



Byron Shire Council



Minutes Ordinary (Planning) Meeting Thursday, 16 September 2021

BYRON SHIRE COUNCIL

Ordinary (Planning) Meeting Minutes
16 September 2021

INDEX OF ITEMS DISCUSSED

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ORDINARY (PLANNING) MEETING MINUTES

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MINUTES OF THE BYRON SHIRE COUNCIL ORDINARY (PLANNING) MEETING HELD ON THURSDAY, 16 SEPTEMBER 2021 COMMENCING AT 11.05AM AND CONCLUDING AT 3.42PM

I2021/1481

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)
Ivan Holland (Planner) (Item 13.4)
Chris Soulsby (Development Planning Officer s64 and s94) (Item 8.1)
Alex Caras (Land Use Planning Coordinator) (Item 13.2)
Mila Jones (Minute Taker)

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

PUBLIC ACCESS

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

Public Access

Report No and Title		For/Against (#)		Name	Representing Community Organisation	Joining the meeting via
13.1	DA 10.2020.370.1 - Change of Use of Existing Building from Residential Dwelling to Commercial Offices at 68 Byron St Bangalow	For	1	Ian Holmes	Bangalow Progress Association	Via Zoom
13.2	PLANNING - 26.2019.1.1 - Submissions report: Planning Proposal to permit Community Title subdivision and dwellings	Against	2	Obi McDonald-Saint	Alidenes Wilsons Creek Resident Association	In person

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Report No and Title		For/Against (#)		Name	Representing Community Organisation	Joining the meeting via
	at Lot 38 DP 1059938, 31 Alidenes Road, Wilsons Creek			James Mark White		In person
13.4	PLANNING - S4.55 application to modify consent 10.2014.742.1 to include 8 additional motel units, remove the ground and third floor swimming pools, add of roof-top swimming pool and recreation area at 33 Lawson Street Byron Bay	For	1	Kasi Chong		In Person

Submissions

Subject	Name	Representing Community Organisation	Joining the meeting via
Vaccination and public health	Asren Pugh		In person

The meeting adjourned at 11.42am and reconvened at 12.13pm.

APOLOGIES

There were no apologies.

REQUESTS FOR LEAVE OF ABSENCE

Cr Spooner requested a leave of absence for the Ordinary Meeting on 23 September 2021.

PROCEDURAL MOTION

21-354 Resolved that Cr Spooner be granted a leave of absence for the Ordinary Meeting on 23 September 2021. (Lyon/Ndiaye)

The motion was put to the vote and declared carried.

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

- 21-355 Resolved** that the minutes of the Ordinary (Planning) Meeting held 5 August 2021 meetings be confirmed. (Lyon/Martin)

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

Sustainable Environment and Economy

- Report No. 13.1 PLANNING - Development Application 10.2020.370.1
Change of Use of Existing Building from Residential (Dwelling House)
to Offices including Alterations and Additions to Existing Building and
Provision of Car Parking at 68 Byron Street BANGALOW
- Report No. 13.2 PLANNING - 26.2019.1.1 - Submissions report: Planning Proposal to
permit Community Title subdivision and dwellings at Lot 38 DP
1059938, 31 Alidenes Road, Wilsons Creek
- Report No. 13.4 PLANNING - S4.55 application to modify consent 10.2014.742.1 to
include 8 additional motel units, remove the ground and third floor
swimming pools, add of roof-top swimming pool and recreation area at
33 Lawson Street Byron Bay

Infrastructure Services

- Report No. 13.6 Mullumbimby Heritage Park Masterplan

The remaining Recommendations and Committee Recommendation were adopted as a whole, being moved by Cr Lyon and seconded by Cr Ndiaye. Each recommendation is recorded with a separate resolution number commencing at Resolution No. 21-356 and concluding with Resolution No. 21-357.

STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

Report No. 13.3 **PLANNING - 26.2021.3.1 Planning proposal to rezone 150 Lismore Road, Bangalow to IN1 General Industrial**
File No: I2021/1301

21-356 Resolved that Council:

1. proceed with the planning proposal, as attached to this report (Attachment 1 – E2021/84328), to amend LEP 2014 to rezone part of Lot 4 DP 635505, 150 Lismore Road, Bangalow from RU1 Primary Production to IN1 General Industrial and E3 Environmental Management;
2. forward the planning proposal to the NSW Department of Planning, Industry and Environment for a Gateway determination;
3. pending a positive Gateway determination, undertake public exhibition of the planning proposal in accordance with the determination requirements; and
4. consider a submissions report post-exhibition that includes any recommended changes to the planning proposal for final adoption. (Lyon/Ndiaye)

The motion was put to the vote and declared carried.

