



Byron Shire Council



Minutes Ordinary Meeting

Thursday, 28 October 2021

BYRON SHIRE COUNCIL

Ordinary Meeting Minutes
28 October 2021

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MINUTES OF THE BYRON SHIRE COUNCIL ORDINARY MEETING HELD ON THURSDAY, 28 OCTOBER 2021 COMMENCING AT 9.08AM AND CONCLUDING AT 3.56PM

I2021/1714

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)
Malcolm Robertson (Acting Manager Open Spaces and Resource Recovery) – item 13.8
Cameron Clark (Manager Utilities) – item 14.1
John Hart (Senior Project Manager) – item 16.2
Chloe Dowsett (Coastal, Biodiversity, and Sustainability Coordinator) – item 13.9
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 Community Organisation	Via
9.2	Pay Parking Potential	Against	Matthew O'Reilly	Brunswick Heads Progress Association	Zoom
13.8	Update on Expression of Interest for Suffolk Park Community Garden	For	Craig Scanlan	Suffolk Park Community Garden Inc.	Read out by staff
13.10	Lot 12 Bayshore Drive - Valuation as per Resolution 21-188	Against	David Dixon		Read out by staff

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Report No and Title		For/Against	Name	Representing Community Organisation	Via
13.11	Submissions report - Unauthorised Dwellings Policy	Against	Duncan Dey	Main Arm Rural Residents Association	In person
14.1	Water, Waste and Sewer Advisory Committee Meeting held on 30 September 2021	Against	Duncan Dey		In person
16.2	Confidential - Byron Shire Bioenergy Facility – Project Update	Against	Ann Reed		In person

Submissions

Subject	Name	Submission received via
Terrace reserve approval to operate	Matthew O'Reilly	Zoom

Question No. 1 Roundabout on Byron Bypass

John Anderson submitted the following question which was read out by staff:

Given that it is unusual, if not indeed unique, to construct a roundabout where there are only two directions of traffic to deal with (as per typical two-way continuous road) could Council please explain why at the southern end of the Butler St bypass there is a roundabout at what is simply a turn in the road, and why the extra cost of this new roundabout (which was not part of the original plan) was included in Council's vague and uncosted list of excuses for a cost over-run requiring the recent borrowing \$1.75 million by Council to pay for the short fall?

The Director Corporate and Community Services took the question on notice.

Question No. 2 Roundabout on Byron Bypass

Matthew O'Reilly asked the following question:

Why did Ralph James refuse to let the Brunswick Heads community have any input on the Terrace Reserve ATO beyond matters relating to the coastal cypress forest yet Council has agreed to a site plan and ato over the whole property overturning years of negotiations by the community and councillors relating to buffers, setbacks, and pedestrians access?

The Director Corporate and Community Services read the following response which was prepared on Council's behalf by Council's external solicitors who had carriage of the Land and Environment Court proceedings:

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Issues regarding compliance with the Local Government (Manufactured Homes Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005 arose during the course of the hearing, after the community members had given their submissions (which was pursuant to leave granted by Her Honour Justice Pain, noting that community input is not usually sought by the Court in Caravan Park Approval matters and public notification is not required by the Local Government Act).

Her Honour requested planning evidence from Council in relation to a number of matters, and this was required to be provided at short notice. Her Honour had undertaken a site inspection and after considering submissions from the planners, addressed the matters in her judgment. This was not a situation where Mr James refused to allow the community to have input, rather it was the Court's process that did not facilitate this course.

The community members had extensive input in relation to the ecological matters, which guided the development of the most sensitive part of the site.

The meeting adjourned at 10.15am and reconvened at 11:05am.

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 Michael Lyon declared a non-significant, non-pecuniary interest in Report 9.1. The nature of the interest being that he is the General Manager of Mullum SEED, auspicing charity of the community gardens. Cr Michael Lyon elected to remain in the Chamber and will participate in discussion and the vote.

Cr Jeanette Martin declared a non-significant, non-pecuniary interest in Report 9.1. The nature of the interest being that she is on the board for one of the organisations that is one of the recipients. Cr Martin elected to remain in the Chamber and will participate in discussion and the vote.

General Manager, Mark Arnold, declared a pecuniary interest in Report 16.1. The nature of the interest being that he is the subject of the report. Mr Arnold elected to leave the Chamber and will not participate in discussion.

Legal Counsel, Ralph James, declared a non-significant, non-pecuniary interest in question 2 of public access. The nature of the interest being that he is the subject of the question. Mr James elected to remain in the Chamber.

TABLING OF PECUNIARY INTEREST RETURNS

There were no Pecuniary Interest Returns tabled.

