

**Minutes
Ordinary Meeting
Thursday, 26 May 2022**



**BYRON
SHIRE
COUNCIL**

BYRON SHIRE COUNCIL

Ordinary Meeting Minutes

26 May 2022

INDEX OF ITEMS DISCUSSED

The following items are listed in the order in which they were dealt with.

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MINUTES OF THE BYRON SHIRE COUNCIL ORDINARY MEETING HELD ON THURSDAY, 26 MAY 2022 COMMENCING AT 9.14AM AND CONCLUDING AT 6.21PM

I2022/557

PRESENT: Cr M Lyon (Mayor), Cr S Balson, Cr C Coorey (left at 12.08pm), Cr D Dey, Cr A Hunter, Cr S Ndiaye, Cr A Pugh, Cr M Swivel and Cr P Westheimer

Staff: Mark Arnold (General Manager)
Esmeralda Davis (Acting Director Corporate and Community Services)
Phil Holloway (Director Infrastructure Services)
Shannon Burt (Director Sustainable Environment and Economy)
Ralph James (Legal Counsel)
Sarah Nagel (Manager Public & Environmental Services) – item 9.2
James Brickley (Manager Finance) – item 9.1
James Flockton (Infrastructure Planning Coordinator) – item 9.4
Heather Sills (Minute Taker)

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

PUBLIC ACCESS

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

Public Access

Report No and Title	For / Against	Name	Representing Community Organisation	Via
9.1 - Land and Funds for Emergency Accommodation	For	Cassandra Sheppard		In Person
9.2 - Non-compliant Companion Animals	For	Jeanette Olley	Byron Bird Buddies	In Person
9.1 - Land and Funds for Emergency Accommodation 9.3 - Parking meter time and cost amendments 9.5 - Lobbying on key issues for flood impacted communities	For	Francesca Esposito		In Person
9.7 - North Byron drainage and sewerage status 9.8 - North Byron Shire Masterplan 9.9 - Rebuilding after the floods	For	Francesca Esposito	North Byron District Activation - Community Flood Response (OSCA)	In Person

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PROCEDURAL MOTION

22-193 Resolved that Public Access be extended for 20 minutes.

(Lyon/Ndiaye)

The motion was put to the vote and declared carried.

Public Access cont.

Report No and Title	For / Against	Name	Representing Community Organisation	Via
9.8 - North Byron Shire Masterplan	For	Kim Dowling	North Byron Business Chamber	In Person

Question No. 1 – Fill for urban development

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

Given that the primary function of Council staff is to inform elected Councillors of relevant background factors, would said staff be so kind as to unambiguously clarify:

- 1) relevant current policy regarding fill*
- 2) relevant powers of private certifiers to toy with policy, statute management plans etc*
- 3) whether staff understand the concept of “full and frank disclosure”?*

The General Manager took the question on notice.

Condolence Motion - Recent passing of Christopher Sanderson

Byron Shire Council wishes to pass on its condolences on hearing of the passing of Christopher Sanderson and would like to officially acknowledge his contribution to the community.

Christopher was an active community member of Council’s Sustainable and Emissions Reduction Advisory Committee last term, and has been a member of Biodiversity and Sustainability Advisory Committee and Community Infrastructure Advisory Committee.

Council so very much appreciates the efforts of community members like Christopher Sanderson who contribute to the betterment of our Shire by giving so freely of their time, wisdom and knowledge.

My sincere sympathy and the sympathies of Council are extended to his partner, Christobel Munson, another much loved and respected member of the Bangalow community.

Condolence Motion - Recent passing of Tony Gilding

Byron Shire Council wishes to pass on its condolences on hearing of the passing of Tony Gilding who for a long time was the owner of Macadamia Castle which before his passing was able to pass the ownership on of that and is now an animal sanctuary, which was always something very dear to his heart.

Fantastic legacy of animal welfare for the Byron Shire and wider community.

APOLOGIES

There were no apologies.

REQUESTS FOR LEAVE OF ABSENCE

22-194 Resolved that Cr Coorey be granted a leave of absence from the following meetings:

- 26 May 2022 Ordinary - leaving the meeting early
- 9 June 2022 Ordinary (Planning)
- 23 June 2022 Ordinary (Lyon/Westheimer)

The motion was put to the vote and declared carried.

