

**Minutes  
Ordinary Meeting  
Thursday, 23 May 2024**



# BYRON SHIRE COUNCIL

Ordinary Meeting Minutes

23 May 2024

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# BYRON SHIRE COUNCIL

ORDINARY MEETING MINUTES

23 May 2024

## MINUTES OF THE BYRON SHIRE COUNCIL ORDINARY MEETING HELD ON THURSDAY, 23 MAY 2024 COMMENCING AT 9.09AM AND CONCLUDING AT 6:33PM.

I2024/790

**PRESENT:** Cr M Lyon (Mayor), Cr S Balson (left at 5:23PM), Cr D Dey, Cr A Hunter, Cr S Ndiaye, Cr A Pugh (left at 5:05PM), 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)  
Matt Meir (Legal Counsel)  
Chris Larkin (Manager Sustainable Environment and Economy)  
Heather Sills (Manager Corporate Services)  
Geeta Cheema (Manager Social and Cultural Planning) – item 13.8  
James Brickley (Manager Finance) – Item 13.4  
Chris Soulsby (Manager Assets and Major Projects) – Item 13.4  
Jess Cutter (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	Via	
4.1	Notice of Recission Motion No. 4.1 PLANNING – DA 10.2023.491.1 – Dual Occupancy (detached) – 541 Federal Drive, Federal	Martin Bail	Against	Self	In person
9.3	Petria Thomas Pool Heating	Shlomo Sarusi	For	Self	Read by staff
		Rebecca McNaught		Self	Read by staff
13.8	Bangalow Heritage House Options Study	Trisha Bleakley	For	Bangalow Historical Society Inc	In person
13.9	Bluesfest - 35 Yarun	Nadja	For	Bluesfest	In person

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Report No and Title		Name	For/ Against	Representing Organisation	Via
	Road, Tyagarah - Compliance with Condition 53 - Small 5 Events Noise limitations under DA10.2014.753.1	Konietzko, Peter Noble and Jodi Sharpe		Byron Bay	
13.11	Burringbar Street Mullumbimby - Concept Design - Submissions and Directions Report	Anne Stuart	Against	Zero Emissions Byron	In person
		Elle Davidson		Mullum Place Planning Collective	Pre-recorded video
13.18	New Brighton – Parking Improvements Investigation	Kathy Norley	For	South Golden Beach Community Association	In person
		Vivienne Pearson	Against	Self	In person
14.1	Report of the Floodplain Management Advisory Committee Meeting held on 13 February 2024	Kathy Norley	Against	South Golden Beach Community Association	In person
		Matthew Lambourne		Self	In person

## Submissions

Subject	Name	Representing Organisation	Via
Lack of public transport options for residents in Ocean Shores on Sundays compared to other areas in the Byron Shire	Adam Luck	Self	In person

*A petition was tabled that will be provided to the next meeting of Council.*

## Public Access continued

Report No and Title	Name	For/ Against	Representing Organisation	Via
9.5	Building Heights Wategos	For	Wategos Beach Protection Association	In person

**APOLOGIES**

PROCEDURAL MOTION

- 24-204 Resolved** that the apology from Cr Coorey be accepted in accordance with her prior leave of absence (Resolution No. **24-152**). (Lyon/Westheimer)

*The motion was put to the vote and carried unanimously.*

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**APPLICATIONS TO ATTEND BY AUDIO-VISUAL LINK**

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

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**REQUESTS FOR LEAVE OF ABSENCE**

There were no requests for leave of absence.

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**DECLARATIONS OF INTEREST – PECUNIARY AND NON-PECUNIARY**

Cr Sarah Ndiaye declared a not significant non-pecuniary interest in Report 13.9 (Bluesfest - 35 Yarun Road, Tyagarah - Compliance with Condition 53 - Small 5 Events Noise limitations under DA10.2014.753.1). The nature of the interest being that she worked on the Bluesfest site at the most recent event.

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**TABLING OF PECUNIARY INTEREST RETURNS**

There were no Pecuniary Interest Returns tabled.

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**ADOPTION OF MINUTES FROM PREVIOUS MEETINGS**

- 24-205 Resolved** that the minutes of the Ordinary Meeting held 18 April 2024 be confirmed. (Lyon/Westheimer)

*The motion was put to the vote and carried unanimously.*

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**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**

**Corporate and Community Services**

Report No. 13.2 Grants April 2024

Report No. 13.3 Council Resolutions Quarterly Review - Q3 - 1 January to 31 March 2024

Report No. 13.4 Budget Review - 1 January 2024 to 31 March 2024

Report No. 13.8 Bangalow Heritage House Options Study

**Sustainable Environment and Economy**

Report No. 13.9 Bluesfest - 35 Yarun Road, Tyagarah - Compliance with Condition 53 - Small Events Noise limitations under DA10.2014.753.1

Report No. 13.11 Burringbar Street Mullumbimby - Concept Design - Submissions and Directions Report

Report No. 13.13 PLANNING - 10.2020.109.4 - Section 4.55 to Stage 9 for Removal of Existing Exotic and Native Trees to Allow for Construction of Approved Roads and Earthworks, Relocation of Inter-allotment Drainage and Sewer Services and Easement Modifications and Deletion of Local Open Space and Recreation S7.11 Contributions - 86 Tuckeroo Avenue Mullumbimby

**Infrastructure Services**

Report No. 13.17 Renaming Hottentot Crescent, Mullumbimby

Report No. 13.18 New Brighton - Parking Improvements Investigation

**REPORTS OF COMMITTEES**

**Infrastructure Services**

Report No. 14.1 Report of the Floodplain Management Advisory Committee Meeting held on 13 February 2024

Report No. 14.2 Report of the Moving Byron Advisory Committee Meeting held on 11 April 2024

**CONFIDENTIAL REPORTS**

**Sustainable Environment and Economy**

Report No. 16.2 CONFIDENTIAL - Update on Resolution 23-300: 57 Station Street, Mullumbimby

The remaining Recommendations and Committee Recommendation were adopted as a whole, being moved by Cr Lyon and seconded by Cr Westheimer. Each recommendation is recorded with a separate resolution number commencing at Resolution No. **24-204** and concluding with Resolution No. **24-218**.

