

Supplementary Agenda Ordinary Meeting

Thursday, 25 May 2023



BYRON
SHIRE
COUNCIL

Supplementary Agenda Ordinary Meeting

held at the Conference Room, Station Street, Mullumbimby
commencing at 9:00am

Public access relating to items on this agenda can be made between 9:00 and 10:30 am on the day of the meeting. Requests for public access should be made to the General Manager or Mayor no later than 12:00 midday on the day prior to the meeting.

A handwritten signature in black ink that reads "Mark Arnold". The signature is written in a cursive style with a small dot at the end.

Mark Arnold
General Manager

CONFLICT OF INTERESTS

What is a “Conflict of Interests” - A conflict of interests can be of two types:

Pecuniary - an interest that a person has in a matter because of a reasonable likelihood or expectation of appreciable financial gain or loss to the person or another person with whom the person is associated.

Non-pecuniary – a private or personal interest that a Council official has that does not amount to a pecuniary interest as defined in the Code of Conduct for Councillors (eg. A friendship, membership of an association, society or trade union or involvement or interest in an activity and may include an interest of a financial nature).

Remoteness – a person does not have a pecuniary interest in a matter if the interest is so remote or insignificant that it could not reasonably be regarded as likely to influence any decision the person might make in relation to a matter or if the interest is of a kind specified in the Code of Conduct for Councillors.

Who has a Pecuniary Interest? - a person has a pecuniary interest in a matter if the pecuniary interest is the interest of the person, or another person with whom the person is associated (see below).

Relatives, Partners - a person is taken to have a pecuniary interest in a matter if:

- The person’s spouse or de facto partner or a relative of the person has a pecuniary interest in the matter, or
- The person, or a nominee, partners or employer of the person, is a member of a company or other body that has a pecuniary interest in the matter.

N.B. “Relative”, in relation to a person means any of the following:

- (a) the parent, grandparent, brother, sister, uncle, aunt, nephew, niece, lineal descends or adopted child of the person or of the person’s spouse;
- (b) the spouse or de facto partners of the person or of a person referred to in paragraph (a)

No Interest in the Matter - however, a person is not taken to have a pecuniary interest in a matter:

- If the person is unaware of the relevant pecuniary interest of the spouse, de facto partner, relative or company or other body, or
- Just because the person is a member of, or is employed by, the Council.
- Just because the person is a member of, or a delegate of the Council to, a company or other body that has a pecuniary interest in the matter provided that the person has no beneficial interest in any shares of the company or body.

Disclosure and participation in meetings

- A Councillor or a member of a Council Committee who has a pecuniary interest in any matter with which the Council is concerned and who is present at a meeting of the Council or Committee at which the matter is being considered must disclose the nature of the interest to the meeting as soon as practicable.
- The Councillor or member must not be present at, or in sight of, the meeting of the Council or Committee:

- (a) at any time during which the matter is being considered or discussed by the Council or Committee, or
- (b) at any time during which the Council or Committee is voting on any question in relation to the matter.

No Knowledge - a person does not breach this Clause if the person did not know and could not reasonably be expected to have known that the matter under consideration at the meeting was a matter in which he or she had a pecuniary interest.

Non-pecuniary Interests - Must be disclosed in meetings.

There are a broad range of options available for managing conflicts & the option chosen will depend on an assessment of the circumstances of the matter, the nature of the interest and the significance of the issue being dealt with. Non-pecuniary conflicts of interests must be dealt with in at least one of the following ways:

- It may be appropriate that no action be taken where the potential for conflict is minimal. However, Councillors should consider providing an explanation of why they consider a conflict does not exist.
- Limit involvement if practical (eg. Participate in discussion but not in decision making or vice-versa). Care needs to be taken when exercising this option.
- Remove the source of the conflict (eg. Relinquishing or divesting the personal interest that creates the conflict)
- Have no involvement by absenting yourself from and not taking part in any debate or voting on the issue as of the provisions in the Code of Conduct (particularly if you have a significant non-pecuniary interest)

RECORDING OF VOTING ON PLANNING MATTERS

Clause 375A of the Local Government Act 1993 – Recording of voting on planning matters