DECLARATIONS OF INTEREST – PECUNIARY AND NON-PECUNIARY

There were no declarations of interest.

TABLING OF PECUNIARY INTEREST RETURNS

There were no Pecuniary Interest Returns tabled.

ADOPTION OF MINUTES FROM PREVIOUS MEETINGS

22-195 Resolved: that the minutes of the Ordinary Meeting held 28 April 2022 be confirmed.
(Lyon/Hunter)

The motion was put to the vote and declared carried.

22-196 Resolved that the minutes of the Extraordinary Meeting held 19 May 2022 be confirmed
(Swivel/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. 13.1 Nomination of Councillors to Byron Masterplan Guidance Group

Corporate and Community Services

Report No. 13.2 Mayor and Councillor Remuneration 2022/23

Report No. 13.3 Council Resolutions Quarterly Review - Q3 - 1 January to 31 March 2022

Infrastructure Services

Report No. 13.7 Byron Shire Rail with Trail (Update)

Report No. 13.8 Vallances Road PRG Update

REPORTS OF COMMITTEES

Infrastructure Services

Report No. 14.1 Report of the Floodplain Management Advisory Committee Meeting held on 21 April 2022

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. 22-197 and concluding with Resolution No. 22-206.

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SUBMISSIONS AND GRANTS

Report No. 11.1 **AGRN1012 Natural Disaster Funding - Local Government Recovery Grants**

File No: I2022/494

22-197 **Resolved** that Council endorses the following Program of Works and funding allocation under the AGRN1012 Local Government Recovery Grant Program:

1. Individual Case Coordination (Mullumbimby & District Neighbourhood Centre) - \$30,000
2. Community Engagement - resilience and recovery (Mullumbimby & District Neighbourhood Centre) - \$70,000
3. Breakfast Co-ordinator at the Fletcher Street Homeless Hub (Byron Community Centre Fletcher Street Homeless Hub) - \$50,000
4. Local Recovery Coordinator (1 year) - \$145,000
5. Disaster Recovery Officer (3 months) - \$40,000
6. Improved resilience of Council's Public Communications Channels - \$415,000
7. Quick Response Mobile Disaster Communications - \$50,000
8. South Golden Beach resilience betterment program - \$140,000
9. Review of Disaster Preparedness Dashboard - \$40,000
10. Recovery Centre Mullumbimby - \$20,000 (Lyon/Ndiaye)

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

Report No. 13.4 **Operational Plan 2021/22 Quarter 3 Report - Q3 - 1 January to 31 March 2022**

File No: I2022/465

22-198 **Resolved:**

1. That Council notes the 2021/22 Operational Plan Quarter 3 Report for the period ending 31 March 2022 (Attachment 1 #E2022/39295).
2. That Council adopts the proposed amendments to the Operational Plan 2021/22 outlined in Attachment 2 (#E2022/39132). (Lyon/Ndiaye)

Report No. 13.5 **Council Investments - 1 April 2022 to 30 April 2022**

File No: I2022/466

22-199 **Resolved** that Council notes the report listing Council's investments and overall cash position as at 30 April 2022. (Lyon/Ndiaye)

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Report No. 13.6 **Budget Review - 1 January 2022 to 31 March 2022**
File No: I2022/470

22-200 Resolved:

1. That Council authorises the itemised budget variations as shown in Attachment 2 (#E2022/43292) which include the following results in the 31 March 2022 Quarterly Review of the 2021/2022 Budget:
 - a) General Fund – \$354,500 decrease to the Estimated Unrestricted Cash Result
 - b) General Fund - \$9,405,900 increase in reserves
 - c) Water Fund - \$1,021,300 increase in reserves
 - d) Sewerage Fund - \$100,400 increase in reserves
2. That Council adopts the revised General Fund Estimated Unrestricted Cash Result of \$126,500 for the 2021/2022 financial year as at 31 March 2022. (Lyon/Ndiaye)

REPORTS OF COMMITTEES - INFRASTRUCTURE SERVICES

Report No. 14.2 **Report of the Water and Sewer Advisory Committee Meeting held on 21 April 2022**
File No: I2022/489

