Minutes Ordinary Meeting

Thursday, 28 September 2023





Ordinary Meeting Minutes 28 September 2023

INDEX OF ITEMS DISCUSSED

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

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MINUTES OF THE BYRON SHIRE COUNCIL ORDINARY MEETING HELD ON THURSDAY, 28 SEPTEMBER 2023 COMMENCING AT 9:05am AND CONCLUDING AT 2:56pm.

12023/1453

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)

James Brickley (Acting Director Corporate and Community Services)

Phil Holloway (Director Infrastructure Services)

Shannon Burt (Director Sustainable Environment and Economy)

Samuel Frumpui (Manager Works) Ralph James (Legal Counsel)

Alex Caras (Land Use Planning Coordinator) – Report 13.11

Malcom Robertson (Manager Open Space and Facilities) – Report

13.12

Orla Seccull (Coastal and Estuary Officer) - Report 13.9

Amber Evans Crane (Minute Taker)

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

PUBLIC ACCESS

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

Public Access

Report No and Title		For/ Against	Name	Representing	Via
13.11	Byron Shire Housing Options Paper	Against	Dwayne Roberts	Adrill Payne and Partners	In person
			Frea Bandini	Self	In person
13.12	School/community tree- planting program on Council owned or managed land	For	Ray Moynihan	Self	In person
13.13	Mullumbimby to	For	Ellen Briggs	Self	In person
	Brunswick Heads Active Transport Link		Garth Luke	Self	In person
		Against	David Michie	Self	In person

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The meeting adjourned at 10.07am for a short break and reconvened at 10.32am.

APOLOGIES

There were no apologies.

APPLICATIONS TO ATTEND BY AUDIO-VISUAL LINK

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

REQUESTS FOR LEAVE OF ABSENCE

PROCEDURAL MOTION

23-405 Resolved that Cr Hunter be granted a leave of absence from the 12 October 2023 Council Planning Meeting (Lyon)

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

There were no Pecuniary Interest Returns tabled.

ADOPTION OF MINUTES FROM PREVIOUS MEETINGS

23-406 Resolved that the minutes of the Ordinary Meeting held 24 August 2023 be confirmed. (Westheimer/Ndiaye)

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 Public Interest Disclosure Policy

Corporate and Community Services

Report No. 13.3	Election of Deputy Mayor - 2023-2024
Report No. 13.4	Adoption of Arts and Culture Action Plan 2023 - 2026
Report No. 13.5	Council Investments - 1 August to 31 August 2023
Report No. 13.6	Grants August 2023
Report No. 13.7	NSW Treasury Corporation - Updated Council Loan Conditions

Sustainable Environment and Economy

Report No. 13.9	Coastal Management Program Stage 2 technical studies for noting
Report No. 13.10	Draft Carbon Offset Procurement Policy - public exhibition feedback
Report No. 13.11	Byron Shire Housing Options Paper

Infrastructure Services

- Report No. 13.12 School/community tree-planting program on Council owned or managed land
- Report No. 13.13 Mullumbimby to Brunswick Heads Active Transport Link

REPORTS OF COMMITTEES

Sustainable Environment and Economy

Report No. 14.4	Report of the Biodiversity Advisory Committee Meeting held on 17
	August 2023

Report No. 14.5 Report of the Climate Change and Resource Recovery Advisory Committee Meeting held on 29 June 2023

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. 23-407 and concluding with Resolution No. 23-425.

