



# Byron Shire Council



## **Minutes Extraordinary Meeting Thursday, 3 February 2022**

# BYRON SHIRE COUNCIL

Extraordinary Meeting Minutes

3 February 2022

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# BYRON SHIRE COUNCIL

EXTRAORDINARY MEETING MINUTES

3 February 2022

**MINUTES OF THE BYRON SHIRE COUNCIL EXTRAORDINARY MEETING HELD ON THURSDAY, 3 FEBRUARY 2022 COMMENCING AT 9:13AM AND CONCLUDING AT 5.15PM.**

I2022/36

**PRESENT:** Cr M Lyon (Mayor), Cr S Balson, Cr C Coorey, Cr D Dey, Cr A Hunter, Cr S Ndiaye, Cr Pugh, Cr Swivel, and Cr Westheimer

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)  
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:

No.	Report Title	For/Against	Name	Via
5.3	Adoption of a Code of Meeting Practice	Against	David Wallace	Dial in
			John Anderson	Dial in
5.7	Advisory Committee Structure and Determination of Councillor Representatives	Against	Matthew Lambourne	Dial in
5.5	Review of Council Delegations	Against	Jan Barham	Dial in

## Submissions

Subject	Name	Representing Community Organisation	Via
Non-compliance by online booking platforms with the short-term rental accommodation (STRA) registration regulation A)	David Wallace	Victims of Holiday Letting (VOHL)	Dial in
Affordable Housing Crisis	Jan Barham		Dial in

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Subject	Name	Representing Community Organisation	Via
Community anxiety about overdevelopment	Catherine Lane	Friends of Capricornia Canal (FoCC)	Join the webinar (Zoom)
Due Process	John Anderson		Dial in

## Question No. 1 - Sale of Lot 12 Bayshore Drive, Byron Bay

David Dixon provided a written question that was read by staff:

*I would like an update on the sale of Lot 12 Bayshore Drive. If this sale has been finalized, then please advise the price per square metre achieved, as well as payment terms. If this sale has been finalized, then I trust the maximum valuation was realised for a public asset being sold in a booming property market.*

The General Manager advised that the sale has not yet been finalised.

## Question No. 2 – Public Notices

Jan Barham asked the following question:

*Can council advise of the cost saving due to the cessation of the advertising of public notices in the print media and in the spirit of open and accessible processes will councillors be willing to review this decision?*

The General Manager provided the following response:

*The requirement to advertise public notices in the newspaper was changed in the Local Government (General) Regulation in April 2020, but Council continued to advertise in the Echo until 30 September 2020 when Council's contract ended. All public notices are now on Council's website with other newspaper advertising continuing on an 'as needed' basis rather than in 'block ad' format.*

*Our financial records show a steady decrease in advertising expenses with the Echo of 18% since 2020. A saving of approximately \$5,500 at year end 30 June 2021, and on track for similar saving this financial year.*

Cr Lyon added:

*I am personally not keen to review it given the amount of copies of the Echo that just sit there these days and the trend toward online reading of important matters.*

Cr Ndiaye further added:

*When we made that decision the money was still being spent on things like BayFM and other. We just broadened the spread of advertising rather than focus on one particular publication. Does that \$5500 take into account the spend in other publications or community radio?*

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General Manager responded: *No, the response is only in relation to advertising in newspaper, savings from the traditional format to what we do now.*

Cr Dey further added:

*Quite willing to review that. I believe that there are things that the public would benefit from knowing. For example, there were quite a few members of the public that turned up today. Had Council put a notice in last week's Echo they would have known that they couldn't attend the meeting. Also, now that Council is liberated from the 'stodgy' formatting of the previous notices I think we could get a lot more value for a lot less money.*

Cr Coorey further added: *I am concerned about access. A lot of people in our Shire don't have good internet connection. Older members of our community still rely on the Echo. So I am keen to reconsider that also.*

## **Question No. 3 – STRA**

David Wallace, on behalf of Victims of Holiday Letting (VOHL), asked the following question:

*On 12 December 2021, Inside Airbnb said that there were 3,313 dwellings being used for Airbnb in Byron Shire. To date, how many STRA have been registered in Byron Shire? Specifically, what will Council do to ensure that the STRA industry participants comply with regulations?*

The Director of Sustainable Environment and Economy provided the following response:

