

Minutes Ordinary Meeting

Thursday, 25 August 2022



BYRON
SHIRE
COUNCIL

BYRON SHIRE COUNCIL

Ordinary Meeting Minutes

25 August 2022

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MINUTES OF THE BYRON SHIRE COUNCIL ORDINARY MEETING HELD ON THURSDAY, 25 AUGUST 2022 COMMENCING AT 9.10AM AND CONCLUDING AT 5.09PM

I2022/1086

PRESENT: Cr M Lyon (Mayor), Cr S Balson, Cr D Dey, Cr A Hunter, Cr S Ndiaye (left at 4.00pm), Cr A Pugh (left at 5.00pm), Cr M Swivel and Cr P Westheimer (part)

Staff: Mark Arnold (General Manager)
Esmeralda Davis (Acting Director Corporate and Community Services)
Phillip Holloway (Director Infrastructure Services)
Shannon Burt (Director Sustainable Environment and Economy)
Ralph James (Legal Counsel)
Heather Sills (Acting Manager Corporate Services) – Item 8.1
Cameron Clark (Manger Utilities) - Item 9.1
Phil Warner (Manger Assets and Major Projects) – Item 9.4
Sarah Nagel (Manager Public and Environmental Services) – Item 13.12
Amber Evans Crane (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.

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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 Organisation	Via
9.4	North Rail Corridor Utilisation	For	Steve Back	No	In person
		Against	Louise Doran	No	In person
9.4 & 9.5	North Rail Corridor Utilisation and Western Rail Corridor Utilisation	Against	Christopher Sheridan	No	In person
			Nigel Kirwan	No	In person
9.7	North Byron Parklands - Splendour in the Grass 2022	For	Kathy Norley	South Golden Beach Community Organisation	In person
		Against	Elise Huntley	Splendour in the Grass	In person
13.11	PLANNING - 26.2021.3.1 150 Lismore Road, Bangalow Submissions Report	For	Clyde Treadwell	No	In person

PROCEDURAL MOTION

22-383 Resolved that Public Access be extended until 11.30am.

(Lyon)

The motion was put to the vote and declared carried.

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Report No. and Title		For/ Against	Name	Representing Organisation	Via
13.12	Affordable Housing - 57 Station Street, Mullumbimby	For	Liz Collyer	Landcom	In person
			Nicole Woodrow	Landcom	In person
13.16	Dogs in Public Spaces Strategy	Against	Angela Dunlop	South Golden Beach Community Association	In person
13.17	Draft Federal Village Masterplan	For	Alan Goldstein	Federal Village Masterplan Steering Group	In person
13.18	PLANNING - 10.2021.291.2 - S4.55 to introduce Construction Staging of Development and for Minor Internal Changes to Floor Plans, Amendments to Roof Top Area and Introduction of Dual Key Apartments	For	Dominic Biancardi	No	In person
13.22	Mullumbimby Pool Feasibility Study	For	Ralph Mamone	No	In person

Cr Westheimer left the Chambers at 10:49am.

Question No. 1 Flooding

Louise Gordon asked the following question:

Michael Lyons statement to Marlene Crompton, a 3rd generation resident of Argyle Street Mullumbimby that “the worst you would see is a few mms extra, the modelling done says it will decrease flooding’ is extremely confusing and concerning. For your information Michael a few extra mms would have caused my home and many others to flood in February. Your two contradictory statements cause us to be concerned about their veracity. Sources please! So which is it Michael? That hundreds of truckloads of fill will increase flooding by a few ml or hundreds of truckloads of fill will decrease flooding. You can’t have it both ways.

The Mayor provided the following response:

I am happy to answer that publicly and I did email you yesterday with the answer to that. To answer it in this forum the Resilience Flood Impact statement, which we are yet to receive and which will, as I understand it... [Interjection] No, I haven’t seen it, our staff haven’t seen it, we are yet to receive it. We’ve only been given what you’ve been given,

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which is the answer in the frequently answered questions section that was submitted to residents.

The advice from Resilience NSW is due to way that they have designed the site in a one in 100 year event the flooding to neighbouring properties would actually be reduced. That's their position. We haven't seen that Flood Impact Statement. We are likely to get that, I'm told within the next week. Our flood engineers will analyse that and make their own assessment and provide that to the community along with the Flood Impact Statement.

The second statement, where I said "the worst you would see" is based on a simple layman's observation. Which is that it is clear to me that if you simply have a flood of area and you 'plonk' a block into that area you will raise the water elsewhere. That's an observation that I'm making and I agree there would be some impact from the works; though I am basing my opinion, and it is just layman opinion and I made that clear.

When we looked at the Lot 22 site which was a massive theoretical development and the study there showed that it would impact neighbouring properties by a couple of millimetres. To be clear that is just my opinion; that if nothing else changed and you did 'plonk' a block into a large floodplain there would have to be some impact on neighbouring properties. The source is just my common sense approach to it, but I've been very clear that there is a risk there. Given the situation we have with people in desperate need of emergency housing and the lack of options available, that is a risk that certainly I think is worth taking for the benefit of keeping our community connected to their community.

But I think the most important thing is to not rely on me. Wait until we get that Flood Impact Statement, let's have a look at that and let's analyse that and we'll go from there.

Submissions

Subject	Name	Representing Organisation	Submission Received in form of
Temporary Flood and Permanent Housing	John Lazarus	Byron Neighbourhood Resource Centre	Read by staff

The meeting adjourned at 11.18am for a break and reconvened at 11.48am.

Cr Westheimer did not return at this time.