**STAFF REPORTS – GENERAL MANAGER**

**Report No. 13.1**      **In principle support for temporary accommodation lease extensions between Council and NSW Reconstruction Authority**

**File No:**              I2024/729

**24-206**      **Resolved** that Council:

1. Authorises the General Manager to write to the NSW Reconstruction Authority confirming in principle support for the one year lease extension on the Tweed Street site (*Lot 1 in Deposited Plan 560486 - 125 Tweed Street Brunswick Heads*) until June 2026; and
  2. Notes that discussions with landowners of the Bayside site (*Lots 51 and 69 in Deposited Plan 851902 - Excelsior Circuit and Torakina Road Brunswick Heads*) are on hold until after August 2024.
  3. Authorises the General Manager, under delegation, to continue discussions with the NSW Reconstruction Authority on the transition plan for the Tweed Street site. (Lyon/Westheimer)
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**STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES**

**Report No. 13.5**      **2023/24 Operational Plan Report - Quarter 3 - March 2024**

**File No:**              I2024/653

**24-207**      **Resolved** that Council:

1. Notes the 2023/24 Operational Plan Quarter 3 Report for the period ending 31 March 2024 (Attachment 1 #E2024/35184).
  2. Adopts the proposed amendments to the Operational Plan 2023/24 outlined in Attachment 2 (#E2024/12918). (Lyon/Westheimer)
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**Report No. 13.6**      **Council Investments - 1 April 2024 to 30 April 2024**

**File No:**              I2024/685

**24-208**      **Resolved** that Council notes the report listing Council's investments and overall cash position as of 30 April 2024. (Lyon/Westheimer)



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**Report No. 13.7**      **Revised 2023/24 Loan Borrowing Program and Loan Refinancing**

**File No:**              I2024/701

**24-209**    **Resolved** that Council:

1. Authorises the revised 2023/24 loan borrowing program of \$10,634,500 for the purposes outlined in this report including \$5,800,500 in new borrowings and \$4,834,000 in refinanced borrowings.
2. Delegates to the General Manager to undertake loan borrowings for the purposes outlined in recommendation 1 and accept loan borrowing terms on behalf of Council that represent the best financial outcome amongst other loan offer(s) received.
3. Authorises the affixing of the Council seal to all documents that may require it, in regard to the 2023/24 loan borrowing program.
4. Includes in the 2024/25 Budget new loan borrowings for Plant Replacement Program \$3,672,000 and First Sun Holiday Park Land Purchase \$2,075,000 not borrowed in the 2023/24 financial year. (Lyon/Westheimer)

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## STAFF REPORTS – SUSTAINABLE ENVIRONMENT AND ECONOMY

**Report No. 13.10**      **2022/23 Annual Inventory of Council's Greenhouse Gas Emissions and progress update on Net Zero 2025 Target**

**File No:**              I2024/335

**24-210**    **Resolved** that the Council notes the 2022/23 Annual Emissions Inventory (Attachment 1 - E2024/22651). (Lyon/Westheimer)

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**Report No. 13.12**      **Update Resolution 23-056 Short Term Rental Accommodation Consent Conditions**

**File No:**              I2024/549

**24-211**    **Resolved** that Council notes the update provided on Resolution 23-056 Short Term Rental Accommodation Consent Conditions. (Lyon/Westheimer)

**STAFF REPORTS – INFRASTRUCTURE SERVICES**

**Report No. 13.14 Investigation into Natural Burial Grounds**  
**File No:** I2024/117

**24-212 Resolved** that Council:

1. Notes the lack of response to the second round of advertisement seeking private land for a Natural Burial Ground in Byron Shire;
  2. Notes limitations within available Council Cemetery land and budgets to develop a Natural Burial Ground; and
  3. Adopts amended Fees and Charges to incorporate the new Statutory Fees contained within the body of this report. (Lyon/Westheimer)
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**Report No. 13.15 RFT2023-2037 Marvell Hall - Capital Works + Asbestos Removal**  
**File No:** I2024/428

**24-213 Resolved** that Council:

1. Awards Tender 2023-2037 Marvell Hall Accessible Ramp, Asbestos Removal, Kitchen & Storeroom Upgrade Project to Quadracon Building Pty Ltd as identified in the tender evaluation report (E2024/52559).
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. (Lyon/Westheimer)

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**Report No. 13.16**    **Part Road Reserve Closure and sale adjoining Lot 100 DP 836091, 235 Skinners Shoot Road, Skinners Shoot, NSW 2481**  
**File No:**                    I2024/536

**24-214**    **Resolved that:**

1. Council endorses the closure of Part Road Reserve adjoining Lot 100 DP 836091 as detailed in the report.
2. Council accepts the valuation as per *Attachment 1 E2024/40477*, that has been agreed upon by the landowners.
3. The applicant pays all remaining costs associated with the part road closure and consolidation.
  - a) Council application fees
  - b) Council's surveyor's fees and survey, valuation, and legal costs
  - c) All registration fees
  - d) Legal costs
4. The allotments created by the part road closure to be consolidated into existing Parcel No 199900 Lot 100 DP 836091.
5. Council authorises the General Manager to execute all documents necessary to affect the road closure, sale, transfer, and consolidation of the part closed road.

