



Byron Shire Council



Minutes Ordinary Meeting Thursday, 22 April 2021

BYRON SHIRE COUNCIL

Ordinary Meeting Minutes
22 April 2021

INDEX OF ITEMS DISCUSSED

The following items are listed in the order in which they were dealt with.

No table of contents entries found.

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ORDINARY MEETING MINUTES

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MINUTES OF THE BYRON SHIRE COUNCIL ORDINARY MEETING HELD ON THURSDAY, 22 APRIL 2021 COMMENCING AT 9.07AM AND CONCLUDING AT 5.03PM
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I2021/643

PRESENT: Cr S Richardson (Mayor), Cr B Cameron, Cr C Coorey, Cr J Hackett, Cr A Hunter, Cr M Lyon, Cr J Martin, Cr S Ndiaye and Cr P Spooner (virtual)

Staff: Mark Arnold (General Manager)

Vanessa Adams (Director Corporate and Community Services)

Evan Elford (Acting Director Infrastructure Services)

Shannon Burt (Director Sustainable Environment and Economy)

Ralph James (Legal Counsel) (virtual)

Mila Jones (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 Community Organisation	Joined via
9.2	For	Nino MacDonald	-	In person
13.3	For	John Anderson	-	In person
13.4	For	Liz Levy	-	Zoom
13.10	For	Matthew O'Reilly	CABS	In person
13.14	Against	Judith Brazenor	Bayside Connected	In person

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Report No and Title	For / Against	Name	Representing Community Organisation	Joined via
		Vince Hardy	Cityscape / Bayside Connected	Zoom
13.22	For	David Fligelman	Broken Head Reserve Road Residents Association	Zoom

Submissions

Submission No. 1 Proposed 5G upgrade in Suffolk Park

Tashi Lhamo, Northern Rivers for Safe Technology, addressed Council on this matter.

Submission No. 2 Byron Baes

Tess Hall addressed Council on this matter.

Submission No. 3 Capitulation

John Anderson addressed Council on this matter.

Cr Coorey left the Chamber at 9.52am. Cr Ndiaye left the chamber at 9.55am and both Crs returned to the Chamber at 9.57am.

Submission No. 4 Development of Affordable Housing Boarding Houses in Federal and Main Arm

Matthew O'Reilly, CABS, addressed Council on this matter.

Questions

Question No. 1 Development Application for Bioenergy

David Dixon asked the following question. The submission included 3 questions and as questions are limited to one the Mayor allowed the first question only:

A DA will soon be lodged for a \$15-20 million dollar bioenergy plant.

Input has been requested from the community and nearby residents, but no economic cost/benefit analysis has been released.

This is a fundamental piece of information to determine if the project represents good value for money for ratepayers.

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Question:

1. Has an economic cost/benefit analysis been done?

The Mayor took the question on notice.

Question No. 2 5G Infrastructure

Rinat Strahlhofer, We Are Not SAM, asked the following question:

When will Council inform the local Byron Shire community of the forward plans of 5G infrastructure including small cell deployment?

The Mayor took the question on notice.

Question No. 3 Report 13.14

Judith Brazenor, Bayside Connected, asked the following question:

Given the developer hasn't addressed the public transport and pedestrian amenity, as requested by Council, critical to support affordable rental accommodation, if approved will Council be providing public transport services (employment cannot be planned around the school bus) and a car park for the overspill of cars to make our streets safer?

The Mayor took the question on notice.

Question No. 4 Report 13.14

Lisa Sandstrom, Bayside Connected, asked the following question:

Are Councillors satisfied with the miniscule amendments to the DA following your amendment requests, especially given the removal of the co- working space and two parking spaces?

The Mayor took the question on notice.

Question No. 5 Report 13.14

David Carnovale, Bayside Connected, asked the following question:

The Council Report declares this Boarding House is considered consistent with the 'desired' future character of Brunswick Heads. The Teven Street Boarding House was rejected by Court on the basis of character. In the future all land 400m from B2 and B4 - that's everything from Teven Street down - would surely be suitable on the basis of character. Do Councillors support this decision?

The Mayor took the question on notice.

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Question No. 6 Holiday letting prosecution

John Anderson asked the following question:

What formal delegation or Council resolution does Cr Ndiaye (or any other individual Councillor or any staff member) rely upon for the reported assertion that prosecution for holiday letting infringements is not financially worthwhile, a proposition that is clearly a policy matter and therefore ought to be decided by a Council vote?

The Mayor took the question on notice.

The Mayor requested that John Anderson leave the chambers due to disorderly conduct (swearing at other members of the gallery).

The meeting adjourned at 10.05am and reconvened at 10.13am.

The Mayor again requested that John Anderson leave the chambers.

The meeting adjourned at 10.14am and reconvened at 10.36am.

Mayoral Minute No. 1 Removal of member of the public from the chamber

- 21-125 Resolved** that in accordance with clause 15.17 of Council's Code of Meeting Practice John Anderson be expelled from the meeting due to him having engaged in disorderly conduct, being his ongoing and consistent harassment of Cr Ndiaye through deliberate mispronunciation of her name and the making of disparaging comments about the difficulty of her name and the verbal abuse of (swearing at) other gallery members.
(Richardson/Lyon)

The motion was put to the vote and declared carried.