22-201 Resolved that Council notes the minutes of the Water and Sewer Advisory Committee Meeting held on 21 April 2022. (Lyon/Ndiaye)

22-202 Resolved that Council adopts the following Committee Recommendations:

Report No. 3.2 Byron STP Condition 9 Additional Load - Quarterly Report
File No: I2022/238

Committee Recommendation 3.2.1

That Council:

1. Notes the report.
2. Asks Council staff to show both ET units and megalitres per annum. (Lyon/Ndiaye)

22-203 Resolved that Council adopts the following Committee Recommendations:

Report No. 3.3 Utilities Overview
File No: I2022/291

Committee Recommendation 3.3.1

1. That Council notes the presentation: Infrastructure Services Utilities Overview Presentation to Water & Sewer Advisory Committee 21 April 2022 (E2022/32261).
2. This summary to continue at the next Water and Sewer Advisory Committee. (Lyon/Ndiaye)

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Report No. 14.3 **Report of the Local Traffic Committee Meeting held on 10 May 2022**

File No: I2022/495

22-204 **Resolved** that Council notes the minutes of the Local Traffic Committee Meeting held on 10 May 2022. (Lyon/Ndiaye)

22-205 **Resolved** that Council adopts the following Committee Recommendation:

Report No. 6.1 Harvest Estate regulatory signage

File No: I2022/412

Committee Recommendation 6.1.1

That Council supports the regulatory signs, lines and traffic control devices associated with the Harvest Estate works, as shown in Attachment 1 (E2022/37580) subject to TfNSW concurrence. (Lyon/Ndiaye)

22-206 **Resolved** that Council adopts the following Committee Recommendations:

Report No. 6.2 Festival of the Stone 2022

File No: I2022/473

Committee Recommendation 6.2.1

1. That Council endorse the Traffic Management Arrangement associated with the Festival of the Stone event to be held on Saturday 4 June 2022, in accordance with the Local Traffic Committee recommendations.
2. That the endorsement provided is subject to:
 - a) Separate approvals by NSW Police and TfNSW being obtained, if required
 - b) A Traffic Guidance Scheme (TGS), being designed and implemented by those with relevant and current TfNSW accreditation;
 - c) The event being advertised 14 days prior to the event.
 - d) The event organiser:
 - i. Holding \$20m public liability insurance cover which is valid for the event.
 - ii. Undertaking consultation with emergency services and any identified issues addressed.
 - iii. Undertaking consultation with the community, affected businesses and transport operators, including adequate response/action to any raised concerns prior to the event taking place.
 - iv. Paying Council's Road Event Application Fee prior to each event.
 - e) Development Approval conditions of consent being met
 - f) After the Festival a report being submitted to council (within 3 months) from the original TGS designer with comments of the effectiveness of the traffic control arrangements during the event and list recommendations if required for consideration by council and other authorities for future events.

(Lyon/Ndiaye)

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PROCEDURAL MOTION

- 22-207 Resolved** that Council change the order of business to deal with Reports 9.2, 9.1, 9.4, 9.5, 9.7, 9.8 next on the Agenda. (Lyon/Ndiaye)

The motion was put to the vote and declared carried.

MAYORAL MINUTE

There was no Mayoral Minute.

NOTICES OF MOTION

Notice of Motion No. 9.2 Non-compliant companion animals

File No: I2022/283

- 22-208** Resolved that Council:

1. Notes the recent perceived increase in the number of dogs visible in the Shire;
2. Acknowledges that a 'Dogs in Public Spaces' Strategy is being developed but the Community Engagement stage has been delayed by the recent floods ;
3. Shares the concern of many residents and visitors at the numbers of dogs (i) in sensitive ecological areas, (ii) on public beaches, and (iii) roaming and/or barking in residential areas;
4. Notes that there is substantial evidence demonstrating that the presence of dogs has a negative impact on biodiversity;
5. Notes the priorities regarding dogs and cats in the adopted (Council Ordinary 24/3/22) Compliance Priorities Program Report 2021 and:
 - a) promotes a minimal tolerance enforcement approach (Penalty Infringement Notices and formal warning) in lieu of the current informal warning approach;
 - b) requests staff to put further priority and emphasis on nuisance, off-leash dogs and all dogs in environmentally sensitive areas such as Belongil and Tallows estuaries and adjacent beaches, (iii) and Broken Head beach adjacent to the Nature Reserve, so as to ensure the protection of our unique biodiversity;
 - c) requests staff to enforce the no dogs policy in Wildlife Protection Zones -- Hardy Avenue in Ocean Shores and Lilli Pilli and that dogs in those areas must remain within their owners' boundaries;
 - d) requests staff to put further enforcement priority and emphasis on off-leash dogs in towns and villages,
 - e) enhances community messaging of 5a) and 5b) through local media – particularly The Echo and Bay FM and any other channels, including additional signage in key biodiversity areas,
 - f) conveys the same to tourism and accommodation operators and reminds

