

**Minutes
Ordinary Meeting
Thursday, 22 June 2023**



**BYRON
SHIRE
COUNCIL**

BYRON SHIRE COUNCIL

Ordinary Meeting Minutes
22 June 2023

INDEX OF ITEMS DISCUSSED

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

Report No. 13.6	Public Exhibition of draft Arts and Culture Action Plan 2023-2026.....	8
Report No. 13.7	Growing Regions Program Round 1 - grant application	8
Report No. 13.9	Revised Delivery Program 2022-26	8
Report No. 13.10	Council Investments - 1 May 2023 to 31 May 2023	8
Report No. 13.11	Grants May 2023	8
Report No. 13.15	Car share expression of interest - project timeline update	9
Report No. 13.16	Resolution 23-227 Toni Childs Music Video Shoot August 2023	9
Report No. 13.18	PLANNING - Report of the Planning Review Committee held 1 June 2023	9
Report No. 13.19	Redevelopment of the old Byron Hospital into a new Community Hub	10
Report No. 14.1	Report of the Audit, Risk and Improvement Committee Meeting held on 18 May 2023	10
Report No. 14.2	Report of the Coast and ICOLL Advisory Committee Meeting held on 16 May 2023	13
Report No. 14.3	Report of the Climate Change and Resource Recovery Advisory Committee Meeting held on 18 May 2023.....	14
Report No. 14.4	Report of the Floodplain Management Advisory Committee Meeting held on 16 May 2023.....	14
Report No. 14.5	Report of the Local Traffic Committee Meeting held on 26 May 2023 .	16
Report No. 14.1	2021-1145: Water Main Supply and Construction, Byron Bay and Mullumbimby	17
Report No. 14.2	Draft 2023-2033 Long Term Financial Plan	18
Report No. 13.20	Project update - Additional Flow Path	18
Report No. 13.8	Adoption of Operational Plan 2023/24, including Budget, Statement of Revenue Policy, and Fees and Charges.....	19
Notice of Motion No. 9.1	Coastal Conference in Newcastle in late October 2023	20
Notice of Motion No. 9.2	Waiver of Repayments for Mullumbimby Leagues Club During COVID Period	20
Notice of Motion No. 9.3	Roll-out of funding to future-proof flooded premises.....	20
Notice of Motion No. 9.4	Funding for road repairs in and near Prince Street.....	21
Notice of Motion No. 9.5	Seek committee advice on Coastal Hazard Assessment	22
Report No. 13.1	Classification of newly acquired Council lot	23
Report No. 13.2	Lot 12 Bayshore Drive - Updated Valuation as per Resolution 21-188	24
Report No. 13.3	Amendment to the Code of Conduct for Committee Members, Delegates of Council and Council Advisors	25
Report No. 13.4	Richmond Tweed Regional Library: Feedback from Member Councils - Overview for Proposed Sale of Vacant Land	25

BYRON SHIRE COUNCIL

Ordinary Meeting Minutes

22 June 2023

Report No. 13.5	Tender - Electricity Procurement.....	26
Report No. 13.12	Making of the 2023/24 Ordinary Rates, Charges, Fees and Interest Rate	26
Report No. 13.13	Changing the Net Zero Target to 2030 and Purchasing Carbon Offsets.....	26
Report No. 13.14	Busking Policy Review	27
Report No. 13.17	Update Resolution 22-737 Former Mullumbimby Hospital Site Redevelopment Project.....	27
Report No. 16.1	CONFIDENTIAL - 57 Station Street, Mullumbimby	28
Urgency Motion No 1.	Resilient Lands Strategy	30
Urgency Motion No 2.	Feros Village Byron Bay	31

BYRON SHIRE COUNCIL

ORDINARY MEETING MINUTES

22 June 2023

MINUTES OF THE BYRON SHIRE COUNCIL ORDINARY MEETING HELD ON THURSDAY, 22 JUNE 2023 COMMENCING AT 9:11AM AND CONCLUDING AT 4:27PM.

I2023/960

PRESENT: Cr M Lyon (Mayor) Cr C Coorey, Cr D Dey, Cr A Hunter, Cr A Pugh, Cr M Swivel and Cr P Westheimer [Virtual]

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)
Cameron Clark (Manager Utilities) – Item 13.20
Pablo Orams (Integrated Water Management Officer) – Item 13.20
James Brickley (Manager Finance) – Item 13.8
Matt Meir (Solicitor) – Item 13.2
Julia Adams (Sustainability Team Leader) – Item 13.5
Sarah Nagel (Manager Public and Environmental Services) – Item 13.14
Amber Evans Crane / Storm Townsend (Minute Taker)

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

PUBLIC ACCESS

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

Public Access

Report No and Title	Name	For/ Against	Representing	Submission Received via	
13.20	Project Update – Additional Flow Path	Tony Flick	Against	Self	In person
13.8	Adoption of Operational Plan 2023/24, including Budget, Statement of Revenue Policy, and Fees and Charges	Lydia Kindred		Northern Rivers Rail Ltd	In person

BYRON SHIRE COUNCIL

ORDINARY MEETING MINUTES

22 June 2023

The meeting adjourned at 9.53am for a short break and reconvened at 10:17am.

APOLOGIES

There were no apologies.