PROCEDURAL MOTION

- 21-126 Resolved** that Council change the order of business to deal with Mayoral Minute 8.1 next on the Agenda.
(Richardson/Coorey)

The motion was put to the vote and declared carried.

Mayoral Minute No. 8.1 ABC request to film part of 22 April 2021 Ordinary Meeting of Council

File No: I2021/610

- 21-127 Resolved** that Council authorises representatives of ABC North Coast to undertake filming for the purposes of capturing overlay footage at the Ordinary Meeting of Council held on 22 April 2021.
(Richardson/Lyon)

The motion was put to the vote and declared carried.

Question No. 7 Byron LEP

Matthew O'Reilly, CABS, asked the following question:

In 2012 when the Byron LEP was first drafted four local clauses were included which were subsequently removed from the final LEP. They were 1. Protection of visual and landscape values, 2. Riparian land and watercourses, 3. Development near the E2 or E1 zone, 4. Biodiversity (Terrestrial). Given dozens of local councils have similar clauses to these four in their LEPs has Council conducted a review into including these four clause in the LEP as originally intended by the community?

The Mayor took the question on notice.

Question No. 8 Report 13.14

Leonie Davis, Bayside Connected, asked the following question:

Why was the figure of 25% retail as claimed by council planners to be now a part of the DA, and satisfactory given the catchment, arrived at by only considering it in relation to the shop-top houses and not the entire development, and was the catchment referred to by Council inclusive of projected development which sees the population of Bayside more than double?

The Mayor took the question on notice.

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

There were no declarations of interest.

TABLING OF PECUNIARY INTEREST RETURNS

There were no Pecuniary Interest Returns tabled.

ADOPTION OF MINUTES FROM PREVIOUS MEETINGS

- 21-128 Resolved** that the minutes of the Ordinary Meeting held 25 March 2021 meetings be confirmed. (Ndiaye/Richardson)

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. 13.3 Grant 5-year Market Licences for Preferred Proposals

Corporate and Community Services

Report No. 13.4 Reopening Lone Goat Gallery

Report No. 13.5 Disaster Resilience Projects: procuring community capacity building components

Sustainable Environment and Economy

Report No. 13.10 Adoption of Byron Shire Council Agriculture Action Plan

Report No. 13.12 Update on the development of Coastal Management Programs (CMPs) for the Byron Shire Coastline

Report No. 13.14 DA10.2020.571.1 - Mixed Use Development comprising a General Store/Cafe, Cafe, Co-working Space, 8 Shop Top Dwellings and a Boarding House at 94 Kingsford Drive, Brunswick Heads,

Report No. 13.15 Byron Triathlon Change of Date

Infrastructure Services

Report No. 13.16 Road Access and Safety Principles

Report No. 13.17 Dingo Lane Solar Farm - Feasibility Study Outcomes

Report No. 13.19 Proposed Policy for Glare Shields on Streetlights

Report No. 13.20 Speed Zone Reviews - LTC Process

Report No. 13.21 Land acquisition for the purpose of widening and realignment of Myocum Road

Report No. 13.22 Seven Mile Beach Road and Broken Head Reserve Road Update

Report No. 13.23 Byron Bay Skate Park and Recreation Precinct - Endorsement of Detailed Design for Construction

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. 21-129 and concluding with Resolution No. 21-143

PETITIONS

Petition No. 10.1 **Reduce Speed limit at intersection of Rifle Range and Lismore Road**

File No: I2021/418

21-129 Resolved:

1. That the petition regarding Reduce Speed limit at intersection of Rifle Range and Lismore Road be noted.
2. That the petition be referred to TfNSW for its consideration. (Richardson/Lyon)

STAFF REPORTS – GENERAL MANAGER

Report No. 13.1 **Lease to Byron Bay Preschool Incorporated**

File No: I2021/371

21-130 Resolved:

1. That Council notes that no submissions were received on the proposed grant of a lease to the Byron Bay Preschool Incorporated over part Lot 126 DP1121466 known as the Suffolk Park Integrated Children's Centre, 49 Bottlebrush Crescent Suffolk Park.
2. That Council authorises the General Manager, under delegations, to enter into a lease with Byron Bay Preschool Incorporated over part Lot 126 DP1121466 known as the Suffolk Park Integrated Children's Centre 49 Bottlebrush Crescent Suffolk Park on the following terms:
 - a) term 10 years and 22 days to commence 1 June 2021 and expiring on 22 August 2031,
 - b) for the purpose of early childhood education and care services,
 - c) the Lessee to pay initial rent of \$490 (exclusive GST) with annual rent increase thereafter by Consumer Price Index All Groups Sydney,
 - d) The Lessee to pay 4.2% of joint outgoings payable at the Suffolk Park Integrated Children's Centre,
 - e) The Lessee to provide, at its cost, public liability insurance and contents insurance for full replacement value,
 - f) The Lessor to subsidise fixed rates and charges, building insurance cover, pest inspections and controls, annual fire safety requirements and building structural repairs where the structural damage was not caused by the Lessee's

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use of the building, and

- g) Council to subsidise licence preparation costs of \$536 (inclusive of GST).
(Richardson/Lyon).

