

**Minutes
Ordinary Meeting
Thursday, 28 April 2022**



**BYRON
SHIRE
COUNCIL**

BYRON SHIRE COUNCIL

Ordinary Meeting Minutes

28 April 2022

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MINUTES OF THE BYRON SHIRE COUNCIL ORDINARY MEETING HELD ON THURSDAY, 28 APRIL 2022 COMMENCING AT 9.04AM AND CONCLUDING AT 4.53PM
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I2022/398

PRESENT: Cr M Lyon (Mayor), Cr D Dey, Cr S Ndiaye, Cr A Pugh and Cr M Swivel

VIRTUAL: Cr A Hunter and Cr P Westheimer

Staff: Mark Arnold (General Manager)
Es Davis (Acting Director Corporate and Community Services)
Phil Holloway (Director Infrastructure Services)
Shannon Burt (Director Sustainable Environment and Economy)
Ralph James (Legal Counsel)
Julia Adams (Sustainability Team Leader) – item 13.6
Steve Daniels (Planner) – item 13.7
Cameron Clark (Manager Utilities) – item 13.13
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		Name	For/ Against	Submission Received in form of
9.3	Corporate Governance	John Anderson	For	Read by staff
13.7	NSW Employment Zones Reform	Jack Dods	For	Pre-recorded video

Question No. 1 – Legal Costs

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

What has been the real annual cost to Council over the past three years of employing lawyers as salaried Council staff and other costs flowing from court cases and outside expert legal consultation?

The General Manager took the question on notice.

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The meeting adjourned at 9.12am and reconvened at 9.16am.

APOLOGIES

PROCEDURAL MOTION

- 22-133 Resolved** that the apology from Crs Balson and Coorey be accepted and a leave of absence granted. (Lyon/Ndiaye)

The motion was put to the vote and declared carried.

REQUESTS FOR LEAVE OF ABSENCE

There were no requests for leave of absence

DECLARATIONS OF INTEREST – PECUNIARY AND NON-PECUNIARY

There were no Declarations of Interest.

TABLING OF PECUNIARY INTEREST RETURNS

There were no Pecuniary Interest Returns tabled.

ADOPTION OF MINUTES FROM PREVIOUS MEETINGS

- 22-134 Resolved** that the minutes of the Ordinary Meeting held on 24 March 2022 be confirmed. (Lyon/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

General Manager

Report No. 13.2 Review of Organisation Structure

Corporate and Community Services

Report No. 13.3 Appointment of Community Representatives to the Housing and Affordability Advisory Committee

Report No. 13.5 Call for nominations for appointment to the Cape Byron Marine Park Advisory Committee

Sustainable Environment and Economy

Report No. 13.6 Annual Emissions Inventory and update on Net Zero Emissions goal

Report No. 13.7 NSW Employment Zones Reform

Infrastructure Services

Report No. 13.11 Tender 2021-1247 - Panel of Providers - Provision of Plumbing, Electrical, General Building & Maintenance Services

Report No. 13.13 Integrated Water Management Strategies

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. 22-135 and concluding with Resolution No. 22-144.

STAFF REPORTS - GENERAL MANAGER

Report No. 13.1 **Crown Reserves - Update on deferred classification and categorisation applications**

File No: I2022/307

- 22-135** **Resolved** that Council apply to the Minister administering Crown Lands Management Act 2016 for classification of Crown Reserves R65234, R73709, R73711 as Operational Land under the Local Government Act 1993. (Lyon/Ndiaye)
-

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

Report No. 13.4 **Council Investments - 1 March 2022 to 31 March 2022**

File No: I2022/298

- 22-136** **Resolved** that Council notes the report listing Council's investments and overall cash position as at 31 March 2022. (Lyon/Ndiaye)
-

Report No. 13.8 **Definition Amendment to Byron Shire Community Gardens Policy**

File No: I2022/190

- 22-137** **Resolved:**
1. That Council publicly exhibits the updated Draft Community Gardens Policy (Attachment 1 - E2022/29660) for a period of 28 days.
 2. That any submissions received on the revised Community Garden Policy be reported to Council for consideration, prior to the adoption of the revised Policy; and if no submissions are received, Council adopts the Policy. (Lyon/Ndiaye)

STAFF REPORTS - INFRASTRUCTURE SERVICES

Report No. 13.9 Tender 2021-1131 - Water Reservoir Slope Stability Works
File No: I2022/165

22-138 Resolved:

1. That Council awards Tender 2021-1131 to the tenderer recommended in the Tender Evaluation Report (Confidential Attachment 1 #E2022/19328).
 2. That Council's budget for these works be increased by \$375,000 as detailed in this report with funding provided from the Water Capital Works Reserve.
 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 2021. (Lyon/Ndiaye)
-

Report No. 13.10 Tender 2021-1130 - Water Reservoir Roof Replacement Works
File No: I2022/166

22-139 Resolved:

1. That Council awards Tender 2021-1130 to the tenderer recommended in the Tender Evaluation Report (Confidential Attachment 1 #E2022/19375).
 2. That Council's budget for these works be increased by \$547,000 as detailed in this report with funding provided from the Water Capital Works Reserve.
 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 2021. (Lyon/Ndiaye)
-

Report No. 13.12 Mullum to Bruns Cycleway - Route Options for Community Consultation
File No: I2022/323

22-140 Resolved that Council:

1. Commences community consultation on Route Options A and D as part of the Mullum to Bruns cycleway project.
2. Reports the findings of the community consultation back to Council with a view to inform a single preferred route for the cycleway which is to be progressed in terms of investigation, planning and design activities. (Lyon/Ndiaye)

REPORTS OF COMMITTEES - INFRASTRUCTURE SERVICES

Report No. 14.1 Report of the Local Traffic Committee Meeting held on 12 April 2022

File No: I2022/350

22-141 Resolved that Council notes the minutes of the Local Traffic Committee Meeting held on 12 April 2022. (Lyon/Ndiaye)

22-142 Resolved that Council adopts the following Committee Recommendations:

Report No. 6.1 Dedicated parking for parcel pick-up Byron Farmers Market

File No: I2022/111

Committee Recommendation 6.1.1

That Council support:

1. The use of 5 parking spaces located between the old and new disabled parking bays on Somerset Street, Byron Bay to the Byron Farmers Market Inc during the weekly farmers markets for the period of their lease.
2. The installation of "loading zone, Rear to Kerb, 15 minute, Thursday 7am-11am" signs on the existing sign posts between the old and new disabled parking bays on Somerset Street, Byron Bay.
3. Removal of the old disabled parking bays pavement markings to the left of the proposed loading zone to reduce confusion regarding parking restrictions. (Lyon/Ndiaye)

22-143 Resolved that Council adopts the following Committee Recommendation:

Report No. 6.2 No Overnight Parking - Bangalow Heritage House

File No: I2022/136

Committee Recommendation 6.2.1

That Council acknowledge the comments of the committee and note the matter is deferred to the next available LTC meeting. (Lyon/Ndiaye)

22-144 Resolved that Council adopts the following Committee Recommendation:

Report No. 7.1 Clays Road & Coral Avenue upgrade

File No: I2022/188

Committee Recommendation 7.1.1

That Council support the regulatory signs, lines and traffic control devices associated with the Clays Road and Coral Avenue upgrade, as shown in Attachment 1 (E2022/19154) modified to accommodate TfNSW comments. (Lyon/Ndiaye)

MAYORAL MINUTE

There was no Mayoral Minute.

NOTICES OF MOTION

Notice of Motion No. 9.1 Land and Funds for Emergency Accommodation

File No: I2022/353

The Notice of Motion was deferred to the next meeting.

Notice of Motion No. 9.2 Non-compliant companion animals

File No: I2022/283

The Notice of Motion was deferred to the next meeting.

Notice of Motion No. 9.3 Corporate Governance - Councillors

File No: I2022/354

Moved:

I move that the elected Councillors of Byron Shire Council develop and publish a charter for its own corporate governance by 30 June 2022 which includes:

1. Monthly informal meetings, for no more than 60 minutes, in the absence of management to articulate its approach to the strategic direction and supervision of Council.
2. An annual statement of objectives set out the priorities and targets for the mayor and councillors endorsed by the mayor and councillors - no more than one page including KPIs.
3. A monthly report from the mayor to explain to councillors and residents the work done and results each month against objectives and targets, in consultation with councillors.
4. A service standard and communication channels for immediate meetings and communication among councillors in the wake of natural disaster or emergency - e.g. same day virtual; next day in person.
5. A program for the development of councillors including 'CPD' style governance training and participation in LG NSW programs - e.g. for up to 10 hours per annum.
(Swivel/Pugh)

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PROCEDURAL MOTIONS

22-145 Resolved that Cr Swivel be granted a two minute extension to his speech. (Ndiaye)

The motion was put to the vote and declared carried.

22-146 Resolved that Cr Ndiaye be granted a two minute extension to her speech. (Lyon)

The motion was put to the vote and declared carried.

22-147 Resolved that Cr Pugh be granted a two minute extension to his speech. (Lyon)

The motion was put to the vote and declared carried.

The motion (Swivel/Pugh) was put to the vote and declared lost.

Crs Hunter, Lyon, Ndiaye, Dey and Westheimer voted against the motion.

FORESHADOWED MOTION

22-148 Resolved:

1. That Council develops a communications protocol for immediate meetings and communication among councillors in the wake of a disaster or emergency - e.g. same day virtual; next day in person.
2. That Council gives Councillors, as part of their induction, an information session on how to respond during a disaster or emergency. (Ndiaye/Dey)

The motion was put to the vote and declared carried.

Notice of Motion No. 9.4 NSW Government - Flood Inquiry Response

File No: 12022/355

Moved that the councillors and management of Byron Shire Council facilitate and lead the community response to the NSW Flood Inquiry announced by state government over the next month by:

1. Conducting community meetings online and in person explaining the scope and purpose of the NSW Flood Inquiry across its various foci - causes, preparation, response, recovery;
2. Holding meetings led by councillors across the community in the first week of May eg in Mullum, SGB, Byron, Suffolk, Main Arm, Wilson's Creek, Bangalow, as appropriate;
3. Inviting each councillor to write a report on the lessons to be learned from the government and community response to the floods - by 20 May 2022;
4. Developing a 'flood drill' plan for each town, including chain of command and communication protocols, and integration of community groups - by 30 June;

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5. Outlining a pathway for owners to looking to rebuild, including policies and costs for DAs in flood affected areas, and access to house repurchase and raising programs - by 30 June;
6. Working with businesses to identify needs and evaluate performance of state government programs to support business across the shire - by 30 June;
7. Engaging with outer communities of the LGA to address unique issues including transport, communications, landslips, stranded vehicles and assets, and tenancy disputes - by 20 May.
8. Exploring flexibility in enforcement and policy application - especially in housing and planning - to maximise overall social outcomes and community benefits in the wake of a natural disaster. (Swivel/Hunter)

PROCEDURAL MOTIONS

22-149 Resolved that Cr Swivel be granted a two minute extension to his speech. (Lyon/Ndiaye)
The motion was put to the vote and declared carried.

22-150 Resolved that Cr Dey be granted a two minute extension to his speech. (Lyon)

The motion was put to the vote and declared carried.

Cr Swivel left the meeting at 10.45am

22-151 Resolved that this matter rest on the table. (Lyon)

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

*The meeting adjourned at 10.47am reconvened at 11.04am.
Cr Swivel returned to the meeting at this time.*

Notice of Motion No. 9.5 Temporary Accommodation - Flood Response

File No: 12022/356

Moved that the Councillors and management of Byron Shire Council ('BSC') develop and publish a Temporary Housing Emergency Plan within 7 days in order to:

1. Communicate the state of play - estimating the number of flood affected residents and households across Byron Shire including homeowners and tenants;
2. Explore immediate housing options - with community, religious and other organisations to meet short term demand for housing in halls and on their property - to keep people close to home, work, health care and school from Easter until the time 'temporary accommodation' is installed on government property (which may be 6 to 12 weeks away)
3. Develop a model for community organisations and private landowners to provide

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accommodation for up to 10 people without a DA - noting that the 'moveable dwellings' regulation does not impose an explicit numerical cap on the number of dwellings permitted;

4. Conduct brief consultation meetings - online – for BSC to reality check the diverse needs of residents and capacity of community organisations and others to meet those needs;
5. Outline a plan for the rollout of temporary accommodation after Easter in this LGA - identifying the number of dwellings, number of people that can be accommodated, locations and intended duration of accommodation, financial options (if any) to rent and enable purchase of dwellings; and
6. Review BSC enforcement strategies - to prioritise social outcomes (eg a 6 month moratorium on DA enforcement for temporary solutions; enforcement of existing granny flat approvals which preclude 'STRA' usage); and
7. Identify opportunities to learn from this experience and develop longer-term affordable housing solutions for the LGA as the Temporary Housing Emergency Plan is implemented. (Swivel/Pugh)

The motion was put to the vote and declared lost.