APOLOGIES

PROCEDURAL MOTION

22-384 Resolved that the apology from Cr Coorey be accepted. (Lyon/Ndiaye)

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

APPLICATIONS TO ATTEND BY AUDIO-VISUAL LINK

There were no requests to attend by audio-visual link.

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

22-385 Resolved that the minutes of the following meetings be confirmed:

- Ordinary Meeting held 23 June 2022
- Extraordinary Meeting held 30 June 2022 (Hunter/Ndiaye)

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

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. 13.3 General Manager Delegation - Procurement

Corporate and Community Services

Report No. 13.7 Appointment of Replacement Community Members to Advisory Committees

Report No. 13.8 Delivery Program 6-monthly Report and Operational Plan 2021/22 Quarter 4 Report - to 30 June 2022

Sustainable Environment and Economy

Report No. 13.11 PLANNING - 26.2021.3.1 150 Lismore Road, Bangalow Submissions Report

Report No. 13.12 Affordable Housing - 57 Station Street, Mullumbimby

Report No. 13.14 PLANNING - Use of zipline ancillary to a primitive camping ground

Report No. 13.16 Dogs in Public Spaces Strategy

Report No. 13.17 Draft Federal Village Masterplan

Report No. 13.20 Place Planning Collective Expression of Interest Candidate Selection

Report No. 13.21 PLANNING - Quarter 2 SEPP Variations April to June 2022

Infrastructure Services

Report No. 13.22 Mullumbimby Pool Feasibility Study

REPORTS OF COMMITTEES

Corporate and Community Services

Report No. 14.1 Report of the Arts and Creative Industries Advisory Committee Meeting held on 30 June 2022

Sustainable Environment and Economy

Report No. 14.2 Report of the Coastal and ICOLL Advisory Committee Meeting held on 30 June 2022

CONFIDENTIAL REPORTS

Corporate and Community Services

Report No. 16.1 CONFIDENTIAL - Insurance Update regarding Council Assets - February 2022 Flood Event

The remaining Recommendations and Committee Recommendations were adopted as a whole, being moved by Cr Lyon and seconded by Cr Hunter. Each recommendation is recorded with a separate resolution number commencing at Resolution No. 22-386 and concluding with Resolution No. 22-407.

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SUBMISSIONS AND GRANTS

Report No. 11.1 **Grants June/July 2022**
File No: I2022/988

22-386 **Resolved** that Council notes the report and Attachment 1 (#E2022/75968) for Byron Shire Council's grant submissions as at 31 July 2022. (Lyon/Hunter)

STAFF REPORTS - GENERAL MANAGER

Report No. 13.1 **Lease to Byron Visitors Centre Incorporated**
File No: I2022/717

22-387 **Resolved:**

1. That Council notes that no submissions were received from public notice of a proposed five-year lease over part Folio 1/827049, 80 Jonson Street Byron Bay advertised between 22 June and 19 July 2022.
2. That Council grants a five-year premise lease over part Folio 1/827049, 80 Jonson Street Byron Bay to the Byron Visitors Centre Incorporated on the following terms and conditions:
 - a) term of two-years with an option of three-years with no holding over,
 - b) annual rent to be fully subsidised via a section 356 donation of Council to the value of \$69,600 being calculated at 6% of the unimproved land value,
 - c) fixed rates and charges to be fully subsidised in accordance with Councils Section 356 Donations Rates and Charges Policy 2021,
 - d) Lessee to pay all other outgoing for occupation of the premises including but not limited to public liability insurance and contents insurance for full replacement value,
 - e) Lessor to be responsible for annual fire safety inspections, annual pest inspections and controls and all structural repairs, renewals, and replacements,
 - f) closed circuit television equipment installed in the Premises is owned and managed by the Byron Shire Council.
 - g) Council to waive document preparation fees as set by Councils 2022-2023 Fees and Charges. (Lyon/Hunter)

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Report No. 13.2 **Licence to RBA Holdings Pty Ltd**
File No: **I2022/731**

- 22-388 Resolved** that Council authorise the General Manager, under delegated authority, to grant a licence with RBA Holdings Pty Ltd (A.C.N 144 070 986) on the following terms and conditions:
- a) part Folio 1/735732, Warrambool Road Ocean Shores,
 - b) term five-years with option of five-years with no holding over,
 - c) annual rent set at \$1 if demanded,
 - d) Licensee to own all digital re-transmission equipment and to have unlimited access to the site,
 - e) Licensor to maintain, at its cost, access to the site, the equipment shed, mains power connection and all usage costs, an air-conditioner, a transmission tower, and security fencing, and
 - f) Council to waive document preparation fees as set by its 2022-2023 Fees and Charges. (Lyon/Hunter)

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

Report No. 13.4 **Community Initiatives Program 2022-2023 Recommendations for Funding**
File No: **I2022/462**

- 22-389 Resolved:**
1. That Council approves the recommended projects for the Community Initiatives Program as per Attachment 1 (E2022/73029), listed below:
 - a) Spaghetti Circus - \$4,190
 - b) Coorabell Hall - \$5,000
 - c) Who Gives a Cluck Inc - \$5,000
 - d) Zero Emissions Byron - \$5,000
 - e) Green and Clean Awareness Team - \$800
 - f) Eureka Hall - \$5,000
 - g) Brunswick Valley Landcare - \$4,804
 - h) Empowered Today - \$5,000
 - i) Federal Community Centre - \$3,000
 - j) Suffolk Park Community Garden Inc - \$1,406
 - k) Byron Bay High School P&C Association - \$5,000
 2. That Council notes the applications not recommended as per Attachment 1 (E2022/73029). (Lyon/Hunter)