Report No. 13.2 **Licence to Durrumbul Community Preschool Incorporated**
File No: I2021/564

21-131 Resolved:

1. That Council, as the Crown Land Manager for Reservation 55796, delegates to the General Manager the authority to negotiate and enter into a new licence with the Durrumbul Community Preschool Incorporated over part Lot 5 DP 832186 as follows:
 - a) for a term of ten (10) years with no holding over, commencing on a date that aligns with the 10-year funding period under the Funding Agreement with The State of New South Wales by its Department of Education;
 - b) for the purpose of early childhood education and care;
 - c) annual rent set by the value of minimum Crown rent in accordance with clause 38 of the Crown Land Management Regulations 2018 (NSW);
 - d) the Licensee to pay all outgoings other than annual fixed rates and charges;
 - e) all non-structural maintenance to be carried out by the Licensee at the Licensee's cost; and
 - f) the Licence to subsidise rates and fixed charges, building insurance, annual pest inspections and controls, annual fire safety statements and building structural repairs and maintenance where the damage was not the result of the Licensee's use of the premises.

2. That Council notifies any Applicants for Native Title over Lot 5 DP 832186 of the grant of the proposed licence to Durrumbul Community Preschool Incorporated as detailed in one above. (Richardson/Lyon)

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

Report No. 13.6 **Richmond Tweed Regional Library Services**
File No: I2021/436

21-132 Resolved that Council:

1. Supports an agreement that extends the terms and conditions of the existing Richmond Tweed Regional Library Deed of Agreement to 30 June 2022 with an option to extend to 30 June 2023.
2. Supports the investigation of a cooperative model to deliver agreed regional library services.
3. Supports the principle that the Executive Council of a future agreement should not be out of pocket, meaning that all administration and support costs incurred as

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Executive Council should be recovered from Member Councils via their annual contribution. (Richardson/Lyon).

Report No. 13.7 Section 355 Management Committees - resignations and appointments update

File No: I2021/472

21-133 Resolved:

1. That the nominee in Confidential Attachment 1 (E2021/51242) be appointed to the Bangalow Parks Trust Management Committee.
 2. That Council acknowledges the passing of Jan Hulbert and her valued years of service to the Bangalow community.
 3. That the nominee in Confidential Attachment 2 (E2021/52858) be appointed to the South Golden Beach Hall Management Committee.
 4. That the resignation of Philip Channells from the Brunswick Heads Memorial Hall Management Committee be accepted and that a letter of thanks be provided.
 5. That Council advertises for additional membership on the Ocean Shores Community Centre, South Golden Beach Hall and Suffolk Park Community Hall Management Committees.
 6. That the resignation from Michelle Chapman from the Suffolk Park Community Hall be accepted and that a letter of thanks be provided. (Richardson/Lyon)
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Report No. 13.8 Grants and Submissions April 2021

File No: I2021/543

- 21-134 Resolved** that Council notes the report and Attachment 1 (E2021/50937) for Byron Shire Council's Submissions and Grants as at 29 March 2021. (Richardson/Lyon)
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Report No. 13.9 Council Investments - 1 March 2021 to 31 March 2021

File No: I2021/563

- 21-135 Resolved** that Council notes the report listing Council's investments and overall cash position as at 31 March 2021. (Richardson/Lyon)

STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

Report No. 13.11 Electricity Procurement Expression of Interest

File No: I2021/535

21-136 Resolved:

1. That Council notes the report and decline to accept any tenders for the Electricity Expression of Interest under section 178(1)(b) of the Local Government (General) Regulation 2005.
2. That Council endorses the procurement strategy for the retail electricity supply contract outlined in this report and delegate authority to the General Manager to accept the tenders, as provided for under Section 377 of the Local Government Act 1993.
3. That Council approves the use of the budget previously allocated for Stage 2 of the EOI (request for selective tender) \$28,000 to fund the procurement activity for the retail electricity open tender.
4. That Council reserves \$28,000 available in the 2020/2021 financial year to the Revolving Energy Fund Reserve to fund recommendation 3 and this be incorporated into the Draft 2021/2022 Budget.
5. That Council makes public its decision in accordance with Clause 179(b) of the Local Government (General) Regulation 2005. (Richardson/Lyon)

Report No. 13.13 Agricultural Land Use Planning Strategy Options Paper - Submission

File No: I2021/561

- 21-137 Resolved** that Council notes the submission to the NSW Agriculture Commissioner regarding the Agricultural Land Use Planning Strategy Options Paper - Submission (Attachment 1 #E2021/39026) (Richardson/Lyon)

STAFF REPORTS - INFRASTRUCTURE SERVICES

Report No. 13.18 Byron Bay Access and Movement Plan and Pedestrian Access - Byron Bypass

File No: I2021/280

21-138 Resolved that Council:

1. Supports the attached Movement and Place Scope (E2021/50925) and proposed process outlined in the report (I2021/280)
2. Considers an allocation of \$150,000 in conjunction with other budget priorities as