STAFF REPORTS - GENERAL MANAGER

Report No. 13.2 Policy Commercial Activities on Coastal and Riparian Crown

Reserves review

File No: 12023/1313

23-407 Resolved that Council adopts the draft Policy Commercial Activities on Coastal and Riparian Crown Reserves for purposes of public exhibition for 28 days, and:

- 1. Should no submissions be received, that the Policy is adopted, and
- 2. Should submissions be received, that all submissions are reported back to Council for further consideration. (Lyon/Hunter)

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

No. 13.5 Council Investments - 1 August to 31 August 2023

File No: 12023/1338

Resolved that Council notes the Report listing Council's investments and overall cash position as of 31 August 2023. (Lyon/Hunter)

Report No. 13.8 2023-2024 Financial Assistance Grant

File No: 12023/1395

23-409 Resolved that Council:

- 1. Notes the 2023-2024 Financial Assistance Grant Allocation as outlined in Attachment 1 (#E2023/94900), 2 (#E2023/94898) and 3 (#E2023/94899).
- 2. Uses part of the additional 2023-2024 Financial Assistance Grant allocation to reduce the 2023-2024 Budget Deficit from \$435,000 to \$250,000 and transfer \$186,900 to the Financial Assistance Grant Reserve for reasons outlined in the Financial Considerations Section of this Report. (Lyon/Hunter)

STAFF REPORTS - INFRASTRUCTURE SERVICES

Report No. 13.14 Bushfire preparedness submission to NRJO

File No: 12023/1365

23-410 Resolved that Council notes the report on bushfire preparedness. (Lyon/Hunter)

REPORTS OF COMMITTEES - CORPORATE AND COMMUNITY SERVICES

Report No. 14.1 Report of the Arts and Creative Industries Advisory Committee

Meeting held on 17 August 2023

File No: 12023/1241

23-411 Resolved that Council notes the minutes of the Arts and Creative Industries Advisory Committee Meeting held on 17 August 2023. (Lyon/Hunter)

23-412 Resolved that Council does not adopt Committee Recommendations 3.1 as shown in the attachment to this report, but instead adopts the Management Recommendations as follows:

Report No. 3.1 Byron Shire Council Creative Public Spaces Grant 2023 -Successful Applicants

File No: I2023/1090

Management Recommendation 3.1.1

- 1. That the Committee notes successful applicants for the 2023 Creative Public Spaces Grant.
- 2. The Management recommends an increase in the budget for the Creative Public Spaces Grant of \$10,000 allocated from the Public Art Budget Line (GL 2323.001). (Lyon/Hunter)

Report No. 14.2 Report of the Finance Advisory Committee Meeting held on 17

August 2023

File No: 12023/1244

23-413 Resolved that Council notes the minutes of the Finance Advisory Committee Meeting held on 17 August 2023. (Lyon/Hunter)

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23-414 Resolved that Council adopts the following Committee Recommendation:

Report No. 4.1 Carryovers for Inclusion in the 2023-2024 Budget

File No: I2023/1178

Committee Recommendation 4.1.1

That Council approves the works and services (with respective funding) shown in Attachment 1 (#E2023/80387) to be carried over from the 2022/2023 financial year and that the carryover budget allocations be adopted as budget revotes for inclusion in the 2023/2024 Budget Estimates. (Lyon/Hunter)

23-415 Resolved that Council adopts the following Committee Recommendations:

Report No. 4.2 Budget Review - 1 April to 30 June 2023

File No: I2023/1186

Committee Recommendation 4.2.1

That Council:

- Authorises the itemised budget variations as shown in Attachment 2 (#E2023/80644) which include the following results in the 30 June 2023 Quarterly Review of the 2022/2023 Budget:
 - a) General Fund \$0 movement to the Estimated Unrestricted Cash Result
 - b) General Fund \$14,926,000 increase in reserves
 - c) Water Fund \$2,135,500 increase in reserves
 - d) Sewerage Fund \$2,736,700 increase in reserves
- 2. Adopts the revised General Fund Estimated Unrestricted Cash Result of \$0 for the 2022/2023 financial year as at 30 June 2023. (Lyon/Hunter)

Report No. 14.3 Report of the Audit, Risk and Improvement Committee Meeting

held on 17 August 2023

File No: 12023/1273

23-416 Resolved that Council notes the minutes of the Audit, Risk and Improvement Committee Meeting held on 17 August 2023. (Lyon/Hunter)

ORDINARY MEETING MINUTES

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23-417 Resolved that Council adopts the following Committee Recommendations:

Report No. 5.1 Internal Audit Report - Quarter 4 2022-2023

File No: I2023/919

Committee Recommendation 5.1.1

That Council:

- 1. Notes the Internal Auditors Summary of Internal Audit Recommendations for Quarter 4 2022-2023 at Attachment 1 (E2023/75611).
- 2. Notes that the Audit, Risk and Improvement Committee endorses the recommendations from the Executive Team to close off nine internal audit recommendations from Quarter 4 2022-2023 as listed in Table 1 of this report (which is a summary from Attachment 2 E2023/71627). (Lyon/Hunter)

23-418 Resolved that Council adopts the following Committee Recommendation:

Report No. 5.3 2023 Interim Audit Management Letter

File No: I2023/1130

Committee Recommendation 5.3.1

That the comments provided by Management in response to issues raised in the 2023 Interim Audit Management Letter (#E2023/77884) be noted by Council and the Audit, Risk and Improvement Committee. (Lyon/Hunter)

REPORTS OF COMMITTEES - SUSTAINABLE ENVIRONMENT AND ECONOMY

Report No. 14.6 Report of the Housing and Affordability Advisory Committee

Meeting held on 18 May 2023

File No: 12023/1367

23-419 Resolved that Council notes the minutes of the Housing and Affordability Advisory Committee Meeting held on 18 May 2023. (Lyon/Hunter)

STAFF REPORTS - INFRASTRUCTURE SERVICES

Report No. 14.7 Report of the Water and Sewer Advisory Committee Meeting

held on 17 August 2023

File No: 12023/1239

23-420 Resolved that Council notes the minutes of the Water and Sewer Advisory Committee Meeting held on 17 August 2023. (Lyon/Hunter)

Report No. 14.8 Report of the Moving Byron Advisory Committee Meeting held

on 31 August 2023

File No: 12023/1374

23-421 Resolved that Council notes the minutes of the Moving Byron Advisory Committee Meeting held on 31 August 2023. (Lyon/Hunter)

23-422 Resolved that Council adopts the following Committee Recommendations:

Report No. 4.1 Active Transport Plan Update

File No: I2023/955

Committee Recommendation 4.1.1

That Council:

- 1. Notes that the Active Transport Plan is still being drafted, will be integrated with previous other transport plan and it references actions in the Moving Byron strategy and will soon be recommended for public exhibition.
- 2. Notes that the northern route currently prioritised for the Mullumbimby to Brunswick Heads Cycleway is unlikely to proceed in the near term and that the southern route, or variations thereof, will form part of the new Active Transport plan.
- 3. Ensures that Planning Agreements with potential future developers in the Saddle Road area consider incorporating the bike path through the development/s and consider design and contributions (including Special Infrastructure Contributions) supporting the route in part 2 above.
- 4. Ensures that Moving Byron Committee receive further report at its next meeting to further consider the draft Active Transport Plan. (Lyon/Hunter)

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23-423 Resolved that Council adopts the following Committee Recommendations:

Report No. 4.2 Raftons Road Shared Path Consultation and Direction

File No: I2023/956

Committee Recommendation 4.2.1

That Council:

- 1. Endorses a scope change for the Raftons Road project, from a 2.5m shared path to a pedestrian path of 1.2m -1.5m in width, which includes retaining the grass verge; and
- 2. Creates an on-road bicycle awareness zone including options for traffic calming.

 (Lyon/Hunter)

23-424 Resolved that Council adopts the following Committee Recommendations:

Report No. 4.3 Kolora Way - Alternative Scope of Works

File No: I2023/649

Committee Recommendation 4.3.1

That Council:

- 1. Seeks the additional funding to pursue the shared path bridge on Kolora Way as originally envisaged.
- 2. Notes that staff will bring this matter back to the next Moving Byron Committee.

