

Minutes
Ordinary Meeting
Thursday, 15 August 2024



BYRON SHIRE COUNCIL

Ordinary Meeting Minutes

15 August 2024

INDEX OF ITEMS DISCUSSED

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

| | | |
|--------------------------|--|----|
| Report No. 13.3 | Delivery Program 6-monthly Report and Operational Plan 2023/24 Quarter 4 Report - to 30 June 2024 | 10 |
| Report No. 13.4 | Community Initiatives Program 2024-2025 Recommendations for Funding..... | 10 |
| Report No. 13.6 | Carryovers for Inclusion in the 2024-2025 Budget | 10 |
| Report No. 13.7 | Budget Review - 1 April to 30 June 2024 | 11 |
| Report No. 13.11 | PLANNING - NSW Employment Zones Reform - Planning Proposal: Additional permitted uses for Certain Lots within Zone E4 General Industrial, Centennial Circuit - Byron Arts and Industry Estate..... | 11 |
| Report No. 13.13 | PLANNING - DA10.2024.58.1 - Subdivision 1 into 3 lots – 44 Wallum Place, Byron Bay | 12 |
| Report No. 13.15 | Review of Planning Controls for Biodiversity, Tree and Vegetation Management..... | 12 |
| Report No. 13.16 | Sponsorship of Annual National Flying-fox Forum | 12 |
| Report No. 13.18 | Trades and Services Tender..... | 13 |
| Report No. 13.19 | Management Contract - First Sun & Suffolk Beachfront Holiday Park . | 13 |
| Report No. 13.21 | Part Road Reserve Closure and sale adjoining Lot 6 DP 258071, 144 Jonson Street, Byron Bay, NSW 2481 | 14 |
| Report No. 13.22 | Tyagarah Hangar Refurbishment & Office Repair..... | 14 |
| Report No. 13.25 | Lawson Street Road and Drainage Upgrade Tender | 15 |
| Report No. 14.1 | Report of the Arts and Creative Industries Advisory Committee Meeting held on 20 June 2024 | 15 |
| No. 14.1.6.2 | Arts and Creative Industries Advisory Committee Term Summary | 16 |
| Report No. 14.2 | Report of the Infrastructure Advisory Committee Meeting held on 20 June 2024 | 17 |
| Notice of Motion No. 9.1 | Clothing Optional Beach in the Byron Shire | 18 |
| Notice of Motion No. 9.2 | Brunswick Heads - Addressing Local Infrastructure and Land Management Issues..... | 18 |
| Report No. 13.10 | PLANNING PROPOSAL - 26.2023.8.1 - Schedule 1 Additional Permitted Use (Restaurant or Cafe) – 24 & 26 Marvell Street, Byron Bay..... | 19 |
| Report No. 13.12 | Draft Plan of Management, Lot 22 DP 1073165, 156 Stuart Street Mullumbimby - endorsement for public exhibition | 19 |
| Report No. 13.5 | Council Resolutions Quarterly Review - Q4 - 1 April to 30 June 2024 . | 20 |
| Report No. 13.17 | Fee Waiver Request from Mullum SEED (Mullum Community Gardens 156 Stuart St site)..... | 21 |
| Petition No. 11.1 | Outdoor Chess Board and Tables - Main Beach..... | 22 |
| Report No. 13.20 | New Brighton - Parking Improvements Investigation | 22 |
| Report No. 13.24 | Bangalow Street Tree Succession Plan | 23 |
| Report No. 13.26 | Mullumbimby Water Supply Strategy | 23 |
| Report No. 14.3 | Report of the Water and Sewer Advisory Committee Meeting held on 19 July 2024..... | 25 |

BYRON SHIRE COUNCIL

Ordinary Meeting Minutes

15 August 2024

| | | |
|----------------------------|---|----|
| No. 14.3.4.1 | Mullumbimby Water Supply Strategy Public Consultation Report | 25 |
| Delegate's Report No. 12.1 | Australian Local Government Conference, Canberra . | 27 |
| Report No. 13.1 | Grants June and July 2024 | 27 |
| Report No. 13.2 | Integrating youth engagement across Council operations | 27 |
| Report No. 13.8 | Draft Business Industry and Visitor Economy Strategy | 27 |
| Report No. 13.9 | Draft Events Strategy for public exhibition | 28 |
| Report No. 13.14 | Sustainability Team - key project updates..... | 28 |
| Report No. 13.23 | Part Road Reserve Closure and sale adjoining Lot 1 DP 246414, 134 Lighthouse Road, Byron Bay, NSW 2481 | 28 |

BYRON SHIRE COUNCIL

ORDINARY MEETING MINUTES

15 August 2024

MINUTES OF THE BYRON SHIRE COUNCIL ORDINARY MEETING HELD ON THURSDAY, 15 AUGUST 2024 COMMENCING AT 9.15AM AND CONCLUDING AT 5.59PM

I2024/1128

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

Staff: Mark Arnold (General Manager)
 Esmeralda Davis (Director Corporate and Community Services)
 Phil Holloway (Director Infrastructure Services)
 Shannon Burt (Director Sustainable Environment and Economy)
 Sharyn French (Manager Environmental and Economic Planning)
 Matt Meir (Legal Counsel)
 Heather Sills (Manager Corporate Services)
 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 | For/ Against | Name | Representing | Via |
|------------|---|-----------------|------------------|--------------------------------------|-----------|
| 9.1 | Clothing Optional Beach in the Byron Shire | For | Bradley Benham | Northern Rivers | In person |
| | | | Jessa O'Brien | Naturists Inc | |
| | | Against | Richard Burford | Self | |
| | | | Gwen Gould | | |
| | | | Michael Skinner | | |
| | | | Caroline Desmond | | |
| Gyan Moyes | | | | | |
| 9.2 | Notice of Motion - Brunswick Heads - Addressing Local Infrastructure and Land Management Issues | For | Jo Pilgrim | Brunswick Heads Progress Association | |
| 11.1 | Petition - Outdoor Chess Board and Tables - Main Beach | For | Peter Hanna | Byron Bay Chess Club | |
| | | | Dominic Shine | | |
| 13.10 | PLANNING PROPOSAL - | Against | Ivan Holland | Barker Ryan | |

