

Minutes
Ordinary (Planning) Meeting
Thursday, 10 August 2023



BYRON SHIRE COUNCIL

Ordinary (Planning) Meeting Minutes
10 August 2023

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MINUTES OF THE BYRON SHIRE COUNCIL ORDINARY (PLANNING) MEETING HELD ON THURSDAY, 10 AUGUST 2023 COMMENCING AT 9.10AM AND CONCLUDING AT 12.24PM.

I2023/1151

PRESENT: Cr M Lyon (Mayor), Cr S Balson, Cr C Coorey, 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)
Dylan Johnstone (Development Investigations Lead – Item 13.5)
Chris Larkin (Manager Sustainable Development – Item 13.4)
Steve Daniels (Planner – Item 17.1)
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 Organisation	Submission Received in form of
13.5 PLANNING - Post Exhibition Submissions Report - Planning Proposal - 26.2021.6.1 - 103 Yagers Lane, Skinners Shoot	For	Maggie Schreiber	Self	In person
		Kate Singleton	Planners North (Business)	In person
	Against	Anthony Pangallo	Skinners Shoot Resident Group (Community group)	In person

The meeting adjourned at 9.44am for a recess break and reconvened at 10.02am.

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APOLOGIES

There were no apologies.

APPLICATIONS TO ATTEND BY AUDIO-VISUAL LINK

No applications for attendance via audio-visual link..

REQUESTS FOR LEAVE OF ABSENCE

PROCEDURAL MOTION

23-307 Resolved that Cr Swivel be granted a leave of absence from the 24 August 2023 Council Meeting. (Lyon)

The motion was put to the vote and carried unanimously.

DECLARATIONS OF INTEREST – PECUNIARY AND NON-PECUNIARY

There were no Pecuniary and Non-Pecuniary Declarations of 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, the Mayor tabled a Primary Return of Interests for David Haupt in the position of Road and Bridge Engineer.

ADOPTION OF MINUTES FROM PREVIOUS MEETINGS

23-308 Resolved that the minutes of the Ordinary (Planning) Meeting held 8 June 2023 be confirmed. (Lyon/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. 13.2 Five year lease to Mullumbimby Community Preschool Association Incorporated

Sustainable Environment and Economy

Report No. 13.4 PLANNING - 26.2022.11.1 Housekeeping Amendments to Byron Local Environmental Plan 2014

Report No. 13.5 PLANNING - Post Exhibition Submissions Report - Planning Proposal - 26.2021.6.1 - 103 Yagers Lane, Skinners Shoot

LATE REPORTS

Report No. 17.1 Deputy Secretary NSW Planning requirements of Byron Shire Council to address Independent Planning Commission Advice Report on Byron Shire Short Term Rental Accommodation in relation to Housing Supply 26.2020.1.1

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. **23-309** and concluding with Resolution No. **23-310**.

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STAFF REPORTS - GENERAL MANAGER

Report No. 13.1 **Classification of Council land - lot 194 in DP 1281667**
File No: I2023/966

23-309 **Resolved** that Lot 194 DP 1281667 be classified “operational” under the *Local Government Act 1993*.
(Lyon/Hunter)

STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

Report No. 13.3 **Federal Village Community-led Masterplan Evaluation**
File No: I2023/894

23-310 **Resolved** that Council:

1. Notes the evaluation recommendations of the community-led Federal Village Masterplan and thanks those who participated in this review.
2. Notes that the learnings from this evaluation will be taken into account when scoping future place plans, including the next priority location – Ocean Shores.
3. Notes the final video of the community-led masterplan process for the Federal Village Masterplan has been completed and is available on Council’s website.
(Lyon/Hunter)

PROCEDURAL MOTION

23-311 **Resolved** that Council change the order of business to deal with Report 13.5 next on the Agenda.
(Lyon)

The motion was put to the vote and carried unanimously.

STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

Report No. 13.5 **PLANNING - Post Exhibition Submissions Report - Planning Proposal - 26.2021.6.1 - 103 Yagers Lane, Skinners Shoot**
File No: I2023/1056

23-312 **Resolved** that Council:

1. Adopts the Planning Proposal in Attachment 1 (E2023/73028), as amended to include additional information to address flooding concerns raised by the NSW State Emergency Service during the exhibition period.
2. Forwards the amended Planning Proposal to the NSW Department of Planning & Environment requesting finalisation.
3. Grants delegation to the General Manager to execute the Planning Agreement associated with the Planning Proposal in Attachment 2 (E2023/73225).
(Westheimer/Lyon)

The motion was put to the vote and carried unanimously.