- (1) In this section, **planning decision** means a decision made in the exercise of a function of a council under the Environmental Planning and Assessment Act 1979:
 - (a) including a decision relating to a development application, an environmental planning instrument, a development control plan or a development contribution plan under that Act, but
 - (b) not including the making of an order under that Act.
- (2) The general manager is required to keep a register containing, for each planning decision made at a meeting of the council or a council committee, the names of the councillors who supported the decision and the names of any councillors who opposed (or are taken to have opposed) the decision.
- (3) For the purpose of maintaining the register, a division is required to be called whenever a motion for a planning decision is put at a meeting of the council or a council committee.
- (4) Each decision recorded in the register is to be described in the register or identified in a manner that enables the description to be obtained from another publicly available document, and is to include the information required by the regulations.
- (5) This section extends to a meeting that is closed to the public.

OATH AND AFFIRMATION FOR COUNCILLORS

Councillors are reminded of the oath of office or affirmation of office made at or before their first meeting of the council in accordance with Clause 233A of the Local Government Act 1993. This includes undertaking the duties of the office of councillor in the best interests of the people of Byron Shire and the Byron Shire Council and faithfully and impartially carrying out the functions, powers, authorities and discretions vested under the Act or any other Act to the best of one's ability and judgment.

BYRON SHIRE COUNCIL

BUSINESS OF ORDINARY MEETING

1. MAYORAL MINUTE

10.1 South Beach Lane parking	7
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16. LATE REPORTS

16.1 Report of the Local Traffic Committee Meeting held on 16 May 2023	8
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This Agenda supplements the 25 May 2023 Ordinary Council Meeting Agenda published on 16/05/2023 available at [Agendas and Minutes - Byron Shire Council \(nsw.gov.au\)](https://www.nsw.gov.au/agendas-and-minutes-byron-shire-council).

Councillors are encouraged to ask questions regarding any item on the business paper to the appropriate Director prior to the meeting. Any suggested amendments to the recommendations should be provided to Councillor Support prior to the meeting to allow the changes to be typed and presented on the overhead projector at the meeting.

Mayoral Minute No. 10.1 South Beach Lane parking

File No: I2023/801

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I move that South Beach Lane in Brunswick Heads have all parking removed and the bollards shifted to be in line with the ones at the start and end of the lane.

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Attachments:

1 Supporting photos - South Beach Lane parking, E2023/51399 

15 Background Notes:

This area has become a farce as per the photos. "Van-lifers", many of them with abodes in Sydney who are enjoying the free camping, set up shop every afternoon, break out the BBQs and the boomboxes and treat it like a campground. Residents have been putting up with this for 2 years now, and it has been getting increasingly worse, with the word out that people can park and camp here with impunity. Compliance staff have attempted to rein this in, without much success as the 4 hour time limit and the ability for people to simply move their mobile home a space or two has thwarted efforts to stop this unauthorised camping. There has been an increase in morning patrols, in conjunction with the installation of no parking 1-6am signs, which has resulted in a lessening of the overnight stays, however it has not stopped this activity during "peak times" of early afternoon to midnight. The police have been alerted on multiple occasions as they are the only ones with move on powers, but to no avail. I raised this as an issue in the Tweed-Byron safety precinct in late March but there has been no improvement. Whilst losing parking in any town is to be avoided, the nature of this location and the parking there lends itself to this type of behaviour. We could revisit this area if and when the formalisation of the entire Brunswick area for pay parking takes place early next year.

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Signed: Cr Michael Lyon

LATE REPORTS

Report No. 16.1 Report of the Local Traffic Committee Meeting held on 16 May 2023

Directorate: Infrastructure Services

5 **Report Author:** Shelley Flower, Road Safety Officer

File No: I2023/770

Summary:

10 The attachment to this report provides the minutes of the Local Traffic Committee Meeting held on 16 May 2023 for determination by Council.

