



Byron Shire Council



Minutes Ordinary Meeting Thursday, 23 September 2021

BYRON SHIRE COUNCIL

Ordinary Meeting Minutes

23 September 2021

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MINUTES OF THE BYRON SHIRE COUNCIL ORDINARY MEETING HELD ON THURSDAY, 23 SEPTEMBER 2021 COMMENCING AT 9:08AM AND CONCLUDING AT 11.55AM.

I2021/1480

PRESENT: Cr M Lyon (Mayor) and Cr S Ndiaye

VIRTUAL: Cr B Cameron, Cr C Coorey, Cr J Hackett, and Cr A Hunter

Staff: Mark Arnold (General Manager)
Phil Holloway (Director Infrastructure Services)
Shannon Burt (Director Sustainable Environment and Economy)
Ralph James (Legal Counsel)
Heather Sills/Mila Jones (Minute Taker)

Remote:

Vanessa Adams (Director Corporate and Community Services)

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

PUBLIC ACCESS

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

Public Access

Report No and Title	For/ Against	Name	Representing Community Organisation	Via
13.7	Against	Jason Dunn		Zoom
13.10	For	Fran Parker	NSW Telco Authority	Zoom
		Meredith Junor		Zoom

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Submissions

Subject	Name	Representing Community Organisation	Via
Essential Energy & Council power poles for network coverage	Tashi Lhamo	Northern Rivers for Safe Technology	Zoom
Urgency Motion: Vote against Council owned power poles proposed for the 5G upgrade	Rinat Strahlhofer	We Are Not SAM	Zoom

Question No. 1 Holiday Letting on Council Title Lots

John Anderson asked the following question:

Council staff not long ago opined that secondary dwellings are not legally permissible on community title lots. Given that Coorabell is currently undergoing an explosion in community title development and given that lots are usually planned in clusters, is Council now in a position to offer an opinion as to whether holiday letting is permissible on community title given the potential for conflict, and bearing in mind in the case of my community title I made sure that both the conditions of consent and the internal community regulations explicitly prohibit holiday letting?

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

The meeting adjourned at 9.42am and reconvened at 10.05am.

APOLOGIES

Cr Spooner was an apology, in accordance with his approved leave of absence.

PROCEDURAL MOTION

21-379 Resolved that the apology from Cr Martin be accepted and a leave of absence granted.
(Lyon/Ndiaye)

The motion was put to the vote and declared carried.

REQUESTS FOR LEAVE OF ABSENCE

There were no requests for leave of absence.

DECLARATIONS OF INTEREST – PECUNIARY AND NON-PECUNIARY

There were no declarations of interest.

TABLING OF PECUNIARY INTEREST RETURNS

There were no Pecuniary Interest Returns tabled.

ADOPTION OF MINUTES FROM PREVIOUS MEETINGS

- 21-380 Resolved** that the minutes of the Ordinary Meeting held on 26 August 2021 be confirmed. (Hackett/Lyon)

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

Corporate and Community Services

Report No. 13.6 Financial Assistance - COVID-19 Pandemic and Byron Music Festival

Sustainable Environment and Economy

Report No. 13.7 Section 138 Approval 51.2019.616.2 - request for relief from fees for use of Council road reserve

Infrastructure Services

Report No. 13.8 Streetlight Glare Shields Policy 2021

Report No. 13.11 Part road reserve closure adjoining Lot 1 DP 557721 874 Coolamon Scenic Drive Coorabell

Report No. 13.12 Part Road Reserve Closure and sale adjoining Lot 3 DP 707295 336 Booyong Road Nashua NSW

The remaining Recommendations and Committee Recommendation were adopted as a whole, being moved by Cr Lyon and seconded by Cr Coorey. Each recommendation is recorded with a separate resolution number commencing at Resolution No. 21-381 and concluding with Resolution No. 21-405.