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part of the 31 March 2021 Quarterly Budget Review to undertake the Byron Bay & Wategos Parking Scheme Review and Movement and Place Study of the Byron Bay Township
(Richardson/Lyon)

COMMITTEE REPORTS - INFRASTRUCTURE SERVICES

Report No. 14.1 **Report of the Local Traffic Committee Meeting held on 16 March 2021**

File No: I2021/531

21-139 **Resolved** that Council notes the minutes of the Local Traffic Committee Meeting held on 16 March 2021. (Richardson/Lyon)

21-140 **Resolved that Council adopts the following Committee Recommendation(s):**

Report No. 6.1 Brunswick Heads - No Parking Signage

File No: I2021/204

Committee Recommendation 6.1.1

That Council endorse the installation of:

1. No Parking 1am-6am signage along the eastern side of Mona Lane, Fawcett St (between Mona Lane and Park Street) and Park Street (between Fawcett Street and Mullumbimbi Street).
2. No Parking Area 1am-6am signage at the entrance to the Stan Thompson Oval area (Richardson/Lyon)

21-141 **Resolved that Council adopts the following Committee Recommendation(s):**

Report No. 6.2 **Event - Byron Writers Festival 2021**

File No: I2021/300

Committee Recommendation 6.2.1

That Council support the Byron Bay Writers Festival 6-8th August 2021, subject to:

1. Development and implementation of a Traffic Management Plan (TMP) and Traffic Control Plan(s) (TCP) by those with appropriate TfNSW accreditation and the holding of current and appropriate levels of insurance and liability cover. The TMP and TCP to be generally in accordance with Attachment 1 (E2021/38636);
2. West bound event traffic arriving from Byron Town Centre to be directed down Sunrise Blvd, as a contingency, if east bound traffic on Ewingsdale Rd is queued back to the Ewingsdale Road interchange;
3. Separate approvals by NSW Police and TfNSW being obtained;

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4. The event organiser to:
 - i) Advertise the impact of the event, via a Variable Message Signage (VMS) and 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) Arrange the event being notified on Council's webpage a minimum one week prior to the TCP being implemented;
 - iii) undertake consultation with community and affected businesses including adequate response/action to any raised concerns during and after the event;
 - iv) undertake consultation with emergency services and any identified issues addressed;
 - v) hold \$20m public liability insurance cover which is valid for the event.
(Richardson/Lyon)

21-142 Resolved that Council adopts the following Committee Recommendation(s):

Report No. 6.3 Event - Mullum2Bruns Paddle

File No: I2021/302

Committee Recommendation 6.3.1

That Council endorse the TMP and TCP for the Mullum2Bruns Paddle 2021 to be held Sunday 23 May 2021, and event dates in 2022 and 2023 subject to:

1. The development and implementation of a Traffic Management Plan (TMP) and Traffic Control Plan(s) (TCP) by those with appropriate NSW accreditation.
2. The event organiser to:
 - a) Advertise the impact of the event, via a Variable Message Signage on site and 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) Arrange for the event to be notified on Council's webpage a minimum one week prior to the TCP being implemented;
 - c) Undertake consultation with relevant community and affected businesses including adequate response/action to any raised concerns during and after the event;
 - d) Undertake consultation with emergency services and any identified issues

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addressed;

e) Hold \$20m public liability insurance cover which is valid for the event.

3. Endorsement for the three year period is subject to no significant changes being made to the running and timing of the event. (Richardson/Lyon)

21-143 Resolved that Council adopts the following Committee Recommendation(s):

Report No. 6.4 Bay Lane Modifications

File No: I2021/363

Committee Recommendation 6.4.1

That Council supports removing the One Way from Bay Lane and installing the regulatory signs and lines outlined in Attachment 1 (E2021/40751) as modified by the committee comments. (Richardson/Lyon)

PROCEDURAL MOTION

21-144 Resolved that Council change the order of business to deal with items 9.2, 13.3, 13.4, 13.10, 13.14 and 13.22 next on the Agenda. (Richardson/Lyon)

The motion was put to the vote and declared carried.

NOTICE OF MOTION

Notice of Motion No. 9.2 Memorial seat for Judy Macdonald

File No: I2021/590

21-145 Resolved:

1. That Council recognises the contribution Judy Macdonald made to our community and gives permission to her friends and family to install a seat in her name in Heritage Park, Mullumbimby.
2. That Council staff liaise with those wishing to install the seat to ensure that the site is suitable and that the seat meets approved standards of safety and any other requirement.
3. That any costs associated with the seat be borne by the proponents in (1). (Coorey/Cameron)

The motion was put to the vote and declared carried.

FORESHADOWED MOTION

Resolved:

21-146

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1. That Council supports the request by the Timperley family to facilitate the installation of a bench seat along the Byron Bay beachfront and additional small signage such as, 'Donated by the Timperley family in Loving memory of Harold, Graeme and May'
2. That Council staff liaise with those wishing to install the seat to ensure that the site is suitable and that the seat meets approved standards of safety and any other requirement.
3. That any costs associated with the seat be borne by the proponents in (1)
4. That a policy be created to ensure community generated public seating considerations such as designs, locations, costs and ongoing maintenance can be facilitated in an appropriate manner and within a clear process.

