



Byron Shire Council



Minutes

Ordinary Meeting

Thursday, 26 March 2020

BYRON SHIRE COUNCIL

Ordinary Meeting Minutes
26 March 2020

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MINUTES OF THE BYRON SHIRE COUNCIL ORDINARY MEETING HELD ON THURSDAY, 26 MARCH 2020 COMMENCING AT 9:06AM AND CONCLUDING AT 1:45PM.

12020/435

PRESENT: Cr S Richardson (Mayor), Cr B Cameron, Cr C Coorey, Cr A Hunter, Cr J Martin, 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:

Report No and Title	For/Against	Name	Representing Organisation	Presentation format
9.4	For	Lydia Kindred	Trains on our Tracks and Northern Rivers Action Group	Read by Director Corporate and Community Services
		John Anderson		In person
13.2	Against	Cathryn Mooney		In person
13.7	For	Lousie O'Connell	Byron Community Centre Association	Read by Director Corporate and Community Services
13.13	Against	John Anderson		In person

Submissions

Subject	Name	Representing Organisation	Presentation format
COVID-19 – provisions for staff of Byron Shire Council during pandemic	Asren Pugh		Read by Director Corporate and Community Services

Questions No. 1 – Scarrabalotties Lookout

John Anderson asked the following question:

The staff report to item 13.2 of the Agenda for the Ordinary (Planning) Meeting of 19 March 2020 (a proposal to use Scarrabalottis Lookout as an access and parking area for a proposed restaurant next door):

- 1. Failed to describe the history of the site as one that was publicly donated*
- 2. Failed to provide a legible aerial view of the neighbouring lot showing the location of the proposed restaurant close to a boundary*
- 3. Failed to provide a landscaping plan of the lookout site*
- 4. Failed to clarify whether it was the applicant or Council which would pay for turning lands on Coorabell Road*
- 5. Failed to refer to the constraints imposed by the relevant scenic escarpment zoning of both sites*
- 6. Referred at length to the 2014 DCP despite admitting that it did not apply*
- 7. Made irrelevant, unworkable, and prejudicial suggestions that approval of the project would solve compliance issues regarding the lookout site*
- 8. Defied bushfire statute by imposing a consent condition that permitted zero buffer and setback within the property*

In sum, could hardly have been more favourable to the proposal had it been written by the applicants themselves. What steps will the General Manager take to Council the responsible staff members and to ensure that such sloppy reports to not occur in the future?

The General Manager took the question on notice.

APOLOGIES

PROCEDURAL MOTION

- 20-111 Resolved** that apologies from Cr Hackett and Lyon be accepted and a leave of absence granted. (Richardson/Spooner)

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

- 20-112 Resolved** that the minutes of the Ordinary Meeting held 27 February 2020 be confirmed.
(Hunter/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 Sandhills Skate Park and Recreation Hub
Report No. 13.4 Agreement for lease - Council and TAFE NSW

Corporate and Community Services

- Report No. 13.5 Section 355 Management Committee matters
Report No. 13.6 Australia Day 2020 Review and Future Planning
Report No. 13.7 Proposed establishment of homelessness hub
Report No. 13.10 New Year's Eve Review

Sustainable Environment and Economy

- Report No. 13.11 Policy Review - Community Gardens Policy and Introduction of Guidelines

Infrastructure Services

- Report No. 13.13 Byron Bay Bypass - Environmental Compensation Options over and above project requirements
Report No. 13.14 Adoption of Water Sensitive Urban Design Policy and Strategy

REPORTS OF COMMITTEES

Corporate and Community Services

- Report No. 14.1 Report of the Arakwal Memorandum of Understanding Advisory Committee Meeting held on 9 March 2020

The remaining Recommendations and Committee Recommendation were adopted as a whole, being moved by Cr Richardson and seconded by Cr Ndiaye. Each recommendation is recorded with a separate resolution number commencing at Resolution No. 20-113 and concluding with Resolution No. 20-123 .