(Lyon/Westheimer)

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**Report No. 13.19**    **Coastal Light Management Plan**  
**File No:**                    I2024/558

**24-215**    **Resolved** that Council adopts the Byron Shire Coastal Light Management Plan (#E2024/37323). (Lyon/Westheimer)

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**Report No. 16.1**    **CONFIDENTIAL - Expenditure on Consultants & Conflicts of Interest**  
**File No:**                    I2024/646

**24-216**    **Resolved** that Council notes the report on the expenditure on consultants and conflicts of interest and endorses the competition of Resolution 23-381. (Lyon/Westheimer)

# BYRON SHIRE COUNCIL

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**Report No. 16.3**      **CONFIDENTIAL - Exemption from Tender and Extension of Contract 2019-0009 - Processing of Comingled Recyclables**

**File No:**                I2024/587

**24-217 Resolved that:**

1. Council approves an exemption from tender in accordance with Section 55(3)(i) of the Local Government Act 1993 for contract 2019-0009 Processing of Comingled Recyclables to extend the term of the existing contract for one additional term of 12 months.
2. Council notes that a satisfactory result would not be achieved by inviting tenders because:
  - a) A competitive process has already been undertaken in relation to the processing of comingled recyclables; and
  - b) The cost to invite tenders for one year would provide an uneconomical result for Council, including unfavourable responses from the market due to the short contract period, and
  - c) The unavailability of other providers within close proximity to Byron Shire Council and within the Northern Rivers, and
  - d) Byron Shire Council has received confirmation from Ballina Shire Council that they will not pursue with a collective tender for the processing of comingled recyclables contract.
3. Authority be delegated to the General manager to finalise, execute, administer the variation to the contract and enter into any necessary documentation with the current supplier to give effect to the resolutions above. (Lyon/Westheimer)

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**Report No. 17.1**      **CONFIDENTIAL - General Manager Performance Agreement - Half Yearly Report**

**File No:**                I2024/696

- 24-218 Resolved** that Council notes the findings and comments from the Performance Review Panel with respect to the General Manager Performance Review – Half Yearly Report contained in Attachment 1 (E2024/50137). (Lyon/Westheimer)

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PROCEDURAL MOTION

- 24-219 Resolved** that Council change the order of business to deal with Reports 13.8, 13.9, 13.11, 13.18, 14.1, 9.3 and 9.5 next on the Agenda. (Lyon)

*The motion was put to the vote and carried unanimously.*

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**STAFF REPORTS – CORPORATE SERVICES**

**Report No. 13.8**      **Bangalow Heritage House Options Study**  
**File No:**              I2024/689

**24-220**    **Resolved** that Council:

1. Enables the Lessee, Bangalow Historical Society, to continue to occupy the Premises after the expiry of the current lease on 30 June 2024, under the allowable monthly holding over tenancy provisions, and
2. Receives a further report on the financial viability of Option 2 Kitchen Relocation, to include rental valuation of the proposed commercial café, and on the cost of the works and maintenance expected over the next five years
3. Express its support for ensuring that Bangalow Heritage House and the surrounding area is activated for the community and remains financially and physically sustainable into the future. Any income raised from point 2 above would be used to achieve these goals.
4. That Council welcomes any other proposals from the Historical Society on how to achieve these goals. (Pugh/Lyon)

AMENDMENT

Moved that Council:

1. Enables the Lessee, Bangalow Historical Society, to continue to occupy the Premises after the expiry of the current lease on 30 June 2024, under the allowable monthly holding over tenancy provisions, and
2. Receives a further report on the financial viability of Option 2 Kitchen Relocation, to include rental valuation of the proposed commercial café, and on the cost of the works and maintenance expected over the next five years
3. Express its support for ensuring that Bangalow Heritage House and the surrounding area is activated for the community and remains financially and physically sustainable into the future. Any income raised from point 2 above would be used to achieve these goals.
4. Discusses the following with the Bangalow Historical Society:
  - a) any proposals they may have on how to achieve the goals in Part 3 above;
  - b) improving security of tenure for the coffee cart near the building;
  - c) the inclusion of First Nations history (both recent and earlier) in its exhibits. (Dey/Ndiaye)

*The amendment was put to the vote and declared lost.*

*Crs Lyon, Westheimer, Pugh, Balson and Hunter voted against the amendment.*

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

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**STAFF REPORTS – SUSTAINABLE ENVIRONMENT AND ECONOMY**

**Report No. 13.9**      **Bluesfest - 35 Yarun Road, Tyagarah - Compliance with Condition 53 - Small Events Noise limitations under DA10.2014.753.1**

**File No:**                      I2024/482

*In accordance with her earlier declared interest, Cr Ndiaye left the Chambers at 12:27 PM.*

**24-221**      **Resolved** that Council:

1. Grants approval to an increase in amplified music to 100 event days per annum as per Condition 53 of Development Consent 10.2014.753.1 (as amended),
2. Invites the applicant to lodge a Section 4.55 to amend consent conditions 3 and 51 to conform with part 1 above. (Dey/Balson)

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

*Cr Ndiaye returned to the Chambers at 12:35 PM.*

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**Report No. 13.11**      **Burringbar Street Mullumbimby - Concept Design - Submissions and Directions Report**

**File No:**                      I2024/388

**24-222**      **Resolved** that Council:

1. Notes the publicly exhibited Draft Concept Design (Attachment 1, E2024/32105) and Exhibition Report (Attachment 2, E2024/3881).
2. Thanks the over 500 submitters who made comment on the Draft Concept Design.
3. Progresses projects relating to car parking supply, future needs and management in Mullumbimby, prior to further refinement of the Burringbar Street design.
4. Endorses the Design Directions (Attachment 5, E2024/46979) to be used to inform the drafting of a preliminary engineering design at a later date.
5. Notes that a budget for preliminary engineering design will need to be considered at a later date following completion of point 3 above.
6. Notes that there will be a significant increase in peripheral parking in the rail corridor prior to the housing project at Station Street commencing or the implementation of the Burringbar Street project.
7. Notes that the draft concept design will result in an increase in accessible parking in the town centre. (Lyon/Hunter)

