



Byron Shire Council



Minutes Ordinary (Planning) Meeting

Thursday, 13 May 2021

BYRON SHIRE COUNCIL

Ordinary (Planning) Meeting Minutes
13 May 2021

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ORDINARY (PLANNING) MEETING MINUTES

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MINUTES OF THE BYRON SHIRE COUNCIL ORDINARY (PLANNING) MEETING HELD ON THURSDAY, 13 MAY 2021 COMMENCING AT 11:40AM AND CONCLUDING AT 6:36PM

I2021/741

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

VIRTUAL: Cr P Spooner (left at 4:45pm)

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) - virtual

Rob van Iersel (Place Activation Coordinator) – item 13.13

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	For/Against	Name	Via
13.4	Against	Brooke Crowle	Join the webinar (Zoom)
13.8	For	Brandon Saul	In person
		Fraser Williams-Martin	In person
13.9	For	Dwayne Roberts	In person

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Report No and Title		For/Against	Name	Via
	Comprising of Ten (10) Two Storey Detached Dwellings and Ten (10) Swimming Pools and Strata Subdivision at 6 Keats Street Byron Bay	Against	Nick Buckley	In person
			Duncan Dey	In person
13.11	PLANNING - s4.55 to Modify Conditions 1 and 6 Landscaping Plan, DA 10.2019.650.2 at 103 Kings Road Federal	For	Karina Vikstrom	In person
		Against	Anthony Hunt	In person
13.13	Byron Music Festival 2021 - Use of Denning Park	For	Monique Hartman	In person
			Nick Sergi	In person

PROCEDURAL MOTIONS

21-178 Resolved that Mr Anderson be requested to leave the Chamber. (Lyon/Martin)

The motion was put to the vote and declared carried.

The meeting adjourned at 12:45pm and reconvened at 1:00pm.

PROCEDURAL MOTION

21-179 Resolved that Public Access be extended for 30 minutes. (Lyon/Ndiaye)

The motion was put to the vote and declared carried.

Submissions

Subject	Name	Representing Community Organisation	Via
Council help needed for host compliance with the short term rental code of conduct	David Wallace	Victims of Holiday Letting (VOHL)	In person

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Question No. 1 Zoning and height changes

Hilary Naughton asked the following question:

Can you tell the community why these changes will make Byron a better place to live?

The Mayor took the question on notice.

Question No. 2 Carbon Footprint Reduction

Tashi Lhamo asked the following question:

Will Council work towards reducing the enormous carbon footprint from the present wireless approach by opting for the implementation of wired, fibre-optic communications infrastructure wherever possible?

The Mayor took the question on notice.

Question No. 3 Public Consultation on small cells

Rinat Strahlhofer asked the following question:

Considering the potential safety risks and increased costs to ratepayers, will Council consult with the public before allowing telcos to install small cells on council-owned infrastructure and along our roads?

The Mayor took the question on notice.

Question No. 4 Fibre Optic availability

Stephanie Jaffray asked the following question:

Where in the Byron Shire are Fibre Optic internet provisions available (suburbs and street names)?

The Mayor took the question on notice.

Question No. 5 ICLEI relationship

Sher asked the following question:

Did Byron Shire Council receive any money for signing up to ICLEI or any of ICLEI's projects like it's 'Smart City Agenda' or it's 'Daring cities' platform?

The Mayor took the question on notice.

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Question No. 6 Fibre Optic installations

Isabel Lucas asked the following question:

Where has Fibre Optic cabling already been installed in the Byron Shire (suburbs and street names)?

The Mayor took the question on notice.

Question No. 7 Mobile phone tower DAs

Michael Stavrou asked the following question:

It is reported that 5G infrastructure may need to rely on 10 times more phone towers being built. Does the Byron Shire Council currently have any DAs for mobile phone towers under review by Council staff?

The Mayor took the question on notice.

Question No. 8 5G upgrades in areas of environmental significance

Henriette Blecher asked the following question:

Will Council adopt a precautionary approach and take all necessary steps to ensure that 5G upgrades to towers in “areas of environmental significance” (as defined in the Telecommunications Low-impact Facilities Determination) do not proceed without ensuring long term safety for protected areas before development approval?

The Mayor took the question on notice.

Question No. 9 Forward project plans for 5G

Angela Bambach asked the following question:

Has Council requested the telcos (i.e. Telstra, Optus TPG-owned Mobile JV) provide their forward project plans for the deployment of 5G (including tower upgrades, new towers and small cells) in the Byron Shire? If not, please advise the date that Council will request such information from telcos.

