



# Byron Shire Council



# Minutes Ordinary Meeting

Thursday, 27 May 2021

# BYRON SHIRE COUNCIL

Ordinary Meeting Minutes

27 May 2021

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## MINUTES OF THE BYRON SHIRE COUNCIL ORDINARY MEETING HELD ON THURSDAY, 27 MAY 2021 COMMENCING AT 9:12AM AND CONCLUDING AT 1:45PM

I2021/872

**PRESENT:** Cr M Lyon (Mayor), Cr B Cameron, Cr J Hackett, Cr A Hunter, Cr J Martin, and Cr S Ndiaye

**REMOTE:** Cr C Coorey

**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)  
Andrew Pearce (Traffic Engineer) – item 13.14  
Malcolm Robertson (Acting Manager Open Spaces and Resource Recovery) – item 13.17  
Heather Sills (Minute Taker)

*The Mayor opened the meeting and acknowledged that the meeting is being held on Arakwal Country and that we pay our respects to the elders past and present and extend our respect to the Bundjalung clans whose lands and waters are part of the Shire.*

### PUBLIC ACCESS

Prior to dealing with the circulated reports and associated information, a Public Access Session was held and Council was addressed on the following:

#### Public Access

Report No and Title	Name	For/ Against	Representing Organisation	Via	
Special Presentation	Byron Shire YouthSay	For	Estar, Klare, May, John, Jemimah, Darci, and Safiya	Students from Mullumbimby High School	In person
13.12	PLANNING - Development Application 10.2020.215.1 Multi Dwelling Housing Comprising of Ten (10) Two Storey Detached Dwellings and Ten (10)	For	Zac Kennedy		In person
		Against	Duncan Dey		In person

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Report No and Title		Name	For/ Against	Representing Organisation	Via
	Swimming Pools and Strata Subdivision at 6 Keats Street Byron Bay				
13.15	Rifle Range Road to Bangalow Shared Path	For	Jennifer Lynn Bird	Multiple community organisations in Bangalow	In person
			Clare Hopkins		In person

There were no **General Submissions** received.

## Question No. 1 5G – Native tree protection

Michael Stavrou asked the following question:

What laws and regulations can Council rely on to protect Native trees that could impede 5G transmissions? - to protect them from being cut down?

*The Mayor took the question on notice.*

## Question No. 2 5G – Telco plans

Michael Leung asked the following question:

What information has Council received from Telcos about their overall plans for the deployment of 5G millimetre infrastructure in the Byron Shire, including small cells?

*The Mayor took the question on notice.*

## Question No. 3 5G – 32 Fletcher Street

Sher Manu Roberts asked the following question:

Will Council take a Precautionary Approach and submit an objection to Telstra (and other telco carriers if applicable), regarding the proposed 5G upgrade to the tower at 32 Fletcher Street, Byron Bay?

*The Mayor took the question on notice.*

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## **Question No. 4 5G – 95 Dalley Street**

Maria Picone asked the following question:

If Telstra comes to Mullumbimby to add 5G infrastructure to the tower at 95 Dalley Street (that has a moratorium called on 5G), how will Council advocate for the local residents who are peacefully protesting against the 5G upgrade?

*The Mayor took the question on notice.*

## **Question No. 5 5G – Tower sites**

Rinat Strahlhofer asked the following question:

Will Council commit to liaising with experts from NSW National Parks & Wildlife Service and NSW Planning Industry & Environment National Parks, to gather data on environmentally significant areas surrounding tower sites, such as habitats of at-risk and vulnerable native species?

*The Mayor took the question on notice.*

## **Question No. 6 5G – Benefits and risks forum**

Lauren Antico asked the following question:

Will council facilitate a forum with an expert panel, on the potential benefits and risks of 5G infrastructure deployment in the Byron Shire, for the local community?

*The Mayor took the question on notice.*

## **Question No. 7 5G – Precautionary principle evidence**

Tashi Lhamo asked the following question:

Will Council obtain written independent expert opinion (for example from the scientists in Oceania Radiofrequency Scientific Advisory Association Inc. [www.orsaa.org](http://www.orsaa.org)) on the current state of scientific research on the biological and health effects of 5G millimetre waves and the evidence for invoking the precautionary principle?

*The Mayor took the question on notice.*

## **Question No. 8 5G – Health and environmental effects**

Daniel Rawson asked the following question:

Will Council take a Precautionary Approach and issue a public statement calling for a halt on the 5G rollout across the Byron Shire until a sufficient number of research studies on its health and environmental effects have been conducted?

*The Mayor took the question on notice.*

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## Question No. 9 Byron Bypass Costs

Hilda asked the following question:

Given that the first published cost of the Byron Bypass several years ago was \$10.5 million, and given that the last set of bypass expenditure figures provided to me by Council about 18 months ago gave a total of \$25 million (a figure which included a figure of \$3 million reserved for “contingencies” i.e. unallocated funds), what was it that caused a late burst of obligation such that Council now has evidently not only spent that \$3 million but is being asked to borrow a further \$1.75 million, without explanation?