APPLICATIONS TO ATTEND BY AUDIO-VISUAL LINK

PROCEDURAL MOTION

- 23-248 Resolved** that Cr Westheimer be permitted to attend the meeting held on 22 June 2023 by audio-visual link. (Lyon/Hunter)
The motion was put to the vote and carried unanimously.
-

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 pecuniary and non-pecuniary interest.

TABLING OF PECUNIARY INTEREST RETURNS

In accordance with section 440AAB of the Local Government Act and clause 4.22 of the Code of Conduct for Staff, Primary Returns of Interests for the following staff are now tabled: Samuel Frumpui, Manager Works, and Ben Barnet, Planner.

ADOPTION OF MINUTES FROM PREVIOUS MEETINGS

- 23-249 Resolved** that the minutes of the Ordinary Meeting held 25 May 2023 be confirmed. (Lyon/Swivel)
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 Classification of newly acquired Council lot

Report No. 13.2 Lot 12 Bayshore Drive - Updated Valuation as per Resolution 21-188

Corporate and Community Services

Report No. 13.3 Amendment to the Code of Conduct for Committee Members, Delegates of Council and Council Advisors

Report No. 13.4 Richmond Tweed Regional Library: Feedback from Member Councils - Overview for Proposed Sale of Vacant Land

Report No. 13.5 Tender - Electricity Procurement

Report No. 13.8 Adoption of Operational Plan 2023/24, including Budget, Statement of Revenue Policy, and Fees and Charges

Report No. 13.12 Making of the 2023/24 Ordinary Rates, Charges, Fees and Interest Rate

Sustainable Environment and Economy

Report No. 13.13 Changing the Net Zero Target to 2030 and Purchasing Carbon Offsets

Report No. 13.14 Busking Policy Review

Report No. 13.17 Update Resolution 22-737 Former Mullumbimby Hospital Site Redevelopment Project

Infrastructure Services

Report No. 13.20 Project update - Additional Flow Path

CONFIDENTIAL REPORTS

Sustainable Environment and Economy

Report No. 16.1 CONFIDENTIAL - 57 Station Street, Mullumbimby

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. **23-250** and concluding with Resolution No. **23-275**.

STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

Report No. 13.15 Car share expression of interest - project timeline update
File No: I2023/815

23-255 Resolved that Council:

1. Notes that the evaluation of the car share expression of interest will be reported to the 24 August 2023 Ordinary Council meeting.
 2. Resolves to extend the current car share provider's (Popcar's) annual permits by two months, with an expiry date of 29 September 2023. (Lyon/Hunter)
-

Report No. 13.16 Resolution 23-227 Toni Childs Music Video Shoot August 2023
File No: I2023/821

23-256 Resolved that Council:

1. Notes the responses provided to Resolution 23-277.
 2. Advises the Music Video Production Team that it will not support a road closure application under section 138 Road Act 1993, for a video shoot to be held on Monday 7 August 2023 - Jonson Street, Byron Bay – the section between Lawson Street and Byron Street – between 6am and 2pm (8 hours).
 3. Invites the Music Video Production Team to submit an alternate proposal (location and time) for this film shot. (Lyon/Hunter)
-

Report No. 13.18 PLANNING - Report of the Planning Review Committee held 1 June 2023
File No: I2023/904

23-257 Resolved that Council endorses the outcomes of the Planning Review Committee meeting held on 1 June 2023. (Lyon/Hunter)

Crs Coorey, Dey, Swivel, Lyon, Westheimer, Pugh and Hunter voted in favour of the motion.

Nil voted against the motion.

STAFF REPORTS - INFRASTRUCTURE SERVICES

**Report No. 13.19 Redevelopment of the old Byron Hospital into a new
Community Hub**

File No: I2023/813

23-258 Resolved that Council:

1. In accordance with clause 178 (a) of the Local Government Regulation, accept the tender from Blaze Projects at a price of \$6,531,578.78.2.
2. Makes public its decision, including the name and amount of the successful tenderer, in accordance with Clause 179(b) of the Local Government (General) Regulation 2021.
3. Increases the project budget by \$650,000 to be funded from Developer Contributions Community Facilities Shire Wide reserve. (Lyon/Hunter)

REPORTS OF COMMITTEES - CORPORATE AND COMMUNITY SERVICES

**Report No. 14.1 Report of the Audit, Risk and Improvement Committee Meeting
held on 18 May 2023**

File No: I2023/803

23-259 Resolved that Council notes the minutes of the Audit, Risk and Improvement Committee Meeting held on 18 May 2023. (Lyon/Hunter)

23-260 Resolved that Council adopts the following Committee Recommendations:

**Report No. 4.1 Implementation of the OLG Guidelines for Risk Management and
Internal Audit for Local Government in NSW**

File No: I2023/387

Committee Recommendation 4.1.1

1. That the Audit, Risk and Improvement Committee notes the status of the implementation of the OLG Guidelines for Risk Management and Internal Audit Framework for Local Councils in NSW.
2. That Council adopts the draft Internal Audit Charter (Attachment 1 E2022/127884) (Lyon/Hunter)

BYRON SHIRE COUNCIL

ORDINARY MEETING MINUTES

22 June 2023

23-261 Resolved that Council adopts the following Committee and Management Recommendations:

Report No. 4.4 Fraud and Corruption Control Policy

File No: I2023/385

Committee Recommendation 4.4.1

1. That Council adopt the draft revised Fraud and Corruption Control Policy.
2. That the Fraud and Corruption Framework Review be included in the draft FY2025 Internal Audit Program.