BYRON SHIRE COUNCIL

ORDINARY MEETING MINUTES

15 August 2024

| | Report No and Title | For/ Against | Name | Representing | Via |
|--|---|-----------------|------------------------------|-----------------------|-----|
| | 26.2023.8.1 - Schedule 1 Additional Permitted Use (Restaurant or Cafe) – 24 & 26 Marvell Street, Byron Bay | | Tony Hart | Stewart Pty Ltd | |
| | | | Achille Martino | | |
| | | | Kurtis & Leah Rettenmaier | Candace Co Pty Ltd | |

Cr Coorey left the meeting at 10.13am

Public Access cont.

| | Report No and Title | For/ Against | Name | Representing | Via |
|-------|---|-----------------|-----------------------|--|-----------|
| 13.12 | Draft Plan of Management, Lot 22 DP 1073165, 156 Stuart Street Mullumbimby - endorsement for public exhibition | For | Techa Beaumont | Mullum SEED Inc | In person |
| 13.5 | Council Resolutions Quarterly Review - Q4 - 1 April to 30 June 2024 | For | Zimmi Forest | One Roof Byron Incorporated | In person |
| 13.17 | Fee Waiver Request from Mullum SEED (Mullum Community Gardens 156 Stuart St site) | For | Maximo Bottaro | ReForest Now | Zoom |
| | | Against | Techa Beaumont | Mullum SEED Inc | In person |
| 13.20 | New Brighton - Parking Improvements Investigation | For | Michael Sherington | New Brighton Village Association | In person |
| | | Against | Gavin Hinton | Self | In person |

PROCEDURAL MOTION

24-374 Resolved that Public Access be extended until 12pm. (Lyon)

The motion was put to the vote and carried unanimously.

Public Access cont.

| | Report No and Title | For/ Against | Name | Representing | Via |
|---------|---|-----------------|----------------|---|-----------|
| 13.24 | Bangalow Street Tree Succession Plan | For | Colin Roden | Self | In person |
| | | | Darren Pearson | The Cellar Bangalow | |
| 13.26 | Mullumbimby Water Supply Strategy | For | Ray Musgrave | Wilson's Water Rights | In person |
| | | | Tony Bower | | |
| | | Against | Ben Fawcett | Self | In person |
| Against | Elia Hauge | | | | |
| 14.3 | Report of the Water and Sewer Advisory Committee Meeting held on 19 July 2024 | For | Dale Emerson | Mullumbimby Residents Association | |

BYRON SHIRE COUNCIL

ORDINARY MEETING MINUTES

15 August 2024

Submissions

| Subject | Name | Representing | Via |
|---|-------------|-----------------------|-----------|
| Maintaining Potable Reticulated Water Supply to 13 affected residents on Wilsons Creek Road, Robinsons Lane, Yankee Creek Road & Left Bank Road | John Foggon | Wilson's Water Rights | In person |
| Request to allow more time before voting on disconnecting the existing water supply from Laverty's Gap to Mullumbimby | Lucy Vader | Self | Video |

Question No. 1 – Mullumbimby Water Supply

Tim Mavay representing Wilsons Water Rights asked the following question:

In the occurrence that Mullumbimby Water Supply is connected to Rous and that the 13 or more properties connected to the trunk main at Wilsons Creek lose their connection to town water and we are not reconnected as verbally agreed to - if we are issued tanks will we be compensated for the loss of value on our properties?

The Mayor took the question on notice.

Questions

The following questions had been registered to be read by staff and were all taken on notice:

| No. | Subject | Name |
|-----|--|---|
| 2. | Has Council complied with the Bypass Biobanking Agreements, ID 352 Lilli Pilli and ID 348 Wallum Place, Byron STP specifically the payment of the Total Fund Deposits, the delivery of management actions, monitoring, reporting and Annual Reports record keeping as prescribed in the agreements? Could council also advise where updates and progress reports regarding the Biobanking Agreements are available? | Jan Barham |
| 3. | We welcome the revised cost estimates for Mullumbimby's Future Water Strategy, presented in the Addendum to the Agenda. However, there are some questionable data about the cost of land acquisition for an offstream storage reservoir. Page 3 of the report gives a total cost of \$39.06m (thirty-nine million and sixty thousand dollars) at a cost per hectare of \$625,000 (six hundred and twenty-five thousand dollars). Dividing one by the other suggests the need to purchase 62.5ha (sixty two and a half hectares). Both the cost and the area appear to be excessive for a 10ha (ten hectare) reservoir. How are these costs derived and how can they be justified? Note: A 41 ha property on Wilsons Creek Road sold in 2021, in the precise area where an off-stream storage | Noelle Maxwell on behalf of Mullumbimby Residents Association |

BYRON SHIRE COUNCIL

ORDINARY MEETING MINUTES

15 August 2024

| | | |
|----|---|---|
| | reservoir could be built, for \$2.6 million, ie \$63,000/ha, 10% of Council's estimated price. | |
| 4. | We welcome the revised cost estimates for Mullumbimby's Future Water Strategy, presented in the Addendum to the Agenda. However, there are many different data presented in the report. What is the final suggested Net Present Value for Scenario 2, how does this compare with the NPV of \$63 million quoted in Appendix B and what justification is there for the differences? | Gil Lomath |
| 5. | Questions were provided in a separate attachment. | Sonia Lavery |
| 6. | In the Far North Coast Regional Water Plan, the Department of Planning and Environment states that it will; quote: <i>'Investigate the feasibility, including whole of life costs, yield assessments, lead times, community acceptance, environmental impacts, technical complexity and regulatory barriers for connecting smaller systems in the Richmond/Brunswick catchments, ie Casino, Nimbin and Mullumbimby to the Rous County Council bulk water supply on a permanent basis.'</i> Has Council sufficiently considered the interplay between the Far North Coast Regional Water Strategy and its own planning process? Why has the DPE expertise been neglected, by Council relying solely on one consultant's report, given that other Councils are also planning to be joining the Rous network and increasing the demand on the regional supply? | Kathryn McConnochie on behalf of Water Northern Rivers Alliance |

The meeting adjourned for a short break and recommenced at 11.58am.