*The General Manager took the question on notice.*

*The meeting adjourned at 10.00am and recommenced at 10.32am.*

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## APOLOGIES

### PROCEDURAL MOTION

- 21-211 Resolved** that the apology from Cr Spooner be accepted and a leave of absence granted. (Lyon/Cameron)

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

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## REQUESTS FOR LEAVE OF ABSENCE

There were no requests for leave of absence

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## REQUESTS FOR REMOTE ATTENDANCE

### PROCEDURAL MOTION

- 21-212 Resolved** that Council accepts the request from Cr Coorey to attend the 27 May Ordinary Meeting remotely. (Lyon/Ndiaye)

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

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## DECLARATIONS OF INTEREST – PECUNIARY AND NON-PECUNIARY

There were no declarations of interest.

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## TABLING OF PECUNIARY INTEREST RETURNS

There were no Pecuniary Interest Returns tabled.

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**ADOPTION OF MINUTES FROM PREVIOUS MEETINGS**

- 21-213** Resolved that the minutes of the following meetings be confirmed:
- Ordinary Meeting held 22 April 2021
  - Extraordinary Meeting held 13 May 2021 (Ndiaye/Hunter)

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

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**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 Airspace lease to Mercato on Byron Pty Ltd

**Corporate and Community Services**

Report No. 13.9 Mayor and Councillor Remuneration 2021/22

Report No. 13.10 Council Resolutions Quarterly Review - Q3 - 1 January to 31 March 2021

**Sustainable Environment and Economy**

Report No. 13.12 PLANNING - Development Application 10.2020.215.1 Multi Dwelling Housing Comprising of Ten (10) Two Storey Detached Dwellings and Ten (10) Swimming Pools and Strata Subdivision at 6 Keats Street Byron Bay

Report No. 13.13 Update Resolution 21-152 Byron Baes and Resolution 21-207 Information and Support for Filming Activities in Byron Businesses and on Council Controlled Land

**Infrastructure Services**

Report No. 13.14 Pedestrian Safety and Amenity in Suffolk Park

Report No. 13.17 Linda Vidler Park Masterplan

The remaining Recommendations and Committee Recommendation were adopted as a whole, being moved by Cr Lyon and seconded by Cr Cameron. Each recommendation is recorded with a separate resolution number commencing at Resolution No. 21-214 and concluding with Resolution No. 21-253.



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## STAFF REPORTS - GENERAL MANAGER

**Report No. 13.1 Brunswick Heads Surf Club Redevelopment - Request to reduce Surf Club's contribution towards carpark upgrades**

**File No:** I2021/713

**21-214 Resolved** that Council, subject to the Club entering into a Service Agreement, agree to Brunswick Heads Surf Club's request to reduce the amount they contribute towards car parking upgrades required to support the redevelopment of the surf club, from \$100,000 to \$50,000. (Lyon/Cameron)

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**Report No. 13.2 Lease to Mullumbimby Rugby League Football Club Limited**

**File No:** I2021/440

**21-215 Resolved:**

1. That Council notes that no submissions were received on the proposed lease to the Mullumbimby Rugby League Football Club Limited over Lot 61 DP856020 Manns Road Mullumbimby.
2. That Council authorises the General Manager, under delegation, to enter into a lease with the Mullumbimby Rugby League Football Club Limited over Lot 61 DP 856020 on the following terms:
  - a) term five years without holding over to commence 30 May 2021.
  - b) at rent of \$1.00 per annum to compensate the Lessee for maintaining the public Right of Way (Carriageway) through the Lessee owned land to Lot 61 DP856020,
  - c) for the purpose of a sportsground,
  - d) Lessee outgoings to include:
    - i) all usage charges for all services connected to Lot 61 DP856020,
    - ii) all costs for the care and maintenance of Lot 61 DP856020, and
    - iii) public risk insurance to the value of \$20,000,000.
  - e) Lessor to fully subsidise annual rates and fixed charges as compensation to the Lessee for maintaining the Right of Way (Carriageway) through the Lessee owned land to Lot 61 DP856020. (Lyon/Cameron)

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**Report No. 13.4 Memento Aestates - Byron Bay public art installation**

**File No:** I2021/654

**21-216 Resolved:**

1. That Council endorses the installation of *Memento Aestates* in the location identified within the report (#E2021/58600).
2. That the installation be included as a variation to the construction contract for Greenwoods Landscape Management for the Rail Corridor Restoration project. (Lyon/Cameron)

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**STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES**