The Mayor took the question on notice.

Question No. 10 ICLEI liaison

Tom Barnett asked the following question:

Which Councillors, and areas within Council, are responsible for liaising with ICLEI?

The Mayor took the question on notice.

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Question No. 11 “Daring Cities” influence

Claire Alexander-Johnston asked the following question:

As Byron Shire is a Member of ICLEI, to what extent is ICLEI's "Daring Cities" (formally branded as Smart Cities Agenda), influencing Council's approach to the roll out of 5G and the deployment of smart city technology?

The Mayor took the question on notice.

Question No. 12 Independent risk assessment of small cells

Cherie Cowin asked the following question:

Can council supply the independent risk assessment carried out for the installations of small cells on public utilities that address road safety, electrical safety hazards, radiation exposure risks to council staff and the general community of the Byron Shire?

The Mayor took the question on notice.

Question No. 13 Fibre Optic stakeholders

Lauren Antico asked the following question:

Who are the key stakeholders that Byron Shire Council needs to discuss the provision of 'Fibre Optic to the Premises' internet with?

The Mayor took the question on notice.

Question No. 14 Community Engagement on wireless radiation

Ture Schmidt asked the following question:

How does Council plan to engage with the community on this issue of "Smart City" infrastructure that emits a pollutant called wireless radiation (also known as RF, EMR, EME)?

The Mayor took the question on notice.

Question No. 15 5G upgrades near children's educational facilities

Justin Picone asked the following question:

Will Council commit to objecting all future 5G upgrades or new mobile phone base stations that fall within a 500m distance from children's educational facilities across the Byron Shire?

The Mayor took the question on notice.

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Question No. 16 Discussions with telcos regarding 5G rollout

Maria Picone asked the following question:

What is the current status of discussions (either formal or informal) between Council and telcos (i.e. Telstra, Optus TPG-owned Mobile JV) regarding the 5G rollout and the installation of small cells on power poles, lamp posts, bus shelters or any other council assets?

The Mayor took the question on notice.

Question No. 17 Fibre Optic installation plans

Natalie Stokes asked the following question:

What future Fibre Optic cable installation or use plans does Council have, or is Council aware of?

The Mayor took the question on notice.

Question No. 18 Indemnity for future losses

Daniel Rawson asked the following question:

Will Council request telcos agree to indemnify Council for future losses and claims, arising from telecommunications equipment installed on Council infrastructure (such as lamp posts outside residents' homes and on roadsides and water tanks)?

The Mayor took the question on notice.

Question No. 19 Antennas placed on water tanks

Michael Leung asked the following question:

Has Council requested that telcos move the antennas from the tops of water tanks in the Byron Shire to ensure that the tanks can be accessed for maintenance and water is not contaminated?

The Mayor took the question on notice.

*The meeting adjourned at 1:20pm for a lunch break and reconvened at 2:13pm.
Cr Ndiaye did not return at this time.*

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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

21-180 Resolved that the minutes of the Ordinary (Planning) Meeting held 8 April 2021 be confirmed. (Hackett/Coorey)

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. 13.1 BSC ats Pace Development Group Pty Ltd

Corporate and Community Services

Report No. 13.2 Draft 2021/22 Operational Plan and Budget for Public Exhibition

Sustainable Environment and Economy

Report No. 13.4 PLANNING -26.2017.6.1 - Byron Bay Town Centre Planning Controls - Review of submissions and next steps

Report No. 13.8 Update on Resolution 20-664 (Lot 12 Bayshore Drive)

Report No. 13.9 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. 13.10 PLANNING - State Government Planning Amendments for Agriculture

Report No. 13.11 PLANNING - s4.55 to Modify Conditions 1 and 6 Landscaping Plan, DA 10.2019.650.2 at 103 Kings Road Federal

Report No. 13.13 Byron Music Festival 2021 - Use of Denning Park

Report No. 13.14 Proposed Housing Diversity State Environmental Planning Policy (SEPP) Confirmation of Council's position on Boarding Houses in the R2 Low Density Residential Zone

Infrastructure Services

Report No. 13.15 Byron Bay Bypass Project Closeout

The remaining Recommendations and Committee Recommendation were adopted as a whole, being moved by Cr Lyon and seconded by Cr Hunter. Each recommendation is recorded with a separate resolution number commencing at Resolution No.21-181 and concluding with Resolution No. 21-185.

