



Byron Shire Council



Minutes Ordinary Meeting Thursday, 24 June 2021

BYRON SHIRE COUNCIL

Ordinary Meeting Minutes
24 June 2021

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MINUTES OF THE BYRON SHIRE COUNCIL ORDINARY MEETING HELD ON THURSDAY, 24 JUNE 2021 COMMENCING AT 9.09AM AND CONCLUDING AT 5.05PM

I2021/1026

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

Staff: Mark Arnold (General Manager)
Vanessa Adams (Director Corporate and Community Services)
Phil Holloway (Director Infrastructure Services)
Shannon Burt (Director Sustainable Environment and Economy)
Ralph James (Legal Counsel)
Chris Larkin (Manager Sustainable Development) – item 9.2
Clare McGarry (Place Manager) – item 13.4
Chris Soulsby (Development Planning Officer) – item 9.3
Malcolm Robertson (Acting Manager Open Spaces and Resource Recovery) – item 13.19
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	Representing Organisation	Submission via
9.1	For	Dave Rawlins	Friends of Mooibal Spur	In person
9.2	For	Duncan Dey	Main Arm Residents' Association	In person
10.1	For	Nerida Clarke		In person
		Mary Dickie		In person
13.2	For	Joe Stein		In person
13.3	For	Helen Hamilton	Byron Community	In person

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Report No and Title	For/ Against	Name	Representing Organisation	Submission via
			Centre	
13.4	Against	Paul Jones	Butler Street Community Network	In person
13.13	For	Jeanette Olley	Byron Bird Buddies	In person
	Against	Diane Hart	Natural Burial Ground	In person

PROCEDURAL MOTION

21-189 Resolved that Public Access be extended until 11am. (Lyon/Spooner)

The motion was put to the vote and declared carried.

Public Access (continued)

Report No and Title	For/ Against	Name	Representing Organisation	Submission via:
13.17	For	Sama Balson	Women's Village Collective	In person
13.21	For	Peter Westheimer		In person
13.23	Against	(1)	Bronwyn Morris	Zoom
14.4	For	Duncan Dey		In person

Submissions

Subject	Name	Representing Organisation	Submission via:
General traffic management on Paterson Street Byron Bay	Nerida Clarke		In person

Question No. 1 Traffic Calming

Nerida Clarke asked the following question:

What traffic calming measures could be put in place on Paterson Street Byron Bay?

The Director Infrastructure Services provided the following response.

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In response to the issues on Paterson Street, staff will be proposing to undertake a further traffic count on the road and do a traffic assessment, pedestrian assessment etc. We do understand there was a traffic count undertaken in 2018 and the 85th percentile speed on that street was 51km/h so it is at the higher end in terms of traffic speeds on a residential street.

The consideration from staff going forward to put recommendations to both LTC and Council is that the main driver of the traffic on that street is the through nature between Bangalow Road and the lighthouse. It's not just generating traffic from its own catchment. There's a wide implication about modifying the traffic in that street and other streets in Byron. Work will be undertaken to understand that and we propose to come back to Council with recommendations and seek funding if appropriate.

Question – Council's obligation to respond to questions

Tashi Lhamo asked the following question:

Is there any accountability that Council have to respond appropriately or accurately to questions on notice moving forward?

The Mayor took the question on notice.

Question No. 1 - 5g small cell infrastructure

Tashi Lhamo asked the following question:

As the anticipated volume of 5G installation proposals could increase carrier Land Activity and Access Notices (LAAN) twentyfold over 2 years, does Council plan to request carriers provide their forward project plans for 5G deployment? Council is requested to provide a "yes" or "no" answer to my question, along with reasons if explanation is necessary.

The Director Sustainable Environment and Economy took the question on notice.

Question No. 2 - 5G infrastructure and small cells

Rinat Strahlhofer asked the following question:

Has Council received any information from any carriers about their future plans for the deployment of 5G infrastructure in the Byron Shire? Council is requested to provide a "yes" or "no" answer to my question, and if yes, to advise what information was provided?

The Director Sustainable Environment and Economy took the question on notice.

The allocation of time for public access had been exhausted, so all remaining questions were taken on notice.

Question No. 4 - Giving Council more control over 5G's destruction of trees

Michael Stavrou registered the following question:

What specific laws and regulations can be relied on to protect Native trees that could be at risk of being cut down in the Byron Shire for the 5G infrastructure roll out?

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Question No. 5 - Fibre-optic cabling

Isabel Lucas registered the following question:

Does Council have any information in its possession on where in the Byron Shire Fibre Optic internet provisions are available?

Question No. 6 - Precautionary Principle

Henriette Blecher registered 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? Council is requested to provide a “yes” or “no” answer to my question, along with reasons if explanation is necessary.

Question No. 7 - ICLEI

Alan Kunjasich registered the following question:

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

Question No. 8 - Telco carriers' plans

Sher Manu Roberts registered the following question:

If Council has not received any information about Telco carriers' plans for the deployment of 5G millimetre wave infrastructure, why has it not requested such information from carriers, as it is entitled to do under the Mobile Phone Base Station Deployment Code and has been requested of Council on a number of occasions?

Question No. 9 - Small cells on council-owned infrastructure and along our roads

Rinat Strahlhofer registered 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? Council is requested to provide a “yes” or “no” answer to my question, along with reasons if explanation is necessary.

Question No. 10 - 5G infrastructure and small cells

Michael Leung registered the following question:

Has Council received any information from any carriers about their future plans for the deployment of 5G infrastructure in the Byron Shire? Council is requested to provide a “yes” or “no” answer to my question, and if yes, to advise what information was provided?