*The motion was put to the vote and carried.*

*Cr Dey voted against the motion.*

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**STAFF REPORTS – INFRASTRUCTURE SERVICES**

**Report No. 13.18    New Brighton - Parking Improvements Investigation**  
**File No:**                    I2024/552

Moved that Council:

1. Re-prioritises traffic flow at the intersection of The Esplanade and The Strand Avenue and installs signage accordingly, as per concept drawing attachment 3 (E2024/23226).
2. Does not proceed with the expanded parking arrangements that were put forward in recent public consultation for New Brighton.
3. Instead focuses on repair, and then on maintenance of roadways in New Brighton, based on current roadway and parking layouts and taking into account ideas presented in Public Access at Council’s meeting on 23 May and listed under areas 1 to 7.
4. Considers limits to parking such as bollards on the western side of River Street New Brighton to stop erosion and sediment movement into Marshalls Creek, which is part of the Marine Parks estate. (Dey/Balson)

PROCEDURAL MOTIONS

**24-223    Resolved** that Cr Hunter be granted a on two minute extension to his speech. (Lyon)  
*The motion was put to the vote and carried unanimously.*

**24-224    Resolved** that Cr Lyon be granted a two minute extension to his speech. (Lyon)  
*The motion was put to the vote and carried unanimously.*

AMENDMENT

**24-225    Resolved** that Council:

1. Does not proceed with any further parking investigations or designs in New Brighton until the Master Plan for the Ocean Shores area has been completed.
2. Re-prioritises traffic flow at the intersection of The Esplanade and The Strand Avenue and installs signage accordingly, as per concept drawing attachment 3 (E2024/23226).
3. Installs way finding signage across the New Brighton and South Golden Beach areas to direct visitors to existing parking and beach accesses.
4. Receives a report that considers:
  - a) Limits to parking such as bollards on the western side of River Street New Brighton to stop erosion and sediment movement into Marshalls Creek, which is part of the Marine Parks estate.
  - b) The suggestions received in Public Access at Council’s meeting on 23 May and listed under areas 1 to 7. (Lyon/Westheimer)

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*The amendment was put to the vote and declared a tie.  
Crs Hunter, Balson, Ndiaye and Dey voted against the amendment.  
The Mayor used his casting vote to declare the amendment carried.*

*The amendment upon becoming the substantive motion was put to the vote and declared carried..*

*The meeting adjourned for lunch at 1.25pm.  
The meeting re-commenced at 2.10pm.*

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## REPORTS OF COMMITTEES – INFRASTRUCTURE SERVICES

**Report No. 14.1      Report of the Floodplain Management Advisory Committee  
Meeting held on 13 February 2024**

**File No:** I2024/268

**24-226      Resolved** that Council notes the minutes of the Floodplain Management Advisory Committee Meeting held on 13 February 2024. (Lyon/Westheimer)

**24-227      Resolved:**

**Resolved** that Council does not adopt Committee Recommendation(s) 4.1 as shown in the attachment to this report, but instead adopts the Management Recommendation(s) as follows:

**Report No. 4.1 Floodplain Management Advisory Committee Goals for 2024**

File No: I2024/129

Management Recommendation

That:

- 1.The Floodplain Management Advisory Committee notes the report.
- 2.Council includes an assessment of an option which is the removal of Myokum Street embankment, and increase of Jubilee Avenue culvert capacity, in the technical brief of the future North Byron Flood study, and associated risk management study and plan. (This is part of item 12 in the action list).

(Lyon/Westheimer)

**24-228      Resolved** that Council adopts the following Committee and Management Recommendation(s):

**Report No. 4.2 Community Education Strategy and Review of Flood Options -  
Project Update**

File No: I2024/157

Committee Recommendation 4.2.1

That the Floodplain Management Advisory Committee:



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1. Notes the update on the 'Community Education Strategy and Review of Flood Options' project which focusses on the Northern Byron Shire communities.
2. Recommends that the DCCEEW be requested to commission animation graphic models of the 2022 flood event and provide to Council to assist in future community engagement.

(Lyon/Westheimer).

**24-229 Resolved** that Council does not adopt Committee Recommendation(s) 4.3 as shown in the attachment to this report, but instead adopts the Management Recommendation(s) as follows:

**Report No. 4.3 Post 2022 Event Flood Behaviour Analysis - Brunswick River - Final Draft Report - September 2023-NSW Department of Planning & Environment**

File No: I2024/178

Management Recommendation

That The Flood Advisory Committee notes that DCCEEW has issued its "Post 2022 Event Flood Behaviour Analysis - Brunswick River - Final Report".

(Lyon/Westheimer)

**24-230 Resolved** that Council adopts the following Committee and Management additional recommendations that:

1. Council acknowledges that Rebecca Brewin and Ziwar Sattouf have resigned from the Committee effective immediately.
2. The Committee has decided not to advertise the position. (Lyon/Westheimer)

AMENDMENT:

Moved:

1. That Council notes the minutes of the Floodplain Management Advisory Committee Meeting held on 13 February 2024.
2. That Council does not adopt Committee Recommendation(s) 4.1 as shown in the attachment to this report, but instead adopts the Recommendation(s) as follows:

Report No. 4.1 Floodplain Management Advisory Committee Goals for 2024.

That:

1. The Floodplain Management Advisory Committee notes the report.
2. Council includes an assessment of an option which is the removal of Myokum Street embankment, and increase of Jubilee Avenue culvert capacity, in the

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technical brief of the future North Byron Flood study, and associated risk management study and plan. (This is part of item 12 in the action list).