Question No. 7 – State and Federal Funding

Camila Peters-Quayle asked the following question:

What state and federal funding has been requested to pay for the town water to remain a and if not who will ask please?

Cr Dey responded that, if a strategy is adopted stipulating that the water source be retained, it would be simple to seek Federal Government funding for the water source.

Cr Ndiaye supports seeking State and Federal Government funding as soon as there is a Council resolution to do so.

Cr Lyon responded that seeking State and Federal Government funding for a solution that costs \$67 million more than the alternative solution would make chances of obtaining this funding slim.

BYRON SHIRE COUNCIL

ORDINARY MEETING MINUTES

15 August 2024

APOLOGIES

PROCEDURAL MOTION

- 24-375 Resolved** that the apology from Cr Balson be accepted in accordance with her prior leave of absence (Resolution No. **24-254**). (Lyon/Westheimer)

The motion was put to the vote and carried unanimously.

APPLICATIONS TO ATTEND BY AUDIO-VISUAL LINK

PROCEDURAL MOTION

- 24-376 Resolved** that Cr Coorey be permitted to attend the meeting held on 15 August 2024 by audio-visual link. (Lyon/Westheimer)

The motion was put to the vote and carried unanimously.

REQUESTS FOR LEAVE OF ABSENCE

There were no requests for leave of absence.

DECLARATIONS OF INTEREST – PECUNIARY AND NON-PECUNIARY

Cr Coorey declared a non-pecuniary interest in Report 11.1. The nature of the interest being that her son is a member of the Byron Bay Chess Club. Cr Coorey elected to remain in the Chamber and participate in discussion and the vote.

TABLING OF PECUNIARY INTEREST RETURNS

There were no Pecuniary Interest Returns tabled.

ADOPTION OF MINUTES FROM PREVIOUS MEETINGS

- 24-377 Resolved** that the minutes of the Ordinary Meeting held 27 June 2024 be confirmed. (Lyon/Westheimer)

The motion was put to the vote and carried unanimously.

RESERVATION OF ITEMS FOR DEBATE AND ORDER OF BUSINESS

The Mayor suspended standing orders to allow for items to be reserved for debate, being:

STAFF REPORTS

Corporate and Community Services

Report No. 13.1 Grants June and July 2024

Report No. 13.2 Integrating youth engagement across Council operations

Report No. 13.5 Council Resolutions Quarterly Review - Q4 - 1 April to 30 June 2024

Sustainable Environment and Economy

Report No. 13.8 Draft Business Industry and Visitor Economy Strategy

Report No. 13.9 Draft Events Strategy for public exhibition

Report No. 13.10 PLANNING PROPOSAL - 26.2023.8.1 - Schedule 1 Additional Permitted Use (Restaurant or Cafe) – 24 & 26 Marvell Street, Byron Bay

Report No. 13.12 Draft Plan of Management, Lot 22 DP 1073165, 156 Stuart Street Mullumbimby - endorsement for public exhibition

Report No. 13.14 Sustainability Team - key project updates

Report No. 13.17 Fee Waiver Request from Mullum SEED (Mullum Community Gardens 156 Stuart St site)

Infrastructure Services

Report No. 13.20 New Brighton - Parking Improvements Investigation

Report No. 13.23 Part Road Reserve Closure and sale adjoining Lot 1 DP 246414, 134 Lighthouse Road, Byron Bay, NSW 2481

Report No. 13.24 Bangalow Street Tree Succession Plan

Report No. 13.26 Mullumbimby Water Supply Strategy

REPORTS OF COMMITTEES

Infrastructure Services

Report No. 14.3 Report of the Water and Sewer Advisory Committee Meeting held on 19 July 2024

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. **24-374** and concluding with Resolution No. **24-428**.

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

**Report No. 13.3 Delivery Program 6-monthly Report and Operational Plan
2023/24 Quarter 4 Report - to 30 June 2024**

File No: I2024/1026

- 24-378 Resolved** that Council notes the Delivery Program 6-monthly Report and 2023/24 Operational Plan Fourth Quarter Report for the period ending 30 June 2024 (Attachment 1 #E2024/84485). (Lyon/Westheimer)

**Report No. 13.4 Community Initiatives Program 2024-2025 Recommendations
for Funding**

File No: I2024/1027

- 24-379 Resolved** that Council approves the recommended projects for the Community Initiatives Program as per Confidential Attachment 1, listed below and notes projects not recommended for funding:

1. Green and Clean Awareness Team - \$1,200
2. Brunswick Valley Landcare - \$4,970
3. The Pocked Public School - \$2,500
4. Coorabell Hall Association - \$3,160
5. Federal Landcare Group Inc - \$5,000
6. Trustee for the Byron Bay Community Benefit Centre (Byron Community Centre) - \$5,000
7. Cape Byron Marine Rescue - \$5,000
8. Federal Community Centre - \$2,500
9. The Returning Indigenous Corporation - \$5,000
10. Suffolk Park Community Garden - \$5,000
11. Eureka Public Hall - \$5,000
12. Main Arm Upper Public School - \$5,000
13. Dance Integrated Australia – auspiced by Arts Northern Rivers - \$5,000
14. Ewingsdale Community Association - \$3,170 (Lyon/Westheimer)