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

Report No. 13.3 Budget Review - 1 January 2021 to March 31 2021
File No: I2021/645

21-181 Resolved:

1. That Council authorises the itemised budget variations as shown in Attachment 2 (#E2021/62157) which include the following results in the 31 March 2021 Quarterly Review of the 2020/2021 Budget:
 - a) General Fund – \$89,400 increase to the Estimated Unrestricted Cash Result and \$4,234,700 increase in reserves
 - b) Water Fund – \$1,680,300 increase in reserves
 - c) Sewerage Fund – \$638,500 increase in reserves
2. That Council adopts the revised General Fund Estimated Unrestricted Cash Result of \$517,600 for the 2020/2021 financial year as at 31 March 2021. (Lyon/Hunter)

STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

Report No. 13.5 PLANNING - s4.55 application to modify conditions related to
Artisan Food and Drink Industry (Brewery & Tasting) -
10.2020.201.2
File No: I2021/303

- 21-182 Resolved** that pursuant to Section 4.55 of the Environmental Planning & Assessment Act 1979, that Application No. 10.2020.201.2, for S4.55 to delete or amend Conditions 3, 17, 30, 49, 52, 53 and 55, be approved by modifying Development consent number 10.2020.201.1 as indicated in Attachment 2 (E2021/58206). (Lyon/Hunter)

Crs Cameron, Coorey, Hackett, Hunter, Lyon, Martin and Spooner voted in favour of the motion.

Nil voted against the motion.

Cr Ndiaye was not present for the vote.

Report No. 13.6 PLANNING - Subdivision to Create Two (2) Lots and New
Dwelling House - DA10.2020.102.1 at 18 Red Bean Close,
Suffolk Park
File No: I2021/483

- 21-183 Resolved** that pursuant to Section 4.16 of the Environmental Planning & Assessment Act 1979, Development Application No. 10.2020.102.1 for subdivision to create two (2) lots and new dwelling house, be granted Deferred Commencement (deferral period 12 months). (Lyon/Hunter)

Crs Cameron, Coorey, Hackett, Hunter, Lyon, Martin and Spooner voted in favour of the motion.

Nil voted against the motion.

Cr Ndiaye was not present for the vote.

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Report No. 13.7 **PLANNING - 26.2019.11.1 Outcome of Public Exhibition - Planning Proposal to obtain Dwelling Entitlement at Lot 6 DP 8385 81 Yagers Lane, Skinners Shoot**
File No: I2021/541

21-184 Resolved that Council:

1. Forward the planning proposal in Attachment 1 (E2020/96982) to the Department of Planning, Industry & Environment requesting finalisation.
2. Grant delegation to the General Manager for the Director Sustainable Environment and Economy to execute the planning agreement associated with the planning proposal in Attachment 4 (E2021/58054). (Lyon/Hunter)

Crs Cameron, Coorey, Hackett, Hunter, Lyon, Martin and Spooner voted in favour of the motion.

Nil voted against the motion.

Cr Ndiaye was not present for the vote.

Report No. 13.12 **PLANNING - Report of the 8 April 2021 Planning Review Committee**
File No: I2021/642

- 21-185 Resolved** that Council endorses the outcomes of the Planning Review Committee meeting held on 8 April 2021. (Lyon/Hunter)

PROCEDURAL MOTION

- 21-186 Resolved** that Council change the order of business to deal with Reports 13.4, 13.8, 13.9, 13.11, and 13.13 next on the Agenda. (Lyon/Hunter)

The motion was put to the vote and declared carried.

STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

Report No. 13.4 **PLANNING -26.2017.6.1 - Byron Bay Town Centre Planning Controls - Review of submissions and next steps**
File No: I2021/391

21-187 Resolved that Council:

1. Forwards the planning proposal to amend Byron LEP 2014, as included in Attachment 1 (E2021/58003), to the Department of Planning, Industry & Environment requesting its finalisation.
2. Adopts Byron DCP 2014 Chapter E10 as included in Attachment 2 (E2021/56492).
3. Publishes Byron DCP 2014 Chapter E10 on its website and notifies the public as

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required by the Environmental Planning and Assessment Act and Regulation.