Management Recommendation

3. That:
 - a) Council endorses the draft revised Fraud and Corruption Control Policy be placed on public exhibition for a minimum period of 28 days and, should there be no submissions received, the Policy is endorsed from the date after the close of the exhibition period; and
 - b) should submissions be received on the Policy, it be reported back to Council noting the submissions and any amendments made as a result of the feedback received. (Lyon/Hunter)

23-262 Resolved that Council adopts the following Committee and Management Recommendations:

Report No. 4.5 Draft Risk Management Policy and Risk Management Strategy

File No: I2023/591

Committee Recommendation 4.5.1

1. That Council adopts the draft revised Risk Management Policy (E2023/31169).
2. That the Audit, Risk, and Improvement Committee endorses the draft Risk Management Strategy (E2023/31170).

Management Recommendation

3. That:
 - a) Council endorses the draft revised Risk Management Policy be placed on public exhibition for a minimum period of 28 days and, should there be no submissions received, the Policy is endorsed from the date after the close of the exhibition period; and,
 - b) should submissions be received on the Policy, it be reported back to Council noting the submissions and any amendments made as a result of the feedback received. (Lyon/Hunter)

BYRON SHIRE COUNCIL

ORDINARY MEETING MINUTES

22 June 2023

23-263 Resolved that Council adopts the following Committee Recommendations:

Report No. 5.2 Internal Audit Report Quarter 3 2022-2023 including Food Safety and Swimming Pools Review

File No: I2023/370

Committee Recommendation 5.2.1

That Council notes:

1. The Audit, Risk and Improvement Committee notes the Internal Auditors Summary of Internal Audit Recommendations for Quarter 3 2022-2023 at Attachment 1 (E2023/39723) and their Internal Audit Status Update May 2023 at Attachment 4 (E2023/39739).
2. The Audit, Risk and Improvement Committee endorses the recommendations from the Executive Team to close off 16 internal audit recommendations from Quarter 3 2022-2023 as listed in Table 1 of this report (a summary from Attachment 2 E2023/34738).
3. The Audit, Risk and Improvement Committee endorses that Management implement the recommendations made in the Internal Audit of Food Safety and Swimming Pools (March 2023) (Attachment 3 E2023/31211) subject to the administrative correction.
4. The Internal and external auditors and management develop a scope for review of monitoring and control of caravan park revenue as an extra audit item for FY2024 and the review includes a comparison of industry benchmarks for return on investment. (Lyon/Hunter)

23-264 Resolved that Council adopts the following Committee Recommendation:

Report No. 5.3 2022-2023 External Audit Engagement Plan

File No: I2023/399

Committee Recommendation 5.3.1

That Council notes the External Audit Engagement Plan prepared by the Audit Office of New South Wales for the year ended 30 June 2023 as outlined in Confidential Attachment 1 (#E2023/21582). (Lyon/Hunter)

REPORTS OF COMMITTEES - SUSTAINABLE ENVIRONMENT AND ECONOMY

Report No. 14.2 Report of the Coast and ICOLL Advisory Committee Meeting held on 16 May 2023

File No: I2023/773

23-265 Resolved that Council notes the minutes of the Coast and ICOLL Advisory Committee Meeting held on 16 May 2023. (Lyon/Hunter)

23-266 Resolved that Council adopts the following Committee Recommendations:

Report No. 4.1 Future Discussion Items for the Coast and ICOLL Advisory Committee

Committee Recommendation 4.1.1

1. That Council provides a brief summary of the methodology of the Coastal Hazard Assessment to the next available Committee meeting, with a draft earlier to be made available to committee members.
2. That Council receives a report on the following in relation to Belongil Estuary at the next available committee meeting:
 - a. fate of STP effluent including when the STP must be upgraded later this decade (STP capacity is 6.95 ML/day dry weather flow);
 - b. waterlogging on farmlands, commitment to directing effluent away from the Estuary and the non-use of the Additional Flowpath;
 - c. potential changes to the ICOLL Opening Strategy;
 - d. any other related matters.
3. That Council notes that some water quality data for Tallow and Belongil Creek estuaries will be provided to the Committee but is not for onward distribution.

(Lyon/Hunter)

23-267 Resolved that Council adopts the following Committee Recommendation:

Report No. 4.3 Presentation on the outcomes of the Main Beach Shoreline Project - Technical Assessment

Committee Recommendation 4.3.1

That Council notes that members of the committee have been directed to this technical assessment report for their own perusal in the agenda for the Council meeting dated 27 April 2023 Agenda item no. 13.6 in lieu of the presentation. (Lyon/Hunter)

BYRON SHIRE COUNCIL

ORDINARY MEETING MINUTES

22 June 2023

Management Recommendation

The above scenarios a) to d) do not allow for a potential east coast low that could hit the region bringing 100 year rain with 100 year ocean levels. Further scenario c) is a minor event when compared to 100 year events and is not really relevant to this investigation.

It is recommended that scenario c be changed to '100-year rainfall with 100-year ocean level;'.