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Question No. 11 -Discussions between Council and telcos 5G rollout and the installation of small cells on power poles, lamp posts, bus shelters or any other council assets

Maria Picone registered the following question:

Has Council had any discussions (either formal or informal) with telcos (i.e. Telstra, Optus TP-owned Mobile JV) regarding the 5G rollout and the installation of small cells on public utilities? Council is requested to provide a “yes” or “no” answer to my question. If the answer is “yes”, I request Council provide a summary of the current status of those discussions.

Question No. 12 -Objecting all future 5G upgrades or new mobile phone base stations that fall within a 500m distance from children’s educational facilities

Justin Picone registered 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? Council is requested to provide a “yes” or “no” answer to my question. If the answer is “no”, Council is requested to provide reasons for this decision.

Question No. 13 - 5G’s Carbon Footprint

Tashi Lhamo registered the following question:

Given the enormous carbon footprint 5G will have, does Council believe that it will achieve 100% net zero emissions for Council operations by 2025 if 5G is rolled out in the Byron Shire? Council is requested to provide a “yes” or “no” answer, along with reasons if explanation is necessary.

Question No. 14 - 5G

Daniel Rawson registered the following question:

Has Council obtained legal advice on this issue given that 5G small cells will present potential road safety, electrical safety and radiation safety hazards to the public and Council staff? Council is requested to provide a “yes” or “no” answer to my question. If the answer is “yes”, what advice was given?

Question No. 15 - Council supply independent risk assessment

Cherie Cowin registered the following question:

Will Council undertake any risk assessments for the installation of small cells on its public utilities? Council is requested to provide a “yes” or “no” answer to my question and details of who will conduct the risk assessments if the answer is “yes”.

Question No. 16 - Specific technology (5G) planning: Council communications

Angela Bambach registered the following question:

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Will Council request telcos provide their forward project plans for the deployment of 5G in the Byron Shire, including:

- (i) Which towers they plan to upgrade with millimetre wave technology;*
- (ii) When they plan to commence deployment of 5G small cells;*
- (iii) Where they plan to deploy 5G small cells (eg town centres, residential areas);*
- (iv) Which public infrastructure (including Council and EE infrastructure) they plan to deploy small cells on.*

Council is requested to provide a “yes” or “no” answer to my question, along with reasons if explanation is necessary.

Question No. 17 - 5G

Lauren Antico registered the following question:

Who did Council approach when attempting to secure panellists for the public information event on 5G in 2019 and were any experts asked besides ARPANSA?

Question No. 18 - Voting record in Council minutes

John Anderson registered the following question:

When I was on Council, the minutes carried the names of all Councillors who voted in favour of a particular motion or recommendation, thereby ensuring that voters could keep track of the performance of the individual Councillors in accordance with transparency and accountability. When, why and using what process did Council change to the current system where only the mover and seconder are recorded?

The meeting adjourned at 11.22am and reconvened at 12.01pm.

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

Cr Coorey declared a not significant non-pecuniary interest in Report 10.1. Cr Coorey elected to remain in the Chamber and will participate in discussion and the vote.

TABLING OF PECUNIARY INTEREST RETURNS

There were no Pecuniary Interest Returns tabled.

ADOPTION OF MINUTES FROM PREVIOUS MEETINGS

- 21-190 Resolved** that the minutes of the Ordinary Meeting held 27 May 2021 be confirmed.
(Lyon/Hackett)
The motion was put to the vote and declared carried.
-

RESERVATION OF ITEMS FOR DEBATE AND ORDER OF BUSINESS

The Mayor suspended standing orders to allow for items to be reserved for debate, being:

STAFF REPORTS

General Manager

- Report No. 13.2 Lease to Australia Skydive Pty Ltd
- Report No. 13.3 Tender 2021-0013 - Contract for Management of Repurposed Former Byron Hospital
- Report No. 13.4 Community feedback - Byron Community Market relocation

Corporate and Community Services

- Report No. 13.7 Adoption of the 2021/22 Operational Plan, including Budget, Statement of Revenue Policy, and Fees and Charges

Sustainable Environment and Economy

- Report No. 13.13 Brunswick Valley - Vallances Rd Vision and Roadmap
- Report No. 13.14 Dog and Cat Management Initiatives
- Report No. 13.17 Update Resolution 21-122 Housing Crisis

Infrastructure Services

- Report No. 13.18 Shire Wide Bus Stop Accessibility Upgrade Program
- Report No. 13.19 Beach Signage
- Report No. 13.21 Byron Shire Rail with Trail (Update)
- Report No. 13.22 Lighthouse Road / Clarkes Beach Reflections Stormwater Diversion
- Report No. 13.23 Local Roads and Community Infrastructure - Phase 3 grant options

REPORTS OF COMMITTEES

Infrastructure Services

- Report No. 14.4 Report of the Water, Waste and Sewer Advisory Committee Meeting held on 20 May 2021

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. 21-191 and concluding with Resolution No. 21-218.

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SUBMISSIONS AND GRANTS

Report No. 11.1 **Grants and Submissions May 2021**
File No: I2021/849

- 21-191** **Resolved** that Council notes the report and Attachment 1 (#E2021/76732) for Byron Shire Council's Submissions and Grants as at 31 May 2021. (Lyon/Cameron)