SUBMISSIONS AND GRANTS

- Report No. 11.1 Submissions and Grants Report for March 2020**
File No: I2020/363

- 20-113 Resolved** that Council notes the report and Attachment 1 (E2020/15683) for the Byron Shire Council Submissions and Grants as at 3 March 2020.
(Richardson/Ndiaye)

STAFF REPORTS - GENERAL MANAGER

Report No. 13.1 **Sub-license to the Trustee for the Mclvor Family Trust trading as The Ranch Byron Bay for access through Crown land**
File No: I2020/5

20-114 Resolved:

1. That Council authorises the General Manager to grant a sub-licence to The Trustee for the Mclvor Family Trust trading as The Ranch Byron Bay for a term of six (6) months for the purpose of access through Lot 428 DP 729272 being Crown Reserve R82780 on condition that:
 - a) The Ranch Byron Bay holds a current permit with the Cape Byron Marine Park for the term of the sub-licence; and
 - b) The Ranch Byron Bay takes all steps necessary to ensure that all horse droppings are removed from the sub-licensed area during and at the end of each access session.
 2. That sub-licence fees for the term be set at half the annual Sub-licence Beach Access Commercial Horse Riding fee as set in Council's current Fees and Charges.

(Richardson/Ndiaye)
-

Report No. 13.3 **Extension of Free Parking Area Agreement**
File No: I2020/374

- 20-115 Resolved** that Council delegates to the General Manager the authority to negotiate and enter a Free Parking Area Agreement with the landowner of the property at 90-96 Jonson Street Byron Bay.

(Richardson/Ndiaye)
-

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

Report No. 13.8 **Investments - 1 February 2020 to 29 February 2020**
File No: I2020/319

- 20-116 Resolved** that the report listing Council's investments and overall cash position as at 29 February 2020 be noted.

(Richardson/Ndiaye)
-

Report No. 13.9 **Disaster Resilience Project Proposal**
File No: I2020/332

- 20-117 Resolved** that Council endorses the Commonwealth Government: Byron Shire Disaster Project program for \$1,200,000 and the State Government: Community Resilience and Economic Recovery Fund Program for \$100,000 as detailed in the Financial Implications section of this Report.

(Richardson/Ndiaye)

STAFF REPORTS - INFRASTRUCTURE SERVICES

Report No. 13.12 **Butler Street Sound Wall Options**
File No: I2020/239

- 20-118 Resolved** that the colour palette for the sound wall being constructed on the new section of Butler Street, Byron Bay be endorsed as Option 5 – Wetland Palette Combined. (Richardson/Ndiaye)
-

REPORTS OF COMMITTEES - SUSTAINABLE ENVIRONMENT AND ECONOMY

Report No. 14.2 **Report of the Biodiversity Advisory Committee Meeting held on 11 November 2019**
File No: I2020/36

- 20-119 Resolved** that Council note the minutes of the Biodiversity Advisory Committee Meeting held on 11 November 2019. (Richardson/Ndiaye)

- 20-120 Resolved** that Council adopt the following Committee Recommendation(s):

Report No. 4.3 Brunswick Valley Landcare Support Officer report September 2019
File No: I2019/1817

Committee Recommendation 4.3.1

1. That the Biodiversity Advisory Committee note the report.
 2. That Council staff investigate and update the Committee about approvals and resources required to remove taro infestation from Saltwater Creek, and follow up with Tamara Smith's office regarding funding. (Richardson/Ndiaye)
-

Report No. 14.3 **Report of the Biodiversity Advisory Committee Meeting held on 10 February 2020**
File No: I2020/338

- 20-121 Resolved** that Council note the minutes of the Biodiversity Advisory Committee Meeting held on 10 February 2020. (Richardson/Ndiaye)

- 20-122 Resolved:**

Report No. 4.3 Minutes of previous meeting held 11 November 2019
File No: I2020/40

Committee Recommendation:

1. That the Biodiversity Advisory Committee note the minutes of the 11 November 2019 meeting.
2. The Biodiversity Advisory Committee recommend that staff liaise with local universities and landholders to find out what research and information pertaining to the Mitchell Rainforest Snail exists and how we can work together. (Richardson/Ndiaye)

