

Supplementary Agenda Ordinary Meeting

Thursday, 23 November 2023



BYRON
SHIRE
COUNCIL

Agenda Ordinary Meeting

held at Council Chambers, 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, appearing to read "Mark Arnold".

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 Alleged anti-social behaviour and crime in South Golden Beach

17. FOR INFORMATION ONLY

17.1 Election of NSW Representatives to Australian Coastal Councils Association (ACCA) Committee 9

Questions with Notice: A response to Questions with Notice will be provided at the meeting if possible, that response will be included in the meeting minutes. If a response is unable to be provided the question will be taken on notice, with an answer to be provided to the person/organisation prior to the next Ordinary Meeting and placed on Councils website www.byron.nsw.gov.au/Council/Council-meetings/Questions-on-Notice

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 Alleged anti-social behaviour and crime in South Golden Beach

5 **File No:** I2023/1856

I move:

- 10
- 1. Note resident's concerns about alleged anti-social behaviour and crime in South Golden Beach**
 - 2. Request police to facilitate a public meeting with residents of South Golden Beach and other relevant stakeholders to discuss their concerns and consider how to respond to the issues**

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 - 3. Investigate the cost and merits of the installation of CCTV at appropriate locations to assist in reducing crime and increasing community safety**
 - 4. Discuss this issue at a Councillor workshop following the meeting including consideration of appropriate interventions which can be supported by Council for youth in the North of the Shire**

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Background Notes:

25 Anti-social behaviour by local youth appears to have been increasing over the last year or so in South Golden Beach. Concerned residents have reached out expressing their unhappiness regarding this and the impacts on the feeling of safety in the community. Police have been called out regularly but enforcement has been difficult as when police arrive on the scene everyone scatters into the bush. Regular patrols by police are scheduled on Thursday-Sunday evenings but the problem persists and is getting worse according to residents. Occasionally alcohol has been consumed but it has been alleged

30 that harder drugs are also being consumed. Damage is being done to the amenities block there and whilst the toilets are meant to be locked at night, there is concern that this will encourage more damage to the block.

35 *Extract from resident email to Council: "As I'm sure you're aware, the amount of youth crime, underage drinking, vandalism, drunk and disorderly conduct, noise and physical violence. We have been living in the area for 10+ years and never have we experienced anything like this - which is becoming a weekly occurrence. Every weekend*

BYRON SHIRE COUNCIL

LATE REPORTS

we are dealing with young teens vandalising the area, smashing bottles, terrorising the locals, damaging properties, breaking into people's houses and acts of physical violence.”

5 This behaviour is unfortunate and unacceptable however it is clear that there is a need for increased support services for young people in the Shire and solving this in the short term will be difficult. Whilst a masterplan for the broader Ocean Shores area is planned for next financial year, it will take at least a couple of years before improvements to local amenities take place through this process. In the meantime, I believe we have a responsibility to respond to residents' concerns.

10 **Signed: Cr Michael Lyon**

LATE REPORTS

LATE REPORTS

Report No. 17.1 Election of NSW Representatives to Australian Coastal Councils Association (ACCA) Committee

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Directorate: Corporate and Community Services
Report Author: Heather Sills, Manager Corporate Services
File No: I2023/1832

Summary:

10 The Australian Coastal Councils Association (ACCA) Committee consists of two representatives of the member councils in each State and is elected at each alternate Association Annual General Meeting for a period of two years.

Byron Shire Council is a financial member council and nominated Cr Duncan Dey to stand in the election as a NSW Representative.











15 Four nominations were received and member councils are asked to vote for two of the candidates by Friday 24 November.

20 **RECOMMENDATION:**

That the following two candidates be supported for election to the Australian Coastal Council Association's Committee of Management to represent NSW:

- a) **DUNCAN DEY, Byron Shire Council**
- b) **Insert name from list in attachment**

25 **Attachments:**

- 1 ACCA Voting Form NSW 2023-2025, E2023/120124 , page 12  
- 2 Duncan Dey - Supporting Statement, E2023/120125 , page 13  
- 3 Sharon Cadwallader - Supporting Statement, E2023/120126 , page 14  
- 30 4 Danielle Maltman - Supporting Statement, E2023/120128 , page 15  
- 5 Neil Reilly - Supporting Statement, E2023/120129 , page 16  

BYRON SHIRE COUNCIL

LATE REPORTS

Report

The Australian Coastal Councils Association (ACCA) Committee consists of two representatives of the member councils in each State and is elected at each alternate Association Annual General Meeting for a period of two years.

- 5 At the [Ordinary Meeting held on 26 October 2023](#) Council resolved **(23-449)** to nominate Cr Duncan Dey to stand in the election for the NSW Representatives.

When nominations closed on Friday 10 November, the following elected representatives had been nominated to represent NSW member councils on the Committee of Management of the Association for 2023-2025.

- 10
- Duncan Dey, Councillor - Byron Shire Council
 - Sharon Cadwallader, Mayor - Ballina Shire Council
 - Danielle Maltman, Councillor – Port Macquarie Hastings Council
 - Neil Reilly, Mayor – Kiama Municipal Council

- 15 Accordingly, an election is being conducted to elect two State representative positions for NSW. The candidates have been given the opportunity to provide a statement in support of their nomination. These statements are attached.

Member councils are asked to vote for two of the candidates by returning a completed voting form by Close of Business, Friday 24 November.

- 20 A voting form and supporting statement from each of the nominees is attached for reference.

Strategic Considerations

Community Strategic Plan and Operational Plan

CSP Objective	CSP Strategy	DP Action	Code	OP Activity
1: Effective Leadership	1.1: Enhance trust and accountability through open and transparent leadership	1.1.2: Governance - Ensure legislative compliance and support Councillors to carry out their civic duties	1.1.2.3	Provide administrative support to Councillors to carry out their civic duties

Recent Resolutions

BYRON SHIRE COUNCIL

LATE REPORTS

- **23-449** – Council nominates Cr Dey to stand as a NSW representative on the Australian Coastal Councils Committee of Management

Legal/Statutory/Policy Considerations

As outlined in the report.

5 Financial Considerations

Byron Shire is an ongoing financial member of the ACCA.

Costs incurred by a Councillor elected onto this committee may be reimbursement under the [Councillor Expenses and Facilities Policy](#).

Consultation and Engagement

10 Not applicable.



VOTING FORM

NSW Representatives 2023-2025

I _____

(Position) _____

Of (Council name) _____

Which is a current financial member council of the Australian Coastal Councils Association Inc. for 2023-2024 hereby vote for the following two candidates for election to the Association's Committee of Management to represent NSW (*tick two boxes*):

- SHARON CADWALLADER, Ballina Shire Council
- DUNCAN DEY, Byron Shire Council
- DANIELLE MALTMAN, Port Macquarie Hastings Council
- NEIL REILLY, Kiama Municipal Council

Signed _____ Date _____

The election is to be conducted at the conclusion of the 2023 Association AGM, to be held by Zoom on Monday 27 November, starting at 12.00 noon (Eastern Daylight Time).

To lodge your council's vote please return this form by COB Friday 24 November 2023 by:

Email info@coastalcouncils.org.au

Voting forms will be acknowledged when received.