ADOPTION OF MINUTES FROM PREVIOUS MEETINGS

21-425 Resolved that the minutes of the Ordinary Meeting held 23 September 2021 be confirmed. (Hunter/Ndiaye)

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. 13.8 Update on Expression of Interest for Suffolk Park Community Garden
- Report No. 13.9 Main Beach Shoreline Project - outcome of community consultation on the 7 options
- Report No. 13.10 Lot 12 Bayshore Drive - Valuation as per Resolution 21-188
- Report No. 13.11 Submissions report - Unauthorised Dwellings Policy
- Report No. 13.12 Expression of Interest for next village/town masterplan

Infrastructure Services

- Report No. 13.14 Broken Head Reserve Road and Seven Mile Beach Road - Update
- Report No. 13.16 Remediation Mullumbimby Hospital Site

REPORTS OF COMMITTEES

Infrastructure Services

- Report No. 14.1 Report of the Water, Waste and Sewer Advisory Committee Meeting held on 30 September 2021
 - 7.1 Tincogan Street Intersection Upgrades and Heavy Vehicle Considerations in Mullumbimby

CONFIDENTIAL REPORTS

General Manager

- Report No. 16.1 CONFIDENTIAL - Annual Review of GM's Performance

Infrastructure Services

- Report No. 16.2 CONFIDENTIAL - Byron Shire Bioenergy Facility - Project Update

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The remaining Recommendations and Committee Recommendations were adopted as a whole, being moved by Cr Lyon and seconded by Cr Hunter. Each recommendation is recorded with a separate resolution number commencing at Resolution No. 21-426 and concluding with Resolution No. 21-441.

PETITIONS

Petition No. 10.1 **150 Tandys Lane Brunswick Heads Petition**
File No: I2021/1439

21-426 Resolved:

1. That the petition regarding 150 Tandys Lane Brunswick Heads be noted and referred to the Director Sustainable Environment and Economy.
 2. That the petition as referred to the Director Sustainable Environment and Economy had been considered by staff in the report to the 14 October Planning Meeting.
(Lyon/Hunter)
-

SUBMISSIONS AND GRANTS

Report No. 11.1 **Grants and Submissions September 2021**
File No: I2021/1609

- 21-427 Resolved** that Council notes the report and Attachment 1 (#E2021/123605) for Byron Shire Council's Submissions and Grants as at 30 September 2021. (Lyon/Hunter)
-

STAFF REPORTS - GENERAL MANAGER

Report No. 13.1 **Lease to Callanan Holdings Pty Ltd (A.C.N. 050 199 865)**
File No: I2021/1479

- 21-428 Resolved** that Council authorises the General Manager, under delegation, to enter into a lease with Callanan Holdings Pty Ltd (A.C.N 050 199 865) over Lot 2 DP749851 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 aircraft,
- d) the Lessor and Lessee to agree that the Lessee owns all building improvements on the land,
- e) Lessee must, at its cost, be responsible for the following:
 - i) all outgoings payable in respect of the land,

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- 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 for storage of aircraft,
- 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/Hunter)
-

Report No. 13.2 Amendment to Policy 5.52 Commercial Activities on Coastal and Riparian Crown Reserves
File No: I2021/1564

21-429 Resolved:

1. That Council considers the submission received from public consultation to amend Policy 5.52 Commercial Activities on Coastal and Riparian Crown to extend current Class 2 Sub-Licences to 1 November 2024.
 2. That Council, delegates to the General Manager, the authority to amend Policy 5.52 Commercial Activities on Coastal and Riparian Crown as stated in (1) above.
- (Lyon/Hunter)
-

Report No. 13.3 Lease to Parington Pty Ltd (A.C.N 002 015 581)
File No: I2021/1570

21-430 Resolved that Council authorises the General Manager, under delegation, to enter into a lease with Parington Pty Ltd (A.C.N. 002 015 581) on the following terms:

- a) Lot 6 DP836887 Staceys Way Tyagarah,
- b) term five-years,
- c) base rent to be set by an independent market valuation (yet to be received) with rent annually increased thereafter by Consumer Price Index All Groups Sydney,
- d) for the purpose of storage of aircraft,
- e) the Lessor to consent to the Lessee sub-leasing part of the leased land to T & L West ('the Sub-Lessee') for the same term and purpose as the Head Lease held by the Lessee,
- f) the Lessor acknowledges that the Lessee and Sub-Lessee owns all buildings and improvements on the Land,
- g) Lessee must, at its cost, be responsible for the following:
 - i) all outgoings payable in respect of the Land,

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- ii) all maintenance of improvements on the Land including but not limited to all buildings, road access and or carpark constructed on the Land,
 - iii) minimum \$20 million public risk insurance covers noting Byron Shire Council as an interested party provided by the Lessee and Sub-Lessee; and
 - iv) all consents, approvals and others authorisation for storage of aircraft on the Land.
- h) Lessee and Sub-Lessee must at their cost, removal all buildings and other 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/Hunter)
-