Recommended resolution:

That Council support the scope of the North Byron Sky Pumps Proposal with the following changes:

1. That there be four scenarios namely:

- a) 100-year rainfall with 20-year ocean level;
- b) 20-year rainfall with 100-year ocean level;
- c) 100-year rainfall with 100-year ocean level;
- d) 100-year rainfall plus 100-year Climate change with 20-year ocean level plus 100-year Climate Change

2. That the locations change:

- a) North of sports field at New Brighton (153.5503, -28.5063).
- b) South of levee at SGB (154.5499, -28.4984).
- c) Remnant dredged channel from 1970s in Billinudgel Nature Reserve (intersects remnant channels) (153.5506, -28.4856). (Lyon/Hunter)

23-271 Resolved that Council adopts the following Committee Recommendations:

Report No. 4.4 Byron Shire Post 2022 Flood Analysis Update

File No: I2023/654

Committee Recommendation 4.4.1

That the Floodplain Management Advisory Committee recommends Council:

1. Notes the report, the update by DPE and the Floodplain Management Advisory Committee minutes;
2. Expresses its concern at how long this project is taking;
3. Makes the Post-Event Flood Level Survey public, so that:
 - a) It gets checked by those who provided the information, or were flooded, and
 - b) It can be amended where necessary prior to the expensive task of flood modelling;
4. Thanks DPE for funding all the post-event technical analyses; and
5. Asks DPE to share draft reports as soon as possible with this Floodplain Advisory Committee, including via an Extraordinary Meeting if necessary. (Lyon/Hunter)

Report No. 14.5 Report of the Local Traffic Committee Meeting held on 26 May 2023

File No: I2023/878

23-272 Resolved that Council notes the minutes of the Local Traffic Committee Meeting held on 26 May 2023. (Lyon/Hunter)

23-273 Resolved that Council notes the following Committee Recommendations which were approved by the General Manager on 31 May 2023 under his delegated authority (refer Attachment 2):

Report No. 6.1 Byron Music Festival 17 June 2023

File No: I2023/802

Committee Recommendation 6.1.1

1. That the Local Traffic Committee support the Byron Music Festival to be held on 17 June 2023.
2. That the 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 which conforms to the sketches shown above on pages 6 & 7 as a minimum requirement. Noting that, in future, for these type of events the TfNSW sketch in the Committee Comments section above would be the minimum requirement and the preferred option.
 - 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;
 - f) The Section 138 Application to be submitted by the Event organiser (or their consultants) to include amended details in TGS for the Alternate Pedestrian Route with traffic control in Bay and Middleton Street and set down drop off area and accessible parking in Lawson Street with regulatory signage.

3. The event organiser to:

BYRON SHIRE COUNCIL

ORDINARY MEETING MINUTES

22 June 2023

- 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;
- g) Payment of fees associated with the event in accordance with Councils adopted Fees and Charges for the S138 Application and for use of Council managed car parking spaces in Bay, Middleton and Lawson Streets.
(Lyon/Hunter)

LATE REPORTS - INFRASTRUCTURE SERVICES

Report No. 13.21 **2021-1145: Water Main Supply and Construction, Byron Bay and Mullumbimby**

File No: I2023/876

23-274 Resolved:

1. That Council allocates a total project budget of \$3,056,900 in the 2023/2024 financial year to fund works subject to this tender as per Table 4 in the report.
2. That the remaining budgets in the 2022/2023 financial year totalling \$1,870,400 outlined in the report at Table 1 and associated funding be removed from the 2022/2023 budget with funding returned to respective reserves.
3. That Council award Tender 2021-1145: Water Main Supply and Construction, Byron Bay and Mullumbimby to Civil CS at a total price of \$2,331,278.32 + GST.
4. That Council's seal be affixed to the relevant documents if required.
5. That Council makes public its decision, including the name and amount of the successful tenderer, in accordance with Clause 179(b) of the Local Government (General) Regulation 2021.
(Lyon/Hunter)

LATE REPORTS – CORPORATE AND COMMUNITY SERVICES

Report No. 17.1 **Draft 2023-2033 Long Term Financial Plan**
File No: I2023/952

- 23-275** **Resolved** that Council adopt the 2023-2033 Long Term Financial Plan (#E2023/60942) including any budget changes (if any) made in the consideration of Report 13.8 to this Ordinary Meeting. (Lyon/Hunter)
-

PROCEDURAL MOTION

- 23-276** **Resolved** that Council change the order of business to deal with Reports 13.20 and 13.8 next on the Agenda. (Lyon)
The motion was put to the vote and carried unanimously.
-

STAFF REPORTS – INFRASTRUCTURE SERVICES

Report No. 13.20 **Project update - Additional Flow Path**
File No: I2023/874

- 23-277** **Resolved:**
1. That Council notes the Additional Flow Path (AFP) project report dated May 2023
 2. That Council receives a Report that responds to all Parts of Resolution 23-108 including Part 1(f) and also assesses:
 - (g) whether Council should have and does have a Legal Point of Discharge from Council's STP land onto the Flicks' property;
 - (h) current condition of vegetation on the AFP as a starting point for Drain Maintenance, which was discussed in Section 3.3 of Attachment 2;
 - (i) when periodic checks of vegetation should commence;
 - (j) the likely annual cost of mechanical vegetation removal and which Council Fund should cover that cost.
 - (k) That also assesses capacity to go beyond 1 megalitre per day into the AFP during the trial period and up to the maximum possible whilst maintaining environmental flows at EPA 4
 3. That a detailed response is provided in the next Ordinary Council Meeting in August 2023. (Hunter/Dey)

BYRON SHIRE COUNCIL

ORDINARY MEETING MINUTES

22 June 2023

PROCEDURAL MOTIONS

23-278 Resolved that Council move into Committee to allow for free debate. (Coorey/Lyon)

23-279 Resolved that Council move out of Committee and resume the Ordinary Meeting. (Lyon)

The motions were put to the vote and carried unanimously.

