

Minutes Ordinary (Planning) Meeting Thursday, 1 August 2024



DISCLAIMER

These minutes are DRAFT minutes and will remain unconfirmed until they are confirmed as a correct record at a subsequent meeting.



BYRON
SHIRE
COUNCIL

BYRON SHIRE COUNCIL

Ordinary (Planning) Meeting Minutes
1 August 2024

INDEX OF ITEMS DISCUSSED

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

Report No. 13.2	Council Investments - 1 June 2024 to 30 June 2024.....	6
Report No. 13.3	PLANNING -DA 10.2021.348.2 - Modification to mixed use development including changes to design and number of parking spaces and increase from two storey to three storeys in on-site car parking structure 156-158 Jonson Street BYRON BAY	7
Report No. 13.4	Status report on Development Applications (DAs) with bodies like the Northern Regional Planning Panel (NRPP).....	7
Report No. 13.5	PLANNING - 26.2021.7.1 - Submissions Report - Planning Proposal - 55 Settlement Road, Main Arm	7
Report No. 13.8	PLANNING - 26.2024.8.1 Planning Proposal for Public Road Subdivision	8
Report No. 14.1	Report of the Housing and Affordability Advisory Committee Meeting held on 30 May 2024	8
Report No. 16.1	CONFIDENTIAL - Exemption from Tender and Extension of Contract 2014-0011 - Waste and Resource Recovery Collection Service.....	10
Report No. 13.9	PLANNING - Byron Shire Affordable Housing Contribution Scheme 02	11
Notice of Motion No. 9.1	Undetected water leak & water charges.....	12
Notice of Motion No. 9.4	New Brighton River Bank Erosion	14
Report No. 13.11	PLANNING - DA 10.2024.63.1- Demolition of existing Dwelling House, construction of new Dual Occupancy (Attached) including basement carparking, swimming pool and removal of twelve (12) trees - 19 Marine Parade Byron Bay	15
Notice of Motion No. 9.2	Men's Shed Byron Bay	17
Notice of Motion No. 9.3	Telstra proposal to install a new mobile phone base station at 161 Broken Head Road, Newrybar.....	17
Notice of Motion No. 9.5	Laneways in Brunswick Heads.....	18
Notice of Motion No. 9.6	Mullumbimby Railway Station.....	18
No. 10.1	Costing Update for 2021 Hydrosphere Report	19
Report No. 13.1	Improving the visibility of significant Development Applications	20
Report No. 13.6	PLANNING - DA 10.2024.20.1 - Use of land and existing shed for Landscaping Material Supplies - 1178 Myocum Road Myocum	21
Report No. 13.7	PLANNING - DA 10.2024.111.1 Subdivision of road reserve, lot consolidation – 89 Massinger Street, Byron Bay	22
Report No. 13.10	Amendment to Chapter D5 Industrial Development and B4 Traffic Planning, Vehicle Parking, Circulation and Access to include new provisions for Artisan Food and Drink Industry	22

BYRON SHIRE COUNCIL

ORDINARY (PLANNING) MEETING MINUTES

1 August 2024

MINUTES OF THE BYRON SHIRE COUNCIL ORDINARY (PLANNING) MEETING HELD ON THURSDAY, 1 AUGUST 2024 COMMENCING AT 11:01AM AND CONCLUDING AT 5:43PM.

I2024/1073

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)
Matt Meir (Legal Counsel)
Chris Larkin (Manager Sustainable Development)
Samuel Frumpui (Manager Works)
Cameron Clarke (Manager Utilities)
Amber Evans Crane (Corporate Planning & Improvement Coordinator)
Storm Townsend (Minute Taker)

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

PUBLIC ACCESS

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

Public Access

Report No and Title	Name	For/ Against	Representing Organisation	Submission Received in form of	
9.1	Notice of Motion – Undetected water leak and water charges	Robert Birch	For	Self	In person
9.2	Notice of Motion – Men’s Shed Byron Bay	Garry Eastburn	For	Byron Bay Men’s Shed	In person
9.4	Notice of Motion – New Brighton River Bank Erosion	Matthew Lambourne	For	Self	In person
		Kathy Norley	Against	South Golden Beach Community Association	In person
		Mick Sherington		New Brighton Village Association	In person

BYRON SHIRE COUNCIL

ORDINARY (PLANNING) MEETING MINUTES

1 August 2024

Report No and Title		Name	For/ Against	Representing Organisation	Submission Received in form of
9.5	Notice of Motion – Laneways in Brunswick Heads	Leone Bolt	Against	Self	In person
13.11	PLANNING - DA 10.2024.63.1- Demolition of existing Dwelling House, construction of new Dual Occupancy (Attached) including basement carparking, swimming pool and removal of twelve (12) trees - 19 Marine Parade Byron Bay	Pete Kennon, Joe Davidson & Anthony Eisen	Against	Self	In person
10.1	Mayoral Minute – Costing Update for 2021 Hydrosphere Report	Dale Emerson & Ben Fawcett	For	Mullumbimby Residents Association	In person

The meeting adjourned at 12.52pm for a lunch break and reconvened at 1.33pm.

APOLOGIES

PROCEDURAL MOTION

24-341 Resolved: that the apology from Cr Balson be accepted in accordance with her prior leave of absence (Resolution No. **24-254**). (Lyon)

The motion was put to the vote and carried unanimously.

APPLICATIONS TO ATTEND BY AUDIO-VISUAL LINK

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

REQUESTS FOR LEAVE OF ABSENCE

There were no requests for leave of absence.

DECLARATIONS OF INTEREST – PECUNIARY AND NON-PECUNIARY

There were no