Report No. 13.5 **Council Investments - 1 June 2022 to 30 June 2022**
File No: **I2022/843**

- 22-390 Resolved** that Council notes the report listing Council's investments and overall cash position as at 30 June 2022. (Lyon/Hunter)

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Report No. 13.6 **Carryovers for Inclusion in the 2022-2023 Budget**
File No: I2022/902

- 22-391** **Resolved** that Council approves the works and services (with respective funding) shown in Attachment 1 (#E2022/76668) to be carried over from the 2021/2022 financial year and that the carryover budget allocations be adopted as budget revotes for inclusion in the 2022/2023 Budget Estimates. (Lyon/Hunter)
-

Report No. 13.9 **Council Resolutions Quarterly Review - Q4 - 1 April to 30 June 2022**
File No: I2022/943

- 22-392** **Resolved:**
1. That Council notes the information provided in this report on active Council Resolutions in Attachment 1 (#E2022/61386).
 2. That Council notes the completed Resolutions in Attachment 2 (#E2022/61419). (Lyon/Hunter)
-

Report No. 13.10 **Council Investments - 1 July 2022 to 31 July 2022**
File No: I2022/951

- 22-393** **Resolved** that Council notes the report listing Council's investments and overall cash position as at 31 July 2022. (Lyon/Hunter)
-

STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

Report No. 13.13 **Popcar FY2021 report**
File No: I2022/561

- 22-394** **Resolved** that Council:
1. Continues to lease the 14 bays to Popcar to provide a car sharing service in Byron Bay and Mullumbimby and invite Popcar to renew their annual lease, with an end date of 29 July 2023.
 2. Notes that the cost of applications and bay permits as outlined in the Car Share Procedure and Council's Fees and Charges will be reviewed in line with the 2023/24 budget process. (Lyon/Hunter)

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Report No. 13.15 **Resolution 22-332 - Animal Enforcement Resourcing**
File No: I2022/897

22-395 **Resolved** that Council:

1. Notes the current companion animal education and animal enforcement resourcing and staff operations as discussed in the report.
 2. Notes that employment of an Animal Education and Enforcement Officer under the NSW Local Council Support Package Companions Animals Grant is proposed for a period of up to 20 months which will increase the number of Animal Enforcement Officers to three.
 3. Notes that the Animal Education and Enforcement Officer would take on all educative duties in relation to companion animals, thereby allowing the other two Animal Enforcement Officers to solely focus on the animal enforcement activities under Resolution 22-208. (Lyon/Hunter)
-

Report No. 13.18 **PLANNING - 10.2021.291.2 - S4.55 to introduce Construction Staging of Development and for Minor Internal Changes to Floor Plans, Amendments to Roof Top Area and Introduction of Dual Key Apartments**
File No: I2022/935

22-396 **Resolved** that Pursuant to Section 4.55 of the Environmental Planning & Assessment Act 1979, that Application No. 10.2021.291.2 for S4.55 to introduce construction staging of development and for minor internal changes to floor plans, amendments to roof top area and introduction of dual key apartments, be approved subject to the conditions of consent as amended in Attachment 1 (#E2022/75457). (Lyon/Hunter)

The motion was put to the vote and declared carried.

Crs Dey, Swivel, Ndiaye, Lyon, Balson, Pugh and Hunter voted in favour of the motion.

Nil voted against the motion.

Cr Westheimer was not present for the vote.

Report No. 13.19 **PLANNING - Report of the Planning Review Committee held 4 August 2022**
File No: I2022/989

22-397 **Resolved** that Council endorses the outcomes of the Planning Review Committee meeting held on 4 August 2022. (Lyon/Hunter)

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REPORTS OF COMMITTEES - SUSTAINABLE ENVIRONMENT AND ECONOMY

Report No. 14.3 **Report of the Strategic Business Advisory Committee Meeting held on 30 June 2022**

File No: I2022/846

22-398 **Resolved** that Council notes the minutes of the Strategic Business Advisory Committee Meeting held on 30 June 2022. (Lyon/Hunter)

22-399 **Resolved** that Council adopts the following Committee Recommendations:

Report No. 3.1 Review Constitution of Strategic Business Advisory Committee

File No: I2022/469

Committee Recommendation 3.1.1

1. That the Strategic Business Advisory Committee recommend to Council to adopt the constitution at Attachment 1 (E2021/148723), with amendments to:
 - a) the number of Councillors required for quorum to be one, at Point 7.
 - b) Point 5 Membership, to include four members of the business community from a range of industry sectors.
 - c) Key Objective 2. to 'Where appropriate take a leadership role to encourage new and emerging sectors to flourish'
 - d) the name of the committee to the Business and Industry Advisory Committee.
2. That the Strategic Business Advisory Committee recommend to Council to call for nominations for representatives from the business community from a range of business sectors. (Lyon/Hunter)

REPORTS OF COMMITTEES - INFRASTRUCTURE SERVICES

Report No. 14.4 **Report of the Infrastructure Advisory Committee Meeting held on 16 June 2022**

File No: I2022/857

22-400 **Resolved** that Council notes the minutes of the Infrastructure Advisory Committee Meeting held on 16 June 2022. (Lyon/Hunter)

22-401 **Resolved** that Council adopts the following Committee Recommendations:

Report No. 3.1 Election of Chair and Committee Constitution

File No: I2022/565

Committee Recommendation 3.1.1

That Council supports the following:

1. Appointment of Cr Lyon as the Chairperson of the Infrastructure Advisory Committee.
2. The Infrastructure Advisory Committee adopting the draft Committee Constitution as amended. (Lyon/Hunter)