*Thank you for the question. It is quite pertinent given the current situation.*

*Checking the register as of this morning there were 1,697 that had registered on the State Register. Of those, there are 656 listing themselves as hosted and 951 as unhosted. Interestingly, there has been 7 deregistered properties. So not sure what that is, but clearly those properties were unable to meet the requirements.*

*Where we are at the moment is, as you mentioned, there is an avenue for a breach of the Fair Trading Act. In that those properties that are advertising, or are advertising falsely, can be followed up through that Act as a breach.*

*Secondly. SEPP Housing 2021, ironically STRA is listed in the Housing SEPP. Notwithstanding, there is a breach of that particular policy should a property be advertising and also being used for AirBnB.*

*Staff are currently looking at reviewing the gap between the 3,313 and the 1,697 properties. Which is a big job. The difficulty we have got is poring through that data and then trying to unpack what the issue is in terms of the breach.*

*We will be writing to the Department of Fair Trading and Department of Planning about this issue.*

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## Question No. 4 – Power to eject members of the public

John Anderson asked the following question:

*Do Council's lawyers now concede that under section 10 & 11 of the Local Government Act and Regulation 233, the Council only has the power to eject a member of the public from one meeting at a time for reasons of disorderly conduct at that same meeting?*

Legal Counsel provided the following response:

*The provisions of Section 10 and Regulation 233 provide for an entitlement to attend Council meetings and for expulsion from those meetings for disorderly conduct.*

*The provisions of Section 10 and Regulation 233 do not override the operation of other statutes such as the Bail Act or Public Health Orders.*

*The meeting adjourned at 10.27pm and reconvened at 10:52am.*

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## APOLOGIES

There were no apologies.

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## DECLARATIONS OF INTEREST – PECUNIARY AND NON-PECUNIARY

There were no declarations of interest on items on the Agenda.

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## DISCLOSURE OF INTERESTS RETURN

In accordance with clause 4.9 of the Code of Conduct, a primary Return of Interests for Mikko Rintala, in the position of Project Engineer, was tabled.

**NOTICES OF MOTION**

**Notice of Motion No. 4.1 EV charging station in Station Street**

**File No:** I2022/1

**22-001 Resolved:**

1. That Council reconfirm its commitment to reducing carbon emissions and confirms its support for Electric Vehicles over those driven by fossil fuels.
2. That the following issues at the EV charging station in Council's carpark be remedied as soon as a funding source is determined:
  - a) pigeon poo splattering EV's due to pigeons roosting in the roof structure over the parking bays with EV chargers; and
  - b) rainwater falling on the charging equipment and on people using it.
3. That Council receive a report within a month on funding options for remedying these issues.
4. That the Mayor be delegated to determine the option from that report between it being written and being considered by Council, should he so wish, to expedite the matter and to save time spent on it.
5. That Council receive a report in April 2022 on the resolution of the issues.

(Dey/Ndiaye)

*The motion was put to the vote and declared carried.*

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**Notice of Motion No. 4.2 Notice of Motion to LGNSW Special Conference - Governance Tools**

**File No:** I2022/2

**22-002 Resolved** that Council submits a Notice of Motion to the LGNSW Special Conference:

That Local Government NSW works with councils to develop template governance tools to enhance transparency and performance reporting including:

- a) A dashboard summary reporting tool tracking progress against objectives as set out in key planning documents - community strategic plan, financial plan and budget, residential land use and other strategies etc; and
- b) A consolidated State Government relationship reporting tool tracking all 'live' issues and projects between an LGA and State Government across all portfolio areas including grant applications, policy / project proposals, state government- initiated projects etc.

(Swivel/Ndiaye)

*The motion was put to the vote and declared carried.*

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## **Notice of Motion No. 4.3 Notice of Motion to LGNSW Special Conference - Stamp Duty Recycling for Housing Investment**

**File No:** I2022/3

**22-003 Resolved** that Council submits the following Notice of Motion to the LGNSW Special Conference 2022:

1. That Local Government NSW lobbies the NSW Government to secure the 'recycling' of transfer duty and land tax revenue into Local Government Areas experiencing house price inflation and homelessness, housing shortage and rental stress to invest in new housing stock for essential workers, lower income and vulnerable members of the community.
2. That Local Government NSW lobbies the NSW Government to use 'stamp duty recycling' as a mechanism for equalising the social housing stock across the state so that Local Government Areas that are behind the state average can catch up over the next decade. (Swivel/Ndiaye)