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- operators of the significant ecological values of the Shire, and
- g) adds a new category to Compliance Priorities: High Priority - Dogs in environmentally sensitive areas;
6. Changes the heading on Council's website from 'Byron is a Dog Friendly Shire' to 'Byron is a Dog Responsible Shire'; and
7. Continues to work with NPWS to discourage the presence of dogs in National Parks and Reserves, and seeks their assistance in providing more targeted signage in areas they administer.. (Coorey/Lyon)

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

PROCEDURAL MOTION

- 22-209 Resolved** that Cr Coorey be granted a two minute extension to her speech. (Lyon/Coorey)
- The motion was put to the vote and declared carried.*

Cr Coorey left the Chambers at 12:08pm and did not return.

Notice of Motion No. 9.1 Land and Funds for Emergency Accommodation **File No:** 12022/353

- 22-210 Resolved** that Council:
1. Continues to explore other funding opportunities including from philanthropic organisations and from Local, State, and Federal Governments to provide the community with Temporary Supported Emergency Accommodation.
 2. Continues to explore and investigate funding models to facilitate housing outcomes, including "rent to own" options for tenants, and other financial models, on Council and State-owned land.
 3. Identifies parcels of land administered by other agencies that could hold Temporary Supported Emergency Accommodation for residents affected by floods, fires, natural disaster or housing displacement and create pathways to get people temporary emergency accommodation on those sites.
 4. Continues to advocate for Temporary Supported Emergency Accommodation that includes pet friendly accommodation options. (Balson/Swivel)

PROCEDURAL MOTION

- 22-211 Resolved** that Cr Balson be granted a two minute extension to her speech. (Lyon/Ndiaye)
- The motion was put to the vote and declared carried.*

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*The motion (Balson / Swivel) was put to the vote and declared carried.
Cr Westheimer voted against the motion.*

The meeting adjourned at 1.14pm for a lunch break and reconvened at 2.06pm.

Notice of Motion No. 9.4 Capricornia Canal and Marshalls Creek

File No: I2022/498

- 22-212 Resolved** that Council refers the requests raised by the North Byron Shire community regarding dredging the Capricornia Canal and Marshalls Creek to Council's Coastal and ICOLL Advisory Committee and Floodplain Management Committee with a view to consider the requests; in particular the option of removing the Marshalls Creek rock walls at Brunswick Heads and its potential to reduce siltation of Marshalls Creek. (Pugh/Lyon)

The motion was put to the vote and declared carried.

Notice of Motion No. 9.5 Lobbying on key issues for flood impacted communities

File No: I2022/501

22-213 Resolved:

1. That Council lobbies (including writing a formal letter and raising in relevant meetings) the relevant government agencies, governments and ministers on issues important to local flood impacted communities. This may include incorporating these matters into Council's submission/s to the NSW Flood Inquiry:
 - a) The inadequacy of the \$7,200 in rental support provided to people unable to live in their primary residence due to flood impacts.
 - b) The lack of resilience in the communications network post flood. This includes the need for more mobile service backup systems, the need for alternative internet access options such as satellite (particularly at evacuation centres).
 - c) Support for a government reinsurance program for flood impacted communities in Northern NSW.
2. That any responses or outcomes from these lobbying efforts be reported to Council. (Pugh/Balson)

The motion was put to the vote and declared carried.

Cr Dey voted against the motion.