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22-402 Resolved that Council adopts the following Committee Recommendation:

Report No. 3.2 Mullum to Bruns/Ocean Shores Cycleway - Route Options

File No: I2022/631

Committee Recommendation 3.2.1

That Council note that the Infrastructure Advisory Committee noted the Mullum to Bruns Cycleway – Route Options Report. (Lyon/Hunter)

22-403 Resolved that Council adopts the following Committee Recommendations:

Report No. 3.3 Myocum Quarry DA Compliance and Options Report

File No: I2022/656

Committee Recommendation 3.3.1

That Council supports:

1. The actions as recommended in the report “DA Compliance and Options Assessment for Myocum Quarry” (E2021/155252) in response to resolution 21-098 and including preparation of a section 4.55(2) **modification to the** original development consent.
2. The provision of six monthly updates to the Infrastructure Advisory Committee.
3. The first six monthly update to include consideration of budget implications.

(Lyon/Hunter)

Report No. 14.5 Report of the Local Traffic Committee Meeting held on 14 July 2022

File No: I2022/1039

22-404 Resolved that Council notes the minutes of the Local Traffic Committee Meeting held on 14 July 2022. (Lyon/Hunter)

22-405 Resolved that Council adopts the following Committee Recommendations:

Report No. 6.1 New Intersection on Bangalow Road

File No: I2022/840

Committee Recommendation 6.1.1

That the Local Traffic Committee:

1. Endorses the proposed intersection plans as per marked up plan and comments provided by Transport for NSW.
2. The conditions of approval for the Roads Act Consent include provisions for a reseal of the area to be line marked for safety reasons. (Lyon/Hunter)

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22-406 Resolved that Council adopts the following Committee Recommendations:

Report No. 6.2 Traffic Management Plan - Splendour in the Grass Campground at Bluesfest, 35 Yarun Road, Tyagarah

File No: I2022/858

Committee Recommendation 6.2.1

1. That Council endorses the regulatory traffic management facilities and devices, including signs and traffic controller provisions proposed for the Council controlled public road network as outlined in attachments 1 (E2022/62160), for the use of the Bluesfest site as a Camp Ground and for park and ride in association with the Splendour in the Grass 2022 event from Wednesday 20 July 2022 to Tuesday 26 July 2022, subject to:
 - a) Separate approvals by NSW Police and TfNSW being obtained, noting that the event is on a state road or may impact the state road network;
 - b) The event be held through the implementation of the events Traffic Management Plan and Traffic Control Plan(s) as per attachments 1 (E2022/62160);
 - c) The Traffic Management Plan and the Traffic Control Plan(s) to be implemented by those with relevant and current TfNSW accreditation;
 - d) Traffic camera data recorders or similar be used to obtain an accurate record of traffic impacts at KPI queue locations;

2. That the event organiser:
 - a) inform community and businesses that are directly impacted (e.g. adjacent to the Bluesfest Site) via written information which is delivered to the property in a timely manner so as to document, consider and respond to any concerns raised;
 - b) arrange for private property access and egress affected by the use of the proposed Bluesfest site from camping and Park and Ride;
 - c) liaise with bus and taxi operators and ensuring arrangements are made for provision of services during conduct of the event;
 - d) consult with emergency services and any identified issues be addressed;
 - e) holding \$20m public liability insurance cover which is valid for the period of Camping and Park and Ride from the Bluesfest Site.

Management Comment:

This item has been approved by Council's General Manager under his Council delegated authority as per resolution 22-325 (refer Attachment 2). (Lyon/Hunter)

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22-407 Resolved that Council adopts the following Committee Recommendation:

Report No. 7.1 Tennyson Street - No Parking Area Extension

File No: I2022/721

Committee Recommendation 7.1.1

That the Local Traffic Committee supports the No Stopping areas proposed in Attachment 1 (E2022/55546) associated with the new pedestrian crossing on Tennyson Street adjacent to Ruskin Lane in accordance with Technical Note 2011/01A

(Lyon/Hunter)

PROCEDURAL MOTION

22-408 Resolved that Council change the order of business to deal with Reports 9.4, 9.5, 13.12, 9.7, 13.11, 13.16, 13.17, 13.22 next on the Agenda. (Lyon/Hunter)

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

NOTICES OF MOTION

Notice of Motion No. 9.4 North Rail Corridor Utilisation

File No: I2022/1011

22-409 Resolved that Council:

1. Notes the removal of train tracks from the rail corridor north of Byron Shire following Tweed Shire Council's decision to implement a bike path in the rail corridor in their Shire.
2. Receives a report on the rail corridor from Mullumbimby station through to the northern shire border:
 - a) Identifying known constraints of a trail beside the rail for the length of this section
 - b) Detailing any offers or interest received from commercial or other operators to reinstate a form of rail transport in this section
 - c) Identifying cost savings that may be realised by utilising the corridor as part of the Mullum to Brunswick bike trail
 - d) Providing a cost estimate and identifying funding sources for converting and then maintaining this corridor section as a bike and pedestrian track
 - e) Detailing any benefits to the broader 'Northern River Rail Trail' of connecting to the Tweed section (Pugh/Lyon)

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PROCEDURAL MOTIONS

22-410 Resolved that Cr Pugh be granted a two minute extension to his speech. (Lyon/Ndiaye)

The motion was put to the vote and declared carried.

Cr Westheimer was not present for the vote.

Cr Westheimer returned to the meeting via audio-visual link at 12.15PM.

22-411 Resolved that Cr Lyon be granted a two minute extension to his speech. (Lyon/Pugh)

The motion was put to the vote and declared carried.