(Richardson/Ndiaye)

The motion was put to the vote and declared carried.

STAFF REPORTS – GENERAL MANAGER

Report No. 13.3 **Grant 5-year Market Licences for Preferred Proposals**
File No: I2021/63

21-147 Resolved:

1. That Council authorise the General Manager to enter into the following Market Licences subject to the execution of an Agreement to Licence where development consent is required to the following successful bidders to the Request for Proposal for 5-year Market Licences for a term of five years:
 - a) Byron Bay Community Association Incorporated, subject to the following:
 - i. for Community Markets on the Butler Street Reserve Byron Bay on the first Sunday of each month between 8am and 3pm; for a total of 365 market stalls per market per annum with rent set by Councils published Fees and Charges; and
 - ii. subject to special conditions in accordance with the proposal for the market operations and the social benefit proposal.
 - b) Brunswick Valley Woodchop and Entertainment Committee Incorporated subject to the following:
 - i. for Community Markets on Memorial Park Brunswick Heads on the first Saturday of each month between 8am and 2pm;
 - ii. for a total of 170 market stalls per market per annum with rent set by Councils published Fees and Charges; and
 - iii. subject to special conditions in accordance with the proposal for the market operations and the social benefit proposal.

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- c) Brunswick Valley Historical Society Incorporated subject to the following:
 - i. for Community Markets on Memorial Park Brunswick Heads on the third Saturday of each month between 8am and 2pm;
 - ii. for a total of 80 market stalls per market per annum with rent set by Councils published Fees and Charges; and
 - iii. subject to special conditions in accordance with the proposal for the market operations and the social benefit proposal.

- d) Byron Farmers Market Incorporated subject to the following:
 - i. for Farmers Markets on the Butler Street Reserve Byron Bay on every Thursday between 8am and 11am;
 - ii. for a total of 80 market stalls per market per annum with rent set by Councils published Fees and Charges; and
 - iii. subject to special conditions in accordance with the proposal for the market operations.

- e) North Byron Farmers Market Incorporated Association trading as New Brighton Farmers Market subject to the following:
 - i. for Farmers Markets on the New Brighton Oval New Brighton on every Tuesday between 8am and 11am;
 - ii. for a total of 35 market stalls per market per annum with rent set by Councils published Fees and Charges; and
 - iii. subject to special conditions in accordance with the proposal for the market operations.

- f) Byron Bay Community Association Incorporated subject to the following:
 - i. for Artisan Market on Denning Park Byron Bay four times in any twelve month period on a Saturday between 8am and 4pm;
 - ii. for a total of 230 market stalls per market per annum with rent set by Councils published Fees and Charges; and
 - iii. subject to special conditions in accordance with the proposal for the market operations and the social benefit proposal.

- g) Byron Bay Community Association Incorporated subject to the following:
 - i. for Artisan Market on Railway Park on every Saturday between 1 October to 30 April inclusive from 3pm and 9pm with an option to move the Market to the prior Friday from 3pm and 9pm to avoid a clash with quarterly Artisan Markets on the Denning Park;

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- ii. for a total of 40 market stalls per market per annum with rent set by Councils published Fees and Charges; and
- iii. subject to special conditions in accordance with the proposal for the market operations and the social benefit proposal.

(Spooner/Ndiaye)

The motion was put to the vote and declared carried.

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

Report No. 13.4 Reopening Lone Goat Gallery
File No: I2021/394

21-148 Resolved:

1. That Council reopens Lone Goat Gallery under a direct delivery partnership gallery model.
2. That until strategic partners are established, this position be funded from last year's unused Safe Summer in the Bay budget. (Hackett/Richardson)

The motion was put to the vote and declared carried.

STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

Report No. 13.10 Adoption of Byron Shire Council Agriculture Action Plan
File No: I2021/461

21-149 Resolved that Council adopts the Byron Shire Agricultural Action Plan 2020-2025 with the following change to the Aim in the plan.

AIM

1. To arrest the trending decline in the economic performance of the agriculture sector by the end of 2023.
2. To increase the annual value of primary production in the shire by \$20 mil by the end of 2025
3. To have a database of 300 landowners aware of and practicing some form of conservation land management by 2025 (Hunter/Ndiaye)

The motion was put to the vote and declared carried.

PROCEDURAL MOTIONS

21-150 Resolved that Cr Hunter be granted a one minute extension to his speech. (Richardson/Ndiaye)

The motion was put to the vote and declared carried.

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- 21-151 Resolved** that Council change the order of business to deal with Mayoral Minute 8.2 next on the Agenda. (Richardson/Coorey)

The motion was put to the vote and declared carried.