Report No. 13.6 Carryovers for Inclusion in the 2024-2025 Budget

File No: I2024/1075

- 24-380 Resolved** that Council approves the works and services (with respective funding) shown in Attachment 1 (#E2024/88511) to be carried over from the 2023/2024 financial year and that the carryover budget allocations be adopted as budget revotes for inclusion in the 2024/2025 Budget Estimates. (Lyon/Westheimer)

BYRON SHIRE COUNCIL

ORDINARY MEETING MINUTES

15 August 2024

Report No. 13.7 **Budget Review - 1 April to 30 June 2024**
File No: I2024/1076

24-381 **Resolved** that Council:

1. Authorises the itemised budget variations as shown in Attachment 2 (#E2024/89025) which include the following results in the 30 June 2024 Quarterly Review of the 2023/2024 Budget:
 - a) General Fund – \$429,000 movement to the Estimated Unrestricted Cash Result
 - b) General Fund - \$54,423,800 increase in reserves
 - c) Water Fund - \$2,734,400 increase in reserves
 - d) Sewerage Fund - \$5,413,800 increase in reserves
2. Adopts the revised General Fund Estimated Unrestricted Cash Result of \$429,000 for the 2023/2024 financial year as at 30 June 2024. (Lyon/Westheimer)

STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

Report No. 13.11 **PLANNING - NSW Employment Zones Reform - Planning Proposal: Additional permitted uses for Certain Lots within Zone E4 General Industrial, Centennial Circuit - Byron Arts and Industry Estate**
File No: I2024/966

24-382 **Resolved** that Council:

1. Authorises staff to prepare and submit a Planning Proposal to allow additional permitted land uses on certain lots within Zone E4 General Industrial, located on Centennial Circuit of the Byron Arts and Industry Estate and as shown in Figure 1 of this report.
2. Pending a positive Gateway determination, exhibits the Planning Proposal in accordance with the determination requirements.
3. Receives a Submissions report post-exhibition that includes any recommended changes to the Planning Proposal for final adoption. (Lyon/Westheimer)

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

Nil voted against the motion.

BYRON SHIRE COUNCIL

ORDINARY MEETING MINUTES

15 August 2024

Report No. 13.13 **PLANNING - DA10.2024.58.1 - Subdivision 1 into 3 lots – 44 Wallum Place, Byron Bay**
File No: I2024/1028

24-383 **Resolved** that pursuant to Section 4.16 of the Environmental Planning & Assessment Act 1979, Development Application No. 10.2024.58.1 for Subdivision of 1 lot into 3 lots to facilitate future light industrial land uses, be granted consent subject to the conditions of approval at the end of this report. (Lyon/Westheimer)

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

Nil voted against the motion.

Report No. 13.15 **Review of Planning Controls for Biodiversity, Tree and Vegetation Management**
File No: I2024/1071

24-384 **Resolved** that Council:

1. Adopts the amended Draft Byron Development Control Plan 2014 Part A, Chapter B1 and Chapter F1, as described in Attachments 1 – 3 (E2023/119570, E2023/119568 and E2023/119572), with amendments to Chapter B1 as described in Table 1.
2. Publishes the amendments on Council’s website in accordance with Clause 14 of the *Environmental Planning and Assessment Regulation 2021*. (Lyon/Westheimer)

Report No. 13.16 **Sponsorship of Annual National Flying-fox Forum**
File No: I2024/1072

24-385 **Resolved** that Council:

1. Supports sponsorship of the Annual National Flying-fox Forum in October 2024 under Section 356 of the Local Government Act 1993.
2. Sponsors to the value of \$1,000 for Bronze Support Level and is funded from the 2605.114 ‘Flying Fox Camp Management Plan budget. (Lyon/Westheimer)

STAFF REPORTS - INFRASTRUCTURE SERVICES

Report No. 13.18 Trades and Services Tender
File No: I2024/745

24-386 Resolved that Council:

1. Awards Tender 2024-2253 to the preferred suppliers identified in the Tender Evaluation Report, listed below:
 - Arc Facilities
 - Bally Plumbing
 - Barden Constructions
 - Bishton Group
 - Cape Byron Plumbing
 - Circl Group
 - Connect Builders
 - Curtis Electrical
 - O'Brien Electrical and Plumbing
 - Poel Corp
 - Thearle Electrical
 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)
-

Report No. 13.19 Management Contract - First Sun & Suffolk Beachfront Holiday Park

File No: I2024/868

24-387 Resolved that Council:

1. Awards Tender Management Contract – First Sun & Suffolk Beachfront Holiday Park to the preferred supplier, Belgravia Leisure, as identified in the attached tender evaluation report.
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)

BYRON SHIRE COUNCIL

ORDINARY MEETING MINUTES

15 August 2024

Report No. 13.21 **Part Road Reserve Closure and sale adjoining Lot 6 DP 258071, 144 Jonson Street, Byron Bay, NSW 2481**
File No: I2024/915

24-388 Resolved that:

1. Council endorses the closure of Part Road Reserve adjoining Lot 6 DP 258071 as detailed in the report.
 2. Council accepts the valuation as per *Attachment 1 E2024/66618*, 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; and
 - d) Legal costs.
 4. The allotments created by the part road closure to be consolidated into existing Parcel No 34770 Lot 6 DP 258071.
 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)
-

Report No. 13.22 **Tyagarah Hangar Refurbishment & Office Repair**
File No: I2024/989

24-389 Resolved that Council:

1. Awards Tender Tyagarah Hangar & Office Repairs to the preferred supplier, CIRCL Group, identified in the tender evaluation report (Confidential Attachment 1 – #E2023/56521).
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)

Report No. 13.25 Lawson Street Road and Drainage Upgrade Tender
File No: I2024/1064

24-390 Resolved that Council:

1. Awards Tender 2024-2272 Lawson Street Road and Drainage Upgrade to the preferred tenderer, Roseberry Creek Developments, as set out in the confidential Evaluation Panel Recommendation Report 2024-2272, #E2024/82597
2. Makes public its decision, including the name and amount of the successful tenderer, in accordance with Clause 179(b) of the Local Government (General) Regulation 2021.
3. Awards Tender for pavement type 1 (higher amount- \$915,943) to ensure either pavements types can be directed during the contract and once onsite testing has been inspected and completed, the most suitable pavement can be confirmed.
(Lyon/Westheimer)

REPORTS OF COMMITTEES - CORPORATE AND COMMUNITY SERVICES

Report No. 14.1 Report of the Arts and Creative Industries Advisory
Committee Meeting held on 20 June 2024
File No: I2024/970

24-391 Resolved that Council notes the minutes of the Arts and Creative Industries Advisory Committee Meeting held on 20 June 2024. (Lyon/Westheimer)

24-392 Resolved that Council adopts the following Committee Recommendation:

Report No. 3.1 Adoption of Minutes of the Arts and Creative Industries Advisory
Committee Meeting held 29 February 2024
File No: I2024/338

Committee Recommendation 3.1.1

That the minutes of the Arts and Creative Industries Advisory Committee Meeting held on 29 February 2024 be confirmed. (Lyon/Westheimer)

24-393 Resolved that Council adopts the following Committee Recommendation:

Report No. 4.1 DCP Public Art Plan Referral, 139 Jonson Lane DA 10.2019.616.5
File No: I2024/914

Committee Recommendation 4.1.1

That the Committee approves and provides the following feedback to Council's Assessment Officer on the public art proposal for the development at 139 Jonson Street, Byron Bay DA 10.2019.616.5 being:

BYRON SHIRE COUNCIL

ORDINARY MEETING MINUTES

15 August 2024

- a. There were a variety of opinions expressed by the Committee.
- b. There was a high level of support for the materials, location and scale.
- c. There was a general desire for a more contemporary or courageous piece.
- d. There was some feedback around the potential objectification and controversy around the subject. (Lyon/Westheimer)

24-394 Resolved that Council adopts the following Committee Recommendations:

Report No. 4.2 DCP Public Art Design Guidelines and Criteria

File No: I2024/450

Committee Recommendation 4.2.1

1. That the Arts and Creative Industries Advisory Committee reviews the design selection criteria included in Chapter B15 Public Art of the Byron Shire Council Development Control Plan 2014 and provides any feedback to Council.
2. That Council encourages the Developer to connect with the Council Arts & Culture Officer for guidance on curatorial support prior to the artwork choice being made.
3. The Arts & Culture Officer be invited to the Development Advisory Panel meeting when public art is triggered. (Lyon/Westheimer)

No. 14.1.6.2 Arts and Creative Industries Advisory Committee Term Summary

File No: I2024/434

24-395 Resolved that Council adopts the following Committee Recommendation:

Report No. 6.2 Arts and Creative Industries Advisory Committee Term Summary

File No: I2024/434

Committee Recommendation 6.2.1

That the Arts and Creative Industries Advisory Committee hold an extraordinary meeting on 22 August 2024 to discuss future arts strategies (Lyon/Westheimer).

REPORTS OF COMMITTEES – INFRASTRUCTURE SERVICES

Report No. 14.2 **Report of the Infrastructure Advisory Committee Meeting held on 20 June 2024**

File No: I2024/981

24-396 **Resolved** that Council notes the minutes of the Infrastructure Advisory Committee Meeting held on 20 June 2024. (Lyon/Westheimer)

24-397 **Resolved** that Council adopts the following Committee Recommendation:

Report No. 3.1 Adoption of Minutes from Previous Meetings

File No: I2024/873

Committee Recommendation 3.1.1

That the minutes of the Infrastructure Advisory Committee Meeting held on 29 February 2024 be confirmed. (Lyon/Westheimer)

PROCEDURAL MOTION

24-398 **Resolved** that Council change the order of business to deal with Reports 9.1, 9.2, 11.1, 13.10, 13.12, 13.5, 13.17, 13.20, 13.24, 13.26 and 14.3 next on the Agenda. (Lyon/Ndiaye)

The motion was put to the vote and carried unanimously.

NOTICES OF MOTION

Notice of Motion No. 9.1 Clothing Optional Beach in the Byron Shire

File No: I2024/1085

24-399 Resolved that Council:

1. Ask NSW Police to consider:
 - a) being more accepting of nudity when it is not associated with antisocial behaviour and
 - b) taking action to proactively address antisocial behaviour in problematic locations.
2. Ask state and federal legislators to review laws and regulations to modernise those instruments and bring them into line with Part 1 above. (Westheimer/Coorey)

PROCEDURAL MOTION

24-400 Resolved that Cr Westheimer be granted a one minute extension to his speech. (Lyon)

The motion was put to the vote and carried unanimously.

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

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

*The meeting adjourned for lunch at 1.03pm and reconvened at 2.00pm.
Cr Coorey did not return to the meeting at this time.*

Notice of Motion No. 9.2 Brunswick Heads - Addressing Local Infrastructure and Land Management Issues

File No: I2024/1086

24-401 Resolved that Council:

1. Organises a Community Opportunity Workshop with representatives from each stakeholder organisation of Brunswick Heads.
2. Develops a shared understanding of the current mapping, landholders, and responsibilities.
3. Discusses and prioritises the issues outlined in Foreshore Maintenance Issue guide and others that are identified.
4. Formulates a Community Action Plan to address the identified concerns and improve community wellbeing.
5. Seeks to identify potential funding opportunities to address the issues.
6. Prepares a Community Action Plan for councillors about this in the first half of 2025. (Ndiaye/Lyon)

The motion was put to the vote and carried unanimously.