**Report No. 13.5      Policy Review 2020-2021 - Part 4**  
**File No:                I2021/361**

**21-217 Resolved:**

1. That the following policies be placed on public exhibition for the reason stated alongside it for 28 days, allowing 42 days for submissions:
    - a) Appropriate Dispute Resolution of Development Proposals 2002 – to be repealed
    - b) Social Impact Assessment Policy 2009 – to be repealed
    - c) Waste disposal fees for not-for-profit groups 2012 – as updated and shown in track changes at Attachment 1 (E2021/30536)
    - d) Waste Disposal Following a Natural Disaster or Significant Storm Event 2014 – as updated and shown in track changes at Attachment 2 (E2021/43663).
    - e) Writing Off Water and Sewerage Usage Charges Policy 2012 – to be repealed
  
  2. That:
    - a) should there be no submissions received for a policy, the update or repeal be endorsed for those policies; and,
    - b) should submissions be received on a policy, those policies be reported back to Council noting the submissions and any amendments made as a result of the feedback received. (Lyon/Cameron)
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**Report No. 13.6      Council Investments - 1 April 2021 to 30 April 2021**  
**File No:                I2021/700**

- 21-218 Resolved** that Council notes the report listing Council's investments and overall cash position as at 30 April 2021. (Lyon/Cameron)
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**Report No. 13.7      2020/21 Operational Plan Report - Q3 - March 2021**  
**File No:                I2021/707**

**21-219 Resolved:**

1. That Council notes the 2020/21 Operational Plan Quarter 3 Report for the period ending 31 March 2021 (Attachment 1 #E2021/63408).
  
2. That Council adopts the proposed amendments to the Operational Plan 2020/21 outlined in Attachment 2 (#E2021/51099). (Lyon/Cameron)

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## SUBMISSIONS AND GRANTS

**Report No. 13.8 Grants and Submissions April 2021**

**File No:** I2021/733

- 21-220 Resolved** that Council notes the report and Attachment 1 (#E2021/63030) for Byron Shire Council's Submissions and Grants as at 30 April 2021.. (Lyon/Cameron)

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## STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

**Report No. 13.11 Contribution towards Northern Rivers Regional Koala Activity Assessment**

**File No:** I2021/596

- 21-221 Resolved** that Council contributes \$5,000 from the Biodiversity Conservation Strategy Budget (account number 2605.160) towards the Northern Rivers Regional Koala Activity Assessment. (Lyon/Cameron)

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## STAFF REPORTS - INFRASTRUCTURE SERVICES

**Report No. 13.15 Rifle Range Road to Bangalow Shared Path**

**File No:** I2021/380

- 21-222 Resolved** that Council:
1. Supports further investigation of design options for a shared path from Rifle Range Road to Bangalow utilising the rail corridor, west of Bangalow Railway Station.
  2. Supports staff to commence discussions with the Bangalow Showgrounds Committee regarding the possible position and placement of a shared path through the showgrounds.
  3. Supports an application to TfNSW and John Holland for the construction of a shared path within the rail corridor and along the rail line west of Bangalow Railway Station. (Lyon/Cameron)

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**Report No. 13.16 Proposal to Name Mullumbimby Creek Bridge currently known as Azalea Street Bridge.**

**File No:** I2021/352

- 21-223 Resolved** that Council:
1. Supports the proposal put forward by the Board of Directors of Bundjalung of Byron Bay Aboriginal Corporation (Arakwal) (BOBBAC) and name the bridge "King Bobby Bridge"
  2. Funds the installation and maintenance of a sign from the Bridges Inspection fund Account No 44026.18 in the New Financial Year commencing on 1 July 2021. (Lyon/Cameron)

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**Report No. 13.18**    **Former South Byron Sewage Treatment Plant - Sewage Treatment Ponds and Stage 2B Remediation Completion**

**File No:**                    I2021/640

**21-224 Resolved:**

1. That the following studies be undertaken for the former South Byron Sewage Treatment Plant tertiary ponds:
    - a) A detailed site investigation for the sewage ponds to characterise the contamination risk; and
    - b) An options and cost-benefit assessment to mitigate risks associated with retaining the sewage ponds.
  2. That the recommendations from the above studies be reported to Council.

(Lyon/Cameron)
- 

**Report No. 13.19**    **2021-0009 - Supply and Installation of Guardrail**

**File No:**                    I2021/655

**21-225 Resolved:**

1. That Council award the Tender 2021-0009 - Supply and Installation of Guardrail Tender and the suppliers listed below be appointed to this tender as Panel Source suppliers to Byron Shire Council for the initial period of 1 April 2021 to 31 March 2024:
  - a) A1 Highways Pty Ltd
  - b) AL & LJ Irwin, trading as Irwin Fencing Pty Ltd
  - c) GRI Road Services, Pty Ltd
  - d) Guardrail Systems Pty Ltd
  - e) Schramm Group Pty Ltd
  - f) Ingal Civil Products (supply only)
2. That the provision be allowed for a 12 months extension based on satisfactory supplier performance, which may take this contract through to 31 March 2025.
3. 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) Regulations 2005.