 (Lyon/Hunter)

23-425 Resolved that Council adopts the following Committee Recommendation:

Report No. 4.4 Moving Byron Integrated Transport Plan - Implementation and Strategic Alignment

File No: I2023/1255

Committee Recommendation 4.4.1

That Council notes the report and that there is a standing item for this committee to discuss the Moving Byron Strategy. (Lyon/Hunter)

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PROCEDURAL MOTION

23-426 Resolved that Council change the order of business to deal with Reports 13.13, 13.11, and 13.12 next on the Agenda. (Lyon)

The motion was put to the vote and carried unanimously.

STAFF REPORTS - INFRASTRUCTURE SERVICES

Report No. 13.13 Mullumbimby to Brunswick Heads Active Transport Link 12023/1258

23-427 Resolved that Council:

- 1. Supports designs being prepared for an off-road separated cycleway between Mullumbimby and Brunswick Heads along Mullumbimby Road and Gulgan Road.
- 2. Notes that this resolution does not exclude a northern option being looked at into the future.
- 3. Takes into consideration the concerns of property owners related to the Northern Route in any consideration of that option as outlined in Attachment 1 (E2023/72721).
- 4. Excludes further consideration of that part of Option 1 as shown on Figure 5.1 in Attachment 1 (E2023/72721) where it crosses the property at 41a Synotts Lane.

(Westheimer/Dey)

PROCEDURAL MOTION

23-428 Resolved that the motion (Report 13.13) be put.

(Lyon)

The motion was put to the vote and carried unanimously.

The motion (Westheimer/ Dey) was put to the vote and carried. Cr Hunter voted against the motion.

STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

Report No. 13.11 Byron Shire Housing Options Paper

File No: 12023/1388

23-429 Resolved that Council:

- 1. Notes its previous Resolutions 22-247 Residential Strategy Refresh, 22-739 After the Floods Discussion Paper, 23-165 IPC and Short-Term Rental Accommodation and 23-315 Housing Targets Commitment Department of Planning as they relate to and inform the Housing Options Paper and Residential Strategy Refresh process.
- 2. Confirms its support for the preferred 'housing options' of infill, new release, existing zoned vacant land and living differently that are required to meet the State Government housing targets (Resolution 23-315) as presented in the Housing Options Paper (Attachment 1 #E2023/95937) for each locality.
- 3. Supports the period for public comment on the Housing Options Paper (Attachment 1 #E2023/95937) from 9 October 2023 to 6 November 2023.
- 4. To support 1 and 2 above, have staff write to the Minister for Planning requesting a relaxation/variation to the current requirements of Ministerial Direction 9.4 Farmland of State and Regional Significance on the NSW Far North Coast as it applies to those lands identified in the Housing Options Paper consistent with the NSW Flood Inquiry Action 24. This is necessary to facilitate planning proposals for this land to meet Council's housing target response to the Minister for Planning under Resolution 23-315.
- 5. Notes that a submissions report on the Housing Options Paper public comment period will be presented back to Council in December 2023.
- 6. Notes that one of the Affordable Housing Contribution Policy requirements for any land upzoned through inclusion in the Residential Strategy (including those lands in the State Government Resilient Lands Strategy), is that such land will also be included in an Affordable Housing Contribution Scheme to help deliver affordable housing for our community as deemed appropriate and fit for circumstances.
- 7. Notes that staff intend to commence feasibility assessments of all new release area lands identified in the Housing Options Paper, as a precursor for inclusion in the Residential Strategy Refresh and new Affordable Housing Contribution Scheme No 2 for Byron Shire.
- 8. Notes its previous Resolution 23-303 Resilient Lands Strategy and reiterates in writing to the Reconstruction Authority, Council's preference for a tripartite agreement between the Reconstruction Authority, landowner/developer, and Council about any future rezoning, masterplanning and infrastructure provision for the short-and medium-term Byron Shire resilient growth sites in the Resilient Lands

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Strategy.

9.

- a) Further investigates additional land identified by land holders for potential inclusion in the Strategy, including but not limited to the land identified in Buckleys Road Tyagarah, 75 New City Road Mullumbimby and 64 Corkwood Crescent Suffolk Park.
- b) Further investigates all Council owned land including the property on Vallances Road and any depot or other Council owned, flood free land.
- 10. Requests that the Housing and Affordability Advisory Committee receives a report from staff on the North Coast Housing Affordability Roundtable meeting. (Lvon/Swivel)

PROCEDURAL MOTIONS

23-430 **Resolved:** that Cr Lyon be granted a two minute extension to his speech. (Lyon)

The motion was put to the vote and carried unanimously.