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GRANTS AND SUBMISSIONS

Report No. 11.1 Grants and Submissions August 2021

File No: I2021/1459

- 21-381 Resolved** that Council notes the report and Attachment 1 (#E2021/113174) for Byron Shire Council's Submissions and Grants as at 31 August 2021. (Lyon/Coorey)
-

STAFF REPORTS - GENERAL MANAGER

Report No. 13.1 Rent Relief

File No: I2021/1364

- 21-382 Resolved:**
1. That Council delegates to the General Manager, the authority to negotiate deferred rent relief, if any, with commercial and community tenants identified in this report, at a rate to be determined by the General Manager for the period 26 June 2021 to 12 July 2021.
 2. That Council waives, in accordance with the *Retail and Other Commercial Leases (COVID-19) Regulations 2021* (NSW), a minimum of 50% of rent payable by commercial and community tenants identified in this report for the period between 13 July 2021 and 13 January 2022.
 3. That Council delegates to the General Manager, the authority to enter into arrangements with commercial and community tenants identified in this report for the balance of 50% of rent owing between 13 July 2021 and 13 January 2022. (Lyon/Coorey)
-

Report No. 13.2 Lease to Tiger Moth Aerial Services Pty Ltd (A.C.N 076 113 187)

File No: I2021/1422

- 21-383 Resolved** that Council authorises the General Manager, under delegation, to enter into a lease with Tiger Moth Aerial Services Pty Ltd (A.C.N 076 113 187) over Lot 9 DP856832 Staceys Way Tyagarah on the following terms:
- a) term five years,
 - b) base rent to be set by an independent market valuation with the rent annually increased thereafter by Consumer Price Index All Groups Sydney,
 - c) for the purpose of storage of an aircraft,
 - d) the Lessor and Lessee to agree that the Lessee owns all building improvements on the land,
-

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- e) Lessee must, at its cost, be responsible for the following:
 - i) all outgoings payable in respect of the land,
 - ii) all maintenance of all improvements on the land including but not limited all buildings, access road, and carpark constructed on the land,
 - iii) all insurances including a minimum \$20 million public risk insurance noting Byron Shire Council as an interested party, and
 - iv) all consents, approvals and other authorisation to operate its business and improve its buildings on the land.

 - f) Lessee must at its cost, remove its building improvements from the land and return the land to vacant possession at the end of the lease unless a new lease is negotiated to commence on the day after the end date of the lease. (Lyon/Coorey)
-

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

Report No. 13.3 Section 356 Rates and Charges Donation Policy - Review following public exhibition

File No: I2021/1368

21-384 Resolved:

1. That Council adopts the draft 'Section 356 Donations – Rates and Charges – 2021' policy provided at Attachment 1 (#E2021/77889) effective from the commencement of the 2021/2022 financial year.

 2. That Council does not accept the request from Island Quarry Reserve Trust Inc for a rates and charges donation under the 'Section 356 Donations – Rates and Charges Policy – 2021' (#E2021/77889). (Lyon/Coorey)
-

Report No. 13.4 Council Investments - 1 August 2021 to 31 August 2021

File No: I2021/1431

- 21-385 Resolved** that Council notes the report listing Council's investments and overall cash position as at 31 August 2021. (Lyon/Coorey)
-

Report No. 13.5 2021-2022 Financial Assistance Grant

File No: I2021/1454

- 21-386 Resolved** that Council receives and notes the 2021-2022 Financial Assistance Grant Report as outlined in Attachment 1 (#E2021/112359), 2 (#E2021/112363) and 3 (#E2021/112364). (Lyon/Coorey)

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Report No. 13.9 The Buttery - connection to sewerage system
File No: I2021/1216

21-387 Resolved that in relation to the connection of 346 Lismore Road, Binna Burra (*The Buttery*) to the Bangalow Sewerage System, Council:

1. Supports the connection on the basis that *The Buttery* is a registered charitable organisation, the community benefit it provides and its ongoing provision of community services.
 2. Supports the deferral of s64 Contributions on the basis the conditions detailed in the Report.
 3. Requires a special agreement for connection to sewerage system to be prepared by the relevant staff and executed by the General Manager; and
 4. Determines that all costs relating to installation, required approvals, ongoing operation, maintenance, repair and replacement are borne by *The Buttery*.
(Lyon/Coorey)
-