- b) Writes to owners of backpacker hostels supporting the instructions by police for ensuring information on COVID 19 is readily shared and social gatherings are minimised and social distancing actively practised.
 - c) Supports the swift transition of backpacker workers currently in Byron Shire to agriculture areas for much needed seasonal employment and that Council's Sustainable Agricultural Officer explore opportunities to connect backpackers seeking work with farmers seeking workers
 - d) Notes with great concern and disappointment the recent promotion of Byron Shire as an attractive place to 'self isolate' by Air Bnb and other STHL properties and seek the support from Air BnB and Stayz and other platforms to remove this promotional messaging. That this concern also be conveyed to the Federal and NSW Ministers of Tourism.
 - e) Support the Federal Government recommendation to not travel for non essential reasons as Byron Shire does not need nor wish to receive visitors at this time
4. In regards to supporting the wider resilience of the community:
- a) Supports the expansion of current regular farmers markets to other days and the establishment of new food share/market/swap activities if requested.
 - b) Notes the current draft Byron Shire Community Gardens policy soon to be placed on public exhibition also include the calling for expressions of interest proposals for the establishment of new community gardens.
 - c) Notes the current lack of delivery services of supermarket and other items and seeks staff to review opportunities for our staff to provide delivery services to our most vulnerable.
 - d) Supports the use of certain locations (on council owned and or managed land) for class 2 mobile vendors to operate weekly subject to a formal booking through council. Some possible locations that have been identified for consideration in the Commercial Activities on Road Reserves Policy are as follows:
 - Wategos Beach (1 location);
 - Denning Park (1 location); and
 - Brunswick Heads (2 locations).
5. To support individuals and businesses who may be experiencing hardship as a result of the COVID-19 pandemic:
- a) Promote Council's Debt Management and Financial Hardship Assistance Policy and support people who are having difficulty paying to make payment arrangements under this policy;
 - b) Amend the Debt Management and Financial Hardship Assistance Policy to include application to businesses within Byron Shire for the duration of the COVID-19 pandemic;
 - c) Encourage cashless payment methods by suspending relevant merchant surcharge;
 - d) Waive the hall booking cancellation fee and provide full refunds to local groups and local businesses who cancel for the duration of the pandemic;
 - e) Explore the feasibility of a 'freeze' of fees and charges for next financial year.
6. In light of the fact that many parents have elected to keep their children home during the COVID-19 pandemic and are still being charged fees:
- a) That all families currently enrolled in Council's Children's Services including long day care services and Outside of School Hour Care Service (OSHC) be granted a 50% reduction in gap fees for services effective from 23 March 2020 for a 1 month period, regardless of whether their child/ren is attending.
 - b) This arrangement be reviewed at the end of the month period with an opportunity to be extended
 - c) That children services staff support families experiencing financial hardship to access government provisions

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7. Adopts the standards continued in the *LGNSW Joint Statement (Revised): Responding to the Coronavirus (COVID-19 Pandemic)* that provides guidance to Local Government employers and employees on how to respond to the COVID-19 pandemic. (Richardson)

The motion was put to the vote and declared carried.

PROCEDURAL MOTIONS

- 20-125 Resolved** that Council move into Committee to allow for free debate. (Spooner/Ndiaye)

The motion was put to the vote and declared carried.

- 20-126 Resolved** that Council move out of Committee and resume the Ordinary Meeting. (Richardson/Ndiaye)

The motion was put to the vote and declared carried.

The meeting adjourned at 10:20am for a break and reconvened at 11:06am.

NOTICES OF MOTION

Notice of Motion No. 9.4 Mullumbimby-Byron Bay Rail Link
File No: I2020/407

- 20-127 Resolved** that Council:

1. Commence planning for a rail link connecting Mullumbimby and Byron Bay as part of a multi use activation of the rail corridor.
2. Incorporate the project as a key element of the draft Integrated Transport Strategy, which is supported by Park and Ride and other measures to promote active and public transport development within the Strategy.
3. Prepare an economic and social business plan including development of a governance framework to support the project.
4. Provide notice of the intention to establish a rail link to Infrastructure Australia, Infrastructure NSW, TfNSW and other relevant agencies to seek advice on funding criteria and project development.
5. Investigate Federal, NSW and other funding bodies to identify funding sources including, but not limited to tourism, infrastructure, transport and climate change mitigation/adaption grants with a priority focus on funding vegetation removal within the rail corridor.
6. Actively seek expressions of interest from potential operators interested in providing commuter shuttle and visitor oriented services.
7. Seek support including funding through Federal and NSW Ministers for Transport, Hon. Tamara Smith MP, Hon. Ben Franklin MLC and Hon. Justine Elliot MP.
8. Receive six monthly reports on progress.
9. The business plan be included in the 20/21 Operational Plan, forward Delivery Plans and draft budget.