*The motion was put to the vote and declared carried..*

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## **Notice of Motion No. 4.4 Notice of Motion to LGNSW Special Conference - First Nations Voice to Council**

**File No:** I2022/4

**22-004 Resolved** that Council submits the following Notice of Motion to the LGNSW Special Conference 2022:

That Local Government NSW develops an advisory body model for a First Nations Voice to Council for local indigenous communities based on the vision in the Uluru Statement From The Heart; with the structure, terms of reference and membership for the First Nations Voice to Council to be determined by consultation with local indigenous community stakeholders including Local Aboriginal Land Councils, native title holders and elders in conjunction with Local Councils. (Swivel/Ndiaye)

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

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## **Notice of Motion No. 4.5 Housing and Affordability Advisory Committee for Byron Shire**

**File No:** I2022/5

**22-005 Resolved** that Council creates a Housing and Affordability Advisory Committee for Byron Shire to provide advice, share relevant information, advocate for, and help fast track progress on affordable housing opportunities. (Ndiaye/Coorey)

*The motion was put to the vote and declared carried.*

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## Notice of Motion No. 4.6 Byron Shire Housing Summit 2022

File No: I2022/6

### 22-006 Resolved:

1. That Council convenes a second Byron Shire Housing Summit to share current options and explore new ones for making housing accessible and affordable in the Byron Shire.
2. The Summit to include presentations from Council, a community housing provider, a housing industry representative, Housing NSW, Landcom, a local community organisation, a representative from NSW Department of Planning, and a housing policy specialist.
3. The Summit to be open to the public and invited stakeholders, including state and federal political representatives.
4. The Summit to include consideration of the following:
  - a) current policies, strategies and resolutions to promote and/or inhibit affordable housing;
  - b) proposals that could be trialled and implemented to support affordable housing in the Byron Shire.
5. That a report be generated summarising the key findings and outcomes of the Summit that is publicly available and used to assist the work of Council's Housing and Affordability Advisory Committee. (Ndiaye/Dey)

### PROCEDURAL MOTION

**22-007 Resolved** that the motion be put. (Hunter)

*The motion was put to the vote and declared carried.*

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

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## Notice of Motion No. 4.7 Panels and Committees

File No: I2022/7

The Notice of Motion 4.7 *Panels and Committees* was withdrawn.

### PROCEDURAL MOTIONS

**22-008 Resolved** that Council move into Committee to allow for free debate. (Lyon)

*The motion was put to the vote and declared carried.*

**22-009 Resolved** that Council move out of Committee and resume the Meeting. (Lyon)

*The motion was put to the vote and declared carried.*

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*The meeting adjourned at 12.58pm for a lunch break and reconvened at 1:45pm.*

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## **Notice of Motion No. 4.8 Arts and Creative Industries Summit 2022**

**File No:** I2022/8

### **22-010 Resolved:**

1. That Council convenes an Arts and Creative Industries Summit to offer an opportunity for local Arts professionals to share their experiences and ideas about how we can reinvigorate the local creative arts and industry after such a challenging few years having to contend with Covid related instability. Council can also share the current opportunities and challenges being experienced in the sector from Council's perspective.

2. The summit to include presentations from Council, and the invitation extended to encompass a wide range of local input, including for example:

*Community arts organisations, arts industry, Create NSW, Arts Northern Rivers, a local community organisation or institution, a representative from NSW Department of Planning and an arts policy specialist.*

*Northern Rivers representative from Music NSW, Northern Rivers Screenworks, local festival representatives (e.g., Blues Fest, Mullum Music Festival, Byron Writers Festival, Byron Film Festival, Splendour, Falls, Surf, Byron Music, Bangalow Film, Bangalow Music Festival), The Mud Trail etc and possibly venues such as Byron Community and Cultural Centre and Brunswick Picture House.*

3. The summit to be open to invited stakeholders including state and federal political representatives.

4. The summit to include consideration of the following:

- a) current council policies, strategies and resolutions to promote the arts;
- b) current council policies, strategies and resolutions that inhibit the creative industries;
- c) proposals that could be trialled and implemented to support Arts and Culture in the Byron Shire.

5. That the summit be structured in a way that supports the development of an Arts and Cultural Strategic Plan for the Shire.