(Lyon/Cameron)

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

**Report No. 14.1 Report of the Biodiversity Advisory Committee Meeting held on 18 March 2021**

**File No:** I2021/614

**21-226 Resolved** that Council notes the minutes of the Biodiversity Advisory Committee Meeting held on 18 March 2021. (Lyon/Cameron)

**21-227 Resolved** that Council adopts the following Committee Recommendation:

**Report No. 4.2 Wildlife Signage Update**

Committee Recommendation 4.2.1

That the Biodiversity Advisory Committee recommends to Council that they consider an allocation of \$11,500 in the 2021/22 budget to fund the development of a Wildlife Roadkill Mitigation Strategy for Byron Shire Council. (Lyon/Cameron)

**21-228 Resolved** that Council adopts the following Committee Recommendation:

**Report No. 4.4 Wildlife Safe Havens - Brunswick Valley Landcare Initiative**

Committee Recommendation 4.4.1

That the Biodiversity Advisory Committee recommend to Council that an amount of \$1000 from account 2605.127 be allocated to the Brunswick Valley Landcare Schools Wildlife Safe Havens initiative to purchase and install 2 nest boxes at two schools including monitoring, training and follow-up over two nesting seasons. (Lyon/Cameron)

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**Report No. 14.2 Report of the Heritage Panel Meeting held on 18 March 2021**

**File No:** I2021/776

**21-229 Resolved** that Council notes the minutes of the Heritage Panel Meeting held on 18 March 2021. (Lyon/Cameron)

**21-230 Resolved** that Council adopts the following Committee Recommendation:

**Report No. 3.1 Minutes from previous meeting held 11 June 2020 adopted by Council 27 August**

**File No:** I2020/1349

Committee Recommendation 3.1.1

That the Heritage Panel note the minutes of the 11 June 2020 meeting as adopted by Council 27 August. (Lyon/Cameron)

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**21-231 Resolved** that Council adopts the following Committee Recommendation:

**Report No. 4.1 Notes from the previous Heritage Panel meeting 10 September 2020**  
File No: I2021/379

Committee Recommendation 4.1.1

That the Heritage Panel confirms the notes from the 10 September 2020 meeting.  
(Lyon/Cameron)

**21-232 Resolved** that Council adopts the following Committee Recommendations:

**Report No. 4.2 Heritage Panel Member Updates**  
File No: I2021/381

Committee Recommendation 4.2.1

1. That the Heritage Panel notes the member updates.
2. That the Heritage Panel receives a report on development approval processes for state heritage items at the next meeting. (Lyon/Cameron)

**21-233 Resolved** that Council adopts the following Committee Recommendations:

**Report No. 4.3 Discussion Piece - "Stuck in the past: why Australian heritage practice falls short of what the public expects"**  
File No: I2021/382

Committee Recommendation 4.3.1

1. That the Heritage Panel notes the discussion piece "Stuck in the past: why Australian heritage practice falls short of what the public expects" and the Victorian Heritage Council: State of Heritage Report 2020.
2. That the Heritage Panel receives reports which include articles and published papers and the like for discussion at future meetings. (Lyon/Cameron)

**21-234 Resolved** that Council adopts the following Committee Recommendations:

**Report No. 4.4 Heritage Program Update**  
File No: I2021/383

Committee Recommendation 4.4.1

1. That the Heritage Panel notes the heritage program update report as presented by staff.
2. That the Heritage Panel request an extra meeting before September 2021 if the meeting schedule allows. (Lyon/Cameron)

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**REPORTS OF COMMITTEES - INFRASTRUCTURE SERVICES**

**Report No. 14.3 Report of the Local Traffic Committee Meeting held on 13 April 2021**

**File No:** I2021/622

**21-235 Resolved** that Council notes the minutes of the Local Traffic Committee Meeting held on 13 April 2021. (Lyon/Cameron)

**21-236 Resolved** that Council adopts the following Committee Recommendation:

**Report No. 6.1 Azalea St Intersection Upgrade**

File No: I2021/372

Committee Recommendation 6.1.1

That Council support the proposed regulatory signs, lines and devices presented in Attachment 1 (E2021/51345) for works associated with the Azalea St / Jubilee Ave, Mullumbimby intersection, with the addition of NO STOPPING signs or lines along the Co-op frontage. (Lyon/Cameron)

**21-237 Resolved** that Council adopts the following Committee Recommendation:

**Report No. 6.2 Brunswick Heads Parking Limit Review**

File No: I2021/482

Committee Recommendation 6.2.1

That Council note LTC's endorsement of resolution 21-099. (Lyon/Cameron)

**21-238 Resolved** that Council adopts the following Committee Recommendation:

**Report No. 6.3 Traffic Management for Festival of the Stone**

File No: I2021/562

Committee Recommendation 6.3.1

That Council approve the Traffic Management Plan and Traffic Control Plan for the 2021 Festival of the Stone in Attachment 1 (E2021/50419). (Lyon/Cameron)

