,
  - b. Notify the public of event details on Council's webpage. Details to be supplied to Council by the event organisers,
  - c. Undertake consultation with community and affected businesses including adequate response/action to any concerns raised,
  - d. Undertake consultation with emergency services and any identified issues addressed,
  - e. Hold \$20m public liability insurance cover which is valid for the event.
4. The approval extend to include the signs and devices necessary to effect the changed traffic conditions. (Lyon/Balson)

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## PROCEDURAL MOTION

- 22-585 Resolved** that Council change the order of business to deal with Reports 9.2, 13.5, and 14.5 next on the Agenda. (Lyon)

*The motion was put to the vote and carried unanimously.*

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## NOTICES OF MOTION

**Notice of Motion No. 9.2 Drainage capital works budget**  
File No: I2022/1448

- 22-586 Resolved** that Council:

1. Recognises the lack of overland flow routes in many of the Shire's urban areas, often served only by underground pipes to carry local stormwater.
2. Recognises the underground pipes generally carry 2-year to 5-year ARI stormwater flows and that excess stormwater often has to find its way through the area with no defined flow route.
3. Recognises that such overland flow routes sometimes cross public spaces that could be reshaped to better carry such stormwater, resulting in less flooding.
4. Notes that our annual budget for Drainage Capital Works is currently \$1,524,000, including \$306,000 sourced from the annual Stormwater Levy.
5. Considers, through this year's September Budget Review, adding \$300,000 to Drainage Capital Works and notes this may have to come from other important activities.
6. Receives a report on the drainage capital works and drainage maintenance programs by February 2023. (Dey/Balson)

*The motion was put to the vote and carried unanimously.*

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## STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

**Report No. 13.5 26.2021.1.1 McAuleys Lane Planning Proposal - Post Exhibition Submissions Report**

File No: I2022/1185

- 22-587 Resolved** that Council:

1. Amends the exhibited Planning Proposal (Attachment 1 E2022/78774) to:
  - a) Identify the entire site on the Byron LEP 2014 Multiple Occupancy / Community Title Map, with a maximum yield of 39 neighbourhood community title lots; and
  - b) Maintain the existing 40ha Minimum Lot Size for the entire site.
2. Amends the exhibited Planning Agreement (Attachment 6 E2022/85916) to:
  - a) Refer to the updated version of the Traffic Impact Assessment (Attachment 4 E2022/98532); and

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- b) Note that further safety considerations are to be addressed at the detailed design stage including:
- i. the safety and infrastructure of McAuleys Lane west of the property entrance;
  - ii. reducing the speed limit on Mullumbimby Road;
  - iii. a roundabout on Mullumbimby Road at the intersection of McAuleys Lane;
  - iv. enough space on the verge to allow safe bike riders and safe pedestrian crossing from the north side of Mullumbimby Road to the southern side;
  - v. safe bus stops on each side of the road and enough space on the verge to allow safe bike riders; and
  - vi. ensuring safe pedestrian crossing from the north side of Mullumbimby Road to the southern side in the vicinity of the bus stop zone.
3. Forwards the amended Planning Proposal and supporting information to the NSW Department of Planning & Environment and requests finalisation of the plan.
4. Undertakes a further legal review of the Planning Agreement and administer the registration of the Agreement.
5. Notes the buffer and set back considerations may reduce the lot numbers.  
(Westheimer/Dey)

### PROCEDURAL MOTION

- 22-588 Resolved** that Cr Westheimer be granted a one and a half minute extension to his speech. (Lyon)  
*The motion was put to the vote and carried unanimously.*

*The motion (Westheimer/Dey) was put to the vote and carried unanimously.  
Crs Dey, Swivel, Ndiaye, Lyon, Westheimer, Balson and Pugh voted in favour of the motion.  
Nil voted against the motion.*