4. Adopts the Design Excellence Procedures as included in Attachment 3 (E2021/56761).
5. Adopts the Design Excellence Policy as included in Attachment 4 (E2021/56762).
6. Prepares and circulates an Expression of Interest for appropriately qualified professionals to form the Design Excellence Panel, as per Attachment 5 (E2020/75377), and report back to Council with the responses. (Cameron/Lyon)

Crs Cameron, Coorey, Hackett, Hunter, Lyon, Martin and Spooner voted in favour of the motion.

Nil voted against the motion.

Cr Ndiaye was not present for the vote.

Cr Ndiaye returned to the Chamber at 2:32pm.

Report No. 13.8 Update on Resolution 20-664 (Lot 12 Bayshore Drive)
File No: I2021/377

21-188 Resolved that Council:

1. Endorses the revised masterplan prepared by Creative Capital (Attachment 1) alongside the Lot 12 Site Strategy and Urban Design Protocol as the basis for the Lot 12 Bayshore Drive future planning proposal and development applications.
2. Authorises staff to prepare and lodge a development application for a three (3) lot subdivision over Lot 12 Bayshore Drive, Byron Bay, as per the Lot 12 subdivision concept plan (refer Attachment 3 Concept Plan).
3. Authorises the sale of that part of Lot 12 in DP 1189646, being the land marked 'Lot 1' (Land) in the Concept Plan (refer Attachment 3) to Creative Capital, subject to Council endorsing the valuation determined by the process in part 4a) to determine the sale price, prior to commencing the process set out in part 4b) and upon reaching an agreement on sale price and terms with Creative Capital to reaching agreement on sale price and terms.
4. For the purposes of resolution part 3, authorises the General Manager to:
 - (a) obtain an acceptable valuation (consistent with Council's land acquisition and disposal policy) for the Land to determine its sale price;
 - (b) reach agreement with Creative Capital on price and terms for the sale;
 - (c) execute any document on Council's behalf necessary to complete the sale; and
 - (d) do anything else reasonably necessary to complete the sale.
5. Agrees to revenue derived from the above sale being quarantined to the Council

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reserve titled 'Property Development Reserve – Lot 12 Bayshore Drive'.

6. Notes that staff will prepare and forward a Lot 12 planning proposal as per the Masterplan to the Department of Planning Industry and Environment (DPIE) for the purpose of obtaining a gateway determination from DPIE, and that Council then exhibit the Planning Proposal as required by DPIE. (Coorey/Lyon)

The motion was put to the vote and declared carried.

Report No. 13.9 **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: I2021/635

- 21-189** **Resolved** that the item "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" be deferred to the 27 May Ordinary Meeting of Council to allow further consideration of the buffer between the development and the coastal wetland. (Coorey/Cameron)

PROCEDURAL MOTION

- 21-190** **Resolved** that Cr Coorey be granted a one minute extension to her speech. (Lyon/Cameron)

The motion was put to the vote and declared carried.

AMENDMENT

Moved that pursuant to Section 4.16 of the Environmental Planning & Assessment Act 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 conditions of Listed in Attachment 8 (E2021/57487). (Lyon/Cameron)

The amendment was put to the vote and declared lost.

Crs Coorey , Martin, Ndiaye, Lyon, and Cameron voted against the amendment.

The motion was put to the vote and declared carried.

Crs Spooner, Hunter, and Hackett voted against the motion.

PROCEDURAL MOTIONS

- 21-191** **Resolved:**

That Council change the order of business to deal with Report 13.1 next on the Agenda. (Lyon/Hunter)

The motion was put to the vote and declared carried.

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STAFF REPORTS - GENERAL MANAGER

21-192 Resolved:

1. That pursuant to Section 10A(2)(g), Council resolve into Confidential Session to discuss the following report, namely BSC ats Pace Development Group Pty Ltd
2. That the reasons for closing the meeting to the public to consider this item be that it contains advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege.
(Lyon/Hunter)

The motion was put to the vote and declared carried.

21-193 Resolved that Council move into Committee to allow for free debate. (Coorey/Cameron)

The motion was put to the vote and declared carried.

21-194 Resolved that Council move out of Committee and resume the Ordinary Meeting. (Lyon/Cameron)

The motion was put to the vote and declared carried.

Report No. 13.1 BSC ats Pace Development Group Pty Ltd
File No: I2021/165

21-195 Resolved:

1. That the General Manager be authorised under delegation to enter into consent orders or a s34 Conciliation Agreement approving Development Application 10.2019.576.1 subject to the Without Prejudice Conditions in Attachment 3 (E2021/50075) but authorising the General Manager to negotiate the reduction of up to 100m² of GFA within the building footprint and accommodated within incremental reductions within the stories and rooms within the building; and
2. The Without prejudice Conditions be amended to reflect any changes to conditions of consent in terms of final plans to be approved
(Lyon/Cameron)

The motion was put to the vote and declared carried.