**21-239 Resolved** that Council adopts the following Committee Recommendations:

**Report No. 6.4 Event - Byron Triathlon - 9 May 2021**

File No: I2021/588

Committee Recommendation 6.4.1

1. That Council endorse the Traffic Management and Traffic Control Plans for the Byron Bay Triathlon to be held on Sunday 9th May 2021, which includes the following temporary road closures below:

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CLOSED STREETS	BETWEEN	TIMES
Bay St	Fletcher St to Middleton St (both directions)	5am-5pm
Middleton St	Bay St to Marvel St (both directions)	5am-3pm
Lawson St	Middleton St to Massinger St (both directions)	5am-5pm
Marvell St	Middleton St to Tennyson St (both directions)	10.30am-3pm
Tennyson St	Marvell St to Browning St (both directions)	10.30-3pm
Bangalow Rd	Browning St to Old Bangalow Rd (both directions)	11.30am-3pm
Broken Head Rd	Old Bangalow Rd to BP Service Station Beech Drive (both directions)	11.30am-3pm

2. That the approval provided in Part 1 and Part 2 is subject to:
  - a) separate approvals by NSW Police and TfNSW being obtained;
  - b) the event organiser provide council with an updated Traffic Management Plan and Traffic Control Plan for the 2021 event, if required by the Police and TfNSW;
  - c) development and implementation of a Traffic Management Plan and Traffic Control Plan(s) by those with appropriate TfNSW accreditation and the holding of current and appropriate levels of insurance and liability cover;
  - d) the impact of the event be advertised, and charged at cost to the organisers, via a notice in the local weekly paper and VMS boards 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;
  - e) the event be notified on Council's web page with the event organiser supplying Council with the relevant information;
  - f) Access from main beach car park to Fletcher St is to be unrestricted at all times.
  - g) Access to Lawson St between Fletcher St and Middleton St to be permitted at all times.
  
3. That the event organisers:
  - a) inform the community and businesses that are directly impacted (eg within road closure zones) via written information which is delivered to the property in a timely manner so as to document, consider and respond to any concerns raised;
  - b) arranging for private property access and egress affected by the event;
  - c) liaising with bus, taxi and waste operators and ensuring arrangements are made for provision of services during conduct of the event;
  - d) consulting with emergency services and any identified issues be addressed;
  - e) holding \$20m public liability insurance cover which is valid for the event;
  - f) paying Council's Road Event Application Fee prior to the event.



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(Lyon/Cameron)

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**Report No. 14.4**      **Report of the Transport and Infrastructure Advisory Committee Meeting held on 15 April 2021**

**File No:**                I2021/644

**21-240**   **Resolved** that Council notes the minutes of the Transport and Infrastructure Advisory Committee Meeting held on 15 April 2021. (Lyon/Cameron)

**21-241**   **Resolved** that Council adopts the following Committee Recommendation:

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

File No: I2021/557

Committee Recommendation 3.1.1

That the minutes of the Transport and Infrastructure Advisory Committee Meeting held on 28 January 2021 be confirmed. (Lyon/Cameron)

**21-242**   **Resolved** that Council adopts the following Committee Recommendations:

**Report No. 4.1 Road Safety Campaign**

File No: I2021/218

Committee Recommendation 4.1.1

That:

1. Council continues to pursue funding opportunities for road safety awareness, infrastructure enhancements that improve safety and access for all road users and to embed road safety principles in all transport related projects.
2. The next TIAC meeting include a workshop session to generate discussion, ideas and suggestions regarding road safety messaging and location of safety signage as per Res 20-405 (3).
3. Prior to the workshop referred to in 2, TIAC members receive information on the 'Go Together' program including examples of signage and messaging promoted by the program.
4. TfNSW representatives will attend the workshop mentioned in point 2.

(Lyon/Cameron)

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**21-243 Resolved** that Council adopts the following Committee Recommendations:

**Report No. 4.2 Update on roads, reseals, reconstructions, maintenance requirements, and budgetary situation**

File No: I2021/219

Committee Recommendation 4.2.1

1. That Council notes the report.
2. That future report include annual condition report summarizing the overall status of various asset classes. (Lyon/Cameron)

**21-244 Resolved** that Council adopts the following Committee Recommendation:

**Report No. 4.3 Kolora Way Shared Path Update**

File No: I2021/220

Committee Recommendation 4.3.1

That Council supports the detailed design of Option 3 for the construction of a new shared path and pedestrian bridge to the north of the existing road bridge on Kolora Way, proceeding to shovel ready status in financial year 2021/22 (Lyon/Cameron)

**21-245 Resolved** that Council adopts the following Committee Recommendation:

**Report No. 4.4 Membership change to TIAC constitution**

File No: I2021/289

Committee Recommendation 4.4.1

That Council approves Glenn Bailey as the temporary replacement representative member, as nominated by Katrina Ross. (Lyon/Cameron)

**21-246 Resolved** that Council adopts the following Committee Recommendations:

**Report No. 4.5 PAMP and Bike Plan Evaluation Processes**

File No: I2021/464

Committee Recommendation 4.5.1

That Council:

1. Note the work already done and underway to progress the PAMP and Bike Plan recommendations.
2. Prioritise future PAMP and Bike Plan projects as follows
  - a) Projects or parts of projects that provide greater connectivity to and within active networks (Bike and Pedestrian) as well as better connectivity to public transport.
  - b) Projects that align with Integrated Transport Strategy objectives, particularly where a modal shift away from car use is supported and enhanced.