**REPORTS OF COMMITTEES - INFRASTRUCTURE SERVICES**

**Report No. 14.5**      **Report of the Infrastructure Advisory Committee Meeting held on 7 October 2022**

**File No:**                I2022/1452

**22-589**   **Resolved** that Council notes the minutes of the Infrastructure Advisory Committee Meeting held on 7 October 2022. (Ndiaye/Lyon)

**22-590**   **Resolved** that Council adopts the following Committee Recommendation:

**Report No. 3.1 Adoption of Minutes from Previous Meeting**

File No: I2022/1334

Committee Recommendation 3.1.1

That the minutes of the Infrastructure Advisory Committee Meeting held on 16 June 2022 be confirmed. (Ndiaye/Lyon)

**22-591**   **Resolved** that with respect to Committee Recommendation 4.1.1, Council moves as follows:

1. Notes the Draft Mullumbimby Traffic and Transport Report (E2022/90532) as tabled at the Infrastructure Advisory Committee on 7 October 2022;
2. Defers consideration of the recommendations of the report and asks for a spot at the next available Councillor Workshop to consider matters raised by the community in relation to the Draft Report; and
3. Receives a further report following the Workshop. (Ndiaye/Lyon)

**22-592**   **Resolved** that Council adopts the following Committee Recommendations:

**Report No. 4.2 Application of Road Access and Safety Principles**

File No: I2022/865

Committee Recommendation 4.2.1

The Infrastructure Advisory Committee recommend that Council:

1. Places the Draft Road Access and Safety Principles Policy (attachment 1 of Report 4.2 to Floodplain Management Advisory Committee Agenda E2021/47301) on public exhibition in accordance with Council policy.
2. Supports development of the Road Access and Safety Principles through a Road Safety Plan that is prepared once the Byron Integrated Transport Strategy (Moving Byron) is formally adopted (Ndiaye/Lyon)



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**22-593 Resolved** that Council adopts the following Committee Recommendations:

**Report No. 4.3 Paterson Street Road Safety Concerns Petition**

File No: I2022/864

Committee Recommendation 4.3.1

That Council investigates a footpath linking the existing BB022 shared footpath on Massinger Street, between Lawson Street and Marvel Street extending to Bangalow Road via Paterson Street as part of a future review of footpaths and priorities in Council's Pedestrian Access and Mobility Plan. (Ndiaye/Lyon)

**22-594 Resolved** that Council adopts the following Committee Recommendations:

**Report No. 4.4 Belongil Parking Scheme Review - New Parking limits**

File No: I2022/1222

Committee Recommendation 4.4.1

That Council supports, subject to Local Traffic Committee approval, the proposed short and long term actions for Belongil Beach on Childe Street, Kendall Street and Border Street included in the attached drawings (attachment 1 of Report 4.4 to Floodplain Management Advisory Committee Agenda - E2022/89910). (Ndiaye/Lyon)

*The motions (22-589 to 22-594) were put to the vote and declared carried unanimously.*

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## MAYORAL MINUTE

**Mayoral Minute No. 8.1 State imposed land use planning changes for agritourism**

File No: I2022/1485

**22-595 Resolved** that Council:

1. Urgently and strongly confirms to the NSW Department of Planning and Environment, that Byron Shire Council:
  - a) 'Opts out' of the new provisions for agritourism and associated land uses until such time as we conduct our own review of where the provisions/ clauses could be appropriate;
  - b) Reaffirms its earlier resolutions 21-203 and 22-065;
  - c) Objects to the land use terms 'Agritourism', 'Farm experience premises' and 'Farm gate premises' and 'Farm Stay accommodation' being made permissible with consent anywhere in our LEPs at this stage;
2. Receives a short report as soon as practical on the agritourism related land use planning changes being considered/pursued by the NSW Government following a

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meeting with the DPE.