STAFF REPORTS - GENERAL MANAGER

Report No. 13.1 **Lease to Fibora Pty Ltd**
File No: I2021/445

21-192 **Resolved:**

1. That Council notes that no submissions were received on the proposed two year lease to Fibora Pty Ltd for a 197m² encroachment onto Marine Parade Byron Bay.
2. That Council authorises the General Manager, under delegations, to enter into a lease with Fibora Pty Ltd under s153 of the Roads Act 1993 for a 197m² encroachment onto Marine Parade Byron Bay on the following terms:
 - a) term two years no holding over to commence 1 July 2021;
 - b) initial rent to continue at \$7,229.94 (inclusive GST) per annum and increased annually thereafter by Consumer Price Index All Groups NSW;
 - c) for the purpose of a retaining wall and associated roads works by notice of determination 10.1998.629.3; and
 - d) Lessee, at its cost, to provide public risk insurance to the minimum value of \$20,000,000 identifying the Council land and noting Byron Shire Council as an interested party.
3. That Council develop a Policy dealing with and guiding Council's approach to unauthorised private encroachments on Council land and that a draft Policy be reported to Council in the balance of 2021. (Lyon/Cameron)

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

Report No. 13.5 **Section 355 Management Committees - resignations and appointments update**
File No: I2021/732

21-193 **Resolved:**

1. That the resignations of Mike Dowd and John Hudson from the Bangalow A&I Hall Management Committee be accepted and that letters of thanks be provided.
2. That the nominee in Confidential Attachment 1 (E2021/75157) be appointed to the Bangalow A&I Hall Management Committee.

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3. That the nominee in Confidential Attachment 2 (E2021/63018) be appointed to the South Golden Beach Hall Management Committee.
4. That the nominee in Confidential Attachment 3 (E2021/75839) be appointed to the Suffolk Park Hall Management Committee. (Lyon/Cameron)

Report No. 13.6 Council Investments - 1 May 2021 to 31 May 2021
File No: I2021/874

- 21-194 Resolved** that Council notes the report listing Council's investments and overall cash position as at 31 May 2021. (Lyon/Cameron)

Report No. 13.8 Report of the Public Art Panel meeting held on 29 April 2021
File No: I2021/969

21-195 Resolved:

1. That Council notes the minutes of the Public Art Panel meeting held on 29 April 2021
2. That Council adopts the following Panel recommendation:

Report No. 4.2 Byron Bypass Sound Wall - Graffiti and Rotating Mural Proposal
File No: I2021/467

Committee Recommendation:

That Council invests in an Anti-Graffiti Coating on all existing road facing panels of the bypass.

(Lyon/Cameron)

Report No. 13.9 Section 356 Donations - Rates and Charges - Policy Review
File No: I2021/978

21-196 Resolved:

1. That Council places the updated draft 'Section 356 Donations – Rates and Charges – 2021' policy (Attachment 2 E2021/77889) on public exhibition for a period of 28 days and if no submissions are received, adopts the policy.
2. That any submissions received on the updated draft 'Section 356 Donations – Rates and Charges – 2021' policy (Attachment 2 E2021/77889) be reported to Council for consideration, prior to the adoption of the draft policy. (Lyon/Cameron)

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Report No. 13.10 Making of the 2021/22 Ordinary Rates, Charges, Fees and Interest Rate

File No: I2021/980

- 21-197 Resolved** that in accordance with Sections 533, 534, 535, 543 and 566 of the Local Government Act 1993 (LGA), Council makes the ordinary rates, makes the charges, makes the fees and sets the interest rate to be charged on overdue rates and charges for 2021/22 listed in the tables within this report. (Lyon/Cameron)
-

Report No. 13.11 Amendment to the 2021 Meeting Schedule

File No: I2021/995

- 21-198 Resolved** that the Ordinary Meeting scheduled for 29 July 2021 be cancelled and that notice be given on Council's website of the change of meeting schedule. (Lyon/Cameron)
-

STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

Report No. 13.12 Submissions Report for the Public Exhibition of the Sustainable Visitation Strategy and Tourism Resilience Discussion Paper

File No: I2021/443

- 21-199 Resolved** that Council:
1. Endorses the framework and process to develop the whole of business industry strategy as outlined in this report.
 2. Reaffirms Resolution 20-353, relevant parts, to allocate the voluntary visitor contribution from Council's First Sun and Suffolk Park Holiday Parks to the delivery of our business industry strategy once adopted by Council. (Lyon/Cameron)
-

Report No. 13.15 Car Share (Popcar) community usage report for 2020/21

File No: I2021/861

- 21-200 Resolved** that Council:
1. Continues to lease the 10 bays to Popcar to provide a car sharing service in Byron Bay and Mullumbimby and invite Popcar to renew their annual lease, with an end date of 29 July 2022.
 2. Notes this report and that Popcar's proposal for 6 additional parking bays in Byron Bay will be reported to Council through the 17 August 2021 Local Traffic Committee Meeting (if approved the lease end date will be 29 July 2022 in line with the original 10 bays).
 3. Notes that a report outlining the next 12 month usage statistics, including the usage of the 6 additional bays (if they are approved), will be provided to Council in June
-

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2022, and that a recommendation on whether or not to invite Popcar to renew their annual lease for another year will be made at that time.

4. Notes that the cost of applications and bay permits as outlined in the Car Share Procedure and Council's Fees and Charges will be reviewed as part of the 2022/23 budget process.
5. Resolves to invite car share operators to respond to a competitive Expression of Interest in 2022/23 for the 10 (potentially 16) car share parking bays in Byron Shire for a three-year contract commencing in 2023/24. (Lyon/Cameron)

Report No. 13.16 CoastSnap - collaboration with National Parks and Wildlife Service

File No: I2021/857

- 21-201 Resolved** that Council endorses collaboration on CoastSnap with National Parks and Wildlife Service and the allocation of up to \$2,000 from the 2020/21 Coastal Monitoring budget account number 2605.101 to fund the setup of one of the prospective locations only. (Lyon/Cameron)

STAFF REPORTS - INFRASTRUCTURE SERVICES

Report No. 13.20 Part Road Reserve Closure and Dedication adjoining 11 Butler Street Byron Bay Lot 1 DP 781101

File No: I2021/779

21-202 Resolved:

1. That Council endorses the closure of part road reserve adjoining Lot 1 DP 781101, being part 11 Butler Street Byron Bay and road widening/dedication as per Deposited Plan *Attachment 1 (E2021/53598)* in order to finalise the agreement made to facilitate the works for the Byron Bay Bypass.
2. That Council endorses the consolidation of the closed road into the corresponding adjoining parcel Lot 1 DP 781101 as per Consolidation Plan *Attachment 2 (E2021/53596)*
3. That Council authorises the execution of all documents necessary to affect the road closure, dedication and consolidation. (Lyon/Cameron)

Report No. 13.24 Report of Coast Estuary Catchment Panel 20 May 2021

File No: I2021/981

21-203 Resolved:

1. That Council notes the minutes of the Coastal Estuary Catchment Panel Meeting held on 20 May 2021.

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2. That Council adopts the following Panel Recommendation:

Report No. 3.1 Adoption of Minutes from Previous Meeting

File No: I2021/777

Panel Recommendation 3.1.1

That the minutes of the Coastal Estuary Catchment Panel Meeting held on 10 September 2020 be confirmed.

3. That Council does not adopt Panel Recommendation(s) 4.1 as shown in the attachment to this report, but instead adopts the Management Recommendation(s) as follows:-

Report No. 4.1 'Bringin Back the Bruns' - project update

File No: I2021/735

Management Recommendation

That the Coastal and Estuary Panel:-

1. Note the update and support the 'Bringing Back the Bruns' project.
 2. Receive further advice on the positive changes to fish movements due to the 'Bringing Back the Bruns' causeway removal thus far.
4. That Council adopts the following Panel Recommendation:

Report No. 4.2 Coastal Management Program for the Richmond River

File No: I2021/736

Panel Recommendation 4.2.1

That Council notes the update on the development of a Coastal Management Program for the Richmond River estuary and catchment.

5. That Council adopts the following Panel Recommendation:

Report No. 4.3 Overview of ICOLL Recent Openings - Tallow and Belongil

File No: I2021/745

Panel Recommendation 4.3.1

That Council notes the overview on the recent ICOLL openings at Tallow and Belongil Creek.

(Lyon/Cameron)

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Report No. 13.25 **Tender 2021-0005 Supply of Quarry Products**
File No: I2021/986

21-204 Resolved:

1. That Council awards Tender 2021-0005 - Supply of Quarry Products to the suppliers confidentially listed in Attachment 1- Final Recommendation Report (E2021/78624) and be appointed to the tender as Panel Source suppliers to Byron Shire Council for the initial period of 28 June 2021 to 30 June 2023.
2. That provision be allowed with two (2) x one (1) year option to extend the contract subject to performance, which may take this contract through to 30 June 2025.
3. That Council makes public its decision, including the names of the successful tenderer, in accordance with Clause 179(b) of the Local Government (General) Regulation 2005. (Lyon/Cameron)

REPORTS OF COMMITTEES - CORPORATE AND COMMUNITY SERVICES

Report No. 14.1 **Report of the Arakwal Memorandum of Understanding**
Advisory Committee Meeting held on 15 April 2021
File No: I2021/866

21-205 Resolved that Council notes the minutes of the Arakwal Memorandum of Understanding Advisory Committee Meeting held on 15 April 2021. (Lyon/Cameron)

21-206 Resolved that Council adopts the following Committee Recommendation:

Report No. 3.1 Adoption of Minutes from 8 October 2020 Arakwal Memorandum of Understanding Advisory Committee Meeting
File No: I2021/553

Committee Recommendation 3.1.1

That the minutes of the Arakwal Memorandum of Understanding Advisory Committee Meeting held on 8 October 2020 be confirmed. (Lyon/Cameron)

21-207 Resolved that Council adopts the following Committee Recommendations:

Report No. 4.1 Arakwal MOU review
File No: I2021/470

Committee Recommendation 4.1.1

That the Arakwal MoU Committee:

1. Noted the Arakwal MoU review attachment (#E2021/52551).

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2. Provided feedback and discussed next steps and possible options.
 3. Requested that the Arakwal Corporation Board reviews and comments on the Arakwal Memorandum of Understanding 2019-2021 Implementation Plan to be brought back to the next meeting on 17 June 2021.
 4. Supported the extension of the Arakwal Memorandum of Understanding 2019-2021 Implementation Plan until 30 June 2022 or prior should an appropriate mechanism be identified. (Lyon/Cameron)
-

Report No. 14.2 Report of the Audit, Risk and Improvement Committee Meeting held on 20 May 2021

File No: I2021/944

21-208 Resolved that Council notes the minutes of the Audit, Risk and Improvement Committee Meeting held on 20 May 2021. (Lyon/Cameron)

21-209 Resolved that Council adopts the following Committee Recommendation:

Report No. 3.1 Adoption of Minutes from Audit, Risk and Improvement Committee Meeting of 18 February 2021

File No: I2021/593

Committee Recommendation 3.1.1

That the minutes of the Audit, Risk and Improvement Committee Meeting held on 18 February 2021 be confirmed. (Lyon/Cameron)

21-210 Resolved that Council adopts the following Committee Recommendation:

Report No. 4.1 2020/21 Operational Plan Report - Q3 - March 2021

File No: I2021/746

Committee Recommendation 4.1.1

That the Audit, Risk, and Improvement Committee notes the 2020/21 Operational Plan Quarter 3 Report and proposed amendments being reported to Council at the 27 May Ordinary Meeting. (Lyon/Cameron)

21-211 Resolved that Council adopts the following Committee Recommendations:

Report No. 5.1 Internal Audit Report - May 2021

File No: I2021/594

Committee Recommendation 5.1.1

That the Audit, Risk and Improvement Committee:

1. Notes the Internal Audit Status Report – May 2021 (E2021/63051)

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2. Endorses the recommendations from the Executive Team to close off 4 recommendations in Appendix A of the Internal Audit Status Report (E2021/63051)
3. Requests management to implement the recommendations made in the Internal Audit of Stores (Inventory Management) – April 2021 (E2021/59676)
(Lyon/Cameron)

21-212 Resolved that Council adopts the following Committee Recommendation:

Report No. 5.2 Risk Management Update

File No: I2021/595

Committee Recommendation 5.2.1

That the Audit, Risk and Improvement Committee notes the strategic and operational risk reports for the quarter ending 31 March 2021 (E2021/53312). (Lyon/Cameron)

21-213 Resolved that Council adopts the following Committee Recommendation:

Report No. 5.3 Business Continuity Plan Review 2021

File No: I2021/625

Committee Recommendation 5.3.1

That the Audit Risk & Improvement Committee endorses the revised Business Continuity Plan (E2021/56241). (Lyon/Cameron)

21-214 Resolved that Council adopts the following Committee Recommendations:

Report No. 5.4 Cyber Security and System Outages Quarterly Update

File No: I2021/656

Committee Recommendation 5.4.1

That the Audit, Risk and Improvement Committee:

1. Notes the attached security and incident reports:
 - a) Security Incident Report. Attachment 1 (E2021/58590); and,
 - b) Incident Outage Report. Attachment 2 (E2021/58589); and,
 - c) Security Intrusion Detection Report. Attachment 3 (E2021/58587); and
2. Receives ongoing status reports for cyber incidents and systems outages.
(Lyon/Cameron)

21-215 Resolved that Council adopts the following Committee Recommendations:

Report No. 5.5 External Audit Actions Quarter 3 2020-2021 Update

File No: I2021/767

Committee Recommendation 5.5.1

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1. That the Audit, Risk and Improvement Committee notes the external audit activity update for the quarter ending 31 March 2021 as outlined in Confidential Attachment 1 (#E2021/66065).
 2. That in relation to issue 7 "GST Errors" the committee agrees to close the issue on the basis of materiality only and not on the basis of ignoring compliance.
(Lyon/Cameron)
-

REPORTS OF COMMITTEES - SUSTAINABLE ENVIRONMENT AND ECONOMY

Report No. 14.3 **Report of the Biodiversity Advisory Committee Meeting held on 20 May 2021**

File No: I2021/940

21-216 **Resolved** that Council notes the minutes of the Biodiversity Advisory Committee Meeting held on 20 May 2021. (Lyon/Cameron)

21-217 **Resolved** that Council adopt the following Committee Recommendations:

Report No. 4.2 Biodiversity Projects and Operations Update

File No: I2021/711

Committee Recommendation 4.2.1

1. That the Biodiversity Advisory Committee note the update on current projects and programmes being undertaken by Council staff.
 2. That the Biodiversity Advisory Committee recognises the positive impact of having an Agricultural Extension Officer who is heavily involved in regenerative agriculture and biodiversity outcomes and recommends to Council that the Agricultural Extension Officer position be considered as a fulltime, permanent council position.
(Lyon/Cameron)
-

CONFIDENTIAL REPORTS - INFRASTRUCTURE SERVICES

Report No. 16.1 **CONFIDENTIAL - Land Acquisition for the purpose of widening and realignment of Myocum Road**

File No: I2021/992

21-218 **Resolved** that Council accepts the offer put forward by the landowner of Lot 4 DP 775335 and delegates to the General Manager the authority to negotiate a contract for the acquisition of land for road purposes to the value of \$160,000 inclusive of all related acquisition costs. (Lyon/Cameron)

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PROCEDURAL MOTION

- 21-219 Resolved** that Council change the order of business to deal with Reports 9.1, 9.2, 10.1, 13.2, 13.3, 13.4, 13.13, 13.17, 13.21, 13.23, 14.4 next on the Agenda. (Lyon/Hunter)

The motion was put to the vote and declared carried.

NOTICES OF MOTION

Notice of Motion No. 9.1 Low intensity burning

File No: I2021/869

- 21-220 Resolved** that Council:

1. Investigates the options for low intensity burning to be made as a condition of consent in developments with open forest vegetation and/or bushfire hazard prone land to be considered as part of the assessment of stage 9.
2. Consults with Fire and Rescue NSW - Mullumbimby, Captain Josh Ruston, NSW Rural Fire Service, the owner of the property, and other appropriate bodies. (Ndiaye/Lyon)

The motion was put to the vote and declared carried.

Notice of Motion No. 9.2 Multiple Occupancies and Rural Workers Cottages

File No: I2021/870

- 21-221 Resolved** that Council:

1. Prepares a report exploring the possibilities, hurdles and opportunities for continuing Multiple Occupancies and Community Title as a pathway to providing more options for accessible and affordable housing in the Byron Shire.
2. Prepares a report on pathways to encourage the use of rural workers' cottages to provide accommodation for farmers wanting to live and work on the land.
3. Progress points 1 and 2 as part of the review of the RLUS to commence FY21/22. Noting this review will enable a fresh dialogue with relevant state government agencies on the current needs of our rural community five years on from the original RLUS adoption. (Ndiaye/Lyon)

The motion was put to the vote and declared carried.