Report No. 13.4 Brunswick Valley Woodchop and Entertainment Committee request for sub-licence for market stalls
File No: I2021/1573

21-431 Resolved that Council delegate to the General Manager, the authority to enter into a sub-licence with the Brunswick Valley Woodchop and Entertainment Committee Inc for a market sub-licence over Part of Lot 7307 DP1167806 on the following:

- a) term five-years to commence 1 November 2021,
 - b) rent to be set in accordance with Council Fees and Charges,
 - c) conditional on the sub- licensee holding a community market licence for Memorial Park Brunswick Heads; and
 - d) all special conditions in the community market licence to be replicated in the sub-licence. (Lyon/Hunter)
-

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

Report No. 13.5 Council Investments - 1 September 2021 to 30 September 2021
File No: I2021/1592

21-432 Resolved that Council notes the report listing Council's investments and overall cash position as at 30 September 2021. (Lyon/Hunter)

Report No. 13.6 Annual Report 2020/21
File No: I2021/1600

21-433 Resolved that Council notes the Annual Report 2020/21 (#E2021/118348), included as Attachment 1 to this report and its submission to the Minister for Local Government. (Lyon/Hunter)

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Report No. 13.7 Draft 2020/2021 Financial Statements
File No: I2021/1651

21-434 Resolved:

1. That Council adopts the Draft 2020/2021 Financial Statements incorporating the General Purpose Financial Statements (#E2021/127421) and Special Purpose Financial Statements (#E2021/127426).
2. That Council approves the signing of the "Statement by Councillors and Management" in accordance with Section 413(2)(c) of the Local Government Act 1993 and Section 215 of the Local Government (General) Regulation 2021 in relation to the 2020/2021 Draft Financial Statements.
3. That the Audited Financial Statements and Auditors Report be presented to the public at the Ordinary Meeting of Council scheduled for 25 November 2021 in accordance with Section 418(1) of the Local Government Act 1993. (Lyon/Hunter)

STAFF REPORTS - INFRASTRUCTURE SERVICES

Report No. 13.13 Draft Policy - Memorials in Open Space
File No: I2021/1636

- 21-435 Resolved** that Council endorses the exhibition of the Draft Policy - Memorials in Open Space as shown in Attachment 1 (E2021/126759) for a period of 28 days and;
- a) should no submissions be received, the Draft Policy be adopted.
 - b) should submissions be received, a further report to Council to be provided at the close of the exhibition period detailing the community response received and any recommended or necessary amendments. (Lyon/Hunter)

Report No. 13.17 Tender 2021-0008 Supply of Ready-Mix Concrete
File No: I2021/1588

21-436 Resolved:

1. That Council award Tender 2021-0008 – Supply of Ready-Mix Concrete to the list of suppliers confidentially listed in Attachment 1 – Final Recommendation Report and be appointed to the tender as Panel Source suppliers to Byron Shire Council for the initial period of 29 months from 1 November 2021 to 31 March 2024.
2. That the provision be allowed with one (1) x twelve (12) month extension to extend the contract subject to performance, which may take this contract through to 31 March 2025.
3. That Council makes public its decision, including the name and amount of the successful tenderer, in accordance with Clause 179(b) of the Local Government (General) Regulation 2005. (Lyon/Hunter)

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Report No. 13.18 **Part road reserve closure adjoining Lot 1 DP 557721 874**
Coolamon Scenic Drive Coorabell
File No: I2021/1597

21-437 Resolved:

1. That Council endorses the closure of part road reserve adjoining Lot 1 DP 557721, as highlighted in the report.
2. That Council ascertains market value by retaining a suitably qualified Valuer and delegates to the General Manager the authority to enter a contract for sale of the closed part of the road with the owner of Lot 1 DP 557721 at a value no less than the value placed on the part closed road by the independent Valuer.
3. That the applicant pays all costs associated with the part road closure, including but not limited to:
 - a) Council application fees
 - b) Council's surveyor's fees and survey, valuation, and legal costs
 - c) All registration fees
 - d) Legal costs
4. The allotment created by the part road closure to be consolidated into the existing Parcel No 113060 Lot 1 DP 557721.
5. That Council authorises the execution of all documents necessary to affect the road closure, sale, transfer, and consolidation of the part closed road. (Lyon/Hunter)

Report No. 13.19 **Part Road Reserve Closure and sale adjoining Lot 3 DP 707295**
336 Booyong Road Nashua NSW
File No: I2021/1598

21-438 Resolved:

1. That Council endorses the closure of part road reserve adjoining Lot 3 DP 707295 as detailed in the report.
2. That Council accepts the valuation as per *Attachment 3 E25021/108820* that has been agreed upon by the landowner.
3. That the applicant pays all remaining costs associated with the part road closure and consolidation.
 - a) Council application fees
 - b) Council's surveyor's fees and survey, valuation, and legal costs
 - c) All registration fees
 - d) Legal costs
4. The allotment created by the part road closure to be consolidated into the existing Parcel No 200 Lot 3 DP 707295.