MAYORAL MINUTE

Mayoral Minute No. 8.2 Byron Baes

Resolved that Council:

- 21-152**
1. Acknowledges and celebrates Byron Shire's significant local creative industry and welcomes the film and television industry working in our Shire, particularly when they are committed to employing and adding to the skills of local digital content professionals, taking a consultative approach.
 2. Notes the significant economic threats posed to the wider Byron Shire economy and the overwhelming community opposition and concern about the possible reputational, and social damage inflicted upon the local community.
 - a) Writes to Eureka Productions and Netflix (Australia) stating its disapproval and opposition to the filming of "Byron Baes" in the Byron Shire.
 - b) Requests the production seek to relocate to another location and community supportive of hosting the show
 - c) Notes, that had Council the power to refuse to grant filming approvals on land, infrastructure or road reserves under its control or ownership it would have done so.
 - d) Requests the State government conduct a review of the current NSW filming protocols to better provide local community engagement and offers its support to provide input into the review.
 - e) Writes to other State authorities and organisations with land and infrastructure assets, such as Cape Byron Marine Park, NPWS, Cape Byron Headland Trust, Arakwal Corporation etc, notifying them of Council's position.
 3. Supports our creative community to challenge the premise of the proposed Byron Baes. (Richardson)

PROCEDURAL MOTION

- 21-153 Resolved** that Cr Richardson be granted a one minute extension to his speech. (Cameron/Ndiaye)

The motion was put to the vote and declared carried.

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

The meeting adjourned at 12.24pm and reconvened at 1.12pm.

STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

Report No. 13.14 DA10.2020.571.1 - Mixed Use Development comprising a General Store/Cafe, Cafe, Co-working Space, 8 Shop Top Dwellings and a Boarding House at 94 Kingsford Drive, Brunswick Heads,

File No: I2021/529

- 21-154 Resolved** that pursuant to Section 4.16 of the Environmental Planning & Assessment Act 1979, Development Application No. 10.2020.571.1 for Mixed Use Development comprising a General Store/Cafe, Cafe, Co-working Space, 8 Shop Top Dwellings and a Boarding House containing 39 Boarding Rooms, be approved subject to conditions listed in Attachment 1 #E2021/57439. (Ndiaye/Richardson)

PROCEDURAL MOTIONS

- 21-155 Resolved** that Cr Ndiaye be granted a two minute extension to her speech. (Richardson/Martin)

The motion was put to the vote and declared carried.

- 21-156 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.

- 21-157 Resolved** that Cr Richardson be granted a two minute extension to his speech. (Lyon/Ndiaye)

The motion was put to the vote and declared carried.

AMENDMENT

Moved that Council:

1. Notes that the revised DA does not adequately comply with Council resolution 21-104

That the General Manager is not authorised to enter into consent orders, that instead, staff continue the current s34 Conciliation process for Development Application 10.2020.571.1 to address the matters below that are the concerns raised by Councillors and community:

a) Relationship between the development and the public domain in terms of an improved design integration to the public reserve and greater activation of the ground floor business/5 commercial/retail use area;

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b) Proportion of business/commercial/retail uses permitted under the B1 zone to the residential uses proposed in terms of increasing the former

c) Ability to further supplement transport options to the site such as of the provision of a managed car share space, pedestrian amenity and active transport links;

2. Advises the proponent to revise DA10.2020.571.1 – (Mixed Use Development comprising a General Store/Cafe, Cafe, Coworking Space, 8 Shop Top Dwellings and a Boarding House at 94 Kingsford Drive, Brunswick Heads

a) to take into consideration Chapter E4 “Brunswick Heads” of the Development Control Plan 2014, with regard to the character narrative for Brunswick Heads

b) to better represent LEP B1 Zone Objective for a neighbourhood centre rather than a residential development and to

c) consult better with the community to enable community aspirations for the site.
(Coorey/Hackett)

PROCEDURAL MOTIONS

21-158 Resolved that Cr Coorey be granted a two minute extension to her speech.
(Richardson/Lyon)

The motion was put to the vote and declared carried.

21-159 Resolved that Cr Cameron be granted a two minute extension to his speech.
(Richardson/Coorey)

The motion was put to the vote and declared carried.

21-160 Resolved that Cr Ndiaye be granted a two minute extension to her speech.
(Richardson/Lyon)

The motion was put to the vote and declared carried.

Cr Martin left the chamber at 2.01pm.

The amendment was put to the vote and declared lost.

Crs Coorey, Cameron and Hackett voted in favour of the amendment.

Crs Lyon, Ndiaye, Richardson, Hunter and Spooner voted against the amendment.

Cr Martin was not present for the vote.

The motion (Ndiaye/Richardson) was put to the vote and declared carried.

Crs Lyon, Ndiaye, Richardson, Hunter, Hackett and Spooner voted in favour of the motion.

Crs Coorey and Cameron voted against the motion.

Cr Martin was not present for the vote.