3. Council makes Flood Certificate information publicly available for all properties covered by suitable floodplain plans.
3. That Council adopts the following Committee and Management Recommendation(s):  
Report No. 4.2 Community Education Strategy and Review of Flood Options - Project Update

## Committee Recommendation 4.2.1

That the Floodplain Management Advisory Committee:

1. Notes the update on the 'Community Education Strategy and Review of Flood Options' project which focusses on the Northern Byron Shire communities.
  2. Recommends that the DCCEEW be requested to commission animation graphic models of the 2022 flood event and provide to Council to assist in future community engagement.
4. That Council does not adopt Committee Recommendation(s) 4.3 as shown in the attachment to this report, but instead adopts the Recommendation(s) as follows:  
Report No. 4.3 Post 2022 Event Flood Behaviour Analysis - Brunswick River - Final Draft Report - September 2023-NSW Department of Planning & Environment
    1. That The Flood Advisory Committee notes that DCCEEW has issued its "Post 2022 Event Flood Behaviour Analysis - Brunswick River - Final Report".
    2. That Council receive a report on guidance from the North coast settlement planning guidelines 2019, about not developing areas either where the land is flood prone at 1% AEP, or where there is no evacuation route.
    3. That Council receive a report on ways of including 2022 flood experiences into our development systems, including consideration of using the higher of two sets of levels, as the basis for determining flood planning levels: 1. Levels from the three adopted FPMS&P; 2. Levels from a peak water surface established from community data throughout the floodplains (peak levels February and March 2022).
  5. That Council adopts the following Committee and Management Recommendations that:
    1. Council acknowledges that Rebecca Brewin and Ziwar Sattouf have resigned from the Committee effective immediately.
    2. The Committee has decided not to advertise the position (Dey/Ndiaye)

## PROCEDURAL MOTION

- 24-231 Resolved** that Cr Dey be granted a one minute extension to his speech. (Lyon)

*The motion was put to the vote and carried unanimously.*

*The amendment was put to the vote and declared lost.*

*Crs Hunter, Pugh, Balson, Westheimer, Lyon, and Swivel voted against the amendment.*

## BYRON SHIRE COUNCIL

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*The motion (Lyon/Westheimer) was put to the vote and declared carried.  
Crs Ndiaye and Dey voted against the motion.*

*Cr Ndiaye requested a recount.*

*The motions 24-226 to 24-230 were put to the vote and declared carried.  
Cr Dey voted against the motion.*

NOTICES OF MOTION

**Notice of Motion No. 9.3 Petria Thomas Pool Heating**

**File No:** I2024/709

**24-232 Resolved** that Council:

1. Checks to see if the current electrical line could service a heat pump for the Mullumbimby Petria Thomas Swimming Pool, and if so,
2. Explores the option of installing a heating system before the September season opening at the Mullumbimby Petria Thomas Swimming Pool as an interim solution to address the current need for a year-round pool facility.
3. Seeks funding from the State Government or other funding body for this important community project that could service the needs of the local and visitor population or alternatively, identify funding in the next quarterly review.
4. Explores options for making the pool more accessible as it is i.e. repairing hoists and working with the Access Consultative Working Group to see what could assist.
5. Continues to explore options for a year-round, all access solar heating swimming facility that will meet the needs of the whole community. (Ndiaye/Balson)

*The motion was put to the vote and carried.  
Crs Lyon and Pugh voted against the motion.*

---

**Notice of Motion No. 9.5 Building Heights Wategos**

**File No:** I2024/712

Moved that Council:

1. Amends the LEP to reduce the building height limits in the Wategos residential area from 9m to 8m.
  2. Undertakes appropriate consultation with residents in order to effect this change.
  3. Receives a report on existing efforts to limit excessive excavation and any additional proposals to limit excavation that Councillors should consider.
- (Pugh/Dey)

*The motion was put to the vote and declared a tie.  
Crs Hunter, Balson, Westheimer and Lyon voted against the motion.  
Cr Lyon used his casting vote to declare the motion lost.*

# BYRON SHIRE COUNCIL

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## FORESHADOWED MOTION

**24-233** **Resolved** that Council receives a report on:

1. Existing efforts to limit excessive excavation and any additional proposals to limit excavation that Councillors could consider.
2. Any other measures that can be effectively enforced through a chapter of the DCP for Wategos or other measures to limit the bulk and scale of developments that impose on the character of the Wategos area. (Lyon/Westheimer)

*The motion was put to the vote and carried unanimously.*

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### **Notice of Motion No. 9.1 Mayor's Discretionary Allowance**

**File No:** I2024/690

**24-234** **Resolved** that Council:

1. Confirms the following donations from the Mayor's Discretionary Allowance 2023/2024:
  - a) \$500 – Brunswick Valley Landcare's Mother's Day Tree Planting Event
  - b) \$500 – Environmental prize for C.A.S.E's Postcard Event
  - c) \$500 – Sponsorship of Kaleido's Mullumbimby Laneways Event
2. Advertises the donations in accordance with Section 356 of the Local Government Act 1993. (Lyon/Ndiaye)

*The motion was put to the vote and carried unanimously.*

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### **Notice of Motion No. 9.2 Byron LGA Conservation Trust**