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

Nil voted against the motion.

STAFF REPORTS - GENERAL MANAGER

Report No. 13.2 **Five year lease to Mullumbimby Community Preschool Association Incorporated**
File No: I2023/1053

23-313 **Resolved** that Council delegates the General Manager to enter into a Lease with the Mullumbimby Community Preschool Association Incorporation on the following terms and conditions:

- a) a ground lease only over part Folio 2/1227659 for the purpose of a preschool,
- b) term of five-years no option or holding over,
- c) base rent in the lease to be set at \$490 (excl GST) per annum payable by the Lessee with base rent increased annually thereafter by Consumer Price Index All Groups Sydney,
- d) Council to record a rent subsidy of \$38,010 (excl GST) per annum as a donation under section 356 of the Local Government Act in accordance with Policy Children's Services 2019,
- e) Council to fully subsidise annual rates and fixed charges payable on Folio 2/1227659 in accordance with Policy Section 356 Donations Rates and Charges, and
- f) Council to waive the Lease preparation fee payable by the Lessee to the value of \$610 (incl GST) as set by Council's 2023-2024 fees and charges. (Dey/Ndiaye)

The motion was put to the vote and carried unanimously.

STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

Report No. 13.4 PLANNING - 26.2022.11.1 Housekeeping Amendments to Byron Local Environmental Plan 2014

File No: I2023/502

Moved that Council:

1. Submits the planning proposal contained in Attachment 1 (E2022/117263) to the NSW Department of Planning and Environment for Gateway determination.
2. Subjects to the Gateway determination, undertake public exhibition of the planning proposal and consult with government agencies as required by the Gateway determination; and
3. Receives a submissions report outlining the exhibition outcomes.
4. In relation to the amended clause 4.1C 'Boundary changes between lots in certain rural and conservation zones', prepares supporting DCP provisions to provide clearer guidance around interpretation of the term "altered" boundary and clause objectives.
5. Includes Item 9, FSR at New Brighton and Suffolk Park, in the Agenda for a future Councillor Workshop for discussion. (Dey/Pugh)

AMENDMENT

No. Report No. 13.4 PLANNING - 26.2022.11.1 Housekeeping Amendments to Byron Local Environmental Plan 2014

File No: I2023/502

23-314 Resolved that Council:

1. Submits the planning proposal contained in Attachment 1 (E2022/117263) to the NSW Department of Planning and Environment for Gateway determination with the removal of item 10.
2. Subject to the Gateway determination, undertake public exhibition of the planning proposal and consult with government agencies as required by the Gateway determination; and
3. Receives a submissions report outlining the exhibition outcomes.
4. In relation to the amended clause 4.1C 'Boundary changes between lots in certain rural and conservation zones', prepares supporting DCP provisions to provide clearer guidance around interpretation of the term "altered" boundary and clause objectives.
5. Includes Item 9 FSR at New Brighton and Suffolk Park and Item 10 Reduce the height limit of buildings in the Wategos residential area, in the Agenda for a future Councillor Workshop for discussion. (Lyon/Westheimer)

The amendment was put to the vote and carried.

Crs Pugh, Coorey, Ndiaye and Dey voted against the amendment.

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5. *If so, has Council considered storage within our VEN?*

Response Director Infrastructure Services:

1. Do we pay Byron operators at rates commensurate with the high cost of living locally?

All staff are paid in accordance with the Byron Shire Council salary system which is based on the Local Government State Award (2023) and Industry Standards.

In July 2023, a 4.5% wage increase was applied to all employees under the Award.

This negotiated salary increase is a reflection of the recognised impact of the rising cost of living across the State and local area.

2. Is Council aware of or have we used the “Beam Solar Tool” available as above?

Yes, Council is aware but does not use this tool. Council can investigate this Tool at request of Council. BSC Utilities Department has a dedicated Sustainability Officer that provides this service to Council around reducing carbon emissions.

This gets reported back to the Sustainability team for annual reporting.

Utilities Department has set aside budget on an annual basis for undertaking energy improvements.

Staff can provide a further report if required.