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Report No. 13.22 **Seven Mile Beach Road and Broken Head Reserve Road Update**
File No: I2021/528

21-161 Resolved that Council:

1. Notes the report and endorse the following actions based on it:
 - a) The design of Seven Mile Beach Road be progressed generally in accordance with Option 1 to seal the entire length of road and carparks, Attachment 4 (E2021/51923).
 - b) The detailed design of Broken Head Reserve Road be progressed with the principal of maximising safety of visitors and residents, including consideration of reverse in parking and prioritise
 - i) implementation of the approved speed reduction to 40km with adequate signage as a matter of urgency
 - ii) finalisation of the Locality Plan (Resolution 18-544) that includes a road rebuild, pedestrian path, safe turning for vehicles to exit, drainage works (based on Water Sensitive Urban Design), entrance design and roadside treatments, including provision of costings
 - iii) a report on funding available including State and Federal Government funding and the status of local developer contribution funds (S94 & S7.11) and Election Commitment funds noting that \$240,000 was identified in Agenda 27.8.20
2. Notes the staff comments within Attachment 9 – Shoalhaven Temporary Control Review (E2021/53022). (Coorey/Ndiaye)

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

NOTICE OF MOTION

Notice of Motion No. 9.1 Car Free Sundays
File No: I2021/581

21-162 Resolved:

1. That Council introduces one car-free Sunday per month to occur in Byron Bay's town centre as soon as practicably possible;
2. That certain streets be closed to traffic to effect a pedestrianisation of a portion of the town centre similar to as has been done on New Year's eve;

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3. That the first car-free Sunday be a celebration of walking, cycling and non-car transport and businesses are encouraged to participate in the celebratory atmosphere;
4. That Council staff liaise with local businesses, local transport providers, Destination Byron, TfNSW, Local Traffic Committee, and any other entities necessary to enable the success of a car free day as a recurring event.. (Coorey/Cameron)

Cr Martin returned to the chamber at 2.44pm.

The motion was put to the vote and declared carried.

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

Report No. 13.5 Disaster Resilience Projects: procuring community capacity building components

File No: I2021/365

- 21-163 Resolved** that Council conducts an open tender for an organisation to provide required disaster resilience outcomes. (Richardson/Ndiaye)

The motion was put to the vote and declared carried.

STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

Report No. 13.12 Update on the development of Coastal Management Programs (CMPs) for the Byron Shire Coastline

File No: I2021/554

- 21-164 Resolved** that Council:

1. Writes to the Department of Planning, Industry and Environment and the Coastal Council to request a meeting to discuss how the Coastal Management Process could be improved, timeframes shortened and the development of a Coastal Management Program ("CMP") for Byron Shire resourced more effectively.
2. Notes that the draft Scoping Study for the Southern Shire - Cape Byron to Seven Mile Beach including the Belongil Creek estuary will be sent to state agencies for their review as required by the CMP process and a copy placed on the web for public feedback. (Hackett/Coorey)

The motion was put to the vote and declared carried.

PROCEDURAL MOTION

- 21-165 Resolved** that Cr Hackett be granted a two minute extension to her speech. (Richardson/Cameron)

The motion was put to the vote and declared carried.

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The meeting adjourned at 3.23pm and reconvened at 3.45pm.

Report No. 13.15 Byron Triathlon Change of Date
File No: I2021/589

21-166 Resolved:

1. That, subject to Local Traffic Committee support, Council endorses the change of date for the Byron Triathlon from Saturday 8 May 2021 to Sunday 9 May 2021.
2. That Council consider a review of the route for future Byron Triathlons to lessen the inconvenience to residents along the route. (Coorey/Cameron)

The motion was put to the vote and declared carried.

STAFF REPORTS - INFRASTRUCTURE SERVICES

Report No. 13.16 Road Access and Safety Principles
File No: I2021/282

21-167 Resolved that Council:

1. Notes the Report.
2. Requests a further report to include discussion of access principles and issues (Res 20-741, 1a, 1b).
3. Acknowledges that:
 - a) 'alignment' of National and State policy with local policy statements does not lead to safe accessible outcomes.
 - b) Road Safety Audits cannot prescribe outcomes where funding criteria or on ground constraints limit options to address all safety issues identified by audits.
 - c) where road networks are constrained or unable to be adapted such as rural roads with no shoulder, the most equitable way to balance access and safety for all road users is to reduce speed limits.
 - d) Council represents the Byron Shire community and policy needs to support and advocate for our community.
4. Incorporates in the Policy framework the issues in 2 and 3 so as to more clearly state how principles can be applied for on ground outcomes.
5. Provides a further report to the next Ordinary meeting of Council in May with a revised proposal for a policy and implementation framework. (Cameron/Coorey)

PROCEDURAL MOTION

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21-168 Resolved that Cr Cameron be granted a two minute extension to his speech.
(Richardson/Lyon)

The motion was put to the vote and declared carried.

The motion (Cameron/Coorey) was put to the vote and declared carried.

Report No. 13.17 Dingo Lane Solar Farm - Feasibility Study Outcomes
File No: I2021/408

Moved that in relation to the Dingo Lane 5MW Solar Farm Project, Council:

1. Notes the Business Case included as Attachment 1 (E2021/44986) and endorse Option 3 as the preferred option;
2. Receives a further report on the project, following the determination of current grant applications for the proposed Bioenergy Facility at the Byron STP to consider the holistic financial implications of both projects on Council's Long Term Financial Strategy. (Spooner/Hunter)

AMENDMENT

21-169 Resolved that in relation to the Dingo Lane 5MW Solar Farm Project, Council:-

1. Notes the Business Case included as Attachment 1 (E2021/44986) and endorse Option 3 as the preferred option;
2. Continues with the current Development Application to progress the project to shovel ready status; and
3. Receives a further report on the project, following the determination of current grant applications for the proposed Bioenergy Facility at the Byron STP to consider the holistic financial implications of both projects on Council's Long Term Financial Strategy. (Richardson/Ndiaye)

PROCEDURAL MOTION

21-170 Resolved that Cr Lyon be granted a one minute extension to his speech.