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Notice of Motion No. 9.7 North Byron drainage and sewerage status

File No: I2022/503

22-214 Resolved:

1. That Council receives a report at the June meeting on the following
 - a. The historical (5 year) proportion of infrastructure spending that has been spent in the North Byron Shire area.
 - b. A timeline for the comprehensive assessment of the status of drains and sewerage infrastructure in North Byron Shire
 - c. The proposed works program for sewerage and drainage in North Byron Shire for 2021-22, 2022-23 and 2023-24
 - d. Grants programs that council might apply for to clean and repair the drains and sewerage within North Byron Shire
2. That Council's internal drain clearing team (Storm Water Action Team) focus work within the North Byron Shire community over the next 6 months.
3. That members of North Byron Shire be invited to submit the worst cases of drainage or sewerage network disrepair to the relevant staff members for consideration into the future program of works, including the budget that is currently out on exhibition.
4. That a staff briefing be organised to give the opportunity for informed submissions and input with relevant representatives from the North Byron Shire community before the end of public exhibition of the 2022-23 budget, to discuss the program of works priorities and budget allocations for the next 3 years. (Pugh/Balson)

PROCEDURAL MOTION

22-215 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 (Pugh/Balson) was put to the vote and declared carried.
Cr Lyon voted against the motion.*

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Notice of Motion No. 9.8 North Byron Shire Masterplan

File No: I2022/504

22-216 Resolved:

1. That Expressions of Interest are opened for the next Masterplan of a town or village in early August 2022.
2. That the community groups in the north Byron Shire area be informed of the EOI process and invited to put in an EOI. (Pugh/Swivel)

The motion was put to the vote and declared carried.

Notice of Motion No. 9.3 Parking meter time and cost amendments

File No: I2022/496

Moved:

1. That Council increases the parking meter charges for non Byron Shire residents except for local businesses who employ staff outside of the area.
2. That Council re-evaluates the costs and time durations of current parking meter charges by:
 - a) Increasing parking fees to \$7 per hour
 - b) Increasing one and two hour parking limits to three & four hours, to allow greater time for people to engage with local businesses and activities.
3. That the charges for local residents, ratepayers, and businesses and staff working in Byron Shire be decreased as follows:

Byron Shire Residents and Rate payers: \$25 p/a (reduced from \$55 per annum)

Temporary business parking: \$60 p/a (reduced from \$110) plus waive the 5 person limit to meet the need for the number of employees per business who travel in from outside the Byron Shire.

(Balson/Ndiaye)

PROCEDURAL MOTION

22-217 Resolved that the motion be put. (Pugh)

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

*The motion was put to the vote and declared lost.
Crs Swivel, Pugh, Hunter, Westheimer, Lyon, Ndiaye, and Dey voted against the motion.*

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Notice of Motion No. 9.6 Byron Bay Community Association support

File No: I2022/502

22-218 Resolved that Council:

1. Acknowledges the request from the Byron Bay Community Association for financial assistance in relation to Byron Bay markets and the extenuating circumstances that have resulted in financial losses
2. Offers a line of credit of up to \$100,000 to the Byron Bay Community Association from the Property Development Reserve to assist them with:
 - i) current shortfalls in markets revenue and
 - ii) cost of market relocation if development consent is given for the town centre site
3. Offers the line of credit to be available in five advances of \$20,000 each with an interest rate set at 3.5% per annum
4. Connects the term of any amounts borrowed to the markets licence, which is valid until 31 October 2026
5. Delegates to the Mayor, Deputy Mayor, and General Manager oversight of the agreement to ensure the risk to Council is minimised
6. Encourages the Byron Bay Community Association to investigate other funding options (Lyon/Pugh)

The motion was put to the vote and declared carried.

Notice of Motion No. 9.9 Rebuilding after the floods

File No: I2022/543

22-219 Resolved that the notice of motion was deferred for discussion at the 2 June SPW at 9am.

(Pugh/Lyon)

The motion was put to the vote and declared carried.

PETITIONS

There were no petitions.

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SUBMISSIONS AND GRANTS

Report No. 11.2 **Grants April 2022**
File No: I2022/497

22-220 **Resolved** that Council notes the report and Attachment 1 (#E2022/42422) for Byron Shire Council's grant submissions as of 31 April 2022. (Dey/Ndiaye)

The motion was put to the vote and declared carried.