**File No:** I2024/691

**24-235** **Resolved** that Council:

1. Explores, at a Councillor workshop in Q1 2025, options for facilitating the creation of a Conservation Trust to Council within 12 months of this Resolution, using a similar model to the Byron Shire Council-Led Land Trust including a company limited by guarantee structure.
2. Considers:
  - a) Establishing a Conservation Trust whose task it is to identify and manage land with high ecological value within the LGA for the purpose of long-term habitat conservation, regeneration and rewilding.
  - b) Engaging with local First Nations stakeholders including the Tweed Byron Local Land Council and Arakwal Corporation to inform the establishment of a Conservation Trust.
  - c) Engaging with other key stakeholders including local members of state and federal parliaments, and Bush Heritage Australia, to inform the establishment of a Conservation Trust.
3. Notes the role of the Minister and the constraints on Council in creating any entity under Section 358 of the Local Government. (Swivel/Ndiaye)

# BYRON SHIRE COUNCIL

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*Cr Balson left the Chambers at 4:16pm.*

## PROCEDURAL MOTION

**24-236 Resolved** that Cr Swivel be granted a two minute extension to his speech. (Lyon)

*The motion was put to the vote and carried.*

*Cr Balson was absent for the vote.*

*Cr Balson returned to the Chambers at 4:20pm.*

## AMENDMENT

Moved that Council:

1. Explores, at a Councillor workshop in Q1 2025, options for facilitating the creation of a Conservation Trust to Council within 12 months of this Resolution, using a similar model to the Byron Shire Council-Led Land Trust including a company limited by guarantee structure.
2. Notes the role of the Minister and of existing institutions such as Bush Heritage Australia and the constraints on Council in creating any entity under Section 358 of the Local Government. (Dey/Westheimer)

*The amendment was put to the vote and declared lost.*

*Crs Lyon, Ndiaye, Swivel, Pugh, Hunter, and Balson voted against the amendment.*

*The motion (Swivel/ Ndiaye) was put to the vote and declared carried unanimously.*

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## **Notice of Motion No. 9.4 Save Palestine**

**File No:** I2024/710

*The motion was withdrawn by Cr Dey prior to the meeting.*

**Notice of Motion No. 9.6 Making Byron Shire a safer place for women and children/ Understanding Domestic Violence and coercive control/ Treating Violence as a Health Crisis**

**File No:** I2024/714

**24-237 Resolved** that Council seeks additional Government support and funding to engage more effectively in creating safe places for women and children in the Byron Shire by:

1. Working with relevant stakeholders to ensure a dedicated space in Byron Shire for women and children to flee if they are impacted by Domestic Violence, coercive control, sexual violence other acts of abuse or violence.
2. Supporting the creation of a safe place for women to gather and share their stories and experiences of surviving violence and better access to local support services to assist those at risk of Domestic Violence, coercive control, and sexual violence.
3. Ensuring all Council led future housing projects are embedded in providing safe housing for everyone, including safe housing for women and children.
4. Supporting awareness and connections with law enforcement and health services for all people, including men, to easily access resources to assist in managing violence as a health crisis.
5. Raising awareness and promoting education about domestic violence and violence prevention and supporting services within the community.
6. Ensuring Councillors and Council staff have access to information and education about how Local Government can support the reduction and better management of Domestic Violence and other forms of violence within the community including, and not limited to, the Local Government New South Wales (LGNSW) programme called: Domestic Violence - Councils Are Part Of The Solution
7. Writing to the Minister for the Prevention of Domestic Violence and Sexual Assault, Jodie Harrison, and Assistant Minister for the Prevention of Family Violence Justine Elliott acknowledging that there is currently no government funded dedicated refuge or safe housing in our Shire for women and children escaping domestic violence, and ask that they advocate for funding on our behalf to support services, programs and emergency housing in the Byron Shire. (Balson/Ndiaye)

*The motion was put to the vote and carried unanimously.*

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**Notice of Motion No. 9.7 Alleged anti-social behaviour and crime in Bangalow**  
**File No:** I2024/727

**24-238 Resolved** that Council:

1. Notes resident's concerns raised about alleged increase in anti-social behaviour and crime in Bangalow
2. Supports Police in their facilitation of a public meeting on Monday the 27th of May at the RSL Hall in Bangalow with residents of Bangalow and any other relevant stakeholders to discuss their concerns and consider how best to respond to the issues.
3. Ask Councillors in attendance to report back any practical ways that Council can assist in this matter and make this offer of support to Chief Inspector Kehoe.  
(Ndiaye/Pugh)

*The motion was put to the vote and carried unanimously.*

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## MAYORAL MINUTE

There was no Mayoral Minute.

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## PETITIONS

**Petition No. 11.1 Support for the return of Butler Street Precinct to a 60 night short term holiday let area in line with the rest of Byron Bay**  
**File No:** I2024/555

**24-239 Resolved** that Council:

1. Notes the petition regarding the return of the Butler Street precinct to a 60-night short term holiday let area.
2. Refers the petition to the Director Sustainable Environment and Economy.  
(Lyon/Dey)

*The motion was put to the vote and carried unanimously.*



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**DELEGATES' REPORTS**

Cr Lyon noted the following meetings and events he had attended:

- Northern Rivers Joint Organisation Electric Vehicle Day
- Meetings with Reconstruction Authority and Northern Rivers Joint Organisation on the Regional Vision Masterplan
- Rous County Council Meeting
- ANZAC Day Ceremony in Byron Bay
- Housing Roundtable with Minister Rose Jackson
- Mullum Laneway Festival
- Lismore Living Lab exhibition
- Northern Rivers Housing Forum
- Destination Byron Board Meeting
- Local Government Rural and Regional Summit
- Country Mayors Association Meeting

Cr Pugh noted he attended the formal opening of Beacon Laundry in Bangalow attended by Prime Minister Anthony Albanese.