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

STAFF REPORTS – CORPORATE AND COMMUNITY SERVICES

Report No. 13.8 Adoption of Operational Plan 2023/24, including Budget, Statement of Revenue Policy, and Fees and Charges

File No: I2023/889

23-280 Resolved that Council:

1. Notes the submissions received during the public exhibition period for the Operational Plan 2023/24 (including the Budget, Statement of Revenue Policy, and Fees and Charges) as outlined in Attachment 2 (#E2023/43184).
2. Receives regular updates via memos to Councillors on issues as they evolve in the rail corridor investigation areas, specifically relating to 5.1.4.1 and 5.1.4.2 of the Operational Plan 2023/24.
3. Adopts the following documents:
 - a) Operational Plan 2023/24 as amended, Attachment 1 (#E2023/56757).
 - b) Statement of Revenue Policy 2023/24 including fees and charges as exhibited, with the amendments (included in Attachment 4 #E2023/58449) discussed in the report under the headings 'Draft General Land Rates and Charges (Statement of Revenue Policy)' and 'Draft Fees and Charges (Statement of Revenue Policy)'
 - d) Budget Estimates 2023/24 as exhibited, with the amendments discussed in the report under the heading 'Draft 2023/24 Budget Estimates (Statement of Revenue Policy)' and included at Attachment 5 (#E2023/58291) along with the Draft 2023/24-2032/33 Long Term Financial Plan. (Westheimer/Lyon)

PROCEDURAL MOTION

23-281 Resolved that Cr Westheimer be granted a two minute extension to his speech. (Lyon)

The motion was put to the vote and carried unanimously.

The motion (Westheimer/ Lyon) was put to the vote and carried unanimously.

NOTICES OF MOTION

Notice of Motion No. 9.1 Coastal Conference in Newcastle in late October 2023

File No: I2023/906

23-282 Resolved that Council:

1. Recognises the value of Councillors attending conferences to expand and update their knowledge in fields relevant to Council's activities.
2. Supports the registration, travel and accommodation for Crs Dey and Coorey to attend the joint *National Coast to Coast & NSW Coastal Conference 2023* in Newcastle from 30 October to 3 November 2023.
3. Registers these Councillors before the early-bird fee offer ends on 8 September 2023. (Dey/Lyon)

The motion was put to the vote and carried unanimously.

Notice of Motion No. 9.2 Waiver of Repayments for Mullumbimby Leagues Club During COVID Period

File No: I2023/910

23-283 Resolved that Council extends the Repayment Date in the Deferral Agreement between Byron Shire Council and Mullumbimby Rugby League Football Club Ltd from 10 years after the date of the agreement to 12 years after the date of the agreement. (Lyon/Dey)

The motion was put to the vote and carried unanimously.

Notice of Motion No. 9.3 Roll-out of funding to future-proof flooded premises

File No: I2023/913

Moved that Council:

1. Contacts the NSW Premier Chris Minns and our Member for Ballina, Tamara Smith, asking them to intervene in the roll-out of the \$700 million allocated last year under the Resilient Homes Program to assist owners of flood-prone premises in this region to reduce future flood risk via house-raising, wet-proofing and buy-back; and
2. Seeks intervention especially on the following aspects of the roll-out:
 - (a) to accelerate this financial assistance by, for example, engaging more assessors
 - (b) to further accelerate the assistance by bringing the end date forward from the 5 years (to mid-2027) projected by the Northern Rivers Reconstruction Corporation to a more reasonable timeframe of 3 years (to mid- 2025);
 - (c) to broaden the eligibility criteria by including all premises flooded in 2022 to

BYRON SHIRE COUNCIL

ORDINARY MEETING MINUTES

22 June 2023

above their approved floor level

- (d) to further broaden the criteria by including all premises where flood water rose to within 300mm of an approved floor level; and
 - (e) to recognise that government may have to commit additional funding to achieve parts (c) and (d) but that this is a better approach than the current one of limiting eligibility.
3. Further asks the NSW Premier Chris Minns and our Member for Ballina, Tamara Smith, to commit to urgently releasing a second tranche of funding for the Resilient Homes Program so that it reaches all flood-prone premises in this region and goes beyond that to premises only just above the levels of the 2022 floods;
 4. Also asks Prime Minister Anthony Albanese to urgently commit funding for that second tranche of the Program. (Dey)

The motion fell away for want of a seconder.

Notice of Motion No. 9.4 Funding for road repairs in and near Prince Street

File No: I2023/914

Moved that Council:

1. Approaches Resilience NSW or whichever state entity is responsible for damage due to construction over the last year or so in Prince Street Mullumbimby, to fund repairs
 - (i) to Prince and Poinciana Streets, to Morrison Avenue; and
 - (ii) to any related infrastructure such as stormwater systems.
2. Requests that funding for:
 - a) immediate patching;
 - b) on-going patching until part c) as follows; and
 - c) once heavy construction vehicles are no longer using these roads, reconstruction of the roads and related infrastructure to better than original condition.
3. Receives a report on (i) the results of Parts 1 and 2 above; and (ii) if adequate funding was not forthcoming, on other options such as Election Commitment Grant (ECG) funding. (Dey)

The motion fell away for want of a seconder.