Report No. 13.10 Request for Council consent: Addition of unformed council road to Mount Jerusalem National Park
File No: I2021/1190

21-388 Resolved that Council endorse the transfer of Council Road Reserve to incorporate it into Mount Jerusalem National Park and give consent to National Parks and Wildlife Service to publish a gazette notice to reserve the road as per the *National Parks and Wildlife Act 1974*.
(Lyon/Coorey)

Report No. 13.13 Byron Shire Rail with Trail (Update)
File No: I2021/1418

21-389 Resolved that Council continues to work with Transport for NSW on the delivery of outcomes articulated in Resolutions 20-127, 20-572, and 21-234.
(Lyon/Coorey)

REPORTS OF COMMITTEES - CORPORATE AND COMMUNITY SERVICES

Report No. 14.1 Report of the Audit, Risk and Improvement Committee Meeting held on 19 August 2021

File No: I2021/1354

21-390 Resolved that Council notes the minutes of the Audit, Risk and Improvement Committee Meeting held on 19 August 2021 at Attachment 1 (I2021/1313). (Lyon/Coorey)

21-391 Resolved that Council adopts the following Committee Recommendation:

Committee Recommendation 3.1.1

That the minutes of the Audit, Risk and Improvement Committee Meeting held on 20 May 2021 be confirmed. (Lyon/Coorey)

21-392 Resolved that Council adopts the following Committee Recommendation:

Report No. 4.2 NSW Auditor-General Annual Work Program 2021-2024

File No: I2021/1292

Committee Recommendation 4.2.1

That ARIC note the NSW Auditor-General's Annual Work Program for 2021-2024 (#E2021/100974). (Lyon/Coorey)

21-393 Resolved that Council adopts the following Committee Recommendation:

Report No. 4.4 Delivery Program 6-monthly Report and 2020/21 Operational Q4 Report - to 20 June 2021

File No: I2021/1234

Committee Recommendation 4.4.1

That the Audit, Risk, and Improvement Committee notes the Delivery Program 6-monthly Report and 2020/21 Operational Plan Fourth Quarter Report for the period ending 30 June 2021 (#E2021/97874). (Lyon/Coorey)

21-394 Resolved that Council adopts the following Committee Recommendation:

Report No. 4.5 AASB1059 - Service Concession Arrangements: Grantors

File No: I2021/1241

Committee Recommendation 4.5.1

That the Audit, Risk and Improvement Committee consider the requirements of AASB1059 Service Concession Arrangements: Grantors and concur with the view that the requirements of AASB 1059 have no application to Byron Shire Council and therefore no disclosure obligations in the financial statements. (Lyon/Coorey)

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21-395 Resolved that Council adopts the following Committee Recommendation:

Report No. 5.1 Internal Audit Report - June 2020-21

File No: I2021/1192

Committee Recommendation 5.1.1

That the Audit, Risk and Improvement Committee:

1. Notes the Internal Audit Status Report – June 2021 (#E2021/95033)
2. Endorses the recommendations from the Executive Team to close off 10 recommendations in Appendices A and B of the Internal Audit Status Report (#E2021/95033)
2. Requests management to implement the recommendations made in the Internal Audit of Procurement (Tendering) – June 2021 (#E2021/76376)
(Lyon/Coorey)

21-396 Resolved that Council adopts the following Committee Recommendation:

Report No. 5.2 Internal Audit Plan 2021-2024

File No: I2021/1096

Committee Recommendation 5.2.1

That the Committee endorses the Internal Audit Plan for 2021 - 2024 (#E2021/97611) for approval by Council.
(Lyon/Coorey)

21-397 Resolved that Council adopts the following Committee Recommendation:

Report No. 5.3 Risk Management Update

File No: I2021/1097

Committee Recommendation 5.3.1

That the Audit, Risk and Improvement Committee notes the strategic and operational risk reports for the quarter ending 30 June 2021 (#E2021/88532).
(Lyon/Coorey)