(Lyon)

*The motion was put to the vote and carried unanimously.*

**NOTICES OF MOTION**

**Notice of Motion No. 9.1 Civil Engineer Mentoring**  
**File No:** I2022/1447

**22-596 Resolved** that Council:

1. Recognises a shortage of Civil Engineers to design and to supervise construction of works required within Byron Shire, as in neighbouring Shires, for flood recovery and especially for betterment of public infrastructure to withstand future impacts of natural forces (sometimes labelled a 'natural disaster').
2. Considers during November harnessing local Civil Engineers whether retired or practising to help fill this gap by collaborating with Council-employed Engineers, on conditions that could include the following:
  - a) they be "members" or better of the Institution of Engineers Australia, including retired members;
  - b) they act as mentors of Council's own Engineers; and
  - c) Council provides support in relation to liabilities etc such that the mentor's contribution, while voluntary, is at no cost to themselves.
3. Makes contact with such engineers through networks including qualified members of Council's Advisory Committees and via the local chapter of I E Australia.

(Dey/Lyon)

*The motion was put to the vote and carried unanimously.*

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**PETITIONS**

There were no petitions.

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**DELEGATES' REPORTS**

Cr Dey gave a delegates report on the Durrumbul Hall Section 355 Committee including the issues around fixed fees for hire of the Hall.

Cr Ndiaye gave a delegates report of the After Disaster Event on the night of Wednesday 27 October 2022.

Cr Ndiaye gave a delegates report on the 2022 LGNSW Conference held from 23 – 26 October 2022 including that a number of motions put forward by Council had been moved.

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**STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY**

**Report No. 13.7**      **PLANNING - Supplementary Report res 22-248 10.2021.470.1**  
**Mullumbimby Ex Services Club at Dalley Street Mullumbimby**  
**File No:**              I2022/1315

**22-597 Resolved:**

1. That Council considers the written offer signed by the Mullumbimby Ex Services Club pursuant to S7.7 (3) of the Environmental Planning and Assessment Act for a specified dollar (\$) amount of \$54,499.66 in lieu of 6.30 on site car spaces @ \$ 8,650.74 per space in accordance with Byron DCP 2014 Chapter B4 Traffic Planning, Vehicle Parking, Circulation and Access - Section B4.2.10 Monetary Contributions.
2. That Pursuant to Section 4.16 of the Environmental Planning & Assessment Act 1979, Development Application No. 10.2021.470.1 for Alterations and Additions to the Mullumbimby Ex-Services Club Ltd, be granted consent subject to the conditions of approval attached to this report with one modification which is the removal of option B from condition 12 and deletes condition 39. (Dey/Lyon)

*The motion was put to the vote and carried unanimously.*

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

*Nil voted against the motion..*

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**REPORTS OF COMMITTEES - SUSTAINABLE ENVIRONMENT AND ECONOMY**

**Report No. 14.2**      **Report of the Heritage Advisory Committee Meeting held on 15**  
**September 2022**  
**File No:**              I2022/1279

**22-598 Resolved** that Council notes the minutes of the Heritage Advisory Committee Meeting held on 15 September 2022. (Balson/Ndiaye)

**22-599 Resolved** that Council adopts the following Committee Recommendations:

**Report No. 3.1 Heritage Program Update**  
File No: I2022/1084

Committee Recommendation 3.1.1

That the Heritage Advisory Committee:

1. Notes the heritage program update report.
2. Supports a report being prepared to Council to progress a Planning Proposal for the following six properties to be included into the Byron LEP 2014:
  - 7 Leslie Street, Bangalow

# BYRON SHIRE COUNCIL

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- Carabene Ewingsdale Road Ewingsdale
- 40 Cowper Street, Byron Bay
- Robinson Subdivision and group of cottages Lismore Road, Bangalow
- Longfield, 175 Wilsons Creek Road, Mullumbimby
- 221 Coolamon Scenic Drive, Coorabell (Balson/Ndiaye)

*The motion was put to the vote and carried unanimously.*

**22-600 Resolved** that Council adopts the following Committee Recommendations:

**Report No. 3.3 Heritage colours**

File No: I2022/1088

Committee Recommendation 3.3.1

That the Heritage Advisory Committee:

1. Notes the staff report on heritage colours and provides feedback on Byron Development Control Plan 2014 Chapter C1.4.5 Colours.
2. Requests Council to clarify the existing preferred heritage colour range and conduct community consultation in reference to Council resolution 22-455 point 3. (Balson/Ndiaye)

*The motions (22-598 to 22-600) were put to the vote and carried unanimously.*

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## REPORTS OF COMMITTEES - INFRASTRUCTURE SERVICES

**Report No. 14.6 Report of the Floodplain Management Advisory Committee Meeting held on 11 October 2022**

**File No:** I2022/1478

**22-601 Resolved** that Council notes the minutes of the Floodplain Management Advisory Committee Meeting held on 11 October 2022. (Dey/Balson)

**22-602 Resolved** that Council adopt the following Committee Recommendation:

**Report No. 3.1 Adoption of Minutes from Previous Meeting**

File No: I2022/1399

Committee Recommendation 3.1.1

That the minutes of the Floodplain Management Advisory Committee Meeting held on 16 June 2022 be confirmed. (Dey/Balson)

# BYRON SHIRE COUNCIL

ORDINARY MEETING MINUTES

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**22-603 Resolved** that Council adopt the following Committee Recommendations:

**Report No. 4.1 Report in response to Res 22-461 Outcome of NSW Flood Inquiries**

File No: I2022/1260

Committee Recommendation 4.1.1

1. That the Committee notes the recommendations of the two NSW Flood Inquiry reports and that staff have commenced work to identify relevant actions to be pursued through Local, State and Federal avenues.
2. That Council support staff also working to support the following recommendations of the Parliamentary Inquiry:
  - a) Recommendation 10 - Work with the community broadcasting sector to identify ways in which community broadcasters could be better supported to provide critical services during natural disasters, with a view to providing them adequate long term funding.
  - b) Recommendation 15 - . Ensure that the current review of evacuation centres considers the role, accreditation and support of community evacuation centres, with the outcomes of this review to be made public and incorporated into the update of state emergency plans.
  - c) Recommendation 19 - Establish a standing workforce from within the public service to staff evacuation and recovery centres, with this workforce to be trained ahead of time and mobilised as soon as a natural disaster occurs.

(Dey/Balson)

**22-604 Resolved** that Council adopts the following Committee Recommendations:

**Report No. 4.2 Resolution 22-360 - Decreasing risk on the Shire's floodplain**

File No: I2022/1100

Committee Recommendation 4.2.1

That the Floodplain Management Advisory Committee:

1. Notes the report on Resolution 22-360 and that Council staff continue to undertake technical work and receive reports from various sources to assist our community's flood event recovery and reconstruction actions.
2. Notes that updates to the Committee and Council will be provided periodically on this work.

(Dey/Balson)

# BYRON SHIRE COUNCIL

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**22-605 Resolved** that Council adopts the following Committee Recommendation:

**Report No. 4.3 Flood Levee Repair and Maintenance Program-Department Regional NSW**

File No: I2022/1256

Committee Recommendation 4.3.1

The Floodplain Management Advisory Committee recommends that Council note the current Flood Levee Repair and Maintenance Program-Department Regional NSW.

(Dey/Balson)

**22-606 Resolved** that Council adopts the following Committee Recommendation:

**Report No. 4.4 Byron Shire Post 2022 Flood Analysis Update**

File No: I2022/1261

Committee Recommendation 4.4.1

That the Floodplain Management Advisory Committee recommends that Council note the report and further report be presented at the next Floodplain Management Advisory Committee meeting.

(Dey/Balson)

**22-607 Resolved** that Council adopts the following Committee Recommendation:

**Report No. 4.5 Capricornia Canal and Marshalls Creek**

File No: I2022/1262

Committee Recommendation 4.5.1

That Council notes that the actions proposed in Attachment 2 to the report 4.5 of Floodplain Management Advisory Committee Agenda (E2022/70063) will be completed prior to Council further considering the funding and completion of the scope of works provided in Attachment 1 to the report 4.5 of Floodplain Management Advisory Committee Agenda (E2022/77663).