BYRON SHIRE COUNCIL

ORDINARY MEETING MINUTES

22 June 2023

Notice of Motion No. 9.5 Seek committee advice on Coastal Hazard Assessment File No: I2023/915

Moved that Council seeks advice from the Coast & ICOLL Advisory Committee, on the soon-to-be-released Coastal Hazard Assessment Study prior to adopting the Study.

(Dey)

PROCEDURAL MOTION

23-284 Resolved that Cr Dey be granted a two minute extension to his speech. (Lyon)

The motion was put to the vote and carried unanimously.

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

23-285 Resolved that the Coastal Hazard Assessment Study be shared with the members of the Coast & ICOLL Advisory Committee once the expert peer review has been completed on the basis that it is kept confidential. (Lyon/Coorey)

*The motion (Lyon/Coorey) was put to the vote and declared carried.
Cr Dey voted against the motion.*

MAYORAL MINUTE

No. 10.1 Mullumbimby Residents Association submission

23-286 Resolved that Council:

1. Notes the submission from the Mullumbimby Residents Association with respect to the recent announcements by the NRRC with respect to the Resilient Homes Program.
2. Further notes their submission highlights that the recent report in the Echo newspaper has created a wave of emotions ranging from, fear to anger as well as feelings of being abused, neglected, misunderstood and a sense of hopelessness.
3. Requests an urgent community meeting (either face to face or via zoom) with NRRC, councillors, council staff and members of local community organisations in Byron Shire working or advocating in this arena of the Resilient Homes Program in order to follow up on the previous meeting and to ask a new set of questions and in particular to:
 - a) clarify the eligibility criteria.
 - b) clarify how the mapping released by NRRC can be interpreted by individual residents who have applied under the RHP
 - c) discuss the processing of individual requests. - including the exceptional circumstances procedure and appeal procedure
 - d) discuss the establishment of a working team of NRRC – Council staff – Community reps who meet by zoom every week to assist in the roll out of the RHP.

(Lyon)

The motion was put to the vote and carried unanimously.

BYRON SHIRE COUNCIL

ORDINARY MEETING MINUTES

22 June 2023

The meeting adjourned at 1.10pm for a lunch break and reconvened at 1.59pm.

PETITIONS

There were no petitions tabled.

DELEGATES' REPORTS

Cr Lyon noted he would provide a written delegates' report on the 2023 National General Assembly 2023.

STAFF REPORTS - GENERAL MANAGER

Report No. 13.1 **Classification of newly acquired Council lot**
File No: I2023/784

23-287 Resolved that Council:

1. Gives public notice for not less than 28 days of the following proposed resolution, pursuant to Section 34 of the Local Government Act 1993:
"That Lot 194 DP 1281667 be classified "operational" under the Local Government Act 1993." And
2. Accompanies the web version of that notice with details including (i) a satellite view with cadastral boundaries the vicinity including Lots 193 to 196 and Council-owned Lot 128 DP 1247524 and Lot 104 DP 1232439; (ii) the proposed usage of Lot 194; and (iii) classification and usage of Lots 193 and 195. (Dey/Lyon)

The motion was put to the vote and carried unanimously.

BYRON SHIRE COUNCIL

ORDINARY MEETING MINUTES

22 June 2023

Report No. 13.2 **Lot 12 Bayshore Drive - Updated Valuation as per Resolution 21-188**
File No: **I2023/201**

PROCEDURAL MOTION

23-288 Resolved:

1. That pursuant to Section 10A(2)(d)i and (d)ii of the Local Government Act, 1993, Council resolves into Confidential Session to discuss the following report, namely Lot 12 Bayshore Drive - Updated Valuation as per Resolution 21-188.
2. That the reasons for closing the meeting to the public to consider this item be that the report contains commercial information of a confidential nature that would, if disclosed:
 - (i) prejudice the commercial position of the person who supplied it, or
 - (ii) confer a commercial advantage on a competitor of the council
3. That on balance it is considered that receipt and discussion of the matter in open Council would be contrary to the public interest, as

It contains commercial in confidence information. (Lyon)

The motion was put to the vote and carried unanimously.

No. 13.2 **Lot 12 Bayshore Drive - Updated Valuation as per Resolution**
21-188
File No: **I2023/201**

- 23-289 Resolved** that Council sets a price of \$2160 per square metre (ex-GST) for the proposed sale of that part of lot 12 Bayshore Drive, Byron Bay, marked 'lot 1' in the subdivision plan to this report, based on the attached confidential land valuations (E2023/41766 and E2023/41768) (Lyon/Swivel)
The motion was put to the vote and carried unanimously.

PROCEDURAL MOTION

- 23-290 Resolved** that the meeting move out of confidential session. (Lyon)

The motion was put to the vote and carried unanimously.

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

Report No. 13.3 **Amendment to the Code of Conduct for Committee Members, Delegates of Council and Council Advisors**
File No: I2023/749

23-291 Resolved:

1. That the draft amended Code of Conduct for Council Committee Members, Delegates of Council and Council Advisors (Attachment 1) be amended as follows:
Add two notes after proposed Clause 4.8(c) to say:
As at time of adopting:
(i) community members of s355 Hall Committees and Boards of Management are designated persons.
(ii) community members of an Advisory Committee of Council are not designated persons.
2. That the draft Code thus amended be placed on public exhibition for a period of 28 days to allow for submissions.
- 3 That:
 - a) should there be no submissions received, then the updated Code is endorsed from the date after the close of the exhibition period; and,
 - b) should submissions be received, the Code be reported back to Council noting the submissions and any amendments made as a result of the feedback received.
(Dey/Coorey)

Cr Swivel left the Chambers at 2:41pm.