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5. That Council authorises the execution of all documents necessary to affect the road closure, sale, transfer, and consolidation of the part closed road. (Lyon/Hunter)
-

Report No. 14.2 **Report of the Local Traffic Committee Meeting held on 5 October 2021**
File No: I2021/1628

- 21-439** **Resolved** that Council notes the minutes of the Local Traffic Committee Meeting held on 5 October 2021. (Lyon/Hunter)

- 21-440** **Resolved** that Council adopts the following Committee Recommendations:

Report No. 6.1 No Parking Area and No Stopping Requests - Various Locations
File No: I2021/1458

Committee Recommendation 6.1.1

That Council supports the installation of:

1. "No Parking Area 1am – 7am" sign(s) at the entrance to Scarabelloti's Lookout on Coolamon Scenic Drive, Coorabell.
 2. "No Parking Area 1am to 6am" sign(s) at the entrance to the Byron Street netball courts car park in Mullumbimby.
 3. "No Stopping Tuesdays" sign(s) in the cul-de-sac of Hazelwood Close, Suffolk Park. (Lyon/Hunter)
-

PROCEDURAL MOTION

- 21-441** **Resolved** that Council change the order of business to deal with Reports 9.2, 13.8, 13.10, 13.11, 14.1, 16.2 next on the Agenda. (Lyon/Ndiaye)

The motion was put to the vote and declared carried.

NOTICES OF MOTION

Notice of Motion No. 9.2 Pay Parking Potential

File No: I2021/1635

21-442 Resolved that Council receive a report on:

1. Pay parking revenue in 2018-19 broken down into meter charges (combined), worker permits and resident permits, including an analysis of what the meter charges revenue would have been at \$5 and \$6 per hour.
2. Potential profit from schemes introduced into Brunswick Heads, Mullumbimby and Bangalow based on expected usage under business-as-usual conditions, at rates of \$4, \$5 and \$6 per hour.
3. The Breakdown of pay parking revenue from meters originating from residents of NRJO, being Byron, Ballina, Lismore, Kyogle, Richmond Valley and Tweed Shires vs those coming from elsewhere.
4. Ways that parking meters in a town like Bangalow could be made to better suit aesthetically the Heritage nature of the town.
5. Details of areas identified for potential peripheral parking in Mullumbimby and progress of discussions with Transport for NSW for access and or lease.
6. Comparisons with other local government areas that have high tourist numbers and that have pay parking and how they manage their system of residential permits.
(Lyon/Martin)

PROCEDURAL MOTION

21-443 Resolved that Cr Lyon be granted a two minute extension to his speech. (Lyon/Hackett)

The motion was put to the vote and declared carried.

AMENDMENT

Moved that Council:

1. Notes:
 - a) Potential for parking management to reduce traffic circulation and parking demand in town centres
 - b) Potential for revenue from paid parking to fund placemaking projects, walking, cycling and public infrastructure so that towns and villages are more walkable and accessible.
2. Receives a report that provides:
 - a) details of areas identified for potential peripheral parking in Mullumbimby and

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- b) progress of discussions with TFNSW for access and or lease
 - b) a breakdown of pay parking revenue from meters originating from residents of NRJO, being Byron, Ballina, Lismore, Kyogle, Richmond Valley and Tweed Shires vs those coming from elsewhere.
 - c) comparisons with other local government areas that have high tourist numbers and that have pay parking and how they manage their system of residential permits.
3. Seeks a meeting with NSW MPs and Transport for NSW to advocate for additional public and active transport funding. (Cameron/Coorey)

PROCEDURAL MOTIONS

21-444 Resolved that Cr Spooner be granted a two minute extension to his speech. (Lyon/Coorey)

The motion was put to the vote and declared carried.

21-445 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 amendment was put to the vote and declared lost.

Cr Martin, Lyon, Hackett, Spooner, Hunter voted against the amendment.

The motion (Lyon/Martin) was put to the vote and declared tied.

Cr Cameron, Hackett, Spooner, Hunter voted against the motion.

The Mayor used his casting vote and declared the motion carried.

STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

Report No. 13.8 Update on Expression of Interest for Suffolk Park Community Garden

File No: I2021/1341

21-446 Resolved:

1. That Council accepts the expression of interest by Suffolk Park Community Garden Incorporated to operate and manage a community garden on part Lot 60 DP817888 known as Linda Vidler Park.
2. That Council, having considered all submissions received following 28-day public notice of a proposed five-year licence for a Suffolk Park Community Garden, delegates to the General Manager, the authority to enter into the following Licence with the Suffolk Park Community Garden Incorporated on the following:
 - a) term five (5) years with no holding over;
 - b) for the purpose of a community garden as defined in Byron Shire Community Gardens 2020 Policy;

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- c) rent to commence at \$490 (exclusive of GST) and thereafter increased annually by Consumer Price Index All Groups Sydney for the term;
 - d) the Licensee to pay usage charges for all services connected to the land including waste management services and provide public liability and contents insurance; and
 - e) the Licensor to pay outgoings of the value of general land rates and fixed water and sewer chargers (if payable).
3. That Council undertakes further consultation with the Suffolk Park Community Garden Inc. regarding the layout and construction of the paths and retaining the existing fruit trees (Martin/Spooner)

The motion was put to the vote and declared carried.

Report No. 13.10 Lot 12 Bayshore Drive - Valuation as per Resolution 21-188
File No: I2021/1095

- 21-447 Resolved** that Council endorses the valuation range of \$1,811 /m² to \$1,860/m² of land area as per confidential annexures (Attachments 4 and 5) for the sale of land marked 'Lot 1' in the Subdivision Concept Plan (refer Attachment 2), and that sale negotiations continue as previously defined in Council resolution 21-188. (Lyon/Ndiaye)

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

Report No. 13.11 Submissions report - Unauthorised Dwellings Policy
File No: I2021/1358

21-448 Resolved:

- 1. That Council acknowledges the submissions detailed in Attachment 1 (E2021/123747) in response to the public exhibition of the Draft Unauthorised Dwellings Policy detailed in Attachment 2 (E2020/59113).
- 2. That Council agrees to the Draft Unauthorised Dwellings Policy being converted to a guideline document for internal use by staff to outline the process for reactive investigations initiated by complaints and owner-initiated actions.
- 3. That Council agrees to the guideline document, including the Planning Pathways outlined in Report 13.19 Draft Unauthorised Dwelling Policy to the August 27, 2020, Ordinary Meeting, become a supporting document to the Enforcement Policy 2020. (Lyon/Hunter)

The motion was put to the vote and declared carried.

REPORTS OF COMMITTEES - INFRASTRUCTURE SERVICES

Report No. 14.1 **Report of the Water, Waste and Sewer Advisory Committee**
Meeting held on 30 September 2021
File No: I2021/1599

21-449 **Resolved** that Council notes the minutes of the Water, Waste and Sewer Advisory Committee Meeting held on 30 September 2021. (Ndiaye/Coorey)

21-450 **Resolved** that Council adopts the following Committee Recommendations:

Report No. 3.1 Adoption of Minutes from Previous Meeting
File No: I2021/1528

Committee Recommendation 3.1.1

That the minutes of the Water, Waste and Sewer Advisory Committee Meeting held on 19 August 2021 be confirmed. (Ndiaye/Coorey)

21-451 **Resolved** that Council adopts the Committee Recommendations:

Report No. 4.1 Workshop - Ocean Shores to Brunswick Valley STP Transfer
File No: I2021/1495

Committee Recommendation 4.1.1

That Council, in relation to Ocean Shores and Brunswick Valley STP's:

1. Notes the status report.
2. Recommits to reducing I/I in all sewer catchments.
3. Proceeds to detailed design for infrastructure to transfer sewage flows from Ocean Shores STP to Brunswick Valley STP for:
 - a) All current and projected flows to Ocean Shores STP (for the purpose of temporary closure for repairs and flows in excess of wet weather capacity), and,
 - b) With facility to continue to discharge an adjustable proportion of the flows to Ocean Shores STP (up to ~100% of current sewage flows) on an ongoing basis.
4. Investigates options for upgrades to Ocean Shores STP to rectify its prevailing condition, configuration, and redundancy issues, and to improve its efficiency and reliability. The capacity of the upgraded plant would not be required to be increased through the upgrades, and may be marginally reduced where cost effective to do so.
5. Investigates options (including options with no Balancing Pond) for upgrades to Brunswick STP to rectify any prevailing issues (particularly in UV disinfection), and as required to accommodate the fraction of loads which cannot be reliably treated at

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the upgraded Ocean Shores STP.

6. Receives a forward expenditure strategy based on timing of upgrades in Parts 2 & 3 above, and on growth estimated in Council's planning strategies.
7. Receives a briefing at its next Strategic Planning Workshop. (Ndiaye/Coorey)

PROCEDURAL MOTION

- 21-452 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 motions (21-449 to 21-451) were put to the vote and declared carried.