Crs Ndiaye, Dey, Westheimer, and Lyon voted against the motion.

FORESHADOWED MOTION:

22-152 Resolved that Council:

1. Acknowledges the fantastic work by volunteers from the Mullumbimby District Neighbourhood Centre (MDNC) since the flood crisis hit, including in the accommodation space where much of the work in linking flood-affected people with accommodation and in the social wellbeing of members of the community
2. Includes an allocation of funds from a suitable grant funding source to the MDNC \$1,000/week for the next 10 weeks to assist in the provision of emergency accommodation
3. Assists the MDNC in their accommodation activities through Council media releases and other communications in consultation with the MDNC
4. Receives a report on Council's ability to enforce consent conditions existing or in the future which limit the use of short term rental use of residential accommodation (Lyon/Ndiaye)

PROCEDURAL MOTION

22-153 Resolved that Cr Lyon be granted a two minute extension to his speech. (Ndiaye)

The motion was put to the vote and declared carried.

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

PETITIONS

There were no petitions.

SUBMISSIONS AND GRANTS

Report No. 11.1 **Grants March 2022**
File No: I2022/308

22-154 Resolved:

1. That Council notes the report and Attachment 1 (#E2022/30893) for Byron Shire Council's grant submissions as of 31 March 2022.
2. That Council receives a report in June on the Voluntary House Raising Scheme detailing the process and co-contribution funding requirements. (Dey/Lyon)

The motion was put to the vote and declared carried.

PROCEDURAL MOTION

22-155 Resolved that Report No. 9.4 be lifted from the table. (Lyon)

The motion was put to the vote and declared carried.

NOTICES OF MOTION

22-156 Resolved that Council:

1. Notes the NSW Flood Inquiry is required to report to the Premier on causation, land use planning and management, and related matters (see paragraphs 1(a), 2(e) and 2(f)) of the Terms of Reference by 30 June 2022, and on all other matters by 30 September 2022.
2. Notes that Council will be able to submit at least 2 submissions to the NSW Flood Inquiry.
3. Receives a draft of Council's first submission to the NSW Flood Inquiry at an Extraordinary Meeting to be held on 19 May.
4. Encourages Councillors to submit concepts and materials towards Council's submission to staff by 10 May.
5. In light of point 2, considers for the relevant submission, commentary on issues pertinent to Byron Shire the result of the recent flood events including but not limited to: flooding of buildings, landslip affecting buildings, cutting of access by water and by landslip, adequacy of evacuation centres and post-flood recovery centres, loss of telecommunications and of power supplies, impacts on tenants and landlords and

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the pre-existing housing emergency;

6. Acknowledges the work of our local community and businesses in response to the local flood event and recovery activities thereafter.
7. Invites a representative from each local community organisation and business chamber to a 'Round Table' meeting to share submission concepts and materials;
8. Coordinates and shares submission concepts and materials with other flood-affected local government areas in our region;
9. Encourages and supports organisations engaged during and after the 2022 flood events to make their own submissions;
10. Encourages individuals, businesses and communities affected by the 2022 flood events to make their own submissions;
11. Requests the co-chairs of the NSW Flood Inquiry Professor Mary O'Kane AC and Michael Fuller APM to hold a community meeting for the Tweed / Byron area, to be hosted by Byron Shire Council in May 2022.
12. Encourages individuals, businesses and communities affected by the 2022 flood events to make their own submissions. (Dey/Lyon)

The amendment was put to the vote and declared carried.

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

DELEGATES' REPORTS

Ocean Shores Flooding and Drainage

Crs Ndiaye, Swivel, Pugh, and Lyon provided a delegates' report on the community meeting regarding flooding and drainage held on Tuesday, 26 April, at the Ocean Shores Country Club.

Richmond Tweed Regional Library

Cr Pugh provided a delegates' report on the Richmond Tweed Regional Library Committee meeting.

Rous County Council

Crs Ndiaye and Lyon gave a delegates' report on the Rous County Council meeting.

STAFF REPORTS - GENERAL MANAGER

PROCEDURAL MOTIONS

22-157 Resolved:

1. That pursuant to Section 10A(2)(a) of the Local Government Act, 1993, Council resolve into Confidential Session to discuss the following report, namely *Review of Organisation Structure*.
2. That the reasons for closing the meeting to the public to consider this item be that:
(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 it involves the discussion of individuals. (Dey)

The motion was put to the vote and declared carried.

22-158 Resolved that Council move into Committee to allow for free debate. (Dey)

The motion was put to the vote and declared carried.

22-159 Resolved that the meeting move out of Committee. (Lyon)

The motion was put to the vote and declared carried.

22-160 Resolved that the meeting move out of confidential session. (Lyon/Dey)

The motion was put to the vote and declared carried.

Report No. 13.2 Review of Organisation Structure
File No: I2022/369

22-161 Resolved that Council, in accordance with sections 332 and 333 of the Local Government Act 1993:

1. Determines the following four (4) positions as Senior Staff positions:
 - General Manager
 - Director Corporate and Community Services
 - Director Infrastructure Services
 - Director Sustainable Environment and Economy
2. Adopts the organisation structure, roles and reporting lines for Senior Staff as detailed in this report and included at Attachment 1 (#E2022/34981). (Dey/Lyon)

The motion was put to the vote and declared carried.

The meeting adjourned at 1.30pm for a lunch break and reconvened at 2.20pm.

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

PROCEDURAL MOTIONS

22-162 Resolved:

1. That pursuant to Section 10A(2a) of the Local Government Act, 1993, Council resolve into Confidential Session to discuss the following report, namely *Appointment of Community Representatives to the Housing and Affordability Advisory Committee*.
2. That the reasons for closing the meeting to the public to consider this item be that it contains 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 it involves discussion about individual nominations. (Ndiaye)

The motion was put to the vote and declared carried.