The motion (Dey/ Coorey) was put to the vote and carried.
Cr Swivel was absent for the vote.

Cr Swivel returned to the Chambers at 2:50pm.

Report No. 13.4 **Richmond Tweed Regional Library: Feedback from Member Councils - Overview for Proposed Sale of Vacant Land**
File No: I2023/789

- 23-292 Resolved** that Council entrusts the sale of the vacant land, Lot 2 DP 1061931, 1 Lancaster Drive Goonellabah to the RTRL Committee. (Lyon/Dey)

The motion was put to the vote and carried unanimously.

BYRON SHIRE COUNCIL

ORDINARY MEETING MINUTES

22 June 2023

Report No. 13.5 **Tender - Electricity Procurement**
File No: I2023/796

23-293 Resolved that Council:

1. Endorses the procurement strategy for the retail electricity supply contract outlined in this report, and delegates authority to the General Manager to accept the tender(s) and to enter into the proposed contract on behalf of Council, as provided for under Section 377 of the Local Government Act 1993.
 2. Receives a briefing before the electricity procurement is finalised, either preferably at a future Councillor Workshop or otherwise by Memo, on Council's electricity consumption profile; on key elements of the tender brief; and on options now and into the future for decreasing Council's emissions via electricity procurement.
- (Dey/Lyon)

The motion was put to the vote and carried unanimously.

Report No. 13.12 **Making of the 2023/24 Ordinary Rates, Charges, Fees and Interest Rate**
File No: I2023/908

23-294 Resolved that Council makes the charges, makes the fees and sets the interest rate to be charged on overdue rates and charges for 2023/24 in accordance with Sections 533, 534, 535, 543 and 566 of the Local Government Act 1993 (LGA) as listed in the tables within this report - Option 2: Ordinary Rates – Minimum Rate of \$1,000.00. (Dey/Pugh)

The motion was put to the vote and carried unanimously.

STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

Report No. 13.13 **Changing the Net Zero Target to 2030 and Purchasing Carbon Offsets**
File No: I2023/403

23-295 Resolved that Council:

1. Notes the definitions of net zero and carbon neutrality.
 2. Receives a further report on whether meeting the proposed revised net zero target date of 2030 is achievable and how this might be achieved, with regard to the proposed pathways in the report and utilising the Climate Active Standard.
 3. Places the draft Carbon Offset Procurement Policy (Attachment 1, E2023/54559) on public exhibition and available for public comment for 28 days. Following this period, Council receives a further report. That members of the Climate Change and Resource Recovery Committee be specifically invited to make a submission.
 4. Notes the financial implications of achieving both carbon neutrality in 2025 and net zero in 2030
- (Pugh/Dey)

BYRON SHIRE COUNCIL

ORDINARY MEETING MINUTES

22 June 2023

PROCEDURAL MOTION

23-296 Resolved that Cr Pugh be granted a two minute extension to his speech. (Pugh/Lyon)

The motion was put to the vote and carried unanimously.

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

Report No. 13.14 Busking Policy Review

File No: I2023/783

23-297 Resolved that Council:

1. Places the Draft Busking Policy in Attachment 1 (E2023/56924) on public exhibition for a minimum period of 28 days.
2. Following exhibition, receives a further report detailing submissions made.

(Coorey/Lyon)

The motion was put to the vote and carried unanimously.

Report No. 13.17 Update Resolution 22-737 Former Mullumbimby Hospital Site Redevelopment Project

File No: I2023/885

23-298 Resolved that Council:

1. Notes the update on Resolution 22-737 Former Mullumbimby Hospital Site.
2. Authorises staff to finalise and forward a planning proposal (informed by the Site Strategy and Urban Design Protocol and technical studies) to the Department of Planning and Environment for the purpose of obtaining a Gateway Determination, and that Council exhibit the Planning Proposal in accordance with the Gateway requirements.
3. Notes that an Enquiry by Design Workshop, Development Feasibility Assessment, and draft Development Control Plan for the Former Mullumbimby Hospital Site will progress along with the Planning Proposal to enable completion of these by early 2024.

(Lyon/Hunter)

The motion was put to the vote and carried unanimously.

CONFIDENTIAL REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

Report No. 16.1 **CONFIDENTIAL - 57 Station Street, Mullumbimby**
File No: I2023/818

23-299 Resolved

1. That pursuant to Section 10A(2)(c), (d)i and (d)ii of the Local Government Act, 1993, Council resolves to move into Confidential Session to discuss the report 57 Station Street, Mullumbimby.
2. That the reasons for closing the meeting to the public to consider this item be that the report contains:
 - a) information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business
 - b) commercial information of a confidential nature that would, if disclosed prejudice the commercial position of the person who supplied it
 - c) information that would, if disclosed, confer a commercial advantage on a competitor of the council
3. That on balance it is considered that receipt and discussion of the matter in open Council would be contrary to the public interest, as:

It contains commercial in confidence information. (Lyon)

The motion was put to the vote and carried unanimously.