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PETITIONS

Petition No. 10.1 **Petition Regarding Safety Concerns in Paterson Street Byron Bay - Received from Paterson Street Residents - 59 Signatures**

File No: I2021/985

21-222 **Resolved** that Council:

1. Notes the significant community concern relating to pedestrian, cyclist, traffic and parking conflicts along Paterson Street and the associated Road Safety impacts;
 2. To ensure a clear and accurate understanding of the extent of the conflicts, and to ensure a high level of road safety is maintained across our road network, resolves to undertake the following, with a particular focus on Paterson Street between Bangalow Road and Ruskin Street:
 - a) undertakes a movement and parking assessment to identify the scope of the problem within Paterson street, Byron Bay,
 - b) prepares a plan to be reported to Council that identifies solutions.
- (Coorey/Cameron)

The motion was put to the vote and declared carried.

STAFF REPORTS - GENERAL MANAGER

Report No. 13.2 **Lease to Australia Skydive Pty Ltd**

File No: I2021/429

21-223 **Resolved** that Council defers this item until the 4 August Planning Meeting and receives a report clarifying the following:

- a) the status of leasing of the site under the NSW Land Act,
 - b) the issues surrounding remediation of the contamination of the site and an overview of the site and
 - c) the proposed lease in the context of Council's adopted Business and Industrial Lands Strategy.
- (Coorey/Lyon)

The motion was put to the vote and declared carried.

Report No. 13.3 **Tender 2021-0013 - Contract for Management of Repurposed Former Byron Hospital**

File No: I2021/530

21-224 **Resolved:**

1. That pursuant to Section 10A(2)(d)(i) of the Local Government Act, 1993, Council resolve into Confidential Session to discuss the following report, namely Tender 2021-0013 - Contract for Management of Repurposed Former Byron Hospital

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2. That the reasons for closing the meeting to the public to consider this item be that it contains commercial information of a confidential nature that would, if disclosed prejudice the commercial position of the person who supplied it. (Lyon/Hunter)

The motion was put to the vote and declared carried.

PROCEDURAL MOTIONS

- 21-225 Resolved** that Council move into Committee to allow for free debate. (Coorey/Lyon)

The motion was put to the vote and declared carried.

- 21-226 Resolved** that Council move out of Committee and resume the Ordinary Meeting. (Lyon/Coorey)

The motion was put to the vote and declared carried.

- 21-227 Resolved** that the meeting move out of confidential session. (Lyon/Coorey)

The motion was put to the vote and declared carried.

- 21-228 Resolved** that item 13.3 rest on the table. (Lyon/Coorey)

The motion was put to the vote and declared carried.

The meeting adjourned for a lunch break at 1.06pm and reconvened at 2.12pm.

Report No. 13.3 Tender 2021-0013 - Contract for Management of Repurposed Former Byron Hospital

File No: I2021/530

- 21-229 Resolved:**

1. That Council awards Tender 2021-0013 to the tenderer recommended in the Tender Evaluation Report (Confidential Attachment 1).
2. That Council's seal be affixed to the relevant documents.
3. That the proposed Lease and Management Agreement include a clause that stipulates that any net profits generated are to be reinvested into community and social services delivered within the Byron Shire Local Government area following reimbursement to Council of establishment costs, loan and building sinking fund repayments.
4. That Council makes public its decision, including the name and amount of the successful tenderer, in accordance with Clause 179(b) of the Local Government (General) Regulation 2005. (Coorey/Cameron)

The motion was put to the vote and declared carried.

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Report No. 13.4 **Community feedback - Byron Community Market relocation**
File No: I2021/845

21-230 Resolved:

1. That Council notes feedback gathered during the community consultation process.
2. That Council proceeds with the proposal to relocate the Byron Community Market to the centre of town on the footprint proposed, noting its alignment with the community vision outlined in the Byron Bay Town Centre Masterplan .
3. That staff continue to work with key stakeholders and address concerns raised through the detailed planning and Development Application process.
4. That staff continue to pass community feedback on to Byron Community Market managers for consideration in their planning of market layout and operations.

(Lyon/Hunter)

Cr Coorey left the Chamber at 2.24pm.

The motion was put to the vote and declared carried.

Cr Coorey was not present for the vote.

Cr Coorey returned to the Chamber at 2.25pm.

STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

Report No. 13.13 **Brunswick Valley - Vallances Rd Vision and Roadmap**
File No: I2021/750

PROCEDURAL MOTIONS

21-231 Resolved that Cr Martin be granted a two minute extension to her speech. (Lyon/Hunter)

The motion was put to the vote and declared carried.

21-232 Resolved that this matter rest on the table. (Lyon/Spooner)

The motion was put to the vote and declared carried.

21-233 Resolved that Council change the order of business to deal with Report 13.21 next on the Agenda. (Lyon/Ndiaye)

The motion was put to the vote and declared carried.

STAFF REPORTS - INFRASTRUCTURE SERVICES

Report No. 13.21 Byron Shire Rail with Trail (Update)
File No: I2021/794

21-234 Resolved:

1. That Council continues to work with Transport for NSW on the delivery of outcomes articulated in Resolutions 20-127 and 20-572 and requests that TFNSW expedite a workshop meeting.
2. Seek TFNSW funding to clear vegetation from the rail corridor
3. Proactively engages with state and federal governments regarding funding for multi-use activation of the rail corridor. (Cameron/Coorey)

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

STAFF REPORTS – SUSTAINABLE ENVIRONMENT AND ECONOMY

Report No. 13.17 Update Resolution 21-122 Housing Crisis
File No: I2021/979

21-235 Resolved that this matter rest on the table. (Lyon/Cameron)

The motion was put to the vote and declared carried.

STAFF REPORTS - INFRASTRUCTURE SERVICES

Report No. 13.23 Local Roads and Community Infrastructure - Phase 3 grant options
File No: I2021/957

21-236 Resolved that Council:

1. Endorses the nomination of Mullumbimby Recreation Precinct (\$460,140) and Gilmore Crescent (\$1million) for Local Roads and Community Infrastructure Program Phase 3.
2. Receives a report should the projects under Local Roads and Community Infrastructure Program Phase 3 require additional funding support.
3. Seeks a variation for Local Roads and Community Infrastructure Phase 2 and removes Mullumbimby Recreation Grounds car park and dog park and reallocates \$208,882 funding towards Lighthouse Road/Clarkes Beach Reflections Stormwater Diversion.