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

No Councillors voted against the motion.

Report No. 13.5 **PLANNING - Development Application 10.2020.346.1 for Subdivision of Two (2) Lots into Two (2) Lots at 806 and 874 Coolamon Scenic Drive, Coorabell**
File No: I2021/1413

21-357 Resolved that, pursuant to Section 4.16 of the Environmental Planning & Assessment Act 1979, Development Application No. 10.2020.346.1 for Subdivision of Two (2) Lots into Two (2) Lots, be granted consent subject to the conditions of approval in Attachment 2 (E2021/107855). (Lyon/Ndiaye)

The motion was put to the vote and declared carried.

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

No Councillors voted against the motion.

COMMITTEE REPORTS - INFRASTRUCTURE SERVICES

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Report No. 14.1 **Report of the Local Traffic Committee Meeting held on 17 August 2021**

File No: I2021/1419

21-358 **Resolved** that Council notes the minutes of the Local Traffic Committee Meeting held on 17 August 2021. (Lyon/Ndiaye)

21-359 **Resolved** that Council adopt the following Committee Recommendation(s):

Report No. 6.1 **Lilium Love Cafe, Huonbrook Rd (No Stopping)**

File No: I2021/1001

Committee Recommendation 6.1.1

- a) That Council supports the installation of No Stopping signs along the inside curve of Hounbrook Road / Wilson Creek Rd intersection for approximately 50m either side of the intersection.
- b) That Council considers advisory signs for bus stop/routes ahead to improve safety for bus passenger along Hinterland roads. (Lyon/Ndiaye)

21-360 **Resolved** that Council adopt the following Committee Recommendation(s):

Report No. 6.2 **Car share - request from provider Popcar for four additional designated parking bays.**

File No: I2021/726

Committee Recommendation 6.2.1

- 1. That LTC support the car share service 'Popcar', to lease four additional designated parking bays in Byron Bay at the following locations:
 - a) 24 Shirley Street
 - b) 122 Jonson Street
 - c) 39 Lawson Street
 - d) 1 Massinger Street
- 2. That Council includes installation of regulatory signage in accordance with TfNSW Guidance for on street fixed space car share parking. (Lyon/Ndiaye)

21-361 **Resolved** that Council adopt the following Recommendation(s):

Report No. 6.3 **No Parking 1am-5am - Massinger St, Byron Bay**

File No: I2021/1130

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Committee Recommendation 6.3.1

This report has been deferred to the next meeting.

(Lyon/Ndiaye)

21-362 Resolved that Council adopt the following Committee Recommendation(s):

Report No. 6.4 Event application - Compass Club East Marathon - Byron Bay

File No: I2021/1168

Committee Recommendation 6.4.1

This report to be deferred to the next extraordinary meeting of LTC in October after receiving detailed plans from organisers.

(Lyon/Ndiaye)

21-363 Resolved that Council adopt the following Committee Recommendation(s):

Report No. 7.1 Speed Zone Reviews

File No: I2021/1002

Committee Recommendation 7.1.1

- a) That Council notes the speed zone reviews raised with TfNSW as listed in the report.
- b) That Council requests speed zone review for a consistent 40kph speed zone for Tincogan Street between Main Arm Road and Station Street (res 21-295, 4c) be completed in conjunction speed zone review request. (Lyon/Ndiaye)

21-364 Resolved that Council adopt the following Recommendation(s):

Report No. 8.1 5 Lot sub-division - 84-92 Broken Head Road

File No: I2021/1131

Committee Recommendation 8.1.1

That regulatory signage, delineation and devices be placed at the crossover requiring vehicles to give way to pedestrians and cyclist using the shared path and details be provided to LTC prior to installation.

(Lyon/Ndiaye)

21-365 Resolved that Council adopt the following Committee Recommendation(s):

Report No. 8.2 Mercato on Byron - Amendment to Development Consent Conditions of Approval

File No: I2021/1186

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Committee Recommendation 8.2.1

- a) That Local Traffic Committee supports in principle the removal of the Roundabout Treatment at the intersection of Jonson St & Carlyle St intersection from condition 23e) of DA10.2013.587.1 (as amended).
- b) That LTC be provided with updated plans and details including pedestrian facility in original approved location, bus stop, taxi rank, motorcycle parking with relation to regulatory signage for consideration and recommendations for approval at the next LTC meeting.
- c) That a priority with supporting signage is established to the crossover to pedestrians and cyclists. (Lyon/Ndiaye)

PROCEDURAL MOTION

21-366 Resolved that Council change the order of business to deal with Report 13.4 next on the Agenda. (Lyon/Ndiaye)

The motion was put to the vote and declared carried.

STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

Report No. 13.4 PLANNING - S4.55 application to modify consent 10.2014.742.1 to include 8 additional motel units, remove the ground and third floor swimming pools, add of roof-top swimming pool and recreation area at 33 Lawson Street Byron Bay
File No: I2021/1347

Moved:

That pursuant to Section 4.55 of the Environmental Planning & Assessment Act 1979, that Application No. 10.2014.742.2, to Modify Consent to include Eight (8) Additional Motel Rooms, Remove the Ground and Third Floor Swimming Pools, Add a Roof Top Swimming Pool and Recreation Area, be approved by modifying Development consent number 10.2014.742.1 as indicated in Attachment 2 (E2021/106706) subject to the following amendments:

1. Development is to be in accordance with approved plans

Ref No.	Description	Author	Date
DA 03 M	Basement 2 Floor	Project Tourism	6/8/2021

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	Plan	International Architects	
DA 04 M	Basement 1 Floor Plan	Project Tourism International Architects	6/8/2021
DA 05 G	Ground Floor Plan	Project Tourism International Architects	19/8/2021
DA 06 E	First Floor Plan	Project Tourism International Architects	19/8/2021
DA 07 B	Second Floor Plan	Project Tourism International Architects	2/8/2021
DA 08 F	Roof Plan	Project Tourism International Architects	2/8/2021
DA 09 D	North & South Elevations	Project Tourism International Architects	18/8/2021
DA 10 F	East & West Elevations	Project Tourism International Architects	19/8/2021
DA 11 H	Section A + B	Project Tourism International Architects	19/8/2021
DA 12 E	Section C	Project Tourism International Architects	18/8/2021
DA 15 A	External Materials & Finishes	Project Tourism International Architects	2/8/2021

The development is also to be in accordance with any changes shown in red ink on the approved plans or conditions of consent.

The approved plans and related documents endorsed with the Council stamp and authorised signature must be kept on site at all times while work is being undertaken.

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67. Management of the roof top recreation area

The roof top recreation area must be managed to avoid unreasonable interference with the amenity of the neighbourhood. Such management must include, but not be limited to:

- a. Hours of use to be restricted to between
 - Sunday – Thursday 7am and 9pm;
 - Friday – Saturday 7am -10pm
- b. Use of the area only by guests staying at the motel and motel staff;
- c. Use of the area by a maximum of fifty (50) persons at any one time;
- d. No amplified music or entertainment;
- e. All lighting to be designed, installed and operated to prevent light spill beyond the boundary of the roof top area; and
- f. Maintenance of a complaints register.

In relation to sub f., all complaints received about the operation of the roof top area must be recorded in the complaints register including date, time, nature of the complaint and response by the motel operator. The complaint register must be provided to Council on request. (Hunter/Lyon)

PROCEDURAL MOTION

- 21-367 Resolved** that Cr Spooner be granted a two minute extension to his speech. (Lyon/Ndiaye)

The motion was put to the vote and declared carried.

AMENDMENT

- 21-368 Resolved** that pursuant to Section 4.55 of the Environmental Planning & Assessment Act 1979, that Application No. 10.2014.742.2, to Modify Consent to include Eight (8) Additional Motel Rooms, Remove the Ground and Third Floor Swimming Pools, Add a Roof Top Swimming Pool and Recreation Area, be approved by modifying Development consent number 10.2014.742.1 as indicated in Attachment 2 (E2021/106706) subject to the following amendments:

1. Development is to be in accordance with approved plans

Ref No.	Description	Author	Date
DA 03 M	Basement 2 Floor Plan	Project Tourism International Architects	6/8/2021
DA 04 M	Basement 1	Project Tourism	6/8/2021

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	Floor Plan	International Architects	
DA 05 G	Ground Floor Plan	Project Tourism International Architects	19/8/2021
DA 06 E	First Floor Plan	Project Tourism International Architects	19/8/2021
DA 07 B	Second Floor Plan	Project Tourism International Architects	2/8/2021
DA 08 F	Roof Plan	Project Tourism International Architects	2/8/2021
DA 09 D	North & South Elevations	Project Tourism International Architects	18/8/2021
DA 10 F	East & West Elevations	Project Tourism International Architects	19/8/2021
DA 11 H	Section A + B	Project Tourism International Architects	19/8/2021
DA 12 E	Section C	Project Tourism International Architects	18/8/2021
DA 15 A	External Materials & Finishes	Project Tourism International Architects	2/8/2021

The development is also to be in accordance with any changes shown in red ink on the approved plans or conditions of consent.