- 10. Item 2 above be funded from the existing Integrated Transport Strategy budget.
- 11. Implement Actions 4, 5, 7 and 8 immediately and include as part of a rail link project in the 20/21 Operational Plan and forward Delivery Plans that includes item 6 above as an action as well as consideration of a budget for project management. (Cameron/Richardson)

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

PROCEDURAL MOTIONS

- 20-128 Resolved** that Cr Cameron be granted a two minute extension to his speech. (Richardson/Ndiaye)
The motion was put to the vote and declared carried.
 - 20-129 Resolved** that Cr Spooner be granted a two minute extension to his speech. (Richardson/Ndiaye)
The motion was put to the vote and declared carried.
 - 20-130 Resolved** that Cr Richardson be granted a two minute extension to his speech. (Richardson/Coorey)
The motion was put to the vote and declared carried.
-

STAFF REPORTS - GENERAL MANAGER

Report No. 13.2 Sandhills Skate Park and Recreation Hub
File No: I2020/187

- 20-131 Resolved:**
 - 1. That Council endorse the concept plans identified for Sandhills Estate Skate Park and Recreation Hub (Attachment 1 – E2020/10834) ensuring noise attenuation, light spillage mitigation and crime prevention through environmental design principles are included in the designs.
 - 2. That Council proceed to detailed design for Stage 1 works with a further report at design completion and prior to construction and continue to consult the immediate neighbours and other stakeholders during this process. (Spooner/Richardson)

The motion was put to the vote and declared carried.

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

Report No. 13.7 Proposed establishment of homelessness hub
File No: I2020/98

- 20-132 Resolved:**
 - 1. That Council:
 - a) terminates its lease with the current tenant of 18 Fletcher St for the purpose of establishing a homelessness services hub, and
 - b) seeks expressions of interest from potential homelessness hub anchor tenants to

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establish a 3 year lease with the option of a 2 year renewal period.

2. That Council uses the legislated minimum Crown lease amount, currently \$539 per annum, to guide the lease amount for 18 Fletcher St.
3. That the forgone rental revenue from 18 Fletcher St be covered either:
 - a) via a dividend or community service obligation contribution by the Water Fund on annual basis; OR
 - b) be identified from General Fund revenue in the community services area on an annual basis. (Richardson/Ndiaye)

The motion was put to the vote and declared carried.

STAFF REPORTS - INFRASTRUCTURE SERVICES

Report No. 13.13 **Byron Bay Bypass - Environmental Compensation Options over and above project requirements**

File No: I2020/336

20-133 Resolved:

1. That Council complete bush regeneration works on the Sunrise Boulevard Bushland, Butler Street Reserve Bushland and Midgen Swamp sites with proposed funding of \$81,700 in the 2020/21 budget.
2. That the cost of these environmental compensation works be factored into Council's Long Term Financial Plan as indicated in the report over the next five financial years. (Richardson/Ndiaye)

The motion was put to the vote and declared carried.

NOTICES OF MOTION

Notice of Motion No. 9.1 **Managing Wildlife and Cats**

File No: I2020/398

20-134 Resolved:

1. That Council develops a campaign for responsible cat ownership that:
 - a) Promotes the protection of the Shire's biodiversity;
 - b) Promotes keeping cats contained on owners' properties; and
 - c) Works with cat owners to provide information about the benefits of keeping cats at home for their own safety and the safety of native wildlife.
 - d) Promotes a voluntary night time cat curfew in our community.
2. That Council writes to the Minister for Local Government, advocating for the Companion Animals Act to be amended to include measures that cats be treated the same as dogs, with cat owners being required to keep their animals under their control in public places. (Coorey/Ndiaye)

The motion was put to the vote and declared carried.

PROCEDURAL MOTION

20-135 Resolved that Cr Coorey be granted a two minute extension to her speech. (Richardson/Ndiaye)

The motion was put to the vote and declared carried.

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Petition No. 10.2 **Safety Measures and Access for Residents who live along and adjacent to Bangalow Road Byron Bay**
File No: I2020/334

20-139 Resolved:

1. That the petition regarding pedestrian crossing at the Browning Street / Bangalow Road roundabout be noted.
2. That the petition be referred to the Director Infrastructure Services. (Richardson/Ndiaye)

The motion was put to the vote and declared carried.

DELEGATES' REPORTS

There were no delegates reports.

STAFF REPORTS - GENERAL MANAGER

Report No. 13.4 **Agreement for lease - Council and TAFE NSW**
File No: I2020/408

- 20-140 Resolved** that Council defer consideration of the attached agreement for lease (E2020/17631) between Council and TAFE NSW until the next available meeting of Council to enable the presentation and endorsement of the Design Blueprint for the possible uses on Lot 12 as initiated from the Enquiry by Design for the Arts and Industrial Estate in concert. (Richardson/Ndiaye)

The motion was put to the vote and declared carried.