PROCEDURAL MOTIONS

21-196 Resolved that the meeting move out of confidential session. (Cameron/Lyon)

The motion was put to the vote and declared carried.

21-197 Resolved that Council change the order of business to deal with Report 13.13 next on the Agenda. (Lyon/Martin)

The motion was put to the vote and declared carried.

STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

Report No. 13.13 Byron Music Festival 2021 - Use of Dening Park
File No: I2021/709

21-198 Resolved that Council grants a temporary licence in accordance with section 2.20 of the Crown Land Management Act for the purpose Entertainment, Exhibition and Markets to the Byron Music Festival for Saturday 19 June 2021 for occupation of Dening Park, subject to:

1. All market stalls on the beachside of the existing pathway to be moved back, a minimum of 10m from the timber fence, in line with the pathway, with the area between the back of stalls and the timber fencing to be back of house only, with no general public access;
2. Market stalls requiring vehicles integral to stall operation, are to be located on the south side of the path;
3. The proposed 'world stage' is to be relocated away from the dune edge to the south side of the path.
4. A limit of 3,000 people being imposed on the Dening Park site. (Hackett/Cameron)

*The motion was put to the vote and declared carried.
Cr Ndiaye voted against the motion..*

Cr Spooner left the meeting at 4:45pm and did not return.

Report No. 13.11 PLANNING - s4.55 to Modify Conditions 1 and 6 Landscaping Plan, DA 10.2019.650.2 at 103 Kings Road Federal
File No: I2021/638

21-199 Resolved that pursuant to Section 4.55 of the Environmental Planning & Assessment Act 1979, Application No. 10.2019.650.2, to Modify Conditions 1 and 6 Landscaping Plan, be approved by modifying Development Consent Number 10.2019.650.1 in accordance with the amended conditions in Attachment 2 (E2021/57319) with the following amendment to condition 6:

6. Detailed Landscaping Plan

The application for a Construction Certificate is to include plans and specifications that indicate the landscaping of the site. Such landscaping plan must incorporate adequate detail to demonstrate compliance with the provisions of Chapter B9 of Development Control Plan 2014. Species identified in Chapter B9 of Development Control Plan 2014 are to be planted wherever possible. The landscaping plan must indicate:

- a) proposed location for planted shrubs and trees;
- b) botanical name of shrubs and trees to be planted;
- c) mature height of trees to be planted;
- d) location of grassed and paved areas;
- e) location of trees identified for retention in the development application plans;

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- f) The plan is to be prepared by a suitably qualified landscape architect / architect / ecologist who has appropriate experience and competence in landscaping;
- g) The plan is to be in accordance with the landscape plan prepared by Design Team Ink (Drawings 20/321-02, 03 and 04 Rev B). The gate in the fence shall be removed;
- h) The area adjacent to the neighbours' dwelling, currently listed as planting type 1, in Lot 11 DP 585854 No. 113 Kings Road, Federal to be planted out with native and endemic rainforest species, as per planting type 4, instead of grass or lawn as shown on the landscape plan, and in no way to be used for vehicles;
- i) The trees to be planted should be native or endemic rainforest species and include native shrubs or ground cover plantings are to be planted along the earth mounding along the driveway to provide a visual screen to the property to the west.

Such plans and specifications must be approved as part of the Construction Certificate.

Note: Landscaping to the site is to comply with the principles of Appendix 5 of Planning for Bushfire Protection 2006. (Lyon/Cameron)

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

Nil voted against the motion.

Cr Spooner was not present for the vote.

NOTICES OF MOTION

Notice of Motion No. 9.1 Quarterly reports on residential dwelling figures

File No: I2021/706

21-200 Resolved that Council:

1. Notes the response to Question on Notice 14.1 'Agglomerated data on dwelling supply in Byron Shire', which included statistics about the number and types of dwellings and new lots created by subdivision between 2018 and 2021.
2. Receives six monthly updates as part of its Delivery Program reporting on the number of approvals for residential development and types of dwellings approved in the Shire, with reference to the targets set in the Byron Shire Residential Strategy 2020 and the North Coast Regional Strategy 2016. (Coorey/Cameron)

PROCEDURAL MOTION

21-201 Resolved that Cr Coorey be granted a one minute extension to her speech.