23-431 **Resolved** that Cr Coorey be granted a two minute extension to her speech. (Lyon)

The motion was put to the vote and carried unanimously.

23-432 **Resolved** that Cr Pugh be granted a two minute extension to his speech.

(Lyon)

The motion was put to the vote and carried unanimously.

23-433 **Resolved** that Cr Westheimer be granted a two minute extension to his speech. (Lyon)

The motion was put to the vote and carried unanimously.

23-434 **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 (Lyon/ Swivel) was put to the vote and carried unanimously.

STAFF REPORTS - INFRASTRUCTURE SERVICES

Report No. 13.12 School/community tree-planting program on Council owned or

managed land

File No: 12023/1124

23-435 Resolved that Council:

- 1. Confirms the 'Horse Paddock' Lot 4 DP841856 as the preferred location for a proposed tree planting pilot program, with any works pending identification of recurrent annual maintenance budget for planted areas.
- 2. Refers this to the 30 September 2023 Quarterly Budget Review to see if funding can be identified as part of that process and if it can be that be included in the Budget Review.
- 3. Subject to identification of budget, endorses continued investigation into options for tree planting programs for the 'Horse Paddock' area (Lot 4 DP 841856) including a high-level strategic review and concept landscape design. (Ndiaye/Lyon)

The motion was put to the vote and carried unanimously.

The meeting adjourned at 12.58pm for a lunch break and reconvened at 1.46pm.

NOTICES OF MOTION

Notice of Motion No. 9.1 Residential Strategy Consultation

File No: 12023/1399

Cr Hunter withdrew Notice of Motion 9.1 – Residential Strategy Consultation.

MAYORAL MINUTE

There was no Mayoral Minute.

PETITIONS

There were no petitions tabled.

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DELEGATES' REPORTS

Cr Dey gave a delegate's report on the Bushfire Committee.

STAFF REPORTS - GENERAL MANAGER

Report No. 13.1 Public Interest Disclosure Policy

File No: 12023/1232

23-436 Resolved that Council:

- 1. Adopts the Public Interest Disclosure Policy (E2023/78183) as attached to this report;
- 2. Repeals the current Internal Reporting Policy;
- 3. Notes that the state requires this Policy to be prominently published;
- 4. Publishes it on Council's website, including enabling it to be found by the site's search engine. (Dey/Lyon)

The motion was put to the vote and carried unanimously.

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

Report No. 13.3 Election of Deputy Mayor - 2023-2024

File No: 12023/1078

23-437 Resolved that Council:

- 1. Council elects a Deputy Mayor for the remainder of the Council term;
- 2. the method of election of the Deputy Mayor be by way of preferential voting.

(Dey/Pugh)

The motion was put to the vote and carried unanimously.

The Returning Officer announced that one nomination had been received. Cr Ndiaye was declared elected unopposed.

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Report No. 13.4 Adoption of Arts and Culture Action Plan 2023 - 2026

File No: 12023/1152

23-438 Resolved that Council:

1. Notes the submissions received during the public exhibition period for the draft Arts and Culture Action Plan 2023-2026 as outlined at Attachment 1 (E2023/91742).

2. Adopts the Arts and Culture Action Plan 2023-2026 with amendments at Attachment 2 (E2023/86759). (Ndiaye/Hunter)

The motion was put to the vote and carried unanimously.

Report No. 13.6 Grants August 2023

File No: 12023/1356

23-439 Resolved that Council notes the grant submissions report for the month of August 2023 (Attachment 1 #E2023/94882). (Dey/Ndiaye)

The motion was put to the vote and carried unanimously.