6. That Council consider a budget allocation of up to \$10,000 in the 2022/23 budget.  
(Ndiaye/Westheimer)

*The motion was put to the vote and declared carried.*

*Cr Coorey voted against the motion.*

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## Notice of Motion No. 4.9 Council Meeting Times

File No: I2022/26

Moved:

1. That Council is committed to ensuring that the public has the maximum opportunities to contribute through public access and observe council meetings. We recognise that:
  - a) over 80% of Australian employees work during the day (with 15%-20% working shift work)
  - b) working arrangements have a significant impact on the ability of the public to participate in, or observe, council meetings
  - c) Work arrangements have an impact on the ability of the public to run for council, requiring a significant loss of income or rare flexible work arrangements.
  
2. That the schedule of meetings contained in Staff Report 5.7 be amended to
  - a) have ordinary meetings to begin at 3pm
  - b) have SPW meetings to begin at 3pm
  - c) have planning meetings beginning at 5pm, with site inspections scheduled to begin from 3pm
  - d) That policies that provide support for caring responsibilities of councillors and staff be reviewed to enable these changes and ensure full participation is possible. (Pugh/Coorey)

## PROCEDURAL MOTIONS

**22-011 Resolved** that Council move into Committee to allow for free debate. (Dey)

*The motion was put to the vote and declared carried  
Crs Balson and Hunter voted against the motion*

**22-012 Resolved** that Council move out of Committee and resume the Ordinary Meeting. (Dey)

*The motion was put to the vote and declared carried.*

*The motion (Pugh/Coorey) was put the vote and declared lost.  
Crs Dey, Swivel, Ndiaye, Lyon, Westheimer, Balson, and Hunter voted against the motion.*

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## MAYORAL MINUTE

### No. 1 Election to the Australian coastal Council Association's Committee of Management

Moved:

That the following two candidates be supported for election to the Australian Coastal Council Association's Committee of Management to represent NSW:

- a) DUNCAN DEY, Byron Shire Council
- b) SHARON CADWALLADER, Ballina Shire Council (Lyon)

### AMENDMENT

#### 22-013 Resolved:

That the following two candidates be supported for election to the Australian Coastal Council Association's Committee of Management to represent NSW:

- a) DUNCAN DEY, Byron Shire Council
- b) KAREN RENKEMA-LANG, Kiama Municipal Council (Dey/Ndiaye)

*The amendment was put to the vote and declared carried.*

*Cr Lyon, Pugh, and Hunter voted against the amendment.*

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

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## STAFF REPORTS - GENERAL MANAGER

**Report No. 5.1 Oath or Affirmation of Office**  
**File No:** I2021/1953

#### 22-014 Resolved that it be noted that the following Councillors took either the Oath of Office or Affirmation of Office, before the General Manager, prior to the first Ordinary Meeting of the new Council on 3 February 2022:

*Cr Michael Lyon, Cr Cate Coorey, Cr Duncan Dey, Cr Mark Swivel, Cr Sarah Ndiaye, Cr Peter Westheimer, Cr Salma Balson, Cr Asren Pugh, Cr Alan Hunter*

(Lyon/Hunter)

*The motion was put to the vote and declared carried.*

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**Report No. 5.2**      **Election of Deputy Mayor - 2022**  
**File No:**            I2021/984

**22-015 Resolved:**

1. That Council elects a Deputy Mayor for the period from 3 February 2022 until the first meeting of Council in September 2022.
2. That the method of election of the Deputy Mayor be by way of ordinary ballot.

(Dey/Lyon)

*The motion was put to the vote and declared carried.*

The Returning Officer advised that one nomination had been received.  
Cr Ndiaye was declared Deputy Mayor, unopposed.

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**Report No. 5.3**      **Adoption of a Code of Meeting Practice**  
**File No:**            I2021/1921

**22-016 Resolved** that Council defers consideration of the Code of Meeting Practice (E2021/141380).

(Lyon/Swivel)

*The motion was put to the vote and declared carried.*

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**Report No. 5.4**      **Review of Council's Codes of Conduct**  
**File No:**            I2021/1929

**22-017 Resolved:**

That Council, having reviewed its Codes of Conduct included at Attachment 1 (#E2020/80736), Attachment 3 (#E2019/858) and Attachment 4 (E2019/859) and the related Procedures for the Administration of the Code of Conduct included at Attachment 2 (E2020/81056), adopt these Codes and Procedures with no adjustments.

