

Minutes Ordinary (Planning) Meeting

Thursday, 9 March 2023



BYRON
SHIRE
COUNCIL

BYRON SHIRE COUNCIL

Ordinary (Planning) Meeting Minutes
9 March 2023

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MINUTES OF THE BYRON SHIRE COUNCIL ORDINARY (PLANNING) MEETING HELD ON THURSDAY, 9 MARCH 2023 COMMENCING AT 11:05 AM AND CONCLUDING AT 3:08 PM.

I2023/301

PRESENT: Cr M Lyon (Mayor), Cr S Balson, Cr C Coorey [Virtual], 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 (Director Corporate and Community Services)
Phil Holloway (Director Infrastructure Services)
Shannon Burt (Director Sustainable Environment and Economy)
Ralph James (Legal Counsel)
Storm Townsend / Heather Sills (Minute Takers)

Other Attendees: Cecilia Rose (Partner, Wilshire Webb Staunton Beattie) -
Notice of Motion 9.3

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	Representing Organisation	Submission Received in form of	
9.1	Funding to future proof all flood impacted premises	Susan Fell & Noelle Maxwell	For	Mullum Flood Recovery Action Group	In Person
9.2	Recognising the Effort and Contribution by Kim Rosen	Cherie Heale	For	Brunswick Heads Visitor Centre	In Person

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Submissions

Subject	Name	Representing Organisation	Submission Received in form of
Drainage in Lawson Street, Byron Bay	Steven Harris	Self	In Person

The meeting adjourned at 11.47am for a break and reconvened at 12:00pm.

APOLOGIES

There were no apologies.

APPLICATIONS TO ATTEND BY AUDIO-VISUAL LINK

PROCEDURAL MOTION

23-048 Resolved that Cr Coorey be permitted to attend the meeting held on 9 March 2023 by audio-visual link. (Lyon/Balson)

The motion was put to the vote and carried unanimously.

REQUESTS FOR LEAVE OF ABSENCE

PROCEDURAL MOTION

23-049 Resolved that Cr Ndiaye be granted a leave of absence from 8 June 2023 to 23 June 2023 (Lyon/Balson)

The motion was put to the vote and carried unanimously.

DECLARATIONS OF INTEREST – PECUNIARY AND NON-PECUNIARY

There were no Declarations of Interest.

TABLING OF PECUNIARY INTEREST RETURNS

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There were no Pecuniary Interest Returns tabled.

ADOPTION OF MINUTES FROM PREVIOUS MEETINGS

23-050 Resolved that the minutes of the Ordinary (Planning) Meeting held on 9 February 2023 be confirmed (Ndiaye/Westheimer)

The motion was put to the vote and carried unanimously.

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 Byron Community Market Parking Assistance

Sustainable Environment and Economy

Infrastructure Services

Report No. 13.3 Bangalow Sportsfields Plan of Management

REPORTS OF COMMITTEES

The remaining Recommendations and Committee Recommendation 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. 23-051 and concluding with Resolution No. 23-051.

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Report No. 13.2 **PLANNING - Report of the Planning Review Committee held 2 February 2023**

File No: I2023/152

23-051 **Resolved** that Council endorses the outcomes of the Planning Review Committee meeting held on 2 February 2023. (Lyon/Hunter)

The motion was put to the vote and carried unanimously.

MAYORAL MINUTE

There was no Mayoral Minute.

NOTICES OF MOTION

Notice of Motion No. 9.1 Funding to future proof all flood impacted premises

File No: I2023/232

23-052 Resolved that Council:

1. Notes:
 - a) to recognise the opportunities as expressed in the Shire's various Floodplain Risk Management Plans to make all existing flood-prone buildings safer against future flood risks, using actions for individual premises as listed in those Floodplain Plans (buy-back, house-raising and wet-proofing);
 - b) to acknowledge the legacy role of the State in having approved buildings in flood-prone areas, many of which are the subject of Floodplain Plans;
 - c) to consider estimates of the numbers of buildings that were flooded in 2022 and that could therefore benefit from those actions, ie 1,454 in Byron Shire of 8,364 total across the seven Shires impacted (data source: SES Built Impact Data, April 2022);
 - d) to also consider that many of Byron Shire's premises can be returned to habitable use by these actions (especially house raising) because peak flood levels on this Shire's floodplains are not as deep as on some other heavily-impacted floodplains in the region;
 - e) to accept the region's gratitude for the government's commitment of \$800m towards buy-back, house-raising and wet-proofing;
 - f) to recognise that the rollout of the funding has been too slow; and
2. Writes to Prime Minister Anthony Albanese, and once again to Premier Dominic Perrottet, to Opposition Leader Chris Minns and to all local candidates for the seats of Ballina and Lismore in the State Election:
 - a) to consider further funding of at least \$180m to make premises within Byron Shire more resilient, noting this amount is estimated at an indicative average of \$100,000 per building = \$145m plus buy backs at an additional \$35m.
3. Sends the above letters on Monday 13 March 2023, well prior to election day.
4. Writes again in early April to the new Premier of NSW with the same appeal.

(Dey/Ndiaye).

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PROCEDURAL MOTIONS

23-053 Resolved that Council move into Committee to allow for free debate. (Lyon/Balson)

The motion was put to the vote and carried unanimously.

23-054 Resolved that Council move out of Committee and resume the Ordinary Meeting.
(Lyon/Ndiaye)

The motion was put to the vote and carried unanimously.

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

Notice of Motion No. 9.2 Recognising the effort and contribution of Kim Rosen

File No: 12023/233

23-055 Resolved:

1. That Council provides approval for the Brunswick Heads Visitor Centre to supply and maintain the existing bench seat on the public footpath adjacent adjoining the Visitor Centre in Park St.
2. That the seat remains the property of the Visitor Centre and to carry a plaque on it reflecting the community's appreciation of Kim Rosen's long term service to the Brunswick Heads community. (Hunter/Ndiaye)

The motion was put to the vote and carried.

Cr Dey voted against the motion.

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Notice of Motion No. 9.3 Short Term Rental Accommodation Consent Conditions

File No: I2023/250

23-056 Resolved that Council:

1. Enforces consent conditions which prohibit the use of a property as short term rental accommodation.
2. Continues to prohibit the use of short-term rental of housing in new approvals, including but not limited to secondary dwellings, standard homes in the residential areas and business zones of the Shire.
3. Puts out a media release to inform the public of this decision.
4. Receives a report back every 6 months on the status of 1 and 2. (Lyon/Balson)

The motion was put to the vote and carried unanimously.

The meeting adjourned at 1.44pm for a lunch break and reconvened at 2.32pm.

PETITIONS

There were no Petitions tabled.

SUBMISSIONS AND GRANTS

There were no Submissions and Grants tabled.

DELEGATES' REPORTS

Cr Dey will report on the Rural and Regional Summit at a future meeting.

Cr Hunter advised the Mullumbimby Showground Committee are reviewing fees and charges.

STAFF REPORTS - GENERAL MANAGER

Report No. 13.1 **Byron Community Market Parking Assistance**
File No: I2023/247

23-057 Resolved:

1. That Byron Community Market stallholders be exempt from permissive and paid parking requirements in Cowper St, north of Carlyle St, for the remainder of the 2023 calendar year.
2. That Council receive a report as to the parking options still available to the Byron Market Stall holders. (Westheimer/Dey)

The motion was put to the vote and carried unanimously.

STAFF REPORTS - INFRASTRUCTURE SERVICES

Report No. 13.3 **Bangalow Sportsfields Plan of Management**
File No: I2022/887

23-058 Resolved that Council:

1. Amends the draft Landscape Masterplan for Bangalow Sports Fields (attachment 1) as follows:
 - a) Removes references to Byron Bay Shire Council or similar, and use our correct name;
 - b) Removes the option of plural bridges over Byron Creek, by removing the “(s)” from behind the word “bridge” in Bullet 10 of Section 2.1;
 - c) Changes all bullet lists to alpha or numeric listings, so submitters can converse about the content of such lists; and
 - d) Completes the drawing at Figure 1 by adding blue ‘title boundary lines’ around Bangalow Bowling Club and by clearly indicating the exclusion of it and of street numbers 37 and 41, that are not covered by either Plan.
 - e) Other typographical errors as required.
2. Amends the draft Plan of Management (attachment 2) as follows:
 - a) Removes references to Byron Bay Shire Council or similar, and use our correct name;
 - b) Removes the option of plural bridges over Byron Creek, by removing the “(s)” from behind the word “bridge” in Bullet 10 of Section 2.1;
 - c) Changes all bullet lists to alpha or numeric listings, so submitters can converse about the content of such lists; and
 - d) Completes the drawing at Figure 13 by adding blue ‘title boundary lines’ around

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Bangalow Bowling Club and by clearly indicating the exclusion of it and of street numbers 37 and 41, that are not covered by either Plan.

- e) Other typographical errors as required.
- 3. Places the amended draft Plan of Management and associated Landscape Masterplan for Bangalow Sports Fields on public exhibition in accordance with the Local Government Act of 1993 for a period of 28 days and invites submissions for a period of 42 days;
- 4. On Friday 10 March 2023 books a half-page advertisement in the next available issue of Bangalow Herald, also to invite feedback on the Plans;
- 5. Adjusts the exhibition period dates if necessary to suit Bangalow Herald publication; and
- 6. Receives a post-exhibition report.
- 7. That staff will support the Plan of Management (PoM) with a media strategy outlining the process for future community engagement, the prioritising of projects and the funding options for projects in the PoM. (Swivel/Dey)

The motion was put to the vote and carried unanimously.

QUESTIONS WITH NOTICE

Question With Notice No. 14.1 Drainage in Lawson Street
File No: I2023/223

Cr Dey asks the following question:

The following photos were taken at about 7pm on 14 February 2023 in Lawson Street Byron Bay. They show a significant body of water ponding in excess of the capacity of the piped drainage system (assuming there is one). Water appears to be entering commercial premises via their front doors, exacerbated by vehicles creating 'bow waves'. I imagine the premises would have been damaged.



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Water was also likely high enough to have damaged this parked car.



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1. *Was this drainage system blocked by something unusual at that time?*
2. *If not, was it blocked at all or is it simply under capacity?*
3. *If not under capacity, what is the capacity of the piped system to whatever 'choke point' applies here, and what is that chokepoint?*
4. *What were the rainfall intensities for the most intense periods over durations of 10 minutes, 20 minutes and 30 minutes, between 6pm and 7pm on 14 February 2023?*
5. *If answering this question is onerous, could you please list 5-minute or 6-minute rainfalls for that period?*
6. *What are the design 2-year, 5-year and 10-year intensities for the durations in my Question 4?*
7. *Would Council be liable for damage sustained, if there was any?*

Response Director Infrastructure Services:

Council staff have investigated, and Infrastructure Services provides the following:

1. Council staff are not aware of any unusual blockage of the system. The Byron Bay drainage system undergoes regular drainage maintenance in accordance with Council works operations programs
2. The event has not been assessed in detail at this time. The rainfall was an intense storm cell that would have exceeded the capacity of the sub surface drainage system. Council is currently undertaking the Byron Drainage Strategy Upgrade project which will look at drainage capacity in this area.
3. The event has not been assessed in detail at this time. Rainfall totals are available and will be reviewed as part of the Byron Drainage Strategy Upgrade project.
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5. The event has not been assessed in detail at this time. Rainfall totals are available and will be reviewed as part of the Byron Drainage Strategy Upgrade project.
6. It is unlikely that Council would be liable for any damage that occurred to private infrastructure.
7. It is not possible to advise whether or not Council would be legally liable for damage to third party property in the situation outlined. It would be a matter for a claim against Council to be lodged, assessed and legal liability determined. This would involve reviewing the circumstances, and then considering whether or not a legal liability applies.

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There being no further business the meeting concluded at 3.08pm.

I hereby certify that these are the true and correct Minutes of this Meeting
as confirmed at Council's Ordinary Meeting on 13 April 2023.



.....
Mayor Michael Lyon