DELEGATES' REPORTS

Cr Pugh provided a delegate's report on the Richmond Tweed Regional Library meeting.

Cr Swivel provided a delegate's report on the Moving Byron Advisory Committee meeting held on 19 May 2022.

Cr Hunter provided a delegate's report on the Mullumbimby Showground Committee.

Cr Westheimer provided a delegate's report on the Mullumbimby Civic Hall Committee.

Cr Ndiaye acknowledged that today is National Sorry Day.

STAFF REPORTS - GENERAL MANAGER

Report No. 13.1 **Nomination of Councillors to Byron Masterplan Guidance Group**
File No: I2022/479

22-221 **Resolved** that Council nominates Crs Dey and Westheimer to be members of the Byron Masterplan Guidance Group. (Ndiaye/Lyon)

The motion was put to the vote and declared carried.

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

Report No. 13.2 **Mayor and Councillor Remuneration 2022/23**
File No: I2022/47

22-222 Resolved that Council:

1. Fixes the fee payable to each Councillor under section 248 of the *Local Government Act 1993* for the period 1 July 2022 to 30 June 2023 at \$21,100.
2. Fixes the additional fee payable to the Mayor under section 249 of the *Local Government Act 1993*, for the period from 1 July 2022 to 30 June 2023 at \$46,040.
3. Makes a superannuation contribution payment to its councillors in accordance with section 254B of the *Local Government Act 1993*.
4. Not determine a fee payable to the Deputy Mayor, in accordance with its current practice. (Ndiaye/Westheimer)

The motion was put to the vote and declared carried.

Report No. 13.3 **Council Resolutions Quarterly Review - Q3 - 1 January to 31 March 2022**
File No: I2022/457

22-223 Resolved:

1. That Council notes the information provided in this report on active Council Resolutions in Attachment 1 (#E2022/30845);
2. That Council notes Resolution 22-001 also remains incomplete;
3. That the contents of Attachment 2 (#E2022/30867) be adjusted for Point 2 above; and
4. That Council notes the completion of Resolutions in the adjusted list. (Dey/Ndiaye)

The motion was put to the vote and declared carried.

STAFF REPORTS - INFRASTRUCTURE SERVICES

Report No. 13.7 **Byron Shire Rail with Trail (Update)**
File No: I2022/116

22-224 Resolved that Council:

1. Continues to work with Transport for NSW on the delivery of outcomes articulated in Resolutions 20-127, 20-572, 21-234 and 21-389.
2. Continues to seek funding opportunities to allow reactivation of the rail corridor within the Byron Shire.
3. Engages in discussions with Lismore City Council regarding collaboration on improved public transport strategies and use of the rail corridor.
4. Writes to Tamara Smith MP to inform her of the current status of the \$100,000 funding from TfNSW for the clearing of the rail corridor and the difficulties with complying with the timelines for the approval of the licence to undertake the clearing. (Westheimer/Dey)

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

Report No. 13.8 **Vallances Road PRG Update**
File No: I2022/491

22-225 Resolved:

1. That Council notes:
 - a) the attached draft meeting minutes for the inaugural meeting of the Vallances Road Project Reference Group held on 26 April 2022,
 - b) and that information including the following will be presented to the next meeting scheduled for 28 June: number and cost of traditional burials in the Shire; management details for existing cemeteries in the Shire; management details for a natural burial ground "Briars" on Mornington Peninsula; ground slope limit for natural burial; planning status of the nursery; road options for the intersection of Coolamon Scenic Drive and Vallances Road; traffic options for the intersection as is; site survey; a PRG website.
2. That Council authorises the General Manager to engage appropriate resources to progress the Development Application for a natural burial ground at Vallances Road, in consultation with the PRG.
3. The Vallances Road Project Reference Group consider an Indigenous name for the whole Vallances area. (Dey/Lyon)

The motion was put to the vote and declared carried.