(Lyon/Hunter)

*The motion was put to the vote and declared carried.*

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**STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES**

**Report No. 5.5      Review of Council Delegations**  
**File No:              I2021/1844**

**22-018 Resolved** that Council:

1. Notes that Council is required to review its delegations within the first 12 months of an election;
2. Defers this item until a later meeting, and
3. Resolves that the issue of delegations be placed on the first available Strategic Planning Workshop. (Coorey/Pugh)

*The motion was put to the vote and declared carried.*

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**Report No. 5.6      Meeting Schedule 2022 - Council Meetings and Strategic Planning Workshops**  
**File No:              I2021/1839**

**22-019 Resolved:**

1. That Council endorses the meeting frequency and cycle to generally follow the monthly pattern of:  
  
1st Thursday - Strategic Planning Workshop & Planning Review Committee  
2nd Thursday - Planning Meeting  
3rd Thursday - Committee meetings  
4th Thursday - Ordinary Meeting  
5th Thursday (where applicable) – Committee meetings
2. That Council continues to support a recess in January and July each year, where no meetings are scheduled.
3. That Council adopts the following schedule of Ordinary and Planning Meetings and Strategic Planning Workshops (SPW) for 2022:

Date	Meeting/Workshop (Thursday)
10-Feb-22	SPW
24-Feb-22	Ordinary
03-Mar-22	SPW
10-Mar-22	Planning
24-Mar-22	Ordinary

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<b>07-Apr-22</b>	<b>SPW</b>
<b>14-Apr-22</b>	<b>Planning</b>
<b>28-Apr-22</b>	<b>Ordinary</b>
<b>05-May-22</b>	<b>SPW</b>
<b>12-May-22</b>	<b>Planning</b>
<b>26-May-22</b>	<b>Ordinary</b>
<b>02-Jun-22</b>	<b>SPW</b>
<b>09-Jun-22</b>	<b>Planning</b>
<b>23-Jun-22</b>	<b>Ordinary</b>
<b>30-Jun-22</b>	<b>Extraordinary</b>
<b>JULY</b>	<b>RECESS</b>
<b>04-Aug-22</b>	<b>SPW</b>
<b>11-Aug-22</b>	<b>Planning</b>
<b>25-Aug-22</b>	<b>Ordinary</b>
<b>01-Sep-22</b>	<b>SPW</b>
<b>08-Sep-22</b>	<b>Planning</b>
<b>22-Sep-22</b>	<b>Ordinary</b>
<b>06-Oct-22</b>	<b>SPW</b>
<b>13-Oct-22</b>	<b>Planning</b>
<b>27-Oct-22</b>	<b>Ordinary</b>
<b>03-Nov-22</b>	<b>SPW</b>
<b>10-Nov-22</b>	<b>Planning</b>
<b>24-Nov-22</b>	<b>Ordinary</b>
<b>1-Dec-22</b>	<b>SPW</b>
<b>08-Dec-22</b>	<b>Planning</b>
<b>15-Dec-22</b>	<b>Ordinary</b>

4. That the Ordinary Meetings be held in the Council Chambers, Mullumbimby with a start time of 9.00am.
5. That the Planning Meetings be held in the Council Chambers, Mullumbimby with a start time of 11.00am, following site inspections which are held at 9.00am on the day of the Planning Meeting. (Lyon/Ndiaye)

*The motion was put to the vote and declared carried.*

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## PROCEDURAL MOTION

- 22-020 Resolved** that Council change the order of business to deal with Report 5.9 next on the Agenda. (Lyon)

*The motion was put to the vote and declared carried.*

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**Report No. 5.9 Election of Representatives for Rous County Council**  
**File No: I2021/1962**

- 22-021 Resolved** that this matter rest on the table. (Lyon)

*The motion was put to the vote and declared carried.*

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## PROCEDURAL MOTION

- 22-022 Resolved** that Council change the order of business to deal with Report 5.11 next on the Agenda. (Lyon/Ndiaye)

*The motion was put to the vote and declared carried.*

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**Report No. 5.11 Countback for Casual Vacancy within the first 18 months of Term**  
**File No: I2021/983**

- 22-023 Resolved** that Council endorses the use of the countback method in the event that a casual vacancy in the office of a councillor occurs within the first 18 months of the current term of office. (Lyon/Ndiaye)

*The motion was put to the vote and declared carried.*

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## PROCEDURAL MOTION

- 22-024 Resolved** that Report No. 5.9 be lifted from the table. (Lyon)

*The motion was put to the vote and declared carried.*

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**Report No. 5.9**      **Election of Representatives for Rous County Council**  
**File No:**            I2021/1962

**22-025 Resolved:**

1. That Council determines by Preferential Ballot its first delegate to Rous County Council.
2. That Council determines by Preferential Ballot its second delegate to Rous County Council. (Lyon/Ndiaye)

*The motion was put to the vote and declared carried.*

The Returning Officer advised that four nominations had been received.