The approved plans and related documents endorsed with the Council stamp and authorised signature must be kept on site at all times while work is being undertaken.

67. Management of the roof top recreation area

The roof top recreation area must be managed to avoid unreasonable interference with the amenity of the neighbourhood. Such management must include, but not be limited to:

- a. Hours of use to be restricted to between 7am and 10pm

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- b. Use of the area only by guests staying at the motel and motel staff;
- c. No amplified music or entertainment;
- d. All lighting to be designed, installed and operated to prevent light spill beyond the boundary of the roof top area; and
- e. Maintenance of a complaints register.

In relation to sub e., all complaints received about the operation of the roof top area must be recorded in the complaints register including date, time, nature of the complaint and response by the motel operator. The complaint register must be provided to Council on request.

70. Management of roof top pool

The roof top pool is to be available only to guests staying at the motel and motel staff.
The roof top pool is not open to the public at any time. (Spooner/Hackett)

PROCEDURAL MOTIONS

21-369 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.

21-370 Resolved that Cr Cameron be granted a two minute extension to his speech.
(Lyon/Ndiaye)

The motion was put to the vote and declared carried.

21-371 Resolved that Cr Lyon be granted a one/two minute extension to his speech.
(Hunter/Ndiaye)

The motion was put to the vote and declared carried.

The amendment was put to the vote and declared carried.

Crs Martin, Lyon, Hackett, Spooner and Hunter voted in favour of the amendment.

Crs Coorey, Ndiaye and Cameron voted against the amendment.

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

Crs Martin, Lyon, Hackett, Spooner and Hunter voted in favour of the amendment.

Crs Coorey, Ndiaye and Cameron voted against the motion.

The meeting adjourned at 1.22pm and reconvened at 2.13pm.

MAYORAL MINUTE

Mayoral Minute No. 8.1 - Infrastructure Contributions Reforms

21-372 Resolved:

1. That Council calls on the NSW Government to withdraw the Environmental Planning

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and Assessment Amendment (Infrastructure Contributions) Bill 2021 (the Bill) from the NSW Parliament.

2. That Council calls on the NSW Government to undertake further consultation with the local government sector on any proposed reforms to the infrastructure contributions system. (Lyon)

The motion was put to the vote and declared carried.

PETITIONS

There were no petitions.

SUBMISSIONS AND GRANTS

There were no submissions or grants.

DELEGATES' REPORTS

There were no delegates' reports.

STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

Report No. 13.1 PLANNING - Development Application 10.2020.370.1 Change of Use of Existing Building from Residential (Dwelling House) to Offices including Alterations and Additions to Existing Building and Provision of Car Parking at 68 Byron Street BANGALOW

File No: I2021/1228

- 21-373 Resolved** that pursuant to Section 4.16 of the Environmental Planning & Assessment Act 1979, Development Application No. 10.2020.370.1 for Change of Use of Existing Building from Residential (Dwelling House) to Offices including Alterations and Additions to Existing Building and Provision of Car Parking at 68 Byron Street, Bangalow be approved subject to the attached Conditions of Consent (Attachment 4 #E2021/103475).

(Cameron/Lyon)

The motion was put to the vote and declared carried.

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

No Councillors voted against the motion.

Report No. 13.2 PLANNING - 26.2019.1.1 - Submissions report: Planning Proposal to permit Community Title subdivision and dwellings

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File No: at Lot 38 DP 1059938, 31 Alidenes Road, Wilsons Creek
I2021/1296

Moved that Council:

1. amends the 'Executive Summary' in Appendix F – Flooding Assessment and Mitigation Report of the planning proposal to clarify that “the site is flood prone and that no dwellings can be located on flood affected land or within identified riparian buffers”.
2. Refer the Traffic Impact Assessment report for this planning proposal back to the proponents to address the following matters.
 - Number count of pedestrian and cycle activity as part of Road Safety Audit and Traffic Impact Assessment.
 - Absence of a traffic and movement assessment for the proposal that considers cyclists and pedestrians.
 - Failure to acknowledge relevant accident and crash data including a recent fatality involving a cyclist on Wilson’s Creek Road.
 - No action to ameliorate a risk to school children alighting from school bus as identified in the Road Safety Audit.
 - Lack of pedestrian and cycling facilities to support the proposal.
 - More thorough assessment of movement conditions on Alidenes Road.
3. Receives a further report on the revisions and updates made by the proponent as required in 1 and 2. (Cameron/Coorey)