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- c) Projects that improve connectivity and promote a shift from car use should initially be considered from PAMP and Bike Plan priorities covered by Master Plans.
3. Where possible Council seek grant funding to help accelerate the roll out of PAMP and Bike Plan projects.
4. Continue to investigate opportunities to undertake strategic PAMP and Bike Plans projects that meet the connectivity and modal shift criteria, but not covered by Master Plans as funding permits.
5. That the PAMP and Bike Plan Council web page be updated to inform the community of this priority review. (Lyon/Cameron)

**21-247 Resolved** that Council adopts the following Committee Recommendations:

## **Report No. 4.6 Movement and Place Brief (Draft)**

File No: I2021/540

### Committee Recommendation 4.6.1

1. That Council notes the draft Movement and Place Brief.
2. That TIAC advise that the brief needs to ensure the following
  - a) Alignment with Transport Strategy objectives especially the need to promote modal shift away from cars entering the town centre.
  - b) Ensuring that place features within 'movement corridors' be acknowledged that that safety and access is enhanced for all travelling within movement corridors and that other services (e.g. buses, rubbish removal) provided within the corridor are safely supported.
3. That a further report be provided and time allocated for TIAC to properly consider the Movement and Place Framework.
4. That TIAC and Council be provided with any feedback given by TfNSW and a copy of an updated draft brief. (Lyon/Cameron)

**21-248 Resolved** that Council adopts the following Committee Recommendations:

## **Report No. 4.7 Tourism Signage Policy**

File No: I2021/559

### Committee Recommendation 4.7.1

1. That Council support the adoption of the attached revision of the Tourist, Street Name, Community Facility and Service Signs Policy, 07/102 - (Attachment 1, E2021/51763), incorporating amendments identified by TIAC.
2. That the Policy register be updated with the new policy. (Lyon/Cameron)



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**MAYORAL MINUTE**

There was no Mayoral Minute.

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**NOTICES OF MOTION**

**Notice of Motion No. 9.1 Filming Policy and Application Processes**

**File No:** I2021/798

**21-254 Resolved:**

1. That Council reviews its Filming in Public Places Policy and application processes to:
  - a) ensure that they are consistent with the new realities of film production in the Shire and the region;
  - b) provide further definition as to filming activities for the purposes of online promotion of individuals that commercialise such filming activities; and
  - c) Consider best practice approaches to the process of film permit applications and reviews that other LGAs have implemented.
  - d) enable the Shire to consider the impacts, costs, and opportunities created by film projects in the region;
  - e) develop its own filming protocol specific to the needs of the Shire and in accordance with the state protocol
  
2. That Council reviews its film permit fee structure to:
  - a) enable the Shire to consider the cost of filming in the region;
  - b) enable the Shire to effectively manage the timing and delivery of film permits; and
  - c) adequately cover the cost of facilitating filming in the Shire.
  
3. That Council seek clarification from regulatory bodies around the categorisation of Byron Baes as an 'ultra-low impact' production. (Coorey/Ndiaye)

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

*Cr Hunter voted against the motion.*

**PROCEDURAL MOTION**

- 21-255 Resolved** that Council change the order of business to deal with Report 13.12 next on the Agenda. (Lyon/Cameron)

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

**Report No. 13.12 PLANNING - Development Application 10.2020.215.1 Multi Dwelling Housing Comprising of Ten (10) Two Storey Detached Dwellings and Ten (10) Swimming Pools and Strata Subdivision at 6 Keats Street Byron Bay**

**File No:** I2021/817

**21-256 Resolved:**

That pursuant to Section 4.16 of the Environmental Planning & Assessment Act 10 1979, Development Application No. 10.2020.215.1 for Multi Dwelling Housing Comprising of Ten (10) Two Storey Detached Dwellings and Ten (10) Swimming Pools and Strata Subdivision, be granted consent subject to the following conditions to be inserted in the appropriate order in the consent, and the conditions listed in Attachment 8 (#E2021/57487)

**The following conditions are to be complied with prior to issue of a Construction Certificate for building works**

**#. Weed control management plan required**

A weed control management plan is to be submitted to Council for approval prior to the issue of a Construction Certificate. The weed control management plan must demonstrate removal, and ongoing management of weeds and exotic vegetation, in the proposed landscaped area along the southern boundary of the property including the drain.