The meeting adjourned at 12:30pm for a lunch break and reconvened at 1:25pm.

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

Report No. 13.5 **Section 355 Management Committee matters**
File No: I2020/110

20-141 Resolved:

1. That the resignation of Linda Iacopetta from Suffolk Park Community Hall Management Committee be accepted and a letter of thanks provided.
2. That the nominee in the confidential attachment (E2020/12608) be appointed to the Suffolk Park Community Hall Management Committee.
3. That the resignation of Troy Delaney from Bangalow Parks (Showground) Management Committee be accepted and a letter of thanks provided.
4. That the resignation of Donald Recsei from Marvell Hall Management Committee be accepted and a letter of thanks provided.
5. That land owner's consent be provided for the Cart with Heart to operate at Ocean Shores Community Centre for a period of up to 6 months as a trial.

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6. That hire fees be waived for the Cart with Heart to operate at Ocean Shores Community Centre up to twice per month for a period of up to 6 months as a trial. (Ndiaye/Cameron)

The motion was put to the vote and declared carried.

Report No. 13.6 **Australia Day 2020 Review and Future Planning**
File No: I2020/103

20-142 Resolved:

1. That Council notes the report on Australia Day 2020 activities.
2. That Council participates in the Australia Day Council Ambassador Program for 2021 and supports Australia Day activities on the same basis as for 2020, incorporating the recommended improvements. (Hunter/Cameron)

The motion was put to the vote and declared carried.

Report No. 13.10 **New Year's Eve Review**
File No: I2020/396

20-143 Resolved:

1. That Council considers a budget allocation for 2020/2021 of up to \$150,800 for the full delivery of a New Year's Eve event.
2. That Council negotiates the terms and conditions of the partnership agreement with Byron Bay Community Centre to reflect an evidence based approach.
3. That Council conducts an expression of interest process to engage a delivery partner for New Year's Eve events commencing in 2021/2022. (Hunter/Ndiaye)

The motion was put to the vote and declared carried.

STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

Report No. 13.11 **Policy Review - Community Gardens Policy and Introduction of Guidelines**
File No: I2020/210

20-144 Resolved:

1. That Council publicly exhibits the draft 2020 Byron Shire Community Gardens Policy (Attachment 1 E2020/10671) for a period of 28 days accompanied by the Byron Shire Community Gardens Guidelines 2020-2025 (Attachment 2 E2020/15041).
2. That any submissions received on the draft 2020 Byron Shire Community Gardens Policy (Attachment 1 E2020/10671) be reported to Council for consideration, prior to the adoption of the draft Policy; and if no submissions are received, Council adopts the policy. (Richardson/Martin)

The motion was put to the vote and declared carried.

STAFF REPORTS - INFRASTRUCTURE SERVICES

Report No. 13.14 **Adoption of Water Sensitive Urban Design Policy and Strategy**
File No: I2020/375

20-145 Resolved:

1. That Council adopt the Byron Shire Council Water Sensitive Urban Design Policy and Strategy (E2019/59813).
2. That staff prepare an action plan to deliver future works from the strategy within the Operational Plan and Budget process for 2020/21 and onwards (Coorey/Cameron)

The motion was put to the vote and declared carried.

REPORTS OF COMMITTEES - CORPORATE AND COMMUNITY SERVICES

Report No. 14.1 **Report of the Arakwal Memorandum of Understanding Advisory Committee Meeting held on 9 March 2020**
File No: I2020/404

20-146 Resolved that Council notes the minutes of the Arakwal Memorandum of Understanding Advisory Committee Meeting held on 9 March 2020. (Ndiaye/Richardson)

The motion was put to the vote and declared carried.

20-147 Resolved that Council adopts the following Recommendation:

Report No. 4.1 Arakwal MoU Implementation Plan 2019-2021
File No: I2020/22

Recommendation 4.1.1

1. That the Arakwal (MoU) Advisory Committee recommends that Council adopts the Draft 2019-2021 Arakwal MoU Implementation Plan as amended at the meeting (new document E2020/16984).
2. That the Arakwal (MoU) sub committee continues to meet monthly to advance the projects within the implementation plan.
3. That Council liaise with Arakwal and where possible, provide assistance to help support our local indigenous community during the current pandemic health crisis. (Ndiaye/Richardson)

The motion was put to the vote and declared carried.

There being no further business the meeting concluded at 1:45pm.

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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 23 April 2020.



.....
Mayor Simon Richardson