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

Cr Westheimer voted against the motion.

Notice of Motion No. 9.5 Western Rail Corridor Utilisation

File No: I2022/1012

22-412 Resolved that Council:

1. Notes the previous unanimous support of council for the utilisation of the Rail Corridor through Bangalow from Rifle Range Road for bike and pedestrian travel
2. Receives a report on the rail corridor from Bangalow station through to Binna Burra:
 - a) Identifying known constraints of a trail beside the rail for the length of this section
 - b) Detailing any offers or interest received from commercial or other operators to reinstate a form of rail transport in this section
 - c) Provide a cost estimate for implementing and maintaining annually a bike and pedestrian track along the rail corridor:
 - i. from the Bangalow Station to Rifle Range Road
 - ii. from the Bangalow Station to the Bangalow Industrial Estate
 - iii. from the Bangalow Station to Binna Burra
 - d) Detailing any benefits to the community of building a bike and pedestrian track as above (Pugh/Lyon)

The motion was put to the vote and declared carried.

Cr Westheimer voted against the motion.

Cr Westheimer left the meeting and did not return.

STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

Report No. 13.12 Affordable Housing - 57 Station Street, Mullumbimby
File No: I2022/551

22-413 Resolved:

1. That Council delegates authority to the General Manager to run the tender process and documentation as described in this report, and to bring a report to Council to endorse the recommendations of the tender evaluation.
2. That Council notes that updates on the project will be discussed with Councillors at quarterly workshops by the Community Housing Provider.
3. That Council appoints the following staff to the Tender Evaluation Committee: Director Sustainable Environment and Economy and (Acting) Director Corporate and Community Services.
4. That Council:
 - a) requests staff develop a web landing page for the project to deliver regular updates to the community about the project progression
 - b) assures the community that there will be regular consultation at relevant stages in the project (Balson/Ndiaye)

PROCEDURAL MOTIONS

22-414 Resolved that Council move into Committee to allow for free debate. (Lyon)

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

Nicole Woodrow from Landcom was invited by Council to answer some questions relating to this item.

22-415 Resolved that Council move out of Committee and resume the Ordinary Meeting. (Lyon)

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

22-416 Resolved that Cr Ndiaye be granted a two minute extension to her speech. (Lyon)

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

*The motion (Balson/Ndiaye) was put to the vote and declared carried.
Cr Westheimer was not present for the vote.*

The meeting adjourned at 1.47pm for a lunch break and reconvened at 2.40pm.

NOTICES OF MOTION

Notice of Motion No. 9.7 North Byron Parklands - Splendour in the Grass 2022
File No: I2022/1014

Due the absence of Cr Coorey this item was deferred to the 8 September 2022 Planning Council Meeting.

STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

Report No. 13.11 PLANNING - 26.2021.3.1 150 Lismore Road, Bangalow
Submissions Report
File No: I2022/554

Moved that Council receives a further report on the planning proposal to illustrate the depths of fill that would be required to support development across the IN1 General Industrial land. (Dey/Ndiaye)

The motion was put to the vote and declared lost.
Crs Hunter, Pugh, Balson and Swivel voted against the motion.
Cr Westheimer was not present for the vote.

Cr Ndiaye left the Chambers.

FORSHADOWED MOTION

22-417 Resolved that Council adopts the amended planning proposal as attached to this report (Attachment 1 - #E2022/62680) to rezone part 150 Lismore Road, Bangalow to IN1 General Industrial and C3 Environmental Management, and forwards this to the Department of Planning, Industry and Environment for finalisation. (Pugh/Hunter)

PROCEDURAL MOTIONS

22-418 Resolved that this matter rest on the table. (Dey/Lyon)

The motion was put to the vote and declared carried
Crs Westheimer and Ndiaye were not present for the vote.

Cr Ndiaye returned to the Chambers.

22-419 Resolved that Report No. 13.11 be lifted from the table. (Lyon)

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

The motion (Pugh/Hunter) was put to the vote and declared carried.
Crs Swivel, Ndiaye, Lyon, Balson, Pugh and Hunter voted in favour of the motion.
Cr Dey voted against the motion.
Cr Westheimer was not present for the vote

BYRON SHIRE COUNCIL

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Report No. 13.16 **Dogs in Public Spaces Strategy**
File No: I2022/898

Moved that Council:

1. Notes the preparation of the draft Dogs in Public Spaces Strategy and Guide to Dog Areas in Byron Shire documents.
2. Endorses that the draft Dogs in Public Spaces Strategy and Guide to Dog Areas in Byron Shire be placed on public exhibition for a minimum 6 weeks to allow for community feedback and submissions, with an amendment to map 7 to increase the green shaded area to the end of the houses.
3. Receives a submissions report following the public exhibition of the documents referred to in point 1 and 2. (Hunter/Ndiaye)

AMENDMENT:

22-420 Resolved that Council:

1. Notes the preparation of the draft Dogs in Public Spaces Strategy and Guide to Dog Areas in Byron Shire documents.
2. Endorses that the draft Dogs in Public Spaces Strategy and Guide to Dog Areas in Byron Shire be placed on public exhibition for a minimum 6 weeks to allow for community feedback and submissions.
3. Receives a submissions report following the public exhibition of the documents referred to in point 1 and 2. (Dey/Lyon)

*The amendment was put to the vote and declared carried.
Crs Hunter and Ndiaye voted against the motion.
Cr Westheimer was not present for the vote.*

*The amendment upon becoming the substantive motion was put to the vote and declared carried.
Cr Westheimer was not present for the vote.*