(Lyon/Hackett)

The motion was put to the vote and declared carried.

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

Crs Lyon, Hackett, and Hunter voted against the motion.

Cr Spooner was not present for the vote.

PETITIONS

There were no petitions.

SUBMISSIONS AND GRANTS

There were no submissions and grants.

DELEGATES' REPORTS

There were no delegates' reports.

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

Report No. 13.2 **Draft 2021/22 Operational Plan and Budget for Public Exhibition**
File No: I2021/641

21-202 **Resolved** that Council:

1. Endorses the draft Operational Plan 2021/22 (Attachment 1, E2021/59631) for public exhibition for a period of 28 days, from 14 May to 11 June 2021; with the following amendments:
 - a) Include three additional activities relating to *Delivery Program Action 1.3.1 – Ensure an integrated and accessible transport network*
 - i) Review Council's Asset Management Policy to embed Road Access and Safety Principles (RASPs) in line with procedure
 - ii) Prepare Road Access and Safety Principles (RASPs) procedure for capital works and maintenance
 - iii) Update road related DCP chapters to embed Road Access and Safety Principles (RASPs) in line with procedure for adoption in 2021/22
 - b) Include 3 additional activities relating to *Delivery Program Action 3.3.1 - Implement Coastal Management Program:*
 - i) Continue beach monitoring to track and report on beach erosion and recovery
 - ii) Continue community education about beach erosion, nesting shorebirds, and dune vegetation values
 - iii) Clarkes/Main Beach dune stabilization project
2. Endorses the Draft 2021/22 Statement of Revenue Policy comprising:
 - a) Detailed 30 Budget Estimates (Attachment 2, E2021/62186) and
 - b) Rates, Charges, Borrowings and Fees and Charges (Additional Supporting Information, E2021/64121) with the following amendments prior to exhibition:
 - i) Accommodation parking permit renamed to Tourist and Visitor Accommodation Permit

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- ii) A description for the Tourist and Visitor Accommodation Permit being listed as “12 month period - For approved tourist and visitor accommodation premises^{1&2} (excluding Short Term Rental Accommodation²) within the pay parking area and applicable within 200m of the approved premise. Limit of 10 per business. Eligibility requirements apply and are subject to site inspection and assessment.

¹ Approved prior to 30 May 2014.

² As defined by applicable legislation.”

for public exhibition for a period of 28 days, from 14 May to 11 June 2021.

(Cameron/Hackett)

The motion was put to the vote and declared carried.

Cr Spooner was not present for the vote.

STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

Report No. 13.10 PLANNING - State Government Planning Amendments for Agriculture

File No: I2021/636

21-203 Resolved that Council:

1. Notes the submission lodged with the State Government in relation to proposed planning amendment for agriculture Attachment 1 (#E2021/57181).
2. Notes that the proposed changes to planning legislation as drafted, and if imposed on Byron Shire Council in their current form, will by stealth, significantly impact the future viability of our farm land being used for use agricultural purposes; and our long term capacity to grow our local, valued and recognised agricultural produce sector.
3. Notes that if the proposed changes to planning legislation are imposed in their current form, there is likely to be an increase in requirement for compliance/enforcement on a range of tourism land use activity, the costs for which cannot be recouped by additional application fees.
4. Makes formal representations to the Local Member for Ballina, the Minister for Planning and Public Spaces and the Minister for Agriculture in relation to Council's concerns with the proposed amendments (Attachment 1 #E2021/57181) and those in 2 and 3.
(Hunter/Ndiaye)

The motion was put to the vote and declared carried.

Cr Spooner was not present for the vote.

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Report No. 13.14 **Proposed Housing Diversity State Environmental Planning Policy (SEPP) Confirmation of Council's position on Boarding Houses in the R2 Low Density Residential Zone**

File No: I2021/727

Moved:

1. That Council removes *boarding houses* as a permissible use in the R2 Low Density Residential zone of Byron Local Environmental Plan 2014, for further consideration as part of a separate planning proposal after the proposed new Housing SEPP is made.
2. That staff notify the Department of Planning Industry and Environment accordingly. (Coorey/Cameron)

AMENDMENT

21-204 **Resolved** that Council retains *boarding houses* as a permissible use in the R2 Low Density Residential zone of Byron Local Environmental Plan 2014, and notify the Department of Planning Industry and Environment accordingly. (Ndiaye/Hunter)