**Condition 9 be amended by inserting point c**

**c) – Stormwater Drain**

Maintenance works must be carried out over the existing open drain running along the southern boundary of the development site including regrading, removal of excess silt & rubbish and removal of all weed vegetation. Details must be included in the engineering plans for approval and works carried out prior to the issue of the occupation certificate.

**The following conditions are to be complied with prior to occupation of the building**

**#. Weed removal to be completed**

Removal of weeds and exotic vegetation from proposed landscaped area along the southern boundary of the property including the drain, in accordance with the approved weed control management plan, must be completed prior to the issue of an occupation certificate or subdivision certificate for the development. A report must be provided from a qualified and experienced Landscape Architect, Ecologist or AABR-accredited Bush Regenerator demonstrating that the works have been completed and provided to Council prior to the issue of the Occupation certificate.

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**The following conditions are to be complied with at all times**

**#. Ongoing weed control**

Ongoing removal of weed vegetation from proposed landscaped area along the southern boundary of the property including the drain, must be carried out in accordance with the approved weed control management plan.

**Prior to the Issue of Strata Subdivision certificate**

**#. Strata Plan By-laws**

The strata plan by-laws must include a by-law that prohibits the use of the dwellings for short-term rental accommodation and/or for the use as a tourist and visitor accommodation facility. Such by-law must be created upon registration of the strata plan and must include provisions to ensure that the by-law can only be released, varied or modified by Byron Shire Council.

**Condition 80 be amended by inserting point d**

**d) Restriction on the Use of Land under Section 88E**

The creation of a restriction on the use of land that prohibits the use of the dwellings for short-term rental accommodation and/or for the use as a tourist and visitor accommodation facility. Byron Shire Council must be nominated as the authority to release, vary or modify this restriction. (Lyon/Hunter)

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

*Crs Hunter, Coorey, Martin, Lyon, Ndiaye and Hackett voted in favour of the motion.*

*Cr Cameron voted against the motion.*

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## DELEGATES' REPORTS

There were no delegates' reports.

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## PETITIONS

**Petition No. 10.1**      **Petition Against Production of Netflix Series Byron Baes - 8692**  
**Signatures**

**File No:**                      I2021/664

**21-257 Resolved** that the petition regarding the filming of Byron Baes in the Byron Shire be noted. (Lyon/Martin)

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

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**Petition No. 10.2 Invitation for General Manager and Councillors to Drive Along Kiah Close Ocean Shores to Experience How Damaged it is with attached Petition with 16 signatures**

**File No:** I2021/749

**21-258 Resolved:**

1. That the petition regarding the road condition of Kiah Close, Ocean Shores be noted.
2. That the undersigned within the petition be advised that recent grant funding will be used to resurface Kiah Close in the first quarter of the 2021/2022 financial year.  
(Lyon/Martin)

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

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## STAFF REPORTS - GENERAL MANAGER

**Report No. 13.3 Airspace lease to Mercato on Byron Pty Ltd**

**File No:** I2021/572

Moved that Council defers a decision on this matter and request staff to obtain a further valuation and that Council considers the methodology by which it does valuations and charges for airspace.  
(Coorey/Ndiaye)

### AMENDMENT

**Resolved:**

**21-259**

1. That Council defers a decision on this matter and request staff to obtain a further valuation.
2. If the further valuation is less than 10% greater than the current valuation then Council authorises the General Manager, under delegations, to grant an airspace lease to Mercato on Byron Pty Ltd, subject to consent from the Secretary of the Department of Planning and Environment, on the following conditions:
  - a) fixed term of 20 years;
  - b) initial rent of \$6,200 per annum (inclusive GST) with rent annually increased thereafter by Consumer Price Index All Groups Sydney for the term; and
  - c) the Lessee is responsible for all maintenance and upkeep of the encroachment structure at its cost;
  - d) the Lessee must, at its cost, demolish and remove the structure in the airspace above the Jonson Street road reserve at the end of the lease, unless the Lessee has entered into a new lease with Council to commence on the day immediately after the end date its current lease; and
3. All lease preparation fees to be met by the Lessee.  
(Hunter/Lyon)

*The amendment was put to the vote and declared carried.  
Crs Ndiaye and Coorey voted against the amendment.*



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

*Cr Coorey voted against the motion.*

*Cr Coorey left the meeting at 12:02pm.*

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## STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

**Report No. 13.9**      **Mayor and Councillor Remuneration 2021/22**

**File No:**              I2021/744

**21-260**   **Resolved** that Council:

1.    Fixes the fee payable to each Councillor under Section 248 of the Local Government Act 1993 for the period 1 July 2021 to 30 June 2022 at \$20,690.
2.    Fixes the fee payable to the Mayor under section 249 of the Local Government Act 1993, for the period from 1 July 2021 to 30 June 2022 at \$45,140.
3.    Not determine a fee payable to the Deputy Mayor, in accordance with its current practice. (Ndiaye/Lyon)