PROCEDURAL MOTION

22-421 Resolved that Council change the order of business to deal with Reports 13.22 and 14.1 next on the Agenda. (Ndiaye/Lyon)

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

STAFF REPORTS – INFRASTRUCTURE SERVICES

Report No. 13.22 Mullumbimby Pool Feasibility Study

File No: I2022/874

22-422 Resolved:

1. Current Mullumbimby Memorial Centre – Petria Thomas Pool feasibility study be placed on hold pending consideration of Shire-wide Aquatic Facility requirements
2. Scope of current feasibility study to be expanded to provide Shire-wide strategic direction on the future development of existing and/or future public aquatic recreation requirements considering;
 - a) Capacity of the existing Shire-Wide facilities to meet the current and changing needs of the community
 - b) Operational performance, capital renewal costs and new capital expenditure requirements across existing facilities.
 - c) Industry trends, opportunities, competitors, and target market expectations
 - d) Equity of service provision across Byron Shire including cultural, physical, and social accessibility
 - e) Required components to ensure financial viability and sustainability of pool facilities
 - f) Potential for complementary commercial activity to improve financial sustainability and reduce long-term operating and maintenance costs
 - g) Planning implications around expansion or upgrade of existing facilities including transport and parking
 - h) Options on potential location for new or upgraded facilities including consideration of climate resilience, connectivity to community and potential benefits of co-location with other services.
 - i) Best practice management options to minimise long-term operating and maintenance costs.
 - j) Social, environmental, and economic benefits of public aquatic recreation
3. Additional funding requirement to be identified within the September quarterly budget review process.
4. Results of the expanded study to be reported back to Council in the form of an Options Report (Ndiaye/Hunter)

PROCEDURAL MOTION

22-423 Resolved that Cr Ndiaye be granted a one minute extension to her speech. (Lyon/Dey)

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

*The motion (Ndiaye/ Hunter) was put to the vote and declared carried.
Cr Westheimer was not present for the vote*

REPORTS OF COMMITTEES - CORPORATE AND COMMUNITY SERVICES

Report No. 14.1 Report of the Arts and Creative Industries Advisory Committee Meeting held on 30 June 2022

File No: I2022/851

22-424 Resolved that Council notes the minutes of the Arts and Creative Industries Advisory Committee Meeting held on 30 June 2022. (Ndiaye/Balson)

22-425 Resolved that Council adopts the following Committee Recommendation:

Report No. 3.1 Sandhills skate park and recreation precinct - art and cultural features

File No: I2022/728

Committee Recommendation:

That the committee note the arts and cultural features which have been commissioned for the Byron skate park and recreation precinct. (Ndiaye/Balson)

22-426 Resolved that Council adopts the following Committee Recommendation:

Report No. 3.2 Review Constitution of Arts and Creative Industries Advisory Committee

File No: I2022/581

Committee Recommendation:

That the Arts and Creative Industries Advisory Committee recommends to Council to adopt the Constitution at Attachment 1 E2021/150507. (Ndiaye/Balson)

22-427 Resolved that Council adopts the following:

Report No. 3.3 Arts and Culture Overview

File No: I2022/582

1. That the Arts and Creative Industries Advisory Committee notes the report.
2. That Council holds the Summit prior to the end of October 2022. (Ndiaye/Balson)

PROCEDURAL MOTION

22-428 Resolved that Cr Ndiaye be granted a one minute extension to her speech. (Lyon/Balson)

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

*The motions (22-424 to 22-427) were put to the vote and declared carried.
Cr Westheimer was not present for the vote.*

STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

Report No. 13.17 Draft Federal Village Masterplan
File No: I2022/905

22-429 Resolved:

1. That Council endorses the Draft Federal Village Masterplan for public exhibition as outlined in the report.
2. That Council receives a further submissions report at the close of the extended exhibition period.
3. That Council through its legal counsel will clarify the legal status and enforceability of the Masterplan as a planning instrument by the end of the exhibition period'
(Swivel/Balson).

PROCEDURAL MOTION

22-430 Resolved that Cr Swivel granted a two minute extension to his speech. (Swivel/Lyon)

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

*The motion (Swivel/Balson) was put to the vote and declared carried.
Cr Westheimer was not present for the vote.*

MAYORAL MINUTE

Mayoral Minute No. 8.1 Community Awards Ceremony
File No: I2022/965

22-431 Resolved that Council:

1. Begin consultation with Byron Shire community stakeholders, particularly local Aboriginal community representatives, on a community recognition program with a view to:
 - a) Discontinuing the Australia Day Awards Ceremony held by Byron Shire Council each year.
 - b) Establishing a more inclusive annual Byron Shire Community Awards program to be held at another time during the year.
 - c) Considering the flying of all flags at Council and on Council owned buildings at half-mast on 26 January & on Sorry Day, 26 May
 - d) Considering any other relevant matters that pertain to Australia day.
2. That a report be provided back to Council on the outcomes of the consultation for decision. (Lyon/Balson)

Cr Ndiaye left the Chambers at 4:00 PM.

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PROCEDURAL MOTIONS

22-432 Resolved that Council move into Committee to allow for free debate. (Lyon)

*The motion was put to the vote and declared carried.
Crs Westheimer and Ndiaye were not present for the vote.*

22-433 Resolved that Council move out of Committee and resume the Ordinary Meeting. (Lyon)

*The motion was put to the vote and declared carried.
Crs Westheimer and Ndiaye were not present for the vote.*

*The motion (Lyon/Balson) was put to the vote and declared carried.
Cr Hunter voted against the motion.
Crs Westheimer and Ndiaye were not present for the vote.*

Mayoral Minute No. 8.2 2022 Local Government NSW Conference Motions

File No: 12022/998

22-434 Resolved that Council submits the following Motion to the Local Government NSW Conference 2022:

That LG NSW calls on the NSW Government to reverse the cost shift onto Local Government for liability for Native Title Compensation by deleting 'Division 8.4 – Compensation responsibilities' from the Crown Lands Management Act 2016.