Council's action on the LTC advice will be:

- 15 a) If Council is in agreement with the LTC unanimous support then the proposal may be approved. In these cases there is no conflict between Council and the advice of the LTC, consequently there is no need for Council to inform TfNSW or the NSW Police representatives of the decision.
- 20 b) If Council is in agreement with the LTC unanimous support, but no longer wants to proceed, the proposal may still be rejected.
- 20 c) If Council is in agreement with the LTC unanimous decline then the proposal may be rejected. Again there is no conflict between Council and the advice of the LTC. Consequently there is no need for Council to inform TfNSW or the NSW Police representatives of the decision.
- 25 d) If Council decides to proceed with a proposal where the advice of the LTC is not unanimous support, then the Council must first advise the TfNSW and the NSW Police representatives in writing of their intention to approve the proposal. TfNSW or the NSW Police may then lodge an appeal to the Regional Traffic Committee (RTC).
- 30 e) If Council decides to proceed with a proposal where the advice of the LTC is a unanimous decline, then the Council must first advise the TfNSW and NSW Police representatives in writing of their intention to approve the proposal. TfNSW or the NSW Police may then lodge an appeal to the RTC.

Due to the fact that the TfNSW and the NSW Police have the power to appeal certain decisions of the Council, the LTC cannot provide its advice to Council until both TfNSW and the NSW Police have provided their vote on the issue.

RECOMMENDATION:

1. That Council notes the minutes of the Local Traffic Committee Meeting held on 16 May 2023.

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2. That Council adopts the following Committee Recommendations:

Report No. 6.1 Brunswick Valley Way - Traffic Control Devices for Driveway Access

File No: I2023/589

Committee Recommendation 6.1.1

That Council authorises the implementation of the regulatory signs, markings and traffic control devices on Brunswick Valley Way, as shown in Attachment 1 (E2023/40027), subject to the following:

- a) Separate approval must be obtained from TfNSW for the relocation of the existing transition from 50/80 km/h speed limit northward so that the proposed intersection will be within the 50km/h zone.
- b) Separate approval must be obtained from TfNSW for a Road Occupancy Licence (ROL) for the work within Brunswick Valley Way.
- c) The environmental impacts of the road works which are ancillary to this development, such as removal of trees, will require further assessment and separate approvals.

3. That Council adopts the following Committee Recommendation:

Report No. 6.2 Bayshore Lane - One Way restriction

File No: I2023/599

Committee Recommendation 6.2.1

That the Local Traffic Committee endorse the implementation of one-way traffic within Bayshore Lane, Byron Bay (northbound) if community and stakeholder engagement does not raise any reasons not to proceed.

4. That Council adopts the following Committee Recommendation:

Report No. 6.3 Blindmouth Road Upgrade

File No: I2023/634

Committee Recommendation 6.3.1

That Council supports the regulatory signage and line markings associated with the Blindmouth Road upgrade works, as shown in Attachment 1 (E2023/42149).

5. That Council adopts the following Committee Recommendation:

Report No. 6.4 New Intersection on Tweed Valley Way

File No: I2023/687

Committee Recommendation 6.4.1

That Council supports the regulatory signage and line markings associated with the New Intersection on Tweed Valley Way, as shown in Attachment 1 (E2023/43452), including conditions flagged by Transport for NSW.

6. That Council does not adopt Committee Recommendations 6.5 as shown in the attachment to this report, but instead adopts the Management Recommendations as follows, subject to the TfNSW comments provided in the Minutes document attached:

Report No. 6.5 Byron Writers Festival 2023

File No: I2023/688

Management Recommendations

1. That Council supports the Writers Festival in Bangalow from the 11th to 13th August 2023.
2. That Council support in Part 1 is subject to:
 - a) separate approvals by NSW Police and TfNSW being obtained;
 - b) the event organiser providing council with a Traffic Management Plan and Traffic Guidance Scheme/s for the event;

- c) development and implementation of a Traffic Management Plan and Traffic Guidance Scheme/s by those with appropriate TfNSW accreditation and the holding of current and appropriate levels of insurance and liability cover;
 - d) the impact of the event be advertised, and charged at cost to the organisers, via a notice in the local weekly paper and Variable Message Signage (VMS) a minimum of one week prior to the operational impacts taking effect, noting it must include the event name, specifics of any traffic impacts or road closures and times, alternative route arrangements, event organiser, a personal contact name and a telephone number for all event related enquiries or complaints;
 - e) the event be notified on Council's web page and social media with the event organiser supplying Council with the relevant information;
3. The event organiser to:
- a) inform the community and businesses that are directly impacted (e.g. within road closure zones) 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) arranging for private property access and egress affected by the event
 - c) liaising with bus, taxi and waste operators and ensuring arrangements are made for provision of services during conduct of the event;
 - d) consulting with emergency services and any identified issues be addressed;
 - e) holding \$20m public liability insurance cover which is valid for the event;
 - f) not place any signage on the road related area of the Pacific Highway.