21-398 Resolved that Council adopts the following Committee Recommendation:

Report No. 5.4 2020-2021 Continuous Improvement Pathway Program

File No: I2021/1106

Committee Recommendation 5.4.1

That Audit Risk and Improvement Committee notes the results of the CIP 2020-2021 workbook (#E2021/86609).
(Lyon/Coorey)

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21-399 Resolved that Council adopts the following Committee Recommendations:

Report No. 5.5 Cyber Security and System Outages Quarterly Update

File No: I2021/1196

Committee Recommendation 5.5.1

That the Audit Risk and Improvement Committee:

1. Notes the report and attached security reports:
 - a) ARIC Security Incident Report 2021 Q2. (#E2021/95614)
 - b) ARIC Incident Outage Report 2021 Q2. (#E2021/95613)
2. Receives ongoing cyber security and system outage status reports. (Lyon/Coorey)

21-400 Resolved that Council adopts the following Committee Recommendation:

Report No. 5.6 External Audit Actions Quarter 4 2020-2021 Update

File No: I2021/1246

Committee Recommendation 5.6.1

That the Audit, Risk and Improvement Committee notes the external audit update (including the closure of four issues) for the quarter ending 30 June 2021 (#E2021/100193). (Lyon/Coorey)

REPORTS OF COMMITTEES - INFRASTRUCTURE SERVICES

Report No. 14.2 Report of the Water, Waste and Sewer Advisory Committee Meeting held on 19 August 2021

File No: I2021/1353

21-401 Resolved that Council notes the minutes of the Water, Waste and Sewer Advisory Committee Meeting held on 19 August 2021. (Lyon/Coorey)

21-402 Resolved that Council adopts the following Committee Recommendation:

Report No. 3.1 Adoption of Minutes from Previous Meeting

File No: I2021/1289

Committee Recommendation 3.1.1

That the minutes of the Water, Waste and Sewer Advisory Committee Meeting held on 20 May 2021 be confirmed. (Lyon/Coorey)

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21-403 Resolved that Council does not adopt the following Committee Recommendation 4.1 as detailed in the Report , but instead adopts the Management Recommendation(s) as follows:

Report No. 4.1 DA water

File No: I2021/716

Committee Recommendation 4.1.1

That Council notes the report.

(Lyon/Coorey)

21-404 Resolved that Council adopts the following Committee Recommendation:

Report No. 4.2 Waste Issues of interest

File No: I2021/705

Committee Recommendation 4.2.1

That Council notes the report.

(Lyon/Coorey)

21-405 Resolved that Council adopts the following Committee Recommendations:

Report No. 4.3 Byron STP Condition 9 Additional Load - Quarterly Report

File No: I2021/717

Committee Recommendation 4.3.1

1. That Council notes the report.

2. Once the audit of consent conditions has been completed, if necessary, the extraordinary meeting of Water Waste and Sewer Advisory Committee is held.

(Lyon/Coorey)

PROCEDURAL MOTION

21-406 Resolved that Council change the order of business to deal with Report 13.7 next on the Agenda. (Lyon/Ndiaye)

The motion was put to the vote and declared carried.

STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

Report No. 13.7 **Section 138 Approval 51.2019.616.2 - request for relief from fees for use of Council road reserve**
File No: I2021/1421

Moved:

That Council defer any decision until the next Ordinary Council Meeting in October, on reducing or refunding the fees Council is charging for the use of the Council Road Reserve in section 138 Approval 51.2019.616.2 and until Council receives a copy of the Ombudsman's report into the current fees. (Hunter/Hackett)

AMENDMENT

Moved:

1. That Council defers consideration of the request for a reduction or refund of fees for the use of Council's Road reserve.
2. That Council requests staff to complete a review of fees charged by comparative councils and report this back to Council at a future meeting for consideration of this request.
3. That should the NSW Ombudsman provide advice to the applicant about a review of the fees, that advice be included as part of the staff review. (Ndiaye/Lyon)

PROCEDURAL MOTION

21-407 Resolved that Cr Ndiaye be granted a two minute extension to her speech. (Lyon/Hunter)

The motion was put to the vote and declared carried.