REPORTS OF COMMITTEES - INFRASTRUCTURE SERVICES

Report No. 14.1 Report of the Floodplain Management Advisory Committee Meeting held on 21 April 2022

File No: I2022/488

22-226 Resolved that Council notes the minutes of the Floodplain Management Advisory Committee Meeting held on 21 April 2022. (Lyon/Westheimer)

22-227 Resolved that Council adopts the following Committee Recommendations:

Report No. 3.1 Committee Constitution

File No: I2022/343

Committee Recommendation 3.1.1

That Council:

1. Ratify the draft Committee Constitution with the following amendment to Part five: 6 community representatives including if possible one representing communities near Tallow Creek ICOLL, Belongil Creek ICOLL, Marshalls Creek, Brunswick River.
2. Seeks additional Committee members through readvertising. (Lyon/Westheimer)

22-228 Resolved that Council adopts the following Committee Recommendations:

Report No. 3.2 Post Flood Event Update

File No: I2022/345

Committee Recommendation 3.2.1

That Council:

1. Notes the Report.
2. Receives a further report from the Floodplain Management Advisory Committee on reviewing the North Byron Floodplain Risk Management Plan. (Lyon/Westheimer)

22-229 Resolved that Council adopts the following Committee Recommendations:

Report No. 3.3 Flooding and Drainage Grants Update

File No: I2022/346

Committee Recommendation 3.3.1

That Council:

1. Notes the Report.
2. Receives a report, via the Floodplain Management Advisory Committee, which includes a detailed list of the recommended flood mitigation works from each of Council's Floodplain Management Plans. (Lyon/Westheimer)

BYRON SHIRE COUNCIL

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22-230 Resolved that Council adopts the following Recommendations:

Report No. 3.4 Belongil Catchment Drainage Board Update and Actions Required
File No: I2022/347

Recommendation 3.4.1

That Council:

1. Notes the Report.
2. Nominates Cr Lyon as a Representative to the Board and Cr Dey as an alternate.
(Lyon/Westheimer)

AMENDMENT

Moved that Council adopts the following Recommendations:

Report No. 3.4 Belongil Catchment Drainage Board Update and Actions Required
File No: I2022/347

Recommendation 3.4.1

That Council:

1. Notes the Report.
2. Nominates Cr Dey as a Representative to the Board and Cr Lyon as an alternate.
(Dey/Balson)

The amendment was put to the vote and declared lost.

Crs Swivel, Pugh, Hunter, Balson, Westheimer, and Lyon voted against the amendment.

The motions (22-226 to 20-230) were put to the vote and declared carried.

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emergency planning in New South Wales. This methodical approach to the planning process is to be applied by Emergency Management Committees at all levels.

- b) Responsibility for preparation, response and recovery rests initially at Local level. If Local agencies and available resources are not sufficient, they are augmented by those at Regional level.
- c) Control of emergency response and recovery operations is conducted at the lowest effective level.
- d) Agencies may deploy their own resources from their own service from outside the affected Local area or Region if they are needed.
- e) The Local Emergency Operations Controller (LEOCON) is responsible, when requested by a combat agency, to co-ordinate the provision of resources support. EOCOns would not normally assume control from a combat agency unless the situation can no longer be contained. Where necessary, this should only be done after consultation with the Regional Emergency Operations Controller (REOCON) and agreement of the combat agency and the appropriate level of control.
- f) Emergency preparation, response and recovery operations should be conducted with all agencies carrying out their normal functions wherever possible.
- g) Prevention measures remain the responsibility of authorities/agencies charged by statute with the responsibility

Byron Shire Council Business Continuity Plan

The Byron Shire Council Business Continuity Plan is an internal document that is implemented upon the declaration of a Business Continuity Event by the Continuity Management Team Leader (General Manager) and is aimed at maintaining or re-establishing key identified Council business operations within designated timeframes. This document only applies to events which disrupt the business operations of Council.

Response Director Sustainable Environment and Economy:

1. *When DA 10.2017.749.1 gave consent to two houses on a vacant allotment Lot at 1 Kallaroo Circuit OCEAN SHORES, was there a prohibition in place on fill in this floodplain?*

The Marshalls Creek Floodplain Management Plan was adopted by Council on 25 November 1997. Section 6.2 identifies management practices for South Golden Beach and Ocean Shores North including “place a moratorium on filling individual lots until sufficient investigation has been undertaken to identify and quantify appropriate stormwater ponding points”.