(Dey/Balson)

**22-608 Resolved** that Council adopts the following Committee Recommendations:

**Report No. 4.6 Byron Bay Drainage Upgrade Project**

File No: I2022/1263

Committee Recommendation 4.6.1

That the Floodplain Management Advisory Committee recommend that Council:

1. Notes the current progress of the Byron Bay Drainage Strategy.
2. Support the project team in commencing development of a Communications Plan with Council's Communications Team.

(Dey/Balson)

# BYRON SHIRE COUNCIL

ORDINARY MEETING MINUTES

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**22-609 Resolved** that Council adopts the following Committee Recommendation as amended:

**Report No. 4.7 Byron Shire Council Flood Risk Management Plan-Actions and Accomplishments**

File No: I2022/1264

Recommendation 4.7.1

That Council endorses the updated Byron Shire Council Flood Mitigation Program (E2022/89966 which was Attachment 1 to report 4.7 of Floodplain Management Advisory Committee Agenda for 11 October) and make that priority listing of projects public and searchable via keywords like "Byron Shire Flood Mitigation Program". (Dey/Balson)

*The motions (22-601 to 22-609) were put to the vote and carried unanimously.*

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## CONFIDENTIAL REPORTS - GENERAL MANAGER

**Report No. 16.1 CONFIDENTIAL - Annual Review of GM's Performance**

**File No:** I2022/1400

**22-610 Resolved:**

1. That pursuant to Section 10A(2)(a) of the Local Government Act, 1993, Council resolve to move into Confidential Session to discuss the report Annual Review of GM's Performance.
2. That the reasons for closing the meeting to the public to consider this item be that the report contains:
  - 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 report contains confidential information about performance. (Lyon/Ndiaye)

*The motion was put to the vote and carried unanimously.*

**22-611 Resolved:**

1. That Council notes the findings and endorses recommendations from the performance review panel with respect to the annual performance review for the General Manager contained in Attachment 1 (E2022/97969).
2. That Council endorses the 2022/2023 Performance Agreement for the General Manager contained in Attachment 2 (E2022/97833).
3. That Council offers a new contract of employment to the existing General Manager.
4. That Council delegates to the Mayor authority, following consultation with Councillors, to enter into a contract of employment on Council's behalf with the existing General Manager with the contract commencing on 2 July 2023.



# BYRON SHIRE COUNCIL

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(Lyon/Ndiaye)

*The motion was put to the vote and carried unanimously.*

## PROCEDURAL MOTIONS

**22-612 Resolved:**

That Council move into Committee to allow for free debate. (Lyon)

*The motion was put to the vote and carried unanimously.*

**22-613 Resolved** that Council move out of Committee and resume the Ordinary Meeting.

(Lyon/Ndiaye)

*The motion was put to the vote and carried unanimously.*

**22-614 Resolved** that the meeting move out of confidential session.

(Lyon)

*The motion was put to the vote and carried unanimously.*

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## MAYORAL MINUTE

**No. 8.2 Waiving of Fees for Durrumbul Hall - The Health Clinic Project**

**22-615 Resolved** that Council:

1. Waives the fees associated with the hire of the Durrumbul Hall on the 20th and 27th November for The Health Clinic Project to provide free health services to flood affected communities including naturopathy, massage therapy, chiropractic and osteopathic treatment, and counselling services.
2. Investigates options for amending Council's fees and charges to include reduced hall hire fees for charitable organisations, including establishing relevant eligibility criteria.
3. Requests a further report outlining options for point (2) (Lyon)

*The motion was put to the vote and carried unanimously.*

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*There being no further business the meeting concluded at 1:11PM.*

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**BYRON SHIRE COUNCIL**

ORDINARY MEETING MINUTES

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I hereby certify that these are the true and correct Minutes of this Meeting  
as confirmed at Council's Ordinary Meeting on 24 November 2022.



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Mayor Michael Lyon