A preferential ballot was conducted to elect the first delegate.

The Returning Officer declared Cr Michael Lyon elected to the Rous County Council by majority vote.

There were three nominations for the second delegate position.

The Returning Officer declared Cr Sarah Ndiaye elected to the Rous County Council by majority vote.

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**Report No. 5.7**      **Advisory Committee Structure and Determination of Councillor Representatives**  
**File No:**            I2021/1947

**22-026 Resolved:**

That Council:

1. Notes the following committees are proposed to continue in their current form and appoints Councillor representatives:
  - Arakwal Memorandum of Understanding Advisory Committee – 3 Councillors  
Crs Ndiaye, Coorey, Pugh – Alternate Cr Balson
  - Local Traffic Committee – 1 Councillor  
Cr Lyon
2. Notes the proposed revised structure and objectives of the following committees and appoints Councillor representatives:
  - a) Biodiversity Advisory Committee – 3 Councillors  
Crs Ndiaye, Balson, Westheimer
  - b) Climate Change and Resource Recovery Advisory Committee – 3 Councillors  
Crs Ndiaye, Swivel, Pugh
  - c) Finance Advisory Committee – 4 Councillors  
Crs Swivel, Balson, Pugh, Hunter
  - d) Infrastructure Advisory Committee – 3 Councillors  
Crs Lyon, Swivel, Dey
  - e) Moving Byron Advisory Committee – 4 Councillors

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- f) Crs Coorey, Swivel, Dey, Westheimer  
Water and Sewer Advisory Committee – 4 Councillors  
Crs Lyon, Ndiaye, Coorey, Dey
  - g) Heritage Advisory Committee – 2 Councillors  
Crs Swivel, Balson
  - h) Strategic Business Advisory Committee – 3 Councillors  
Crs Lyon, Pugh, Hunter
  - i) Coastal and ICOLL Advisory Committee – 2 Councillors  
Crs Dey, Coorey – Alternate Ndiaye
  - j) Floodplain Management Advisory Committee – 3 Councillors  
Crs Lyon, Coorey, Dey
3. Establishes the Communications Panel and appoints 2 Councillors as representatives.  
Crs Ndiaye, Coorey – with Cr Balson as an alternate
  4. Establishes the General Manager's Performance Review Panel and appoints the Mayor and three Councillors as representatives.  
Crs Dey, Hunter, Ndiaye
  5. Establishes the following Advisory Committees and appoints Councillor representatives:
    - a) Housing and Affordability Advisory Committee – 3 Councillors  
Crs Ndiaye, Balson, Dey
    - b) Arts and Creative Industries Advisory Committee – 3 Councillors  
Crs Ndiaye, Balson, Westheimer – Coorey alternate
  6. That Council establishes an Audit, Risk, and Improvement Committee and:
    - a) appoints 2 Councillors - Cr Swivel, Hunter
    - b) adopts the draft Audit Risk and Improvement Committee Constitution at Attachment 3 (E2021/148820) which begins to align with the Office of Local Government Guidelines expected to be implemented from 1 July 2022.
  7. Notes the Advisory Committee Constitution template at Attachment 1 (E2021/150446) to be used in the development of Advisory Committee Constitutions once established.
  8. Notes that calls for nominations for community representatives for each committee will be reported back to Council at the March Ordinary Meeting for appointment.
  9. Writes to the former committee and panel members advising them of the changes to Council's committee structure, officially thanking them for their contribution to date, and inviting a nomination on the new committee.
  10. Endorses the proposed Committee Meeting schedule as provided at Attachment 2 (E2021/155310) with amendments to capture the changes to the committee structure.
  11. That a review of the committees be undertaken in 12 months' time. (Lyon/Dey)