The meeting adjourned at 1.10pm for a lunch break and reconvened at 2.00pm.

PROCEDURAL MOTION

- 21-453 Resolved** that Council changes the order of business to deal with Report 13.14 next on the Agenda. (Lyon)

The motion was put to the vote and declared carried.

STAFF REPORTS - INFRASTRUCTURE SERVICES

Report No. 13.14 Broken Head Reserve Road and Seven Mile Beach Road - Update

File No: I2021/1319

21-454 Resolved that Council:

1. Supports the development of issue for construction designs and the commencement of construction works for Broken Head Reserve Road Stage 1 and Seven Mile Beach Road Stage 2 in accordance with the designs provided at attachments 1 (E2021/114798) and 2 (E2021/114799) with following adjustments:
 - a) That the single lane slow points be brought forward into Stage 1 of the Broken Head Road Reserve
 - b) That staff seek the concurrence of Transport for NSW for a reduction to 30 km/h in the village area of Broken Head
 - c) That staff explore placing hardwood bollards instead of castellated kerb on the southern side of Broken Head Road in Stages 1 and 2
2. Supports the use of Election Commitment Grant Pavement Asphalt Overlay Program funding to supplement the works in item 1 as required to complete these approved works.

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3. Publishes the issue for construction drawings on Council's website for information when complete.
4. Advises local resident groups and the wider community where and how to find the final design drawings.
5. Supports the progression of Option 1 - In ground parking sensors as a parking control solution for Seven Mile Beach Road and Broken Head Reserve Road as funding permits.
6. Supports staff discussing the funding of Broken Head Reserve Road Stage 4 – 30 Kings Beach Carpark with the National Parks and Wildlife Service.
7. Undertakes a comprehensive communications campaign in advance of rocks being placed at the end of Seven Mile Beach road to advise the community that they are for the protection of biodiversity, will save funds with regard to other measures and prevent damage to dunes from 4WDs on the beach
8. Prioritises sealing car parks so that lines can be drawn which would properly designate parking spaces
9. Further consultation be held with residents and stakeholders to supply information regarding the underground sensors for parking on Seven Mile Beach Road.
(Coorey/Ndiaye)

PROCEDURAL MOTION

- 21-455 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.

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

CONFIDENTIAL REPORTS - INFRASTRUCTURE SERVICES

Report No. 16.2 **CONFIDENTIAL - Byron Shire Bioenergy Facility - Project Update**
File No: I2021/1476

21-456 Resolved:

1. That pursuant to Section 10A(2)(d)i and (d)ii of the Local Government Act, 1993, Council resolve to move into Confidential Session to discuss the report Byron Shire Bioenergy Facility - Project Update.
2. That the reasons for closing the meeting to the public to consider this item be that the report contains:
 - a) commercial information of a confidential nature that would, if disclosed prejudice the commercial position of the person who supplied it

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- b) information that would, if disclosed, confer a commercial advantage on a competitor of the council
- 3. That on balance it is considered that receipt and discussion of the matter in open Council would be contrary to the public interest, as:

Council is still in direct commercial negotiations with its preferred Contractor and disclosing the total project costs could disadvantage Council's negotiating position.

The Australian Renewable Energy Agency does not permit public discussion of its contemplated grants during the grant application process and requires that the application information remain confidential. (Spooner/Ndiaye)

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

PROCEDURAL MOTIONS

- 21-457 Resolved** that Council move into Committee to allow for free debate. (Spooner/Lyon)

The motion was put to the vote and declared carried.

- 21-458 Resolved** that Council move out of Committee and resume the Ordinary Meeting. (Lyon)

The motion was put to the vote and declared carried.

- 21-459 Resolved** that the meeting move out of confidential session. (Lyon)

The motion was put to the vote and declared carried.

- 21-460 Resolved** that Council:

1. For the reasons set out in point 2 below, resolves to directly negotiate contracts for the Design & Construction and/or Operations & Maintenance of the Bioenergy Facility with its preferred contractor Skala Australasia Pty Ltd pursuant to the exception under s.55(3)(i) of the *Local Government Act* 1993.
2. Is reasonably satisfied of the unavailability of competitive or reliable tenderers if Council were to re-invite tenders for this further contract as;
 - a) The preferred contractor Skala Australasia Pty Ltd. (Skala) represents in Australia the Bekon dry anaerobic digestion technology from Germany.
 - b) Bekon and its parent company Eggersman are European and global leaders in the design, supply, construction and operation of dry anaerobic digestion and aerobic composting facilities used by Local Government Authorities world-wide for processing organic/green wastes.
 - c) Skala and Bekon competed, and were successful in winning, Council's public 2-Stage Expression of Interest (Request for Tender) contract no.2018-0068.
 - d) Other overseas manufacturers of similar and related technologies declined to