22-163 Resolved that Council move into Committee to allow for free debate. (Ndiaye)

The motion was put to the vote and declared carried.

22-164 Resolved that Council move out of Committee and resume the Ordinary Meeting. (Lyon)

The motion was put to the vote and declared carried.

**Report No. 13.3 Appointment of Community Representatives to the Housing
and Affordability Advisory Committee**
File No: I2022/290

22-165 Resolved:

1. That Council selects the community representatives Stephanie Smith, Sue Franklin, Joe Vescio, David Brown, Jack Dods, John McKenna, and Phil Hoffman be appointed to the Housing and Affordability Advisory Committee for the 2022-2024 term ending September 2024.
2. That all appointed Advisory Committee members:
 - a) be notified of their appointment to the committee; and
 - b) complete induction, Code of Conduct, and confidentiality requirements.
3. That any unsuccessful nominees be notified. (Ndiaye/Lyon)

The motion was put to the vote and declared carried.

22-166 Resolved that the meeting move out of confidential session. (Lyon)

The motion was put to the vote and declared carried.

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Report No. 13.5 **Call for nominations for appointment to the Cape Byron Marine Park Advisory Committee**
File No: I2022/305

22-167 Resolved that Council

1. Notes that Cr Coorey was previously appointed to the Cape Byron Marine Park Advisory Committee.
2. Appoints Cr Coorey as delegate member and Cr Dey as alternate for the Cape Byron Marine Park Advisory Committee, subject to Cr Coorey's acceptance.
(Ndiaye/Dey)

The motion was put to the vote and declared carried.

STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

Report No. 13.6 **Annual Emissions Inventory and update on Net Zero Emissions goal**
File No: I2022/27

22-168 Resolved that Council notes:

1. The annual emissions inventory and Council's progress toward meeting the net zero emissions 2025 target (Attachment 1 - E2022/5746).
2. The progress update on the *Net Zero Emissions Action Plan for Council Operations 2025*.
3. The successful achievement of Resolution 17-086 to achieve 100% renewable energy, five years ahead of schedule.
4. An internal Councillor and staff workshop will be organised for the May Strategic Planning Workshop on carbon offsetting for Council's operational net zero emissions target.
5. A report on the role and relationship between Zero Emissions Byron and Council in relation to emissions reporting to be presented to the Climate Change and Resource Recovery Committee in June.
(Westheimer/Ndiaye)

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

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Report No. 13.7 **NSW Employment Zones Reform**
File No: **I2022/142**

22-169 Resolved that Council:

1. Provides in-principle endorsement of the Employment Zones Translation as detailed in Attachment 1 (E2022/32628) and Attachment 2 (E2022/32443) ahead of a state-wide public exhibition that is expected to take place in May 2022.
2. Notes the Department of Planning and Environment will have primary carriage of the public exhibition process; however support will be required from councils to ensure notice of the exhibition reaches relevant stakeholders and community members in their respective LGAs.
3. Following exhibition, receive a strategic planning workshop and report to Council with details of any recommended amendments for final endorsement of a submission to the Department of Planning, Industry and Environment.
4. Advises DPE of Council's intention to explore opportunities for work / live development in appropriate E Zones. (Lyon/Swivel)

The motion was put to the vote and declared carried.

STAFF REPORTS - INFRASTRUCTURE SERVICES

Report No. 13.11 **Tender 2021-1247 - Panel of Providers - Provision of Plumbing, Electrical, General Building & Maintenance Services**
File No: **I2022/280**

22-170 Resolved that the *Tender 2021-1247 - Panel of Providers - Provision of Plumbing, Electrical, General Building & Maintenance Services* be deferred to the next meeting.

(Lyon/Dey)

The motion was put to the vote and declared carried.

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Report No. 13.13 Integrated Water Management Strategies
File No: I2022/313

Moved that Council notes:

1. That during Stage 2 of the IWCM Strategy (beyond 2028) further investigation into the groundwater supplies at Tyagarah Byron Shire, will be undertaken by Rous County Council to confirm infrastructure requirements and assess environmental impacts.
2. That during Stages 1 and 2, Rous County Council will continue investigations into the preferred long-term source augmentation strategy (Stage 3 options) which may include (around 2040):
 - i) Expansion of the Tyagarah groundwater scheme (if viable).
 - ii) Desalination of ocean feedwater at Byron Bay.
 - iii) A regional desalination facility with interconnection of the Tweed and Rous County Council regional supplies.
 - iv) Surface Water Supplies
3. That the progress of the Mullumbimby Water Supply Strategy is based on the most favourable augmentation as Scenario S3: Permanent connection to Rous County Council regional supply: In this scenario, Mullumbimby would form part of the Rous County Council regional supply network with bulk treated water transferred to the Azalea Street reservoirs in Mullumbimby.
4. That a draft of the Rous County Council Regional Demand Management Plan 2023 - 2026 will be on public exhibition during 2022 (Westheimer/Lyon)

AMENDMENT

22-171 Resolved:

1. That during Stage 2 of the IWCM Strategy (beyond 2028) further investigation into the groundwater supplies at Tyagarah Byron Shire, will be undertaken by Rous County Council to confirm infrastructure requirements and assess environmental impacts.
2. That during Stages 1 and 2, Rous County Council will continue investigations into the preferred long-term source augmentation strategy (Stage 3 options) which may include (around 2040):
 - i) Expansion of the Tyagarah groundwater scheme (if viable).
 - ii) Desalination of ocean feedwater at Byron Bay.
 - iii) A regional desalination facility with interconnection of the Tweed and Rous County Council regional supplies.
 - iv) Surface Water Supplies
3. That a draft of the Rous County Council Regional Demand Management Plan 2023 - 2026 will be on public exhibition during 2022

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4. That, in relation to its long term water supply strategy for Mullumbimby, Council:
 - a) firms up its four management options including recognising the environmental impacts of each option, inclusive of impacts of Rous's own options (for options that use Rous water).
 - b) adds to Scenario S4 an alternative new groundwater source namely to buy back existing licences around Tyagarah.
 - c) reports that revised information to a meeting (extraordinary if necessary) of the Water & Sewer Advisory Committee.
 - d) aims to produce a draft long term strategy to go to a Strategic Planning Workshop with a view to putting the strategy on public exhibition during 2022.
(Dey/Ndiaye)

*The amendment was put to the vote and declared carried.
Crs Hunter and Westheimer voted against the amendment.*

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

QUESTIONS WITH NOTICE

Question With Notice No. 15.1 Suffolk Park Caravan Park
File No: I2022/282

Cr Dey asks the following questions:

1. How many sites does the Suffolk Park Caravan Park contain and how many are set aside for permanent occupation?
2. In what management plan or similar are such things defined?
3. Does that plan recognise or distinguish between Operational and Community classified land within the Park and, if so, where is the boundary shown on a plan or map?
4. How many permanent sites are owned by Council itself?
5. Are there plans to re-purpose sites within the Park and, if so, when and how many sites?
6. Why, during a housing crisis, are there empty sites in the permanent resident section?
7. Is any of the land that the caravan parks occupies impacted by Native Title issues?