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**STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES**

**Report No. 13.2      Grants April 2024**  
**File No:              I2023/1938**

**24-240    Resolved** that Council:

1. Notes the Grant Submissions Report for the month of April 2024 (Attachment 1 #E2024/50108).
2. Completes Parts 3 and 5 of Resolution 17-685, namely that:
  - a) an options report be presented to Council, where roundabout or traffic signals are being considered, which reviews all facets of the design process for each intersection traffic control measure, including the recommended solution for the intersection and the reasons why it should be used.
  - b) a further investigation is presented to Council on alternative solutions to a roundabout at Clifford Street/Broken Head Road, including traffic lights.  
(Dey/Lyon)

*Cr Pugh left the Chambers at 5:05PM and did not return.*

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

*Cr Pugh was absent for the vote.*

# BYRON SHIRE COUNCIL

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**Report No. 13.3 Council Resolutions Quarterly Review - Q3 - 1 January to 31 March 2024**

**File No:** I2024/356

**24-241 Resolved** that Council:

1. Notes the information provided in this report on active Council Resolutions in Attachment 1 (#E2024/34179).
2. Notes the completed Council Resolutions in Attachment 2 (#E2024/34167).  
(Westheimer/Dey)

*Cr Balson left the Chambers at 5:23PM and did not return.*

*The motion (Westheimer/ Dey) was put to the vote and carried unanimously.  
Cr Pugh and Balson were absent for the vote.*

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**Report No. 13.4 Budget Review - 1 January 2024 to 31 March 2024**

**File No:** I2024/612

**24-242 Resolved** that Council:

1. Authorises the itemised budget variations as shown in Attachment 2 (#E2024/48670) which include the following results in the 31 March 2024 Quarterly Review of the 2023/2024 Budget:
  - a) General Fund - \$250,000 increase to the Estimated Unrestricted Cash Result
  - b) General Fund - \$7,008,200 increase in reserves
  - c) Water Fund - \$1,321,800 increase in reserves
  - d) Sewerage Fund - \$952,900 increase in reserves
2. Adopts the revised General Fund Estimated Unrestricted Cash of \$0 for the 2023/2024 financial year as at 31 March 2024.
3. Allocates \$200,000 towards the possible heating of the Mullumbimby Petria Thomas Swimming Pool funded from Developer Contributions – Mullumbimby Open Space Reserve.  
(Westheimer/Ndiaye)

## PROCEDURAL MOTIONS

**24-243 Resolved** that Council move into Committee to allow for free debate. (Lyon)

*The motion was put to the vote and declared carried.  
Crs Pugh and Balson were absent for the vote.*

**24-244 Resolved** that Council move out of Committee and resume the Ordinary Meeting. (Lyon)

*The motion was put to the vote and declared carried.  
Crs Pugh and Balson were absent for the vote.*

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## AMENDMENT

Moved:

1. That Council authorises the itemised budget variations as shown in Attachment 2 (#E2024/48670) which include the following results in the 31 March 2024 Quarterly Review of the 2023/2024 Budget:
  - a) General Fund - \$250,000 increase to the Estimated Unrestricted Cash Result
  - b) General Fund - \$7,008,200 increase in reserves
  - c) Water Fund - \$1,321,800 increase in reserves
  - d) Sewerage Fund - \$952,900 increase in reserves
2. That Council adopts the revised General Fund Estimated Unrestricted Cash of \$0 for the 2023/2024 financial year as at 31 March 2024. (Lyon/Hunter)

*The amendment was put to the vote and declared a tie.*

*Crs Dey, Ndiaye and Westheimer voted against the amendment.*

*Crs Pugh and Balson were absent for the vote.*

*The Mayor used his casting vote and the amendment was declared lost.*

*The motion (Westheimer/ Ndiaye) was put to the vote and declared carried unanimously. Crs Pugh and Balson were absent for the vote.*

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## STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

**Report No. 13.13 PLANNING - 10.2020.109.4 - Section 4.55 to Stage 9 for Removal of Existing Exotic and Native Trees to Allow for Construction of Approved Roads and Earthworks, Relocation of Inter-allotment Drainage and Sewer Services and Easement Modifications and Deletion of Local Open Space and Recreation S7.11 Contributions - 86 Tuckeroo Avenue Mullumbimby**

**File No:** I2024/559

Moved that pursuant to Section 4.55 of the Environmental Planning & Assessment Act 1979, that Application No. 10.2020.109.4, for S4.55 to Stage 9 for removal of 30 existing exotic and native trees to allow for construction of approved roads and earthworks, relocation of inter-allotment drainage and sewer services and easement modifications and deletion of local open space and recreation s7.11 contributions, be approved by modifying development consent number 10.2020.109.1 in accordance with Attachment 1 Recommended Amended Conditions of Consent with the following amendments to the conditions:

### **Condition 1A**

#### **1A Amended area of Lot 282 for dedication**

The boundary of 282 shall be amended as shown in red on the stamped approved plans. The area to the west of the new boundary shall be incorporated into the

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community lot C8 with the remainder of lot 282 to be dedicated to Council. The approximate area of lot 282 to be dedicated is 4.2668ha