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submit in that procurement process, mostly because they are not represented in Australia and could not complete this project remotely in a technically or economically feasible fashion; and

- e) Skala has substantial project knowledge and has delivered to Council high quality value-for-money services to date.
- 3. Increase the forecast upper limit contribution to the budget for the Bioenergy Facility project in accordance with the comments provided in the report by the Manager Finance, by increasing its budgeted loan borrowing requirement for the 2021/2022 financial year.
- 4. Authorise the General Manager to negotiate loan borrowing terms offered to Council that represents the best financial outcome amongst other loan offers received if required.
- 5. Commits as soon as practicably possible for staff and project consultants to meet with local environmental groups and neighbouring residents to enable discussion of outstanding concerns around the project. (Spooner/Lyon)

The motion was put to the vote and declared carried.

MAYORAL MINUTE

The Mayor provided a verbal report:

Leading into 1 November, where we are going to see a substantial change in the Shire in terms of visitation returning to our region, we are going to have a lot of people coming here; accommodation is booked out. It is something where we, as part of the Northern Rivers Joint Organisation (NRJO), were pushing for potential extensions of time to deal with the impacts and wanting to have our vaccination rates up. But I think at some stage in some way there has to be a balance that is struck here. I think for our part we just need to move forward now and move on. We are going to be under that 80% that we wanted to be at. But I think we can manage that and I think that it is going to be a really interesting, but hectic time over the next month and then beyond. So, I just want to state that though we had a position at NRJO level, I think we can manage the impacts of people coming here. If you are in a situation where you don't feel you are yet protected you probably need to be mindful of that and practice social distancing and mask wearing until such time as you are. We did have that lack of supply of vaccinations in our region for some time and there were some calls for us to keep calling for a delay to travel. I don't think that is going to happen, I think we need to get with the program set out from Monday and move forward and deal with those impacts.

NOTICES OF MOTION

Notice of Motion No. 9.1 Mayoral Fund 2021/2022 - Allocation of Funding
File No: I2021/1563

- 21-461 Resolved** that Council confirms the donations from the Mayor's Discretionary Allowance 2021/2022 as per recommendation in Attachment 1 (E2021/119623), including applications partially supported. (Lyon/Ndiaye)

The motion was put to the vote and declared carried.

DELEGATES' REPORTS

Cr Ndiaye gave the following delegates' report:

For those of us that made it down, or have since made it down, to the railway corridor activation area. It was a really lovely event. It was great to see another one of the community's visions come to life and be executed so well. I just wanted to commend staff, the Master Plan Group, Councillors, and the Public Art Panel for working together and overcoming all the challenges involved to get to that place with heritage and any other number of issues. It looks amazing. It is a really nice addition in terms of our jigsaw puzzle of projects that we as a Council have invested in. Seeing the artistic elements, seeing Giovanni's sculpture finally find its home and it looks so fantastic. To also see the integration between the bus depot, railway park, and that area going right over to Butler Street, which of course is a bit of a challenge at the moment. It was really great work from everyone and a testament to what we can do when we all work together. It was a really lovely event.

STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

PROCEDURAL MOTION

21-462 Resolved:

1. That pursuant to Section 10A(2)(g) of the Local Government Act, 1993, Council resolve to move into Confidential Session to discuss the report Main Beach Shoreline Project - outcome of community consultation on the 7 options
2. That the reasons for closing the meeting to the public to consider this item be that the report contains:
 - g) advice concerning potential litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege
3. That on balance it is considered that receipt and discussion of the matter in open Council would be contrary to the public interest, as:

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Council has been provided with legal advice from a stakeholder and has obtained its own advice in that regard. Discussion on those advices should be confidential. (Lyon/Ndiaye)

The motion was put to the vote and declared carried.

Report No. 13.9 Main Beach Shoreline Project - outcome of community consultation on the 7 options

File No: I2021/33

21-463 Resolved that Council:

1. Notes the outcomes of community engagement activities and feedback received for the Main Beach Shoreline Project outlined in this report.
2. Endorses the following three options:
 - Option 6 - protective structure moved landward by up to 30m
 - Option 7 - existing structure upgraded to contemporary standards
 - Option 2 – berm rock revetment and pathway
3. Receives a further report once the detailed technical investigations on the three options are complete. (Hackett/Spooner)

PROCEDURAL MOTION

21-464 Resolved that Cr Hackett be granted a two minute extension to her speech. (Cameron/Hunter)

The motion was put to the vote and declared carried.