No. 16.1 **CONFIDENTIAL - 57 Station Street, Mullumbimby**
File No: I2023/818

23-300 Resolved that Council:

1. Endorses the Mayor to sign an updated Project Agreement in the form of a Terms Sheet Agreement with Landcom to facilitate work with Council on an affordable housing project on 57 Station Street Mullumbimby, as described in this report.
2. Delegates authority to the General Manager to run the tender process and documentation as described in this Report, accept the preferred Complying Tender, and enter into a Heads of Agreement, lease agreement and development deed at the relevant time.
3. Receives a report for final determination should Community Housing Providers (CHPs) submit a non-complying tender and the Tender Evaluation Committee recommend the acceptance of that tender.
4. Appoints the following staff to the Tender Evaluation Committee: Director Sustainable Environment and Economy and Director Corporate and Community Services.

(Pugh/Lyon)

*The motion was put to the vote and carried,
Cr Dey voted against the motion.*

BYRON SHIRE COUNCIL

ORDINARY MEETING MINUTES

22 June 2023

PROCEDURAL MOTION

- 23-301 Resolved** that the meeting move out of confidential session.(Lyon)
The motion was put to the vote and carried unanimously.
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URGENCY MOTIONS

PROCEDURAL MOTION

- 23-302 Resolved** that the matter of *Resilient Lands Strategy* be dealt with at the meeting as submissions on the draft Resilient Lands Strategy close at the end of the month and this is the last Council meeting before recess. (Pugh/Lyon)

The motion was put to the vote and carried unanimously.

The Mayor declared the item urgent.

No. 1 Matter of Urgency - Resilient Lands Strategy

- 23-303 Resolved** that Council:

1. Notes the Northern Rivers Reconstruction Corporation released its draft Resilient Lands Strategy on Thursday 8 June 2023 with submissions on the strategy closing on 30 June 2023.
2. Notes the total lack of detail contained within the strategy, making it very difficult for stakeholders and the community to understand its benefits and impacts.
3. Reaffirms the importance of consulting with, and bringing the community along, in the development and implementation of housing strategy.
4. Makes a submission to the draft strategy that includes the following:
 - a) Requests a master plan process that includes community consultation structures, for Site B2 in Byron Shire before any upzoning is undertaken
 - b) Identifies how transport including public transport issues will be addressed
 - c) Requests that Council's full 20% Affordable housing contribution scheme will be implemented
 - d) Notes the lack of detail about the makeup of the rest of the proposed release areas – how many flood impacted people will be housed?
 - e) Requests that significant portions of the sites in Byron Shire be used for food security, such as market gardens, and environmental rehabilitation
 - f) Notes the lack of any detail on the identification of required new or improved infrastructure and the likelihood that the identified \$100 million will not be enough for the whole strategy (Pugh/Lyon)

BYRON SHIRE COUNCIL

ORDINARY MEETING MINUTES

22 June 2023

PROCEDURAL MOTION

23-304 Resolved that Cr Pugh be granted a one minute extension to his speech. (Pugh/Lyon)

The motion was put to the vote and carried unanimously.

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

Cr Swivel declared a pecuniary conflict of interest in the Matter of Urgency No. 2 – Feros Village Byron Bay. The nature of the interest being that he is a lawyer for Feros Village residents. Cr Swivel elected to leave the Chamber and not participate in the discussion and the vote. In accordance with this declaration, Cr Swivel left the Chambers at 4:17pm and did not return.

PROCEDURAL MOTION

23-305 Resolved that the matter of *Feros Village Byron Bay* be dealt with at the meeting as Feros Aged Care is requiring residents to leave on 19 July 2023. (Pugh/Lyon)

The motion was put to the vote and carried.

Cr Swivel was absent for the vote.

The Mayor declared the item urgent.

No. 2 Matter of Urgency - Feros Village Byron Bay

23-306 Resolved that:

1. Council authorises the General Manager to engage with all stakeholders including the Minister for Lands and Property and the Department of Crown Lands to explore the feasibility of its appointment as Crown Land Manager of Reserve 140024.
2. Council gives in principle support to being appointed the future Crown Land Manager of Reserve 140024 situated at 29-33 Marvell Street, Byron Bay, currently known as Feros Village Byron Bay, subject to the following:
 - a) Council must not become responsible for direct delivery of services on the site, including but not limited to aged care services.
 - b) That there must be a signed lease or leases in place between Crown Land and appropriate aged care service providers or community housing providers before any change in crown land manager occurs.
 - c) The Reserve and premises on it need to be in a good repair and compliant condition, and be without contamination or any need for capital expenditure. If they are not, there must be a written agreement in place confirming that Crown Lands will be responsible for the costs of works required on the reserve.
 - d) Agreement can be reached on all other conditions required to protect Council's interests as deemed necessary by the General Manager.

BYRON SHIRE COUNCIL

ORDINARY MEETING MINUTES

22 June 2023

3. During the July Council recess, with agreement from the Mayor, the General Manager be authorised to accept an appointment by the New South Wales State Government as the Crown Land Manager provided the requirements of this resolution are satisfied and Council's role is strictly limited to the role of Crown Land Manager and that it will not extend to the delivery of services on the site including, aged care services. Otherwise, the matter be reported back to Council for further consideration, including calling an extraordinary meeting if required. (Pugh/Lyon)

*The motion was put to the vote and carried.
Cr Swivel was absent for the vote.*

There being no further business the meeting concluded at 4:27pm.

I hereby certify that these are the true and correct Minutes of this Meeting
as confirmed at Council's Ordinary Meeting on 24 August 2023.



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Mayor Michael Lyon