7. That Council adopts the following Committee Recommendation:

Report No. 6.6 Trial Electric Vehicle Chargers Byron Bay
File No: I2023/731

Committee Recommendation 6.6.1

That the Local Traffic Committee endorse parking restrictions to support two Electric Vehicle car parking spaces in Byron Bay Town Central, two of the five locations within Attachment 1 (E2023/46707) as part of the Essential Energy EVX pole mounted charger trial.

8. That Council adopts the following Committee Recommendation:

Report No. 7.1 No Overtaking - Coolamon Scenic Dr
File No: I2023/631

Committee Recommendation 7.1.1

That the Local Traffic Committee recommend that no change be made to the current overtaking restrictions on Coolamon Scenic Drive.

9. That Council adopts the following Committee Recommendations:

Report No. 8.1 Toni Childs Music Video Shoot Byron Bay August 2023
File No: I2023/174

Committee Recommendation 8.1.1

- 1. That Council supports the Toni Childs Music Video Production to be held on Monday 7 August 2023.**
- 2. That Council support in Part 1 is subject to:**
 - a) separate approvals by NSW Police and TfNSW being obtained;**
 - b) the event organiser providing council with an updated Traffic Management Plan and Traffic Guidance Scheme/s for the film shoot;**
 - c) development and implementation of a Traffic Management Plan and Traffic Guidance Scheme/s by those with appropriate TfNSW accreditation and the holding of current and appropriate levels of insurance and liability cover;**
 - d) the impact of the film shoot be advertised, and charged at cost to the organisers, via a notice in the local weekly paper and Variable Message Signage near the site, a minimum of one week prior to the operational impacts taking effect, noting it must include the film shoot name, specifics of any traffic impacts or road closures and times, alternative route arrangements, Production Team, a personal contact name and a telephone number for all event related enquiries or complaints;**
 - e) the film shoot be notified on Council's web page with the event organiser supplying Council with the relevant information.**

3. That Council requires the Production Team to:
 - a) inform the community and businesses that are directly impacted (e.g. within road closure zones) 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) arranging for private property access and egress affected by the film shoot;
 - c) liaising with bus, taxi and waste operators and ensuring arrangements are made for provision of services during conduct of the film shoot;
 - d) consulting with emergency services and any identified issues be addressed;
 - e) holding \$20m public liability insurance cover which is valid for the film shoot;
 - f) paying Council's Road Event Application Fee prior to the film shoot;
 - g) not place any signage on the road related area of the Pacific Highway.
 - h) apply/receive consent by the relevant road authority under section 138 of the NSW road act (1993) and pay any associated fees and charges within this process.

4. That Council:
 - a) gives consideration to the impacts on businesses in this locality for this length of time and the precedent that this may set.
 - b) receives a report on Council's obligations under filming legislation.

Attachments:

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1 Minutes 16/05/2023 Local Traffic Committee, I2023/720 

Report

The attachment to this report provides the minutes of the Local Traffic Committee Meeting of 16 May 2023 for determination by Council. The agenda for this meeting can be located on Council's website at:

- 5 https://byron.infocouncil.biz/Open/2023/05/LTC_16052023_AGN_1684_AT.PDF

This report contains the recommendations of the Local Traffic Committee (LTC) meeting held on 16 May 2023.

Committee Recommendation

As per the Reports listed within the Local Traffic Committee Meeting of 16 May 2023.

10 Financial Implications

As per the Reports listed within the Local Traffic Committee Meeting of 16 May 2023.

Statutory and Policy Compliance Implications

As per the Reports listed within the Local Traffic Committee Meeting of 16 May 2023.