Response Director Infrastructure Services:

Answers to the questions posed are provided below. These responses need to be considered relative to the complex history around the long-term sites at Suffolk Beachfront Holiday Park. Current processes in play to address historic anomalies around the long-term sites also need to be noted.

To legally accommodate long term residents within the Holiday Park Council in 2018

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finalised an extensive statutory process to reclassify a section of the Holiday Park from community land to operational land. This was required because residential use and long-term licences conflicted with the previous community land classification under the Local Government Act 1993.

Once reclassification was approved, Council in September 2018 resolved to endorse a project plan and communication strategy to transition current permanent residents to new site agreements and to ensure regulatory compliance. This plan is progressing well and is being worked through in close liaison with permanent residents.

A presentation is currently planned to be tabled at the Strategic Planning Workshop in June outlining actions currently underway and potential opportunities around long-term sites within the legislative requirements.

Question Responses:

1. The current approval to operate for the park provides for a total of 82 sites; of these there are 19 long-term sites, 12 short-term sites and 51 campsites (Attachment 1).
2. There is no adopted Plan of Management (POM) for this land. A draft POM had previously been prepared in 2012, but this process identified the legislative conflict around utilising community land for long term sites and triggered the required process to reclassify a section of the Holiday Park from community land to operational land.

The LEP land zoning for Suffolk Beachfront Holiday Park outlines permitted uses for RE1 zoned (Public Recreation). The LEP amendment in 2018 was actioned by Council to legally allow long term residents to occupy their own dwellings at the park and have some secure long-term tenure.

The ATO for the Suffolk Beachfront Holiday Park outlines the approved site allocations within the park according to the size and site requirements outlined in the legislation. The ATO is renewed based on general compliance with the Local Government (General) Regulation, Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation, and for Suffolk Park special conditions for long term sites

Long-term sites are also governed by the Residential (Land Lease) Communities Act and Residential (Land Lease) Communities Regulation.

3. The 2018 Byron LEP amendment (Attachment 2) distinguishes between the Operational & Community Land. Attachment 3 contains the survey map referenced within the Byron LEP Amendment, with the grey areas indicating re-classification of operational land. This plan also shows the surveyed boundary lines and associated encroachments onto Crown land.
4. All the sites within the park are owned by Council. 19 sites are designated for long term occupancy. The long-term sites within Suffolk Holiday Park are effectively a land lease community, whereby the owner/occupier of the home rents the site on which the home sits from the operator, which in this case is Council.
. The home may be a manufactured home or a moveable dwelling such as a caravan.

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The dwelling owner pays site fees (rent) for the right to occupy the site and is responsible for all maintenance and upkeep of the home.

5. A presentation is planned for the Strategic Planning Workshop in June 2022. This presentation will outline opportunities across the park, including actions currently underway to address compliance and the potential opportunities around long-term sites, within the legislative requirements.
6. The approval to operate allows 19 long-term sites at the holiday park. Of the 19 designated long-term sites;
 - 14 sites have owner occupier dwellings
 - One site with a privately owned dwelling has a sublet tenant
 - One site with a Council owned dwelling that is tenanted
 - One site with a Council owned dwelling tenanted to a community organisation.
 - Two sites are currently vacant and are used for overflow tourist sites.

Compliance issues with the long-term dwellings, including the size of individual sites and encroachments onto crown land are currently being addressed through an engagement process with the dwelling owners. Once these compliance issues and encroachments are rectified, opportunity will arise for all long-term sites to be fully tenanted by residents.

7. The encroachments onto Crown Land have Native Title implications. This Crown Land encroachment has impacted available options for a number of both long-term and short-term sites. The SPW presentation planned in June will provide options to resolve the encroachments within legislative constraints.

Question With Notice No. 15.2 Intersection of McGettigans Lane with Ewingsdale Road

File No: I2022/351

Cr Duncan Dey asks the following questions:

1. Are there designs ready for a roundabout or other upgrade configuration for this intersection, to ease the danger and extreme inconvenience to users of McGettigans Lane?
2. When was the last traffic count undertaken and does it identify school related traffic volumes?
3. Has an intersection upgrade project been on Council's works program in previous years?
4. Would such an upgrade be funded by Council or by the State, or a combination?
5. Is progress of this matter held up by questions around expanding Ewingsdale Road to dual lanes?

Response Director Infrastructure Services:

The proposed roundabout on MR545 Ewingsdale Road and McGettigans Lane is one part of a much bigger project that has been submitted to Infrastructure Australia.

There are known capacity issues associated with Ewingsdale Road and the M1 interchange.

Council has been working with Transport for NSW on this issue since 2019. Council had previously made an application to Infrastructure Australia to have the upgrading of Ewingsdale Road identified as a priority project for Australian Government funding, this application was unsuccessful. A second application was subsequently made to Infrastructure Australia by Council and Transport for NSW that included updated traffic modelling and a new financial model to demonstrate that the project was of national significance.

The second application was successful with the project moving through the first gateway of the Infrastructure Australia process. Detail of the project can be found here: <https://www.infrastructureaustralia.gov.au/map/m1-pacific-motorway-byron-bay-interchange-capacity>

The full application including of all the traffic and financial modelling was provided to the previous Council and can be made available on the hub if requested.

The next step in the process is the completion of an options study. Stakeholder engagement will be a key part of the options study and is a requirement of the Infrastructure Australia guidelines. The Ewingsdale community will be key stakeholders in this process. This is a process that will involve all three levels of government.