BYRON SHIRE COUNCIL

ORDINARY MEETING MINUTES

15 August 2024

PROCEDURAL MOTION

- 24-402 Resolved** that Council change the order of business to deal with Report 11.1 when Cr Coorey returns to the meeting. (Lyon).
-

STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

Report No. 13.10 PLANNING PROPOSAL - 26.2023.8.1 - Schedule 1 Additional Permitted Use (Restaurant or Cafe) – 24 & 26 Marvell Street, Byron Bay
File No: I2024/998

- 24-403 Resolved** that Council:

1. Does not support the Planning Proposal and Letter of Offer.
2. Notifies both the Applicant and the Department of Planning, Housing, and Infrastructure of Council's decision to not support the Planning Proposal.
3. Authorises staff to include the following additional R2 Low Density Residential Zone "Objective" in the next round of LEP Housekeeping Amendments:

To ensure that development is of a scale and intensity that is appropriate and compatible with the character of the area and preserves residential amenity.

(Lyon/Westheimer)

The motion was put to the vote and carried unanimously.

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

Nil voted against the motion.

Cr Coorey was not present for the vote.

Report No. 13.12 Draft Plan of Management, Lot 22 DP 1073165, 156 Stuart Street Mullumbimby - endorsement for public exhibition
File No: I2024/217

- 24-404 Resolved** that Council endorses the public exhibition of the draft Plan of Management for Lot 22 DP 1073165, 156 Stuart Street Mullumbimby (Attachment 1 – E2024/79827). (Westheimer/Lyon)

The motion was put to the vote and carried unanimously.

Cr Coorey was not present for the vote.

STAFF REPORTS – CORPORATE AND COMMUNITY SERVICES

Report No. 13.5 Council Resolutions Quarterly Review - Q4 - 1 April to 30 June 2024

File No: I2024/1045

Moved that Council:

1. Notes the information provided in this report on active Council Resolutions in Attachment 1 (#E2024/75755).
2. Notes the completed Council Resolutions in Attachment 2 (#E2024/75753) and Attachment 3 (#E2024/75918), except for the following Resolutions which remain 'active':
 - 21-531 inflow & infiltration monitoring;
 - 22-290 fill on property in the Marshalls Creek floodplain;
 - 22-297 flood problems at Azalea Street;
 - 23-393 opposition to incineration;
 - 24-129 inviting NSW Government re Mullumbimby Ex-Hospital site;
 - 24-182 submissions report on DCP Chapter C2 Flood Affected Areas.
3. Endorses the closure of Council Resolution 23-337 as identified in the Report.

(Dey/Ndiaye)

The motion was put to the vote and declared lost.

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

Cr Coorey was not present for the vote.

FORESHADOWED MOTION

24-405 Resolved that Council:

1. Notes the information provided in this report on active Council Resolutions in Attachment 1 (#E2024/75755).
2. Notes the completed Council Resolutions in Attachment 2 (#E2024/75753) and Attachment 3 (#E2024/75918).
3. Endorses the closure of Council Resolution 23-337 as identified in the Report.

(Lyon/Hunter).

The motion was put to the vote and carried.

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

Crs Dey, Swivel and Ndiaye voted against the motion.

Cr Coorey was not present for the vote.

Cr Coorey returned to the meeting at 2.48pm.

STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

Report No. 13.17 Fee Waiver Request from Mullum SEED (Mullum Community Gardens 156 Stuart St site)

File No: I2024/1083

24-406 Resolved that Council:

1. Endorses a deferral, on the basis of all three terms described in the Water and Sewer Developer Servicing Plan, of the water developer contributions associated with the approved development DA 10.2022.538.1 Alterations and Additions to existing Food Co-Op structure, New Cool Room, New Workshop, and storage shed associated with existing Men's Shed, New shade structure and use of multiple existing structures at 156 Stuart Street Mullumbimby.
2. Make a S356 contribution of \$4,541 to Mullum SEED for the payment Building Information Certificate costs associated with DA 10.2022.538.1.
3. Advertise the amount of the contribution as a s356 donation.
4. Consider funding of this contribution as part of the September Quarterly Budget review. (Westheimer/Lyon)

Cr Ndiaye left the Chambers at 02:53 PM.

The motion was put to the vote and carried unanimously.

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

Nil voted against the motion.

Cr Ndiaye was absent for the vote.

Cr Ndiaye returned to the Chambers at 02:57 PM.

PROCEDURAL MOTION

24-407 Resolved that Council change the order of business to deal with Report 11.1 next on the Agenda. (Lyon)

The motion was put to the vote and carried unanimously.

PETITIONS

Petition No. 11.1 Outdoor Chess Board and Tables - Main Beach
File No: I2024/1088

24-408 Resolved that Council:

1. Notes the petition received from the Byron Bay Chess Club of approximately 1200 signatures in support of the following:
 - i. The construction of a permanent large outdoor chess set (of the kind in Sydney's Hyde) with rain/sun cover at either Apex or Dening Park.
 - ii. The provision of a few smaller tables with built-in chess boards at Dening or Apex Parks.
2. Works with the Byron Bay Chess Club, the Byron Bay Master Plan Guidance Group and within the Byron Foreshore Concept Plan to develop suitable locations for the proposed large chess set and tables.
3. Notes the willingness of the Byron Bay Chess Club to raise funds towards the provision of the chess facilities.
4. Invites the Byron Bay Chess Club to discuss interim options. (Coorey/Lyon)

The motion was put to the vote and carried unanimously.

STAFF REPORTS – INFRASTRUCTURE SERVICES

Report No. 13.20 New Brighton - Parking Improvements Investigation
File No: I2024/897

24-409 Resolved that Council:

1. Notes that staff have provided comments and documented the suggestions received in Public Access at Council's meeting on 23 May 2024 by Vivienne Pearson (Attachment 1; E2024/60678).
2. Pauses on Items 1, 3 and 5 as listed in Report 13.20 to Council's meeting of 15 August 2024.
3. Creates concept designs on the other Items 2, 4 and 6 and discusses these designs with the New Brighton Village Association.
4. Notes that the new designs for locations 2 and 4 should set aside a single car park space to give clear access to the showers and beach entries.
5. Notes that staff are still progressing with detail design of re-prioritisation at the intersection of The Esplanade and The Strand Avenue and the way finding signage across New Brighton and South Golden Beach. (Dey/Ndiaye)

The motion was put to the vote and carried unanimously.