AMENDMENT

21-374 Resolved that Council:

1. amends the 'Executive Summary' in [Appendix F – Flooding Assessment and Mitigation Report](#) of the planning proposal to clarify that “*the site is flood prone and that no dwellings can be located on flood affected land or within identified riparian buffers*”;
2. forwards the planning proposal to amend Byron LEP 2014, as contained in Attachment 1 (E2021/47677) to NSW Parliamentary Counsel’s Office (PCO) requesting that a draft LEP instrument be prepared;
3. pending receipt of PCO opinion that the plan can be made, forwards the plan to the NSW Department of Planning, Industry and Environment for notification on the NSW Government legislation website.
4. advises the proponents that the following matters related to the Road Safety Audit and Traffic Impact Assessment will need to be addressed as part of any future

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development application relating to this site:

- a) Number count of pedestrian and cycle activity as part of Road Safety Audit and Traffic Impact Assessment.
- b) Absence of a traffic and movement assessment for the proposal that considers cyclists and pedestrians.
- c) Failure to acknowledge relevant accident and crash data including a recent fatality involving a cyclist on Wilson's Creek Road.
- d) No action to ameliorate a risk to school children alighting from school bus as identified in the Road Safety Audit.
- e) Lack of pedestrian and cycling facilities to support the proposal.
- f) More thorough assessment of movement conditions on Alidenes Road.
(Lyon/Ndiaye)

The amendment was put to the vote and declared carried.

Crs Martin, Ndiaye, Lyon, Hackett, Spooner and Hunter voted in favour of the amendment.

Crs Coorey and Cameron voted against the amendment.

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

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

No Councillors voted against the motion.

STAFF REPORTS - INFRASTRUCTURE SERVICES

Report No. 13.6 **Mullumbimby Heritage Park Masterplan**
File No: 12021/1423

21-375 Resolved:

1. That Council allocates \$20,000 from the existing \$87,300 budget allocated to Heritage Park Infrastructure Works to fund development of a Masterplan for Mullumbimby Heritage Park.
2. That Council note Resolution 21-293.
3. That the Masterplan is to ensure that pedestrian and cycle links between Palm Park, Heritage Park and across Tincogan Street are improved to a safe accessible standard for all users. (Cameron/Ndiaye)

The motion was put to the vote and declared carried.

URGENCY MOTION

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PROCEDURAL MOTION

- 21-376 Resolved** that the matter of COVID-19 vaccinations be discussed as a matter of urgency, the urgency being the announcement by the NSW Premier of the road map and the low vaccination rates in the Byron Shire. (Spooner/Coorey)

The Mayor ruled the matter to be of great urgency.

The motion was put to the vote and declared carried.

No. 1. Matter of Urgency - COVID-19 Vaccinations

- 21-377 Resolved** that Council:

1. Notes the following:
 - i) the shire's current low COVID-19 vaccination rate leaves our community, our businesses, and our most vulnerable residents at significant risk if an outbreak occurs
 - ii) when intra and interstate travel is opened the Byron Shire is at risk of becoming a high-risk area
 - iii) that there have been supply issues of vaccines locally, particularly of the Pfizer vaccine, and this has made it difficult for locals to get vaccinated
 - iv) that the closest mass vaccinated centres are in Ballina, Lismore and Tweed Hospitals and have few available appointments leaving some residents to book in Casino to get an appointment.
2. Continues to actively support NSW Public Health campaigns to encourage our community to get vaccinated.
3. Makes public statements supporting the campaign to get vaccinated and encourages our community to get vaccinated through media releases, social media, and other channels.
4. Requests that the state government open 'pop-up' vaccinations clinics in the Byron Shire community to enable easy and swift access to COVID-19 vaccination.
5. That Council makes available suitable council buildings such as the Cavanbah Centre and the Mullumbimby Memorial Hall for mass vaccination or pop-up vaccination centres. (Spooner/Hackett)

PROCEDURAL MOTION

- 21-378 Resolved** that Cr Spooner be granted a two minute extension to his speech. (Lyon/Ndiaye)

The motion was put to the vote and declared carried.

*The motion (Spooner/Hackett) was put to the vote and declared carried.
Cr Martin voted against the motion.*

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There being no further business the meeting concluded at 3.42pm.

I hereby certify that these are the true and correct Minutes of this Meeting
as confirmed at Council's Ordinary Meeting on 14 October 2021.



.....
Mayor Michael Lyon