*The amendment was put to the vote and declared carried.
Crs Coorey, Cameron, and Hackett voted against the amendment.
Cr Spooner was not present for the vote.*

*The amendment upon becoming the substantive motion was put to the vote and declared carried.
Cr Hackett voted against the motion.
Cr Spooner was not present for the vote.*

STAFF REPORTS - INFRASTRUCTURE SERVICES

Report No. 13.15 **Byron Bay Bypass Project Closeout**
File No: I2021/609

21-205 **Resolved:**

1. That Council notes the lessons learnt on the Byron Bay Bypass project.
2. That staff consider these lessons when implementing future projects.
3. That Council formally authorises the borrowing of \$1,750,000 to fund additional expenditure associated with the Byron Bay Bypass Project.
4. That Council authorises the General Manager to accept loan borrowing terms offered to Council that represents the best financial outcome amongst any loan offers received.
5. That Council authorises the affixing of the Council Seal to any documents to execute the loan borrowings outlined in this report. (Cameron/Ndiaye)

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

URGENCY MOTIONS

PROCEDURAL MOTION

- 21-206 Resolved** that the matter of “Information and Support for Filming Activities in Byron Businesses and on Council Controlled Land” be considered urgent for the reason that filming production is potentially in breach of Council protocols and therefore the item needs to be dealt with at the meeting. (Coorey/Ndiaye)

*The motion was put to the vote and declared carried.
Crs Hunter, Hackett, and Lyon voted against the motion.
Cr Spooner was not present for the vote.*

**Urgency No. 1 Matter of Urgency - Information and Support for Filming
Activities in Byron Businesses and on Council Controlled Land**

21-207 Resolved:

1. That Council:
 - a) disseminate information to the business community to inform them of their rights with regard to filming on their premises;
 - b) alert those who may be filming in private and or business premises that they are not to use that content for broadcast/publishing without express permission of the owner.
2. That this might take the form of media and information that might include but not be limited to:
 - a) print advertisements in local media;
 - b) community service announcements;
 - c) associated collateral material that can be used to inform business owners and assist them in asserting their rights; and
 - d) Direct enquiries to a suitable webpage / online portal via Council’s website
 - e) adequately cover the cost of facilitating filming in the Shire.
3. That Council designate all filming related to the Byron Baes Production and the potential resulting broadcast media (the activity) as occurring under “exceptional circumstances” on the basis of:
 - a) the production’s failure to engage with the indigenous community in respect of the impact of proposed filming on a location or community;
 - b) the potential for harm to the environment as a result of the activity;
 - c) the potential for harm to landmarks/buildings as a result of the activity;
 - d) disruption to businesses, of a kind that cannot be conditioned and which is not simply short term, particularly against the background of the previous year and the impact Covid has had;
 - e) unreasonable impacts on the day to day living of the community, both during the filming of the series and after the series concludes;

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- f) the potential for the community to protest, thereby creating an unsafe environment which increases a risk to the community. (Coorey/Ndiaye)

PROCEDURAL MOTION

- 21-208 Resolved** that Cr Coorey be granted a one minute extension to her speech. (Lyon/Hunter)

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

*The motion (Coorey / Ndiaye) was put to the vote and declared carried.
Crs Hackett and Hunter voted against the motion.
Cr Spooner was not present for the vote.*

PROCEDURAL MOTION

- 21-209 Resolved** that the meeting be extended beyond 6pm for a period of up to 1 hour. (Lyon/Ndiaye)

The motion was put to the vote and declared carried.

MAYORAL MINUTE

No. 8.1 Prohibiting John Anderson from Council's Administration Building or Council Chambers

- 21-210 Resolved** that the General Manager investigate the ability of Council to issue a Notice and, if able, issue such Notice to John Anderson prohibiting him from entering Council's Administration Building or Council Chambers (the property) from the date of issue until at least 30 September 2021 or such later time as possible, on the grounds that John Anderson's behaviour within or around the property amounts to on-going threatening behaviour. (Lyon)

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

There being no further business the meeting concluded at 6:36pm.

I hereby certify that these are the true and correct Minutes of this Meeting
as confirmed at Council's Planning Meeting on 10 June 2021.

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A handwritten signature in black ink, appearing to read 'M Lyon', is positioned above a horizontal dotted line.

Mayor Michael Lyon