Report No. 13.7 NSW Treasury Corporation - Updated Council Loan Conditions

File No: 12023/1375

23-440 Resolved that Council:

- Accepts the revised loan agreement variation offered by NSW Treasury Corporation.
- 2. Authorises the Agreement as outlined in Attachment 1 (#E2023/93927) to be executed by the Mayor and General Manager and the affixing of the Council Seal to the revised Loan Agreement.
- 3. Receives a report on the options now available under these changed loan conditions to move more of Council's investments to fossil-fuel-free options.

(Pugh/Dey)

The motion was put to the vote and carried unanimously.

STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

Report No. 13.9 Coastal Management Program Stage 2 technical studies for

noting

File No: 12023/1128

23-441 Resolved that Council:

- 1. Develops the Coastal Management Programs (CMPs) from now on as three distinct CMPs, as follows:
 - a) Open Coast (Shire-wide).
 - b) Belongil Creek Estuary.
 - c) Tallow Creek Estuary.
- 2. Notes the attached Coastal Management Program (CMP) Stage 2 technical reports, including their findings:
 - a) Byron Shire ICOLL Water Pollution Source Tracking and Pollution Control Programs for Belongil Creek, Tallow Creek and Ti-Tree Lake (Attachment 1; E2023/73406).
 - b) Review of Resilience & Hazards SEPP Coastal Wetland and Littoral Rainforest Mapping for Byron Shire, (Attachment 2; E2023/66258).
- 3. Particularly notes two recommendations in the Review of R&H SEPP Coastal Wetland and Littoral Rainforest Mapping for Byron Shire, namely that:
 - a) Council's vegetation mapping of Endangered Ecological Communities described in Appendix D be updated (with the exception of Swamp Oak which was recently updated by Council). For example, littoral rainforest.
 - b) Council identify areas to enable Coastal Wetland migration under sea-level rise scenarios at a later stage of the CMP process.
- 4. Notes that Stage 2 of the CMP process for these projects is not a decision-making stage and that the management actions recommended in the above technical reports will be considered at Stage 3 of CMP development.
- 5. Places the above CMP Stage 2 technical reports on Council's CMP project webpage.
- 6. Notes that a CMP for the Brunswick River Estuary will be developed, at a later time. (Dey/Lyon)

The motion was put to the vote and carried unanimously.

Cr Coorey left the Chambers at 2:39pm and did not return.

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Report No. 13.10 Draft Carbon Offset Procurement Policy - public exhibition

feedback

File No: 12023/1166

23-442 **Resolved:**

- 1. That Council adopts the Carbon Offset Procurement Policy (Attachment 1 E2023/91271).
- 2. That staff review the Policy following the release of new information from the Australian Government on the Climate Active program and the Senate enquiry into greenwashing.
- 3. That no international offsets be purchased until the policy review in point 2 is complete (Pugh/Ndiaye)

The motion was put to the vote and carried unanimously. Cr Coorey was absent for the vote.

REPORTS OF COMMITTEES - SUSTAINABLE ENVIRONMENT AND ECONOMY

Report No. 14.4 Report of the Biodiversity Advisory Committee Meeting held on

17 August 2023

File No: 12023/1347

23-443 Resolved that Council notes the minutes of the Biodiversity Advisory Committee Meeting held on 17 August 2023. (Lyon/Westheimer)

The motion was put to the vote and carried.

Cr Balson voted against the motion

Cr Coorey was absent for the vote.

Report No. 14.5 Report of the Climate Change and Resource Recovery

Advisory Committee Meeting held on 29 June 2023

File No: 12023/1349

23-444 Resolved that Council notes that the meeting of the Climate Change and Resource Recovery Advisory Committee on 29 June 2023 were dealt with at Council's meeting of 14 September 2023 via Resolution No. 23-393. (Dev/Lyon)

The motion was put to the vote and carried.

Cr Coorey was absent for the vote.

There being no further business the meeting concluded at 2:56pm.

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I hereby certify that these are the true and correct Minutes of this Meeting as confirmed at Council's Ordinary Meeting on 26 October 2023.

Myer

Mayor Michael Lyon