BYRON SHIRE COUNCIL

ORDINARY MEETING MINUTES

15 August 2024

Report No. 13.24 **Bangalow Street Tree Succession Plan**
File No: I2024/1035

24-410 Resolved:

1. That Council adopts the amended Succession Plan for trees in the Bangalow Village Streetscape and
2. Replacement of the two Liquidambar trees on eastern side of Station Street is prioritised for inclusion within the Stage 1 works. (Pugh/Lyon)

The motion was put to the vote and carried unanimously.

Report No. 13.26 **Mullumbimby Water Supply Strategy**
File No: I2024/1080

24-411 Resolved that Council:

1. Notes the outcomes of the public consultation on Mullumbimby Future Water Strategy (Attachment 1 and 2);
2. Notes the revised NPV comparison analysis for the Water Supply Options for Scenarios 2 and 3;
3. Adopts Scenario 3 - permanent, full connection to the Rous regional water supply;
4. Maintains its extraction licence at Lavertys Gap;
5. Requests staff to investigate and report back to Council options for Lavertys Gap water treatment infrastructure and associated land use; and
6. Commits to continuing to reticulate current volumes of potable water to properties already connected between the Laverty's gap Water Treatment Plant and Azalea Street reservoirs. (Lyon/Hunter).

PROCEDURAL MOTION

24-412 Resolved that Cr Lyon be granted a one minute extension to his speech. (Lyon)

The motion was put to the vote and carried unanimously.

Due to her repeated interjections, the Mayor requested that Camila Peters-Quayle leave the meeting. Ms Peters-Quayle did not leave the meeting as requested.

The Mayor adjourned the meeting at 3.55pm and recommenced at 4:01pm.

BYRON SHIRE COUNCIL

ORDINARY MEETING MINUTES

15 August 2024

PROCEDURAL MOTIONS

24-413 Resolved that Cr Ndiaye be granted a one minute extension to her speech. (Lyon)

The motion was put to the vote and carried unanimously.

24-414 Resolved that Cr Pugh be granted a one minute extension to his speech. (Lyon)

The motion was put to the vote and carried unanimously.

24-415 Resolved that Cr Dey be granted a one minute extension to his speech. (Lyon)

The motion was put to the vote and carried unanimously.

24-416 Resolved that Cr Lyon be granted a two minute extension to his speech. (Westheimer/Pugh)

The motion was put to the vote and carried.

*The motion (Lyon/Hunter) was put to the vote and declared a tie.
Crs Westheimer Coorey, Ndiaye, Dey voted against the motion.
The Mayor used his casting vote to declare the motion carried.*

PROCEDURAL MOTION

24-417 Resolved that Report 14.3 rest on the table. (Lyon)

The motion was put to the vote and carried unanimously.

The meeting adjourned at 5:03pm for a short break and reconvened at 5:13pm.

PROCEDURAL MOTION

24-418 Resolved that Report No. 14.3 be lifted from the table. (Lyon)

The motion was put to the vote and carried unanimously.

REPORTS OF COMMITTEES - INFRASTRUCTURE SERVICES

Report No. 14.3 Report of the Water and Sewer Advisory Committee Meeting held on 19 July 2024

File No: I2024/1066

24-419 Resolved that Council notes the minutes of the Water and Sewer Advisory Committee Meeting held on 19 July 2024. (Lyon/Pugh)

24-420 Resolved that Council adopts the following Recommendation:

Report No. 3.1 Adoption of Minutes from Previous Meetings

File No: I2024/984

Committee Recommendation 3.1.1

That the minutes of the Water and Sewer Advisory Committee Meeting held on 30 May 2024 be confirmed. (Lyon/Pugh)

No. 14.3.4.1 Mullumbimby Water Supply Strategy Public Consultation Report

File No: I2024/1032

24-421 Resolved that Council does not adopt the following Recommendation:

Report No. 4.1 Mullumbimby Water Supply Strategy Public Consultation Report

File No: I2024/1032

Committee Recommendation 4.1.1

That Council:

1. Publicly thanks the community for its participation in making more than 433 Your-Say submissions during June 2024 on Mullumbimby's future water supply;
2. Acknowledges that 89% of 411 valid Your-Say respondents oppose abandoning the Wilsons Creek source (Lavertys Gap), while 6% are neutral and 5% support;
3. Notes that Hydrosphere's report "Mullumbimby Water Supply Strategy" of December 2021 does not investigate Option 2 (adding off-stream storage and retaining the Wilsons Creek source) to the extent suggested in Council's Resolution 23-120 and that it assesses Option 3 (Rous only) without Dunoon Dam which is now included in Rous's forward water source planning;
4. Notes the following extract from the North Coast Enabling Regional Adaptation, North Coast Region Report (NSW Office of Environment and Heritage, 2019) which states on page 15:

BYRON SHIRE COUNCIL

ORDINARY MEETING MINUTES

15 August 2024

“Under a transformed system for infrastructure [,] water systems are smaller, localised and decentralised with multiple redundancies providing tailored and integrated solutions”