(Richardson/Ndiaye)

The motion was put to the vote and declared carried.

The amendment was put to the vote and declared carried.

Crs Hackett, Spooner and Hunter voted against the amendment.

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

Crs Hackett, Spooner and Hunter voted against the motion.

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Report No. 13.19 Proposed Policy for Glare Shields on Streetlights
File No: I2021/460

- 21-171 Resolved** that the draft Proposed Policy for Glare Shields on Streetlights be placed on public exhibition for a minimum period of 28 days, and
- a) That in the event that any submissions are received on the draft policy, it be reported back to Council prior to adoption; or.
 - b) That in the event that no submissions are received on the Proposed Policy for Glare Shields on Streetlights that:-
 - i) It be adopted and incorporated in Council's Policy Register; and
 - ii) The proposed fees and charges be adopted within Council's 2021/22 Fees and Charges schedule. (Lyon/Martin)

The motion was put to the vote and declared carried.

Report No. 13.20 Speed Zone Reviews - LTC Process
File No: I2021/475

- 21-172 Resolved** that Council:
1. Refer all known requests to Staff for speed zone reviews to Local Traffic Committee for comment.
 2. Request TfNSW to refer all speed zone reviews to Local Traffic Committee for comment.
 3. Support Council's policy on reducing speeds on rural roads and reference the policy in response to relevant speed zone review requests.
 4. Acknowledge the deep concern regarding speed related safety issues expressed by the community.
 5. Note the petition from the Bangalow community for reduced speed around the intersection of Rifle Range Road and Lismore Road and support a reduced speed. (Cameron/Richardson)

The motion was put to the vote and declared carried.

Report No. 13.21 Land acquisition for the purpose of widening and realignment of Myocum Road
File No: I2021/477

- 21-173 Resolved:**
1. That Council authorises the acquisition of the identified land in Figure 1 of this report

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for road widening and realignment purposes.

2. That Council authorises staff to complete all tasks to allow the acquisition, including carrying out survey work and valuations, entering agreements with the relevant land owners, paying just compensation and registering the acquisitions.

(Lyon/Richardson)

The motion was put to the vote and declared carried.

Report No. 13.23 Byron Bay Skate Park and Recreation Precinct - Endorsement of Detailed Design for Construction

File No: I2021/552

21-174 Resolved that Council:

1. Endorses the Developed Detailed Design plan for the Skate Park and Recreation Precinct at Sandhills Estate in Byron Bay (Attachment 1 – E2021/53195)
2. Proceeds with procurement of a construction contractor to deliver the works by means of a Request for Tender using the open tendering method by which tenders for the proposed contract are invited by public advertisement.
3. Delegates authority to the General Manager to the award the construction tender, if the construction price is within the adopted project budget, and on the basis that the tender is not awarded after the commencement of the caretaker period.

(Richardson/Ndiaye)

The motion was put to the vote and declared carried.

URGENCY MOTION

PROCEDURAL MOTION

- 21-175 Resolved** that the matter of a 5G upgrade of the communications tower at Bottlebrush Crescent, Suffolk Park be discussed as a matter of urgency. The reason for the urgency being that submissions for objections are required prior to the 3 May 2021.

(Ndiaye/Lyon)

The Mayor declared the matter to be of great urgency.

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

Urgency Motion No. 1 Matter of Urgency - 5G upgrade of communications tower at Bottlebrush Crescent Suffolk Park

Moved that Council:

1. send an objection to Telstra before the 3rd of May 2021 in relation to the proposed 5G upgrade of the communications tower at Bottlebrush Crescent, Suffolk Park for the following reasons:
 - a) Byron Bay Preschool is 300m from the proposed site and this goes against the

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NSW Dept of Education's preference for a distance of at least 500 metres from the boundary of schools.

- b) The Beech Flying-fox Camp is 100m from the proposed upgrade site. The ARPANSA EME Report estimates this distance will be the highest exposure for wireless radiation. Which will put an already 'vulnerable' species at further risk. As per Council's Flying-fox Camp Management Plan, the first objective is to "ensure long-term conservation of flying-foxes and their habitat within Byron Shire." This proposed upgrade goes against Council's own policy.
 - c) Council is still yet to see a comprehensive plan as to how 5G could be implemented across the shire safely and with appropriate infrastructure with real time monitoring.
2. reiterate to all Telco Providers that we have a preference for Fibre Optic to the Premises as the most equitable and least intrusive technology for internet provision to meet the needs of all Byron Shire residents.

The motion was put to the vote and declared lost.

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

There being no further business the meeting concluded at 5.03pm.

I hereby certify that these are the true and correct Minutes of this Meeting

as confirmed at Council's Ordinary Meeting on 27 May 2021.

.....

Mayor Simon Richardson