(Lyon)

*The motion was put to the vote and declared carried
Crs Westheimer and Ndiaye were not present for the vote.*

NOTICES OF MOTION

Notice of Motion No. 9.1 High urban water charge

File No: 12022/1004

Moved that Council:

1. Offer financial relief to a particular customer for their recent quarterly water charge of \$2,445 due on 12 July and incurred as a result of a waterline breakage that went undetected, because of flood debris and saturated soil conditions in the 2022 wet season.
2. Offer that relief in the terms of the policy that Sydney Water applies in such circumstances, as articulated in Section 2.1.1 of that Policy; and
3. Make the matter of relief for undetected water leakage a discussion topic on the next Water and Sewer Advisory Committee meeting (scheduled for 20 October 2022) and present the Sydney Water Policy as an example. (Dey)

The motion fell away for want of a seconder.

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Notice of Motion No. 9.2 Let's inform the Shire's reading community

File No: I2022/1005

Moved that Council:

1. Recognises the value:
 - a) of local independent media over corporate syndicated media, and
 - b) of local newspapers like the Byron Shire Echo; and
2. Negotiates with The Echo a weekly or fortnightly advertising block aimed at informing the Shire's reading community about Council initiatives that involve them, including:
 - a) corporate plans including Council's Community Strategic Plan, Resourcing Strategy, Delivery Plan, Budget and annual Operational Plan;
 - b) strategic plans and policies that will have a significant impact on residents, community, the environment, business or the economy;
 - c) land-use and development plans including our Local Environmental Plan, and Development Control Plans;
 - d) where legislation requires community notification or consultation;
 - e) Development Applications with notification level 2 or higher (for publishing at least 5 days before their public exhibition period begins);
 - f) vacancies on Advisory Committees and other groups that include community members, at least twice before the closing date for nomination; and
 - g) community documents like the Community Strategic and Operational Plans.
3. Receives a report in October 2022 on costs and form of a weekly or fortnightly advertising block in the Echo, and on funding sources for it. (Dey)

PROCEDURAL MOTION

22-435 Resolved that Council move into Committee to allow for free debate. (Balson/Dey)

The motion was put to the vote and declared carried.

Crs Pugh and Hunter voted against the motion.

Crs Westheimer and Ndiaye were not present for the vote.

22-436 Resolved that Council move out of Committee and resume the Ordinary Meeting. (Lyon)

The motion was put to the vote and declared carried

Crs Westheimer and Ndiaye were not present for the vote.

The motion (Dey) fell away for want of a seconder.

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Notice of Motion No. 9.3 Topics for Councillor Workshops

File No: I2022/1006

- 22-437 Resolved** that Council add to the Agenda of each monthly Councillor Workshop an item with a rolling list of topics anticipated for future Workshops, so that Councillors can be consulted on what topics are presented at subsequent Workshops and when. (Dey/Pugh)

The motion was put to the vote and declared carried.

Notice of Motion No. 9.6 Rifle Range Road Traffic Calming

File No: I2022/1013

- 22-438 Resolved** that Council:

1. Notes the recent listing of the NSW Koala Population as endangered.
2. Notes the recent death of two breeding female Koalas and their Joeys in the Bangalow area
3. Request that staff meet with residents from adjacent properties and prepares a report to Council on implementing and/or installing traffic calming options along the newly sealed section of Rifle Range Road in Bangalow north of Raftons Road.
(Pugh/Balson)

The motion was put to the vote and declared carried.

Crs Westheimer and Ndiaye were not present for the vote.

PETITIONS

There were no petitions.

STAFF REPORTS - GENERAL MANAGER

Report No. 13.3 **General Manager Delegation - Procurement**
File No: I2022/918

22-439 Resolved that Council:

1. pursuant to s377(1) of the *Local Government Act 1993* increases the delegation to the General Manager with respect to accepting or rejecting tenders to \$500,000 (excluding GST), and \$2 million (excluding GST) for contracts relating to flood response and recovery, subject to the limitation in s377(1)(i) of the *Local Government Act 1993*
2. pursuant to s55(3)(i) of the *Local Government Act 1993* endorses for the reasons set out below, due to extenuating circumstances arising from the 2022 Flood Event and current market conditions, that, up until 22 February 2023, the requirements for tendering do not apply to contracts with an expected value of up to \$1 million (excluding GST) which are primarily for the purpose of flood response and recovery:
 - a) There are still significant recovery works underway, including works associated with hinterland access and remediation, associated with the February 2022 natural disaster event, which require specialist expertise or would benefit from the continued work of current contractors in order for works to be completed in a timely manner.
 - b) The negative impact on the local community that the loss of access to infrastructure is having including impacts to food, housing, social connection/activities, education, work, and medical access.
 - c) The local market conditions where there is a high demand for contractors and materials/goods in light of neighbouring shires in the Northern Rivers and Southern Queensland also being extensively impacted by the February 2022 flood event.
3. That any exercise of delegations in accordance with part 2 be reported to Councillors via Memo. (Dey/Lyon)

*The motion was put to the vote and declared carried.
Crs Westheimer and Ndiaye were not present for the vote.*

Cr Pugh left the Chambers at 5.00pm.

PROCEDURAL MOTION

22-440 Resolved that Council deal with Report 16.1 next and defer the remainder of the items. (Lyon)

The motion was put to the vote and declared carried.