Traffic modelling undertaken to date indicates that a roundabout constructed in isolation may not be an appropriate solution to the larger capacity issue in the network. Council does not hold sufficient developer contributions to fund the roundabout at this point in time.

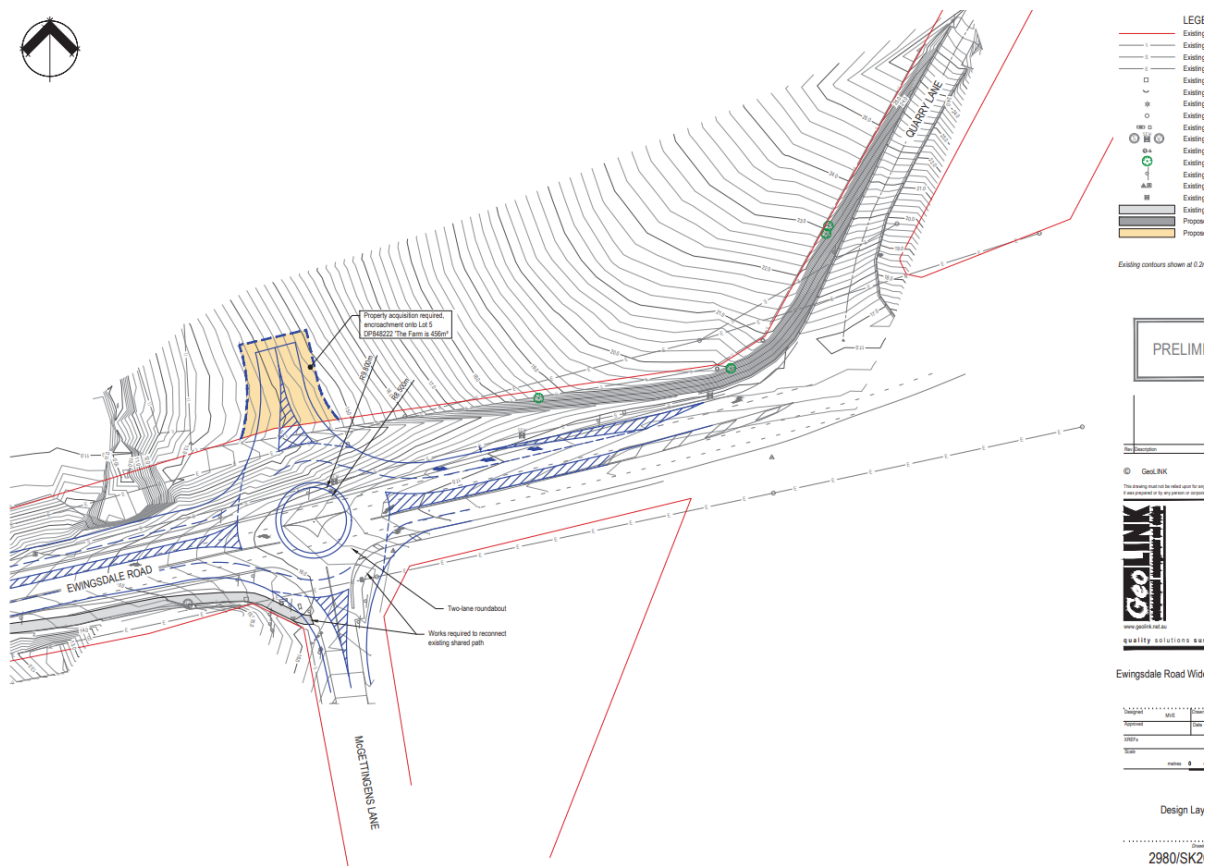
MR545 is also part of an application to the Independent Panel assessing the handover of regional roads to Transport for NSW. The outcome of this process has yet to be finalized. If MR545 becomes a State road then the responsibility for the upgrades reverts to Transport for NSW.

A briefing for Councillors on the Infrastructure Australia project will be scheduled for a future strategic planning workshop.

To answer the specific questions:

1. Council had engaged a consultant to prepare a preliminary 2D high level concept plan for the dual lane upgrade of Ewingsdale Road from McGettigans Lane to the interchange. Part of this concept design was a roundabout of similar specifications to that constructed at Bayshore Drive.

An excerpt from the plan set is shown below.



2. Full classifier counts that include volumes by vehicle classification, hourly volumes, and speed profiles was undertaken on Ewingsdale Road west of the Hospital roundabout from 30 October 2019 to 9 November 2019 and on McGettigans Lane 150m south of the intersection from 31 July to 28 August 2019. Both of these counts were undertaken during school term.
3. The intersection upgrade is in Council’s developer contributions plan. The preliminary concept work had been funded from developer contributions. The construction is not in the 10 Year capital plan as it is currently unfunded. As has been outlined above, a roundabout at this intersection will not be constructed in isolation as it is part of a much larger project.
4. The application to Infrastructure Australia is to seek Australian Government funding. The total project will likely be funded by all three levels of government.

A roundabout at this location cannot proceed without funding. There are currently no suitable grants schemes for a roundabout in this location. Council does not hold sufficient developer contributions to fund the roundabout. Securing Australian Government funding through the Infrastructure Australia process is currently the best option to progress these works. This does mean that the roundabout is tied to the upgrade of the M1 interchange and the dual lane upgrade of Ewingsdale Road from McGettigans to the interchange.

**Question With Notice No. 15.3 Peak water levels in Byron for the March 2022
flood event**

File No: 12022/352

Cr Duncan Dey asks the following questions:

1. When will surveyed flood levels for this event in and around Byron Bay be published?
2. Along the route of westwards from Byron's CBD to Belongil Creek (the Main Drain and Cumbebin Wetland) what were the affluxes through significant structures such as the railway embankment and under Butler Street & the Bypass embankment?
3. If surveyed levels of peak water marks are not available, can they be sought and surveyed?

Response Director Infrastructure Services:

Following is an extract from the report to the Floodplain Management Advisory Committee on 21 April 2022 which outlines the current status for the collection of flood related data and survey information.

Following the recent flooding and rain events, Council has been working closely with State Emergency Services (SES), the Department of Planning & Environment (DPE) along with specialist flooding external consultants to undertake a post event/s data collection and summary report.