# BYRON SHIRE COUNCIL

EXTRAORDINARY MEETING MINUTES

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## PROCEDURAL MOTION

**22-027 Resolved** that Council move into Committee to allow for free debate. (Lyon)

*The motion was put to the vote and declared carried.*

*The Mayor left the Chamber at 3:56pm.*

*The Deputy Mayor took the Chair.*

## PROCEDURAL MOTION

**22-028 Resolved** that Council move out of Committee and rest item 5.9 on the table for a short break. (Ndiaye)

*The motion was put to the vote and declared carried.*

*The meeting adjourned at 4.10pm and reconvened at 4.21pm.*

*The Mayor resumed the Chair.*

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

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**Report No. 5.8      Establishment and Delegation to Section 355 Committees**  
**File No:            I2021/1123**

**22-029 Resolved:**

1. That Council grants an extension of term to the existing s355 Committees of one month due to the delay in the first Council meeting of the new term and that staff write to advise existing committee members accordingly.
2. That Council confirms the establishment of the following eight Committees under Section 355(b) of the Local Government Act 1993
  - a) Bangalow Parks (Bangalow Showground) Section 355 Management Committee
  - b) Brunswick Heads Memorial Hall Section 355 Management Committee
  - c) Brunswick Valley Community Centre Section 355 Management Committee
  - d) Durrumbul Community Hall Section 355 Management Committee
  - e) Ocean Shores Community Centre Section 355 Management Committee
  - f) South Golden Beach Community Centre Section 355 Management Committee
  - g) Suffolk Park Community Hall Section 355 Management Committee
  - h) Marvel Hall Section 355 Management Committee
3. That Council confirms the establishment of the following two Boards of Management under Section 355(b) of the Local Government Act 1993:
  - a) Bangalow A&I Hall
  - b) Mullumbimby Civic Memorial Hall
4. That Council revokes the Section 377 Delegation of Authority to the Lone Goat Gallery Voluntary Management Board, disbands the committee and dissolves the Lone Goat Gallery Section 355 Committee. A letter of thanks to be sent to all Committee Members.

## BYRON SHIRE COUNCIL

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5. That Council adopts the Delegation of Authority under Section 377 of the Local Government Act 1993, as shown in Attachment 1 (#E2016/66109) for each Section 355 Management Committee and Board of Management confirmed in 1 and 2 above.
6. That Council endorses the *Halls and Venues Guidelines for Section 355 Committees and Boards* (attachment 2, E2021/154643), with the following amendments:
  - a) That 'objectives' be included to outline what was previously known as the 'terms of reference'.
  - b) Other than the initial appointments, removal of the requirements for Section 355 and Board of Management Committee resignations and appointments to be formally endorsed by Council resolution, and that function to be delegated to the General Manager under Section 377 of the Local Government Act 1993.
  - c) That designated Councillor contacts are determined for each Committee in place of Councillor appointments to board positions on Section 355 and Board of Management Committees.
7. That Council determines a Councillor contact for each of the following Section 355 Management Committees or Boards of Management confirmed in 1 and 2 above.
  - a) Bangalow Parks (Bangalow Showground) Section 355 Management Committee – Cr Pugh
  - b) Brunswick Valley Community Centre Section 355 Management Committee – Cr Dey
  - c) Brunswick Heads Memorial Hall Section 355 Management Committee – Cr Coorey
  - d) Durrumbul Community Hall Section 355 Management Committee – Cr Dey
  - e) Ocean Shores Community Centre Section 355 Management Committee – Cr Lyon
  - f) South Golden Beach Community Centre Section 355 Management Committee – Cr Lyon
  - g) Suffolk Park Community Hall Section 355 Management Committee – Cr Swivel
  - h) Bangalow A&I Hall Board of Management – Cr Pugh
  - i) Mullumbimby Civic Memorial Hall Board of Management – Cr Westheimer
  - j) Marvell Hall 355 Management Committee – Cr Swivel (Lyon/Ndiaye)

*The motion was put to the vote and declared carried.*

# BYRON SHIRE COUNCIL

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**Report No. 5.10**      **Determination of Councillor Representatives on Regional Committees**