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

*Cr Coorey was not present for the vote.*

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**Report No. 13.10**      **Council Resolutions Quarterly Review - Q3 - 1 January to 31 March 2021**

**File No:**              I2021/751

**21-261**   **Resolved** that the matter rest on the table. (Lyon/Cameron)

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

*Cr Coorey was not present for the vote.*

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## PROCEDURAL MOTION

**21-262**   **Resolved** that Council change the order of business to deal with Report 13.13 last on the Agenda. (Lyon/Ndiaye)

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

*Cr Coorey was not present for the vote.*

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**STAFF REPORTS - INFRASTRUCTURE SERVICES**

**Report No. 13.14 Pedestrian Safety and Amenity in Suffolk Park**  
**File No: I2021/283**

**21-263 Resolved** that Council:

1. Support the installation of a pedestrian refuge at Broken Head Road as detailed in the proposal at attachment 1 (E2021/60667).
2. Support the enhancement of existing pedestrian refuges at the roundabout on the intersection of Broken Head Road and Beech Drive.
3. Consider the inclusion of supporting refuge and enhancements in the 10 year capital works program.
4. Refer the speed review and pedestrian crossing matters to the Local Traffic Committee as per part 5 of Res 20-432.
5. Consider including the funding for the works and a Place Planning process for Suffolk in the 2021/22 Operational Plan and Budget and this be included in the submissions report following the public exhibition.

(Cameron/Lyon)

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

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**Report No. 13.17 Linda Vidler Park Masterplan**  
**File No: I2021/575**

**21-264 Resolved** that Council:

1. Endorses the exhibition of the Draft Linda Vidler Park Masterplan as shown in Attachment 1 (E2021/54410 ) for 28 days.
2. Approves advertisement for expressions of interest to establish a Community Garden within Linda Vidler Park
3. Receives a further report at the close of the exhibition period detailing the community response received to the Plan and any recommended or necessary amendments to the Masterplan. (Lyon/Ndiaye)

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

*The meeting adjourned at 12:30pm for a lunch break and reconvened at 1:18pm. Cr Coorey returned to the meeting at this time.*

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**STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY**

**Report No. 13.13**    **Update Resolution 21-152 Byron Baes and Resolution 21-207 Information and Support for Filming Activities in Byron Businesses and on Council Controlled Land**

**File No:**                    I2021/818

**21-265 Resolved:**

1. That Council notes the update provided on Resolution 21-152 Byron Baes and Resolution 21-207 Information and Support for Filming Activities in Byron Businesses and on Council Controlled Land.
2. Acknowledges that staff are working to address the difficulty of managing the increase and nature of film productions in the area, in particular the new styles of filming associated with the genre of reality TV such as the “docu-soap” as Byron Baes is described by Netflix;
3. Notes that the Byron Baes production has been and continues to be operating in circumstances that could be considered exceptional:
  - a) failure to consult with indigenous community prior to filming
  - b) potential to harm the environment: identifying locations will increase visitation to those places in a way that is not sustainable.
  - c) disruption to business of a kind that cannot be conditioned and which is not simply short term, for example the presence of paparazzi outside businesses
  - d) unreasonable impacts on the community both during filming of the series and after it concludes, in particular the likelihood of unsustainable visitation that will result
  - e) risk posed by potential for protest: it is very clear that the community does not want this show to happen or to bear the name of our home. the risk is unacceptable
4. That Byron Council reiterates its lack of support for 'Byron Baes' as per Resolutions 21-152 and 21-207 and it does not reflect Objective 2 of our Community Plan: "We cultivate and celebrate our diverse cultures, lifestyle and sense of community".

(Coorey/Ndiaye)

PROCEDURAL MOTIONS

**21-266 Resolved** that Cr Coorey be granted a two minute extension to her speech.

(Lyon/Cameron)

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

**21-267 Resolved** that Cr Coorey be granted a one minute extension to her speech.

(Lyon/Martin)

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

*The motion (Coorey / Ndiaye) was put to the vote and declared carried.  
Cr Hunter voted against the motion.*

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## PROCEDURAL MOTION

**21-268 Resolved** that Report No. 13.10 be lifted from the table. (Lyon/Cameron)

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

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**Report No. 13.10 Council Resolutions Quarterly Review - Q3 - 1 January to 31 March 2021**

**File No:** I2021/751

**21-269 Resolved:**

1. That Council notes the information provided in this report on active Council Resolutions in Attachment 1 (#E2021/54148).
2. That Council notes the completed Resolutions in Attachment 2 (#E2021/54149).
3. That Council endorses the closure of the Resolutions identified in Table 1: Council resolutions that have been superseded by other resolutions; and which have been included in the completed Resolutions in Attachment 2 (#E2021/54149).
4. That Council notes that Resolutions 19-616, 20-572, 20-518 are closed with remaining actions rolled into 20-127.
5. That resolution 20-572 not be closed. (Cameron/Ndiaye)

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

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*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 24 June 2021.

.....  
Mayor Michael Lyon