*The amendment was put to the vote and declared lost.
Crs Hackett, Hunter, Cameron, Coorey voted against the amendment.*

*The motion (Hunter / Hackett) was put to the vote and declared lost.
Crs Ndiaye, Lyon, Cameron, Coorey voted against the motion.*

FORESHADOWED MOTION

Moved that Council not support the request for a reduction or refund of fees for the use of Council's Road reserve. (Cameron/Coorey)

*The motion was put to the vote and declared lost.
Crs Ndiaye, Lyon, Hunter, and Hackett voted against the motion.*

MAYORAL MINUTE

There was no Mayoral Minute.

PETITIONS

There were no petitions tabled at the meeting.

DELEGATES' REPORTS

There were no delegates' reports.

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

Report No. 13.6 **Financial Assistance - COVID-19 Pandemic and Byron Music Festival**

File No: I2021/1456

21-408 Resolved that Council:

1. Waives the footpath dining and goods display fees from Monday 9 August 2021 until Saturday 11 September inclusive, and a credit applied to the next quarterly invoice; and further:
 - a) Endorses the use of the Debt Management and Financial Hardship Assistance Policy 2019 to allow business owners to enter into suitable payment plans where businesses are unable to pay footpath dining/goods display license fees by the due date.
 - b) Delegates to the General Manager the Authority to waive footpath dining and goods display fees, should a future lockdown order be imposed under a Public Health Order on the Byron Shire Local Government area, for the period of the lockdown order, with a credit applied to the next quarterly invoice.
2. Waives Food Administration Fees from Monday 9 August 2021 until Saturday 11 September inclusive, and a credit applied to the next quarterly invoice; and further:
 - a) Endorses the use of the Debt Management and Financial Hardship Assistance Policy 2019 to allow business owners to enter into suitable payment plans where businesses are unable to pay Food Administration fees by the due date.
3. Sets the interest rate applicable to outstanding rates and charges arrears for all ratepayers to 0% for the period 1 October 2021 to 28 February 2022
4. Council recognises this unique event and the circumstances in which it took place and supports a reduction of fees as per option 2 in the agenda:

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The reduction of fees includes the private rate for the event day only, and standard rate for the set up and pack down event days, when tickets were not required to enter the location. The Temporary Licence for Activity on Crown Reserve fees would then reduce from \$10,212 to \$4,086 (a reduction of \$6,126). This reduced fee combined with the other fees would equate to a total fee payable to Council of \$6,894. (Coorey/Lyon)

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

STAFF REPORTS - INFRASTRUCTURE SERVICES

Report No. 13.8 **Streetlight Glare Shields Policy 2021**
File No: I2021/1178

21-409 Resolved:

1. That the draft Streetlight Glare Shields Policy 2021 be adopted and incorporated into Council's policy register; and
2. That the proposed fees and charges be adopted within Council's 2021/22 Fees and Charges Schedule.
3. That Council notes the impacts on ecosystems and on night sky viewing caused by light pollution and considers further measures to limit light pollution in the Shire's towns as per the international dark sky protocols.
4. That light pollution be added as an agenda item at the next SERAC and Biodiversity Committee meetings. (Coorey/Lyon)

The motion was put to the vote and declared carried.

PROCEDURAL MOTION

21-410 Resolved that Cr Coorey be granted a two minute extension to her speech. (Lyon/Ndiaye)

The motion was put to the vote and declared carried.

Report No. 13.11 **Part road reserve closure adjoining Lot 1 DP 557721 874**
Coolamon Scenic Drive Coorabell
File No: I2021/1295

21-411 Resolved that the item *Part road reserve closure adjoining Lot 1 DP 557721 874 Coolamon Scenic Drive Coorabell* be deferred until the next Ordinary Meeting of Council to allow further documentation to be provided. (Cameron/Coorey)

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