Replace the schedule to Condition 48 with the following schedule

<b>Section 7.11 contributions Schedule</b>						
<b>Mullumbimby</b>						
<b>Catchment</b>						
This schedule was calculated in spreadsheet #E2024/6353						
1 bedroom units =	0	@	0.55 SDU	=	0	
2 bedroom units =	0	@	0.75 SDU	=	0	
3 bedroom units/dwellings =	0	@	1 SDU	=	0	
Allotments =	48	@	1	=	48	
Less Site Credits =	1	@	-1	=	-1	
<b>Total SDU</b>					<b>=</b>	<b>47</b>
No further indexation. Contributions are at the Ministerial cap inclusive of reductions due to works in kind						
Local Open Space & Recreation	(OS-ML)	4 7.00	SDU @	\$ 1,702.13	=	\$ 80,000.00
LGA Wide Open Space & Recreation	(OS-SW)	4 7.00	SDU @	\$ 200.66	=	\$ 9,430.79
LGA wide Community Facilities	(CF-SW)	4 7.00	SDU @	\$ 1,135.63	=	\$ 53,374.47
Local Community Facilities	(CF-ML)	4 7.00	SDU @	\$ 223.30	=	\$ 10,495.02
Bikeways & Footpaths	(CW-ML)	4 7.00	SDU @	\$ 2,144.41	=	\$ 100,787.44
Shire Wide Bikeways & Footpaths	(CW-SW)	4 7.00	SDU @	\$ 83.30	=	\$ 3,915.25
Urban Roads	(R-ML)	4 7.00	SDU @	\$ -	=	\$ -
LGA Wide Roads	(R-SW)	4 7.00	SDU @	\$ 234.63	=	\$ 11,027.68
Rural Roads	#N/A	4 7.00	SDU @	\$ -	=	\$ -
Administration Levy	(OF-SW)	4 7.00	SDU @	\$ 1,172.83	=	\$ 55,122.97
<b>Total</b>					<b>=</b>	<b>\$ 324,153.62</b>

(Dey/Ndiaye)

*The motion (Dey/Ndiaye) was put to the vote and declared lost.*

*Crs Dey and Ndiaye voted in favour of the motion.*

*Crs Swivel, Lyon, Westheimer and Hunter voted against the motion.*

*Crs Pugh and Balson were absent for the vote.*

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## FORESHADOWED MOTION

- 24-245 Resolved** that pursuant to Section 4.55 of the Environmental Planning & Assessment Act 1979, that Application No. 10.2020.109.4, for S4.55 to Stage 9 for removal of existing exotic and native trees to allow for construction of approved roads and earthworks, relocation of inter-allotment drainage and sewer services and easement modifications and deletion of Local Open Space and Recreation S7.11 Contributions, be approved by modifying development consent number 10.2020.109.1 in accordance with Attachment 1 Recommended Amended Conditions of Consent. (Lyon/Westheimer)

*The motion was put to the vote and declared carried unanimously.*

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

*Nil voted against the motion.*

*Crs Pugh and Balson were absent for the vote.*

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## COMMITTEE REPORTS – INFRASTRUCTURE SERVICES

**Report No. 14.2 Report of the Moving Byron Advisory Committee Meeting held on 11 April 2024**

**File No:** I2024/576

- 24-246 Resolved** that Council notes the minutes of the Moving Byron Advisory Committee Meeting held on 11 April 2024. (Westheimer/Lyon)

- 24-247 Resolved** that Council adopts the following Committee Recommendations:

**Report No. 4.1 Burringbar Street Draft Concept Design**

File No: I2024/326

### Committee Recommendation 4.1.1

1. That the Moving Byron Committee, note the Draft Concept Design – Attachment 1 (E2024/16870) and Street Sections for Burringbar Street.
2. That Council commence the processes towards heavy vehicle and all vehicle bypass routes through Mullumbimby. (Westheimer/Lyon)

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**24-248 Resolved** that Council adopts the following Committee Recommendations:

**Report No. 4.2 Infrastructure Services Projects Update**

File No: I2024/457

Committee Recommendation 4.2.1

1. That the committee notes the report, and notes that the design for the second grant application, recognises that from Mullumbimby to Byron Bay, the rail trail will be off formation (in accordance with resolution 23-360).
2. That Council makes a submission to the Gold Coast Airport to include the following point: the masterplan should incentivise ground transport that preferences collective travel including public transport to and through Byron Shire.
3. That Council asks NRJO, to make a submission on behalf of the Northern Rivers region regarding public transport options south of the Gold Coast airport.
4. That Council recognises the value in identifying evacuation centres, prior to planning evacuation routes

(Westheimer/Lyon)

*The motion was put to the vote and carried unanimously.*

**24-249 Resolved** that Council adopts the following Committee Recommendation:

**Report No. 4.3 Active Transport Plan Update**

File No: I2024/533

Committee Recommendation 4.3.1

That the Moving Byron Advisory Committee support the Active Transport Plan and Active Transport mapping being released for community consultation.(Westheimer/Lyon)

*The motions (22-246 to 24-249) were put to the vote and carried unanimously.*

PROCEDURAL MOTION

**24-250 Resolved** that Council change the order of business to deal with Reports 16.2 next on the Agenda. (Lyon)

*The motion was put to the vote and carried unanimously.*

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**CONFIDENTIAL REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY**

**Report No. 16.2**      **CONFIDENTIAL - Update on Resolution 23-300: 57 Station Street, Mullumbimby**

**File No:**                      I2024/611

**24-251 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/Westheimer)

*The motion was put to the vote and carried.*

*Cr Dey voted against the motion.*

**24-252 Resolved that Council:**

1. Notes the update to Resolution 23-300 (item 2) on the progress of the request for proposal (RFP) process outlined in this report.
2. Sells the land identified as lots 6, 7 and 8 in DP 2772 (together known as 57 Station Street, Mullumbimby (the Land)) to the project's preferred community housing provider.
3. Proceeds with Resolution part two, subject to Council entering a contract for sale for the Land on terms satisfactory to it, including a covenant registered on the title that:
  - a) the land is only used for the purpose of affordable housing; and
  - b) requires the land be transferred back to Council if the land ceases to be used for the purpose of affordable housing.

(Lyon/Ndiaye)

*The motion was put to the vote and carried.*

*Cr Dey voted against the motion.*

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PROCEDURAL MOTION

**24-253 Resolved** that the meeting move out of confidential session. (Lyon)

*The remaining items are to be deferred to a future meeting:*

**Report No. 13.17 Renaming Hottentot Crescent, Mullumbimby**  
**File No: 12024/542**

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*There being no further business the meeting concluded at 6:33pm.*

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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 27 June 2024.



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