3. Is Council aware of or have we used the Sewage and Water Treatment Efficiency Toolkit available under the “Net Zero Regional Council project”?

Yes, Council is aware and reports of Energy efficiency in relation to treatment.

The IS Utilities Department works strategically and operationally with SEE - Sustainability Department in relation to ‘Net Zero Regional Council Project’.

Inclusive of capital renewal with a high MCA weighting on emissions (i.e. efficient pump stations and STP blower replacement program).

This is monitored monthly and reported on an annual basis by SEE Sustainability Department.

4. Do we share excess power between sites, on a Virtual Energy Network (“behind the meter”)?

No

5. If so, has Council considered storage within our VEN?

No

LATE REPORTS

Report No. 17.1 Deputy Secretary NSW Planning requirements of Byron Shire Council to address Independent Planning Commission Advice Report on Byron Shire Short Term Rental Accommodation in relation to Housing Supply 26.2020.1.1

File No: I2023/1163

23-315 Resolved that Council:

1. Acknowledges the significant amount of work that has been undertaken to support the Byron Shire Short Term Rental Accommodation Planning Proposal and Residential Strategy Refresh 2023.
2. Assures the Department of Planning that Council has always met and will continue to meet or exceed the implied dwelling targets required under the North Coast Regional Plan.
3. Agrees to commit to the work needed in relation to housing supply to ensure that the Minister for Planning has the confidence to make a timely decision on the Byron Shire Short Term Rental Accommodation Planning Proposal.
4. In response to 3, endorses the Council response to the Department of Planning and Environment Table Template in Attachment 8 (#E2023/80018) for submission to the Deputy Secretary NSW Planning by the 16 August 2023 with the following addition to content below in the table:

STRA Planning Proposal endorsed by DPE for the assessment of non-hosted STRA in Byron Shire as per IPC recommendation including conditions of consent to retain flexibility to manage non-hosted STRA across Byron Shire, such as time limits on approvals, and to require registration and compliance with the STRA Code of Conduct.
5. Requests an urgent meeting with the Minister for Planning on this matter.
(Lyon/Balson)

PROCEDURAL MOTIONS

23-316 Resolved that Council move into Committee to allow for free debate. (Lyon)
The motion was put to the vote and carried unanimously.

23-317 Resolved that Council move out of Committee and resume the Ordinary Planning Meeting. (Lyon)
The motion was put to the vote and carried unanimously.

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

Cr Balson left the Chambers at 12:11pm and did not return.

Cr Westheimer left the Chambers at 12:12pm.

UGENCY MOTION

PROCEDURAL MOTION

- 23-318 Resolved** that the submission as to bushfire preparedness to NORJO be dealt with at the meeting as the NORJO Agenda is being prepared next Tuesday 15 August 2023.
(Coorey/Dey)

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

The Mayor declared the item urgent.

Cr Swivel left the Chambers at 12:14pm and returned at 12:20pm
Cr Westheimer returned to the Chambers at 12:15pm

No. 1 Matter of Urgency - Bushfire preparedness submission to NRJO

Resolved that Council:

23-319

1. Receives a report at our second September meeting on preparations by Council, and key stakeholder agencies, for the 2023-24 bushfire season and on any implementation by Council or state/federal agencies – of the seventy-six recommendations of the [Final Report of the NSW Bushfire Inquiry 2020](#)
2. Requests Cr Lyon to submit an Urgency Motion to the NRJO meeting on 11 August 2023 concerning bushfire preparedness for summer 2023/24 as follows:
 - a) That member Councils provide a report to NRJO on the following:
 - their LGA's approaches to, and levels of preparation for, the 2023-24 bushfire season
 - any implementation – by either member councils or state/federal agencies in their LGA – of the seventy-six recommendations of the Final Report of the NSW Bushfire Inquiry 2020
 - b) That NRJO considers the implications for the region of the upcoming bushfire season and plans to collaborate on managing the 2023-24 bushfire season
 - c) That any collaboration includes, but is not limited to, cross-border collaboration with Queensland in fighting bushfires in cross border areas including national parks.
(Coorey/Dey)

The motion was put to the vote and carried unanimously.

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There being no further business the meeting concluded at 12:24pm.

I hereby certify that these are the true and correct Minutes of this Meeting
as confirmed at Council's Ordinary Meeting on 14 September 2023.



.....
Mayor Michael Lyon