**File No:**              I2021/1955

**22-030**   **Resolved** that Council:

1. Notes that Cr Coorey's appointment to the Arakwal National Park, Byron Coast Area Management Committee, and Cape Byron Trust has been endorsed by the Minister to 2024 and given her re-election to Council, she will continue in this position.
2. Notes that the Mayor and Alternate Delegate, the Deputy Mayor, are appointed as Council's representative on the Northern Rivers Joint Organisation.
3. Determines its representatives on the following Regional Committees:
  - a) Arts Northern Rivers Board of Directors  
Member: Cr Westheimer  
Alternate: Cr Balson
  - b) Byron Bay Liquor Accord  
Cr Lyon  
Cr Ndiaye
  - c) Chamber of Commerce – Bangalow  
Cr Pugh
  - d) Chamber of Commerce – Brunswick Heads  
Cr Hunter
  - e) Chamber of Commerce – Byron Bay  
Cr Lyon
  - f) Chamber of Commerce – Mullumbimby  
Cr Ndiaye
  - g) Far North Coast Bush Fire Management Committee  
Cr Dey
  - h) Mullumbimby Showground Trust  
Cr Hunter
  - i) North Byron Parklands Regulatory Working Group  
Cr Swivel
  - j) Richmond Tweed Regional Library Committee  
Member: Cr Swivel  
Member: Cr Pugh  
Alternate: Cr Coorey

(Lyon/Ndiaye)

*The motion was put to the vote and declared carried.*

# BYRON SHIRE COUNCIL

EXTRAORDINARY MEETING MINUTES

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**Report No. 5.12**      **Local Government NSW Special Conference**  
**File No:**              I2021/1165

**22-031 Resolved:**

That Council authorises Cr Lyon, Cr Swivel, and Cr Balson to attend the Local Government NSW Special conference as voting members and Cr Ndiaye to attend as a non-voting member from 28 February to 2 March 2022. (Lyon/Ndiaye)

*The motion was put to the vote and declared carried.*

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## STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

**Report No. 5.13**      **Environmental Planning and Assessment (Statement of Expectations) Order 2021**  
**File No:**              I2021/1967

**22-032 Resolved** that Council:

1. Notes that Council received in mid-December 2021 an Environmental Planning and Assessment (Statement of Expectations) Order 2021 signed by state Minister Stokes on 26 November 2021 and setting out the “Minster’s Expectations” in relation to (1) Development Assessment, (2) Planning Proposals, and (3) Strategic Planning Obligations.
2. Notes that Order 2021 imposes new and separate performance benchmarks for development assessment, planning proposals and strategic planning.
3. Notes that Order 2021 states that “if a Council is found not to be meeting these expectations, the Minister can take these matters into consideration as part of determining if it is appropriate to appoint a planning administrator or regional panel to exercise a council’s functions”.
4. Recognises that Byron Shire determines almost three times as many DA’s per 1000 residents as the average of NSW Councils (25.8 versus 9.4 based on LGPEP data for 2020).
5. Recognises that 38% more applications were determined by each Full Time Equivalent staff member at Byron than the NSW average (36 versus 26).
6. Commends staff and the Director SEE on the Council’s performance on development assessment, planning proposals and strategic planning given numerous legislative changes and challenges resulting from the COVID-19 pandemic during the past 18 months. (Dey/Ndiaye)

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

*Cr Swivel left the Chambers at 5.07pm.*

**BYRON SHIRE COUNCIL**

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**Report No. 5.14 Northern Regional Planning Panel Membership**  
**File No: I2021/1966**

**22-033 Resolved:**

That Council:

1. Notes that the Northern Regional Planning Panel comprises three members appointed by the state plus two appointed by Council, and alternates for when they aren't available.
2. Advertises immediately for two Council-appointed members and two alternates for the Panel, via Expressions of Interest by the end of February.
3. Thanks current Council-appointed members David Brown and Joe Vescio for their service to the Shire and asks them to continue in that role until new members are appointed, and encourage them to re-apply via the process above.
4. Receives a report in April or sooner on the EoI's received and a Confidential assessment of them.
5. Notifies the Planning Panel Secretariat of the above.
6. Notes that, in selecting members, Council should have regard to any conflict of duties that would be created for a person nominated to the Panel if they are in any way responsible or involved in the assessment of matters to be determined by the Panel or involved in voting or deliberating on matters that come before the Panel.

(Dey/Pugh)

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

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*There being no further business the meeting concluded at 5.15pm.*

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I hereby certify that these are the true and correct Minutes of this Meeting  
as confirmed at Council's Ordinary Meeting on 24 February 2022.



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Mayor Michael Lyon