Council initiated the first phase internal post event survey protocols immediately following the recent events. Council's Flooding and Drainage Engineer was contacted by SES to collaborate for obtaining post event survey marks. SES contracted Public Works Advisory (PWA) to provide survey resourcing across the Byron Shire. All survey is to be supplied and funded by SES. DPE then became involved to oversee the data collection. Council's Flooding and Drainage Engineer worked closely with SES, DPE and PWA to isolate the areas of interest with a focus on the main urbanised areas of the shire. Post event survey has now been completed and SES, DPE and PWA, along with Council are currently collating the data and undertaking quality assurance. This data will be available for use by Council in the coming weeks. Survey has covered the Brunswick River, Belongil and Tallow Creek catchments.

Council then initiated the second phase of post event survey protocols. This has involved releasing media alerts to all Shire residents to ask for assistance with collection of additional private property survey. This initiative has been very successful with 126 responses received so far and more coming in every day. Over the coming weeks Council will be mobilising survey resources to begin the final stage of the survey involving surveying private property recorded flood marks. The scope, timing and funding arrangements are still being negotiated with various Government departments and authorities together with Council.

Council contacted DPE to initiate post event technical analysis. Following discussions with Council's Flooding and Drainage Engineer, DPE kindly agreed to completely fund all

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the post event technical analysis. The high-level scope of works is included in the attached document. The post event technical analysis will cover the Brunswick River, Belongil and Tallow Creek catchments. WMA (Council's lead flood consultant for the Brunswick River catchment) was commissioned by DPE for the Brunswick River catchment and BMT (Council's lead flood consultant for the Belongil catchment) was commissioned by DPE for the Belongil and Tallow Creek catchments. The attachment contains a high level scope for the Brunswick River catchment and the scope for the Belongil and Tallow Creek catchments will follow closely this methodology for the Brunswick River catchment's scope.

There is a large amount of works involved to complete the post event technical analysis and current estimates from DPE and consultants is likely to take between two to three months as a minimum.

URGENCY MOTIONS

PROCEDURAL MOTION

22-172 Resolved that the matter of *Responding to North Byron District flood and drainage* be considered at the meeting as the meeting was held on 26 April and a timely recognition is required. (Pugh/Swivel)

The motion was put to the vote and declared carried.

The Mayor declared the item urgent.

No. 1 Matter of Urgency - Response to North Byron District Flood and Drainage

22-173 Resolved:

1. That Council acknowledges the community meeting regarding flooding and drainage held on Tuesday 26th April at the Ocean Shore Country Club organised by the Ocean Shores Community Association and the important and urgent nature of many of the issues discussed.
2. That Council commits to considering each of the 21 requests, or 'NoMs', discussed at the meeting and listed as an attachment to this motion, and provides formal responses, including on actions taken, or planned to be taken following the Ordinary Council meeting on June 22nd at the latest.
3. That at least one hour be put aside for the June 2 Strategic Planning Workshop to discuss this matter. (Pugh/Swivel)

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AMENDMENT

Moved:

1. That Council acknowledges the community meeting regarding flooding and drainage held on Tuesday 26th April at the Ocean Shore Country Club organised by the Ocean Shores Community Association and the important and urgent nature of many of the issues discussed.
2. That Council considers each of the 21 requests, or 'NoMs', discussed at the meeting and listed as an attachment to this motion, and provides formal responses, including on actions taken, or planned to be taken following the Ordinary Council meeting on June 22nd at the latest.
3. That at least one hour be put aside for the June 2 Strategic Planning Workshop to discuss this matter. (Dey/Ndiaye)

PROCEDURAL MOTION

22-174 Resolved that Cr Ndiaye be granted a one minute extension to her speech. (Lyon)

The motion was put to the vote and declared carried.

*The amendment (Dey/Ndiaye) was put to the vote and declared lost.
Crs Swivel, Hunter, Lyon, and Pugh voted against the amendment.*

The motion (Pugh/Swivel) was put to the vote and declared carried.

There being no further business the meeting concluded at 4.53pm.

I hereby certify that these are the true and correct Minutes of this Meeting
as confirmed at Council's Ordinary Meeting on 26 May 2022.



.....
Mayor Michael Lyon

Attachment:

Matter of Urgency - Response to North Byron District Flood and Drainage

Schedule of Works Needed for the North Byron District

Encompassing the Ocean Shores community with surrounding villages including Billinudgel, South Golden Beach, New Brighton, The Pocket, Yelgun and Wooyung. Representing 10,000 residents, approx 1/3 of Byron Shire population – we are on Ngarakbal Gidjabul People land

Job Category	Job Description	Motions/Suggested Actions	Priority
DRAINAGE	Opening the Capricornia Canal outlet overflow to the ocean as the first step in mitigating flood risk in the Ocean Shores district and surrounding villages	<p>Motion #1</p> <p>We request a notice of motion from a Councillor to open the Capricornia canal flood overflow to the ocean, as per the request sent to Council on 28/3/22 by the Ocean Shores Community Association – this needs to be done before the next flood which is predicted in 3 weeks time</p> <p><i>Background: The Ocean Shores community is very well aware that Council responds immediately if the Belongil Creek outlet at Byron Bay is blocked and flooding, or Tallow Creek. Council quickly bulldozes an opening to the ocean. However, the requests to open the flood outlet to the ocean of the Capricornia Canal via Yelgun Creek are always refused. The 1973 flood engineers constructed the flood outflow for the Capricornia Canal to use the existing Yelgun Creek as the opening to the ocean. Yelgun Creek is similar to Belongil and Tallow except for the high level of vegetation undergrowth present in the Billinudgel nature reserve through which Yelgun Creek struggles to exist. It is also silted up very heavily, because it has been blocked since 1976 and cannot escape to the ocean to clean itself. Opening the Capricornia Canal flood overflow will also benefit Yelgun Creek.</i></p>	<p>Emergency immediate</p> <p>See footnote¹</p>
	Dredging canals	<p>Motion #2</p> <p>We request a notice of motion from a Councillor to dredge all canals, waterways, drains and creeks in the North Byron district especially Marshalls Creek, Yelgun Creek & Billinudgel Creek</p>	<p>Emergency immediate</p>
	Cleaning and fixing stormwater pipes	<p>Motion #3</p> <p>We request a notice of motion from a Councillor to clean and fix all storm water pipes</p>	<p>Emergency immediate</p>
	Country Club Pump House, Lakes and Weirs	<p>Motion #4</p> <p>We request a notice of motion from a Councillor to enforce the Country Club to fix the failing pump house, dredge the Country Club lakes and restore the weirs to original heights</p>	<p>Emergency immediate</p>