5. Proceeds with the investigations previously outlined in Parts 7 and 8 of Resolution 23-120 with some additions in 8b and 8c, namely:
7. Investigates a strategy for Mullumbimby’s long term water supply based on the following concept:
 - a) Lavertys Gap as the source during flows in excess of environmental requirements;
 - b) water stored off-stream between the source and Mullumbimby;
 - c) water treated at a new location between the storage and Mullumbimby;
 - d) water delivered to Mullumbimby and possibly beyond; and
 - e) maximising demand management, including the harvesting of roof water.
8. Includes in this investigation:
 - a) the topography of the terrain between Lavertys Gap and Mullumbimby, to identify potential dam sites;
 - b) the hydrology of Wilsons Creek and its capacity to supply, including
 - (i) seasonality,
 - (ii) establishing environmental flows for future EPA licensing;
 - c) the impact of climate change on supply and on demand (using up-to-date CC data and methodologies in the pilot phase for local water supply through DPE, and applied in Regional Water Strategies);
 - d) infrastructure needs including offtake, storage, treatment and linkages to the town’s reservoirs;
 - e) environmental assessments for the creation and operation of that infrastructure, including greenhouse gas emissions;
 - f) assessment of the weir at Lavertys Gap including
 - (i) structural integrity;
 - (ii) means of creating fish passage; and
 - (iii) how this proposal enhances its heritage and preservation; and
 - g) economic assessment.
6. Notes the successful upgrade to Kyogle’s water supply which included off stream storage and creation of fish passage on the existing weir in the Richmond River.
7. Supports Council consulting with landowners of properties currently supplied from the pressure line between the Water Treatment Plant at Lavertys Gap and the reservoir near Azalea Street, by:
 - a) Listening to their wishes, and
 - b) Considering outcomes including a reticulation pipeline returning from Azalea Street reservoir to those properties. (Lyon/Pugh)

*The motions (24-419 to 24-421) were put to the vote and carried.
Crs Westheimer, Ndiaye, and Dey voted against the motion.*

DELEGATES' REPORTS

Delegate's Report No. 12.1 Australian Local Government Conference, Canberra
File No: I2024/1087

Cr Ndiaye provided a delegate report on the Australian Local Government Conference, as written in the Agenda for this meeting.

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

Report No. 13.1 Grants June and July 2024
File No: I2024/607

24-422 Resolved that Council notes the grant submissions report for the months of June and July 2024 (Attachment 1 #E2024/87406). (Dey/Lyon)

The motion was put to the vote and carried unanimously.

Report No. 13.2 Integrating youth engagement across Council operations
File No: I2024/951

24-423 Resolved that Council embeds youth engagement into the Community Engagement Strategy and implements the activities outlined in Table 1, with the inclusion of continued exploration of the possibility of a youth council or similar engagement panel. (Ndiaye/Coorey)

The motion was put to the vote and carried unanimously.

STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

Report No. 13.8 Draft Business Industry and Visitor Economy Strategy
File No: I2024/662

24-424 Resolved that Council:

1. Endorses the public exhibition of the Draft Business, Industry and Visitor Economy Strategy to 2035 (Attachment 1, E2024/80929) for a minimum period of six weeks commencing after the 14 September local government election;
2. Encourages the community to offer suggestions for the establishment of Performance Benchmarks to monitor progress of the strategies.
3. Receives a Submissions Report following the public exhibition period to finalise the Draft Business, Industry and Visitor Economy Strategy to 2035. (Hunter/Ndiaye)

Cr Coorey left the meeting at 5.33pm.

*The motion was put to the vote and carried unanimously.
Cr Coorey was not present for the vote.*

BYRON SHIRE COUNCIL

ORDINARY MEETING MINUTES

15 August 2024

Report No. 13.9 **Draft Events Strategy for public exhibition**
File No: I2023/36

24-425 **Resolved** that Council:

1. Endorses the public exhibition of the Draft Events Strategy 2035 (Attachment 2, E2024/80126) for a minimum period of six weeks commencing after the 14 September local government election.
2. Receives a Submissions Report following the public exhibition period to finalise the Events Strategy 2035. (Pugh/Ndiaye)

*The motion was put to the vote and carried unanimously.
Cr Coorey was not present for the vote.*

Report No. 13.14 **Sustainability Team - key project updates**
File No: I2024/1065

24-426 **Resolved** that Council:

1. Notes the update on the Sustainability Team key projects; and
2. Adds the following action to Council's Heat Resilience Action Table (v3; attachment 2; E2024/85108): Council staff investigate and develop appropriate planning controls to address urban cooling / heat resilience needs through landscaping, building colours and materials, building design and form, and passive (wind) ventilation. (Dey/Westheimer)

*The motion was put to the vote and carried unanimously.
Cr Coorey was not present for the vote.*

STAFF REPORTS - INFRASTRUCTURE SERVICES

Report No. 13.23 **Part Road Reserve Closure and sale adjoining Lot 1 DP
246414, 134 Lighthouse Road, Byron Bay, NSW 2481**
File No: I2024/1034

24-427 **Resolved** that Council defer this matter to a future Council meeting that can offer a site inspection and where the Report will be accompanied by consideration of the frequency with which encroachments occur, and then have to be resolved by selling the land encroached upon to the property responsible for encroachment. (Dey/Ndiaye)

*The motion was put to the vote and carried.
Cr Hunter voted against the motion.
Cr Coorey was not present for the vote.*

BYRON SHIRE COUNCIL

ORDINARY MEETING MINUTES

15 August 2024

MAYORAL MINUTE

No. 10.1 **Billinudgel Rd - Stockyard Rd - Billinudgel Yelgun Road Closure**
File No: I2024/1146

24-428 Resolved that Council makes representation to Transport for NSW and UGL to expedite the repair or demolition, as appropriate, of the overhead timber railway bridge that crosses over "The Stock Route" in Billinudgel. (Lyon)

*The motion was put to the vote and carried.
 Cr Ndiaye voted against the motion.
 Cr Coorey was not present for the vote.*

There being no further business the meeting concluded at 5.59pm.

I hereby certify that these are the true and correct Minutes of this Meeting
 as confirmed at Council's Ordinary Meeting on 5 September 2024.



.....
 Mayor Michael Lyon