CONFIDENTIAL REPORTS - CORPORATE AND COMMUNITY SERVICES

Report No. 16.1 **CONFIDENTIAL - Insurance Update regarding Council Assets - February 2022 Flood Event**
File No: I2022/917

22-441 Resolved that Council

1. Notes the contents of this report.
2. Authorises the General Manager, Byron Shire Council, to approve the repair works to the Byron Community College and associated buildings at 8 Burringbar Street, Mullumbimby as a priority pursuant to a claim under Council's property insurance policy (flood).
3. Supports Option 3 contained in the report with respect to progressing the repairs required to the Council owned/maintained buildings damaged in the February 2022 flood event.

(Dey/Lyon)

*The motion was put to the vote and declared carried.
Crs Westheimer, Ndiaye and Pugh were not present for the vote.*

DEFERRED ITEMS

Report No. 13.7 **Appointment of Replacement Community Members to Advisory Committees**
File No: I2022/928

This item was deferred to the 22 September Ordinary Meeting.

Report No. 13.8 **Delivery Program 6-monthly Report and Operational Plan 2021/22 Quarter 4 Report - to 30 June 2022**
File No: I2022/940

This item was deferred to the 22 September Ordinary Meeting.

Report No. 13.14 **PLANNING - Use of zipline ancillary to a primitive camping ground**
File No: I2022/684

This item was deferred to the 8 September Planning Meeting.

Report No. 13.20 **Place Planning Collective Expression of Interest Candidate Selection**

File No: I2022/872

This item was deferred to the 8 September Planning Meeting.

Report No. 13.21 **PLANNING - Quarter 2 SEPP Variations April to June 2022**

File No: I2022/903

This item was deferred to the 8 September Planning Meeting.

Report No. 14.2 **Report of the Coastal and ICOLL Advisory Committee Meeting held on 30 June 2022**

File No: I2022/845

This item was deferred to the 22 September Ordinary Meeting.

QUESTIONS WITH NOTICE

Question With Notice No. 15.1 **Agendas for Councillor Workshops**

File No: I2022/1007

Cr Dey asks the following question:

Agendas for our monthly Councillor Workshops are marked as Confidential.

Confidentiality is a necessary step on occasions where for example exposure could lead to harm to individuals (physical, reputational, or other) or to organisations, or where financial secrecy could be advantageous to Council. Recent agendas contained many topics that were quite innocuous. Confidentiality limits me to not list them.

- 1. by what assessment process is the whole Agenda for Councillor Workshops deemed Confidential?*
- 2. could this approach be relaxed so that the public get to know what Councillors know, at least by topic if not by actual content?*

Response Director Corporate and Community Services:

Councillor Workshops are established by the [Code of Meeting Practice](#), set out in clauses 3.29-3.33:

3.29 *Prior to each ordinary meeting of the council, the general manager may arrange a Councillor Workshop to brief Councillors on business to be considered at the meeting. Councillor Workshop may also be held for planning meetings and for extraordinary*

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meetings of the council and meetings of committees of the council.

3.30 *Councillor Workshops are to be held in the absence of the public.*

3.31 *The Mayor or in the absence of the Mayor, a Councillor appointed by those Councillors present, is to preside at Councillor Workshops.*

3.32 *Councillors must not use Councillor Workshop to make preliminary decisions on items of business they are being briefed on. Decision-making must be left to the formal council or committee meeting at which the item of business is to be considered.*

3.33 *Councillors (including the mayor) must declare and manage any conflicts of interest they may have in relation to any item of business that is the subject of a briefing at a Councillor Workshop, in the same way that they are required to do so at a council or committee meeting. The council is to maintain a written record of all conflict of interest declarations made at Councillor Workshops and how the conflict of interest was managed by the Councillor who made the declaration.*

1. *by what assessment process is the whole Agenda for Councillor Workshops deemed Confidential?*

A Councillor Workshop agenda is prepared for information and for the convenience of Councillors. Where possible, Councillors are provided with the background information in advance of the meeting to facilitate discussion. The agenda is not required or prepared for public consumption, such that it is for a workshop “*to be held in the absence of the public.*”

That the meeting is “*held in the absence of the public*” infers that the whole of the workshop including workshop agenda and papers are absent the public. It would be contrary to the intent and spirit of the Code of Meeting Practice if any actions were taken to open any part of the workshop to the public.

Confidentiality applies to the discussion of confidential information during the workshop, per the [Code of Conduct](#):

*8.11 g) not disclose any confidential information discussed during a confidential session of a council or committee meeting or any other confidential forum (such as, but not limited to, **workshops or briefing sessions**).*

2. *could this approach be relaxed so that the public get to know what Councillors know, at least by topic if not by actual content?*

The approach could not be relaxed unless and until the Code of Meeting Practice is amended.

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More specifically, maintenance of the sites is managed through Operational Plan activity:

CSP Objective	CSP Strategy	DP Action	Code	OP Activity
5: Connected Infrastructure We have connected infrastructure, transport, and facilities that are safe, accessible, and reliable	5.4: Provide accessible community facilities and open spaces	5.4.2: Parks and open spaces - Provide and maintain active and passive recreational community space that is accessible and inclusive for all	5.4.2.1	Implement Open Space maintenance and capital programs in accordance with the adopted budgets and Open Space Asset Management Plan.

There being no further business the meeting concluded at 5.09pm.

I hereby certify that these are the true and correct Minutes of this Meeting
as confirmed at Council's Ordinary Meeting on 29 September 2022.



.....
Mayor Michael Lyon