It is noted that the “Fern Beach” estate which includes the subject lot was constructed to be above the 1% flood level as acknowledged within the Marshalls Creek Floodplain Management Plan Report – November 1997 prepared by Paterson Consultants Pty Limited.

2. *When Consent Condition 10 imposed a minimum floor level of 3.9m AHD, was Council as consent authority aware that on Sheet 1A of 19 “Site Plan Layout” of the proposal (as stamped & approved) a box named “Siteworks” indicated 0.1m cut and zero fill to create the original proposed slab level of 3.525m?*

Sheet 1A of 19 “Site Plan Layout” is the stamped plan under the development consent and includes the “Siteworks” note which indicated 0.1m of cut and zero fill. That plan was part of the consideration of the development application.

3. *Did Council realise that, in raising the floor to at least 3.9m, the slab would require 375mm of fill?*

The proposed construction methodology was slab on ground so it was considered increased concrete material could be used to achieve the level required above the existing ground level. Other construction techniques are available (eg. drop edge beam) such that the slab floor level can be raised without the necessity for filling. However, it is the Certifier who is required to be satisfied that the development has been carried out in accordance with the development consent (including the construction certificate), including in relation to cut and fill levels.

4. *If the no fill approach was in force when consent was granted, why is Consent Condition 24 entitled “Fill to be retained on the subject land” and why does it require that “Fill material must not encroach onto any adjoining land”, which implies that there can be fill on the property?*

Condition 24 is a standard Council condition, the purpose of which is to ensure that any site works involving fill material, no matter how large or small, must not encroach onto any adjoining land. This could have related to material excavated from one location on the site (ie. the 0.1m of cut indicated on the plans) and placed in another location, even if only for a short timeframe. The condition is in the section of the consent titled “The following conditions are to be complied with during any building or construction works”. The condition is applicable during that timeframe, and the Certifier must be satisfied that the development is being carried out in accordance with the consent in this regard.

5. *If the no-fill approach is still in force, why did the private PCA for 1 Kallaroo Circuit*

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recently ignore the prohibition and approve about 0.4m of fill on the property within a floodplain?

Staff are not able to provide comment as to the reasons for certain actions of the private certifier.

6. *And, if the no-fill approach is still in force, are there better ways to protect the floodplain from fill?*

The requirements of the Marshalls Creek Floodplain Management Plan (1997) are listed as “special provisions” to be addressed under Chapter C2 – C2.3.5 of DCP 2014. This Chapter of the DCP must be addressed by all development on flood liable land.

URGENCY MOTIONS

PROCEDURAL MOTION

Moved:

1. That pursuant to Section 10A(2)(b) of the Local Government Act, 1993, Council resolve into Confidential Session to discuss the following report, namely Ownership of Site at Suffolk Park Caravan Park.
2. That the reasons for closing the meeting to the public to consider this item be that:

(b) the personal hardship of any resident or ratepayer
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 disclosure of the confidential information could disclose information about a resident or ratepayer. (Dey)

Cr Lyon left the meeting at 5.47pm, the Deputy Mayor took the Chair.

Matter of Urgency - Suffolk Park Caravan Park

That the matter regarding ownership at Suffolk Park Caravan Park be considered urgent.
(Dey/Ndiaye)

The motion was put to the vote and declared carried.

The Chairperson ruled the matter urgent.

Cr Lyon returned to the meeting at 5.50pm and resumed the Chair.

PROCEDURAL MOTIONS

- 22-231 Resolved** that Council move into Committee to allow for free debate. (Ndiaye)

The motion was put to the vote and declared carried.

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22-232 Resolved: that the meeting be extended until 6.25pm. (Lyon)

The motion was put to the vote and declared carried.

The urgency motion was withdrawn.

22-233 Resolved that Council move out of Committee and resume the Ordinary Meeting. (Ndiaye)

The motion was put to the vote and declared carried.

22-234 Resolved that the meeting move out of confidential session. (Ndiaye)

The motion was put to the vote and declared carried.

There being no further business the meeting concluded at 6.21pm.

I hereby certify that these are the true and correct Minutes of this Meeting
as confirmed at Council's Ordinary Meeting on 23 June 2022.



.....
Mayor Michael Lyon