Job Category	Job Description	Motions/Suggested Actions	Priority
DRAINAGE contd	SGB Pump Redirection	Motion #5 We request a notice of motion from a Councillor to redirect the two SGB pumps from the canal to the ocean	Emergency immediate
	SGB Pump Upgrade	Motion #6 We request a notice of motion from a Councillor to install the following for the two pumps at SGB:- automatic moisture detection, remote and/or automatic operation, higher positioned electrics on both pumps, continuous operation, a backup power source and a separate power supply to residential	Emergency immediate
	SGB & New Brighton drains	Motion #7 We request a notice of motion from a Councillor to clean and repair the drains in front of houses in SGB and New Brighton and to connect these drains together so that they funnel storm water into the canals	Emergency immediate
	Byron - Tweed joint flood plan	Motion #8 We request a notice of motion from a Councillor for Byron Council to approach Tweed Council to work with them again on updating the joint flood plan with a view to adding more storm outlets before flood waters reach us	Emergency immediate
	Roundhouse	Suggest Council divert the drainage from the roundhouse development into the golf course	
	New Brighton	Suggest that Council add storm outlets to the New Brighton area to funnel storm water to the ocean	
	Removing Singapore Daisy weed	Suggest that Council remove the Singapore Daisy weed from all waterways as it chokes and impedes the natural flow of water	
SEWERAGE	Sewer pipes replaced	Suggest that Council clean, repair and replace the failing sewer pipes throughout the Ocean Shores district and surrounding villages	
	Septic man holes	Suggest that Council stop the septic man-holes from routinely bubbling raw sewerage into residential gardens	
	Treated effluent running through the wetlands to the river	Suggest that Council provide a detailed report showing the water quality throughout the wetlands	
	Removal of Tree roots from pipes	Suggest that Council remove tree roots from sewer and storm pipes	

Job Category	Job Description	Motions/Suggested Actions	Priority
	Tree removal	Suggest that Council remove the trees which are choking storm pipes	
	Ocean Shores Sewerage treatment plant	Suggest that Council does not close the ocean shores sewerage treatment plant	
DAS	Fast track DA's for flooded houses	Motion #9 We request a notice of motion from a Councillor that Council fast track the processing of DA's for flood affected houses	Emergency immediate
	Increase Flood height levels	Motion #10 We request a notice of motion from a Councillor that Council increase the floor heights to reflect new flood levels when approving DA's for Marshall's Creek DCP area	Emergency immediate
	Building Materials unsuitable for flood prone areas	Motion #11 We request a notice of motion from a Councillor that Council review the building materials allowed to be used for DA's in flood prone areas	Emergency immediate
	Drainage restrictions per household block	Motion #12 We request a notice of motion from a Councillor that Council restrict the % of a block which can be concreted as well as enforcing mandatory DA's for drainage in concreted areas	Emergency immediate
Roads	Potholes and road surfacing	Motion #13 We request a notice of motion from a Councillor that Council acquire their own in-house pothole repair and roads surfacing teams <i>Background: Ballina Council do this successfully</i>	Emergency immediate
Representation at Council	Flood Committee	Motion #14 We request a notice of motion from a Councillor that Council add a representative to the Flood Committee for these areas – one rep per village of Ocean Shores, SGB and New Brighton as these all have varying drainage issues	Emergency immediate
	Major Works Scheduling	Motion #15 We request a notice of motion from a Councillor that major works for the North Byron district be included in Council's current capital works program	Emergency immediate

Job Category	Job Description	Motions/Suggested Actions	Priority
Representation at Council contd	Ongoing Maintenance Scheduling	Motion #16 Given that the North Byron district encompasses more than 1/3 of Byron Shire's population and housing, we request a notice of motion from a Councillor that a minimum of 30% of all Byron Shire's major works funding to be utilised in the Ocean Shores district and surrounding villages	Emergency immediate
	Council Town Plan	Motion #17 We request a notice of motion from a Councillor for Council to work with the community to develop a Town Plan for Ocean Shores district and surrounding villages, north of the Brunswick River	Emergency immediate
	Phase 3 of 1969 Planned Works	Suggest that Council build a high school and complete the remaining civic works as outlined in the 1969 Phase 3 Schema of works	
	Opening the national parks	Suggest that Council open the 1,000 hectares of nature reserves and allow these to be used recreationally by the community	
Internet	Starlink	Motion #18 We request a notice of motion from a Councillor for Council to seek government funding to subsidise Starlink satellites across the community to help address the total Telco comms failures during major crises (1 per 2 households will be sufficient as coverage is broad)	Emergency immediate
Comms	Vital comms for Council	Suggest that Council consider alternative communications where SES and Telcos have failed. This could be a Council driven database containing the mobile numbers of all Byron Shire residents – this could be used to trigger vital SMS comms during an emergency regarding evacuation centres, disaster recovery centres and procedures such as emergency accommodation registration with Services NSW	
	Village alerts	Suggest that Council consider other comms channels such as an old-school fog horn per village to alert of an imminent flood or tsunami	

Job Category	Job Description	Motions/Suggested Actions	Priority
Power	Battery hubs	Suggest that Council seek funding to subsidise battery hubs for every few streets in each village	
	Backup power	Suggest that Council seek funding for diesel generators per household	
Insurance /Financial	Suncorp	Motion #19 We request a notice of motion from a Councillor that Council seek funding to subsidise flood insurance for residences with insurers such as Suncorp who have flood cover embedded as a mandatory basic inclusion (but are expensive)	Emergency immediate
	Rental support	Motion #20 We request a notice of motion from a Councillor for Council to seek a rental support payment higher than \$7,200 for our region <i>Background: This \$7,200 is funded by the NSW Dept of the Premier and the Cabinet and is based on the average weekly rent in Australia of \$450 per week – this does not cover rent in our very expensive shire, the most expensive rent in Australia, more than Sydney. Byron Shire house rental average \$1,000-\$1,400 per week</i>	Emergency immediate
Education	Education is needed	Suggest that Council engage a flood emergency evacuation plan for all residents with periodic practice drills	

ⁱ See <https://www.facebook.com/groups/byronbay/permalink/5266118756752780>