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4. Receives a report on Butler Street Reserve addressing issues raised in public access, including contamination investigation status update from the EPA, and outlining options and approval pathways for future use of the Reserve.

(Martin/Coorey)

The motion was put to the vote and declared carried.

Cr Cameron voted against the motion.

REPORTS OF COMMITTEES - INFRASTRUCTURE SERVICES

Report No. 14.4 Report of the Water, Waste and Sewer Advisory Committee Meeting held on 20 May 2021

File No: I2021/947

- 21-237 Resolved** that Council notes the minutes of the Water, Waste and Sewer Advisory Committee Meeting held on 20 May 2021. (Ndiaye/Spooner)

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

Report No. 3.1 Adoption of Minutes of Previous Meetings

File No: I2021/793

Committee Recommendation 3.1.1

That the minutes of the Water, Waste and Sewer Advisory Committee Meeting held on 29 April 2021 be confirmed. (Ndiaye/Spooner)

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

Report No. 4.1 Mullumbimby Future Water Strategy

File No: I2021/781

Committee Recommendation: 4.1.1

That Council:

1. Recognises that for the Mullumbimby township there are 2 water supply issues being considered at the moment, one being a potential drought next summer and the other being the long-term future water supply strategy.
2. Undertakes works to complete the connection of the emergency supply to the rest of Mullumbimby.
3. In relation to a long term strategy, firms up the management options including recognising the environmental impacts of each option, inclusive of impacts of Rous's own options (for options that use Rous water).
4. Aims to produce a draft long-term strategy to go to a Strategic Planning Workshop with a view to putting the strategy on public exhibition. (Ndiaye/Spooner)

The motions (21-237 - 21-239) were put to the vote and declared carried.

MAYORAL MINUTE

There was no Mayoral Minute.

NOTICES OF MOTION

Notice of Motion No. 9.3 s7.11 and s7.12 Contributions Review

File No: I2021/994

21-240 Resolved that Council:

1. Be provided with a report by February 2022 reviewing the s7.11 and s7.12 contribution policies and providing options for amendment, including addressing:
 - a) whether the separate s7.12 policy is working as envisaged, and in the best interests of our community, since development contributions were split into s7.11 and s7.12.
 - b) whether the s7.12 policy and its current levels of contribution are 'fit for the future' given the current and predicted influx of larger DAs in the shire's non-residential areas.
 - c) whether the s7.12 policy adequately covers the range of civic infrastructure facing increasing demands from non-residential development.
 - d) whether the current s7.12 policy's failure to collect contributions for the road network be amended as non-residential development generates further demands on roads.
2. Be provided with a report by November 2021 which outlines the scope of the review above and flagged in the staff report.
3. Notes the proposed review for the contributions plan and considers the following within the scope of such a review:
 - a) strategic directions contained in town and village masterplans
 - b) potential for contributions toward public transport infrastructure
 - c) movement and place framework
 - d) changes in community expectations due to the COVID pandemic, as to the use of public space and priority infrastructure (Lyon/Ndiaye)

PROCEDURAL MOTION

21-241 Resolved that Cr Lyon be granted a one minute extension to his speech. (Lyon/Ndiaye)

The motion was put to the vote and declared carried.

The motion (21-240) was put to the vote and declared carried.

Notice of Motion No. 9.4 Youth Engagement

File No: I2021/997

21-242 Resolved:

1. That Council investigates opportunities to further support youth engagement with the aim of establishing a regular forum.
2. That Council receives a six monthly report on the outcomes of the youth engagement program. (Hunter/Cameron)

The motion was put to the vote and declared carried.

DELEGATES' REPORTS

There were no delegates' reports.

STAFF REPORTS – CORPORATE AND COMMUNITY SERVICES

Report No. 13.7 Adoption of the 2021/22 Operational Plan, including Budget, Statement of Revenue Policy, and Fees and Charges

File No: I2021/965

21-243 Resolved that Council:

1. Notes the submissions received during the public exhibition period for the 2021/22 Operational Plan (including the Budget, Statement of Revenue Policy, and Fees and Charges).
2. Adds \$73,500 to the 21/22 budget for the Federal Village Masterplan, funded from the Infrastructure Renewal Reserve non-Byron.
3. Adopts the following documents:
 - a) Delivery Program 2017-2021 and 2021/22 Operational Plan as exhibited, with the amendments (included in Attachment 1 #E2021/78478) discussed in this report under the heading 'Draft 2021/22 Operational Plan – Amendments' and the following additions;
 - i) New activity in the Operational Plan "Complete Federal Village Main Street Movement and Place Detailed Design to support the development of the Federal Village Plan" with the measure "Movement and Place Plan-completed for inclusion in Federal Village Masterplan."
 - b) 2021/22 Statement of Revenue Policy including fees and charges as exhibited, with the amendments (included in Attachment 3 #E2021/62638) discussed in the report under the headings 'Draft General Land Rates and Charges (Statement of Revenue Policy)' and Draft Fees and Charges (Statement of Revenue Policy)
 - c) 2021/22 Budget Estimates as exhibited, with the amendments discussed in the report under the heading 'Draft 2021/22 Budget Estimates (Statement of

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Revenue Policy)' and included at Attachment 2 (#E2021/79835).