AMENDMENT

Moved that Council:

1. Notes the outcomes of community engagement activities and feedback received for the Main Beach Shoreline Project outlined in this report.
2. Endorses the recommended three options as outlined in Attachment 1 (E2020/40490) to progress to detailed investigation:
 - Option 5 – protective structure moved landward by 10m
 - Option 7 – existing structure upgraded to contemporary standards; and
 - Option 2 – berm rock revetment and pathway
3. Receives a further report once the detailed technical investigations on the three options are complete. (Ndiaye/Hunter)

PROCEDURAL MOTION

21-465 Resolved that Cr Hackett be granted a one minute extension to her speech. (Lyon/Martin)

The motion was put to the vote and declared carried.

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21-466 Resolved: that the amendment be put.

(Ndiaye)

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

*The amendment was put to the vote and declared lost.
Crs Martin, Lyon, Cameron, Hackett, Spooner voted against the amendment.*

Cr Ndiaye left the Chambers at 3.34pm.

The motion (Hackett/Spooner) was put to the vote and declared carried.

PROCEDURAL MOTION

21-467 Resolved that the meeting move out of confidential session.

(Lyon)

The motion was put to the vote and declared carried.

Report No. 13.12 Expression of Interest for next village/town masterplan
File No: I2021/1491

21-468 Resolved:

1. That Council endorses an expression of interest process in early 2022 for the next village/town Masterplan as outlined in this report.
2. That Council receives a further report on the expression of interest process, with the report to include a recommendation for a preferred village/town masterplan and a project plan and resourcing plan showing staff time and other budget required to undertake the work.
3. That Council notes depending on 2, the timeframe for the new village/town masterplan may be delayed in part or all until Financial Year 2023/24.
4. That Council notes previous Resolution 20-432, particularly part 3.
5. That Council, with consultation, investigates further traffic calming and other treatments to slow traffic within the retail and service precinct as shown on the Pedestrian Amenity and Safety Plan including implementation of a 40kph or lower speed limit and a shared zone. (Cameron/Coorey)

The motion was put to the vote and declared carried.

STAFF REPORTS - INFRASTRUCTURE SERVICES

Report No. 13.15 Bewilderness Unsolicited Proposal
File No: I2021/1489

This item was withdrawn by the proponent prior to the meeting.

Report No. 13.16 Remediation Mullumbimby Hospital Site
File No: I2021/1524

21-469 Resolved that Council:

1. Increase the 2021/2022 budget for the remediation of the Mullumbimby Hospital Site by \$1,500,000 with funding provided through a new external loan on an interest only basis repayable by 30 June 2024.
2. Increase its loan borrowing requirement for the 2021/2022 financial year by \$1,500,000 and authorise the borrowing of \$1,500,000 to finance the finalisation of the remediation of the Mullumbimby Hospital Site.
3. Authorise the General Manager to accept loan borrowing terms offered to Council that represents the best financial outcome amongst other loan offers received.
4. That Council authorises the affixing of the Council Seal (if required) to any documents to execute the loan borrowings outlined in this report. (Hunter/Spooner)

The motion was put to the vote and declared carried.

CONFIDENTIAL REPORTS - GENERAL MANAGER

Report No. 16.1 CONFIDENTIAL - Annual Review of GM's Performance
File No: I2021/1587

21-470 Resolved:

1. That pursuant to Section 10A(2)(a) of the Local Government Act, 1993, Council resolve to move into Confidential Session to discuss the report Annual Review of GM's Performance.
2. That the reasons for closing the meeting to the public to consider this item be that the report contains:
 - a) personnel matters concerning particular individuals (other than councillors)
3. That on balance it is considered that receipt and discussion of the matter in open Council would be contrary to the public interest, as the GM's performance review report contains confidential information about performance. (Cameron/Hunter)

The motion was put to the vote and declared carried.

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21-471 Resolved:

1. That Council note the findings and endorse recommendations from the performance review panel with respect to the annual performance review for the General Manager contained in Attachment 1 (E2021/123061).
2. That Council endorse the 2021/22 Performance Agreement for the General Manager contained in Attachment 2 (E2021/112480). (Cameron/Lyon)

PROCEDURAL MOTIONS

21-472 Resolved that Council move into Committee to allow for free debate. (Lyon)

The motion was put to the vote and declared carried.

21-473 Resolved that Council move out of Committee and resume the Ordinary Meeting. (Lyon)

The motion was put to the vote and declared carried.

21-474 Resolved that the meeting move out of confidential session. (Lyon/Cameron)

The motion was put to the vote and declared carried.

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

There being no further business the meeting concluded at 3:56pm.

I hereby certify that these are the true and correct Minutes of this Meeting
as confirmed at Council's Ordinary Meeting on 25 November 2021.



.....
Mayor Michael Lyon