4. Adopts the proposed fees as outlined in the report under the heading Draft Fees and Charges (Statement of Revenue Policy) / Proposed Amendments, for the purposes of public exhibition where applicable and then adopts these fees should no submissions be received. (Cameron/Lyon)

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

STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

Report No. 13.14 Dog and Cat Management Initiatives
File No: I2021/770

- 21-244 Resolved** that Council notes the staff update provided on Dog and Cat Management initiatives being managed by Sustainable Environment & Economy Directorate staff.

(Martin/Lyon)

The motion was put to the vote and declared carried.

STAFF REPORTS - INFRASTRUCTURE SERVICES

Report No. 13.18 Shire Wide Bus Stop Accessibility Upgrade Program
File No: I2021/548

- 21-245 Resolved:**

1. That Council notes the comments from respondents to the survey and in particular the fact that the majority of bus patrons board and alight along bus routes and not at formal bus stops.
2. That Council acknowledges the need to improve access and safety for bus patrons along hinterland roads.
3. That Council applies Road Access and Safety Principles (RASPs) including consideration of reduced speeds.
4. That staff proceed to scope and deliver a priority based bus stop upgrade program, as funds permit, based on use, safety and accessibility, using the results of the community consultation process for prioritisation. (Cameron/Ndiaye)

The motion was put to the vote and declared carried.

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Report No. 13.19 Beach Signage
File No: I2021/703

21-246 Resolved:

1. That Council notes actions to date in response to beach access safety signage audit
2. That Council notes updated beach access signage descriptors will utilise recognised naming protocols for respected beaches, including;

<u>Location of Beach Access</u>	<u>Descriptor</u>
Dening Park East	Main Beach - Dening Park East
Dening Park West	Main Beach - Dening Park West
Jonson Street Car Park	Main Beach - Jonson Street Car Park
Cowper Street	Main Beach - Cowper Street
Belongil - Elements Access	Belongil Beach North

3. Council staff explore opportunities for beach wayfinding signage across the shire
4. Council staff provide a future report to Council seeking to clearly delineate geographical boundaries and names for beaches within the Shire.
(Hackett/Spooner)

PROCEDURAL MOTION

21-247 Resolved that Cr Hackett be granted a two minute extension to her speech. (Lyon/Ndiaye)

The motion was put to the vote and declared carried.

The motion (20-246) was put to the vote and declared carried.

Report No. 13.22 Lighthouse Road / Clarkes Beach Reflections Stormwater Diversion
File No: I2021/951

21-248 Resolved:

1. That Council awards Tender 2021-0003 – Lighthouse Road Stormwater, for the primary scope of works, excluding the separable portion, to Alder Constructions to the value of \$768,482 (ex GST).
2. That the scope of works identified in the separable portion be undertaken as a variation to the contract once a funding source has been secured. (Ndiaye/Coorey)

The motion was put to the vote and declared carried.

STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

PROCEDURAL MOTION

21-249 Resolved that Report No. 13.13 be lifted from the table. (Lyon/Spooner)

The motion was put to the vote and declared carried.

Report No. 13.13 Brunswick Valley - Vallances Rd Vision and Roadmap
File No: I2021/750

21-250 Resolved:

1. Adopts the 2021 Brunswick Valley – Vallances Rd Vision and Roadmap (Attachment 1 – E2021/60116) with an amendment to change the recommendation for the Natural Burial Ground to be a supported use at this location at Area A on map (E2021/84442)
2. Declares Area A as Byron Shire’s first natural burial ground.
3. Requests staff to collaborate and guide members of the community-based Natural Burial Committee with their onsite investigations and other reports that may be required to support their development application for a natural burial ground on Area A for lodgement with Council.
4. Allocates the \$15,000 in the 2021/22 budget mentioned in the staff report to assist staff with enabling the ongoing governance of the Natural Burial Ground by the current Natural Burial Committee.
5. Proceeds with development of a scope for a plant nursery and environmental education facility at the Vallances Road site.
6. Receives a further report on the outcome of items 3,4 and 5 above. (Martin/Lyon)

PROCEDURAL MOTION

21-251 Resolved that Cr Ndiaye be granted a two minute extension to her speech. (Lyon/Coorey)

The motion was put to the vote and declared carried.

The motion (20-250) was put to the vote and declared carried.

The meeting adjourned at 4.57pm for a short break.

PROCEDURAL MOTION

21-252 Resolved: that Report No. 13.17 be lifted from the table. (Lyon/Ndiaye)

The motion was put to the vote and declared carried.

BYRON SHIRE COUNCIL

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Report No. 13.17 **Update Resolution 21-122 Housing Crisis**
File No: I2021/979

21-253 **Resolved** that Council:

1. Notes the update provided by staff on Resolution 21-112.
2. Continues to work with the other member councils in the NRJO on potential housing solutions for our region.
3. Continues to work with relevant state government agencies, housing providers and local housing groups to deliver (on ground) safe, secure and location appropriate housing solutions for Byron Shire locals and key workers.
4. Continues to advocate and agitate for housing policy change and financial support from the state and commonwealth governments where opportunities arise.
5. Hosts a session with staff, interested property/land holders and key stakeholders to specifically look at quick short term options and sites. This could include local language schools, backpacker accommodation providers, and 'meanwhile use' options for vacant buildings, both private and public.
6. Explores the possibility of doing a public call out to land and property owners outlining the challenges we are facing in the shire in regards to this as per Bega Valley Shire Council's recent move, calling on holiday home owners to consider putting their vacant properties up for rent during the quieter winter months or transfer it to long term altogether. (Ndiaye/Lyon)

The motion was put to the vote and declared carried.

There being no further business the meeting concluded at 5.06pm.

I hereby certify that these are the true and correct Minutes of this Meeting
as confirmed at Council's Ordinary Meeting on 26 August 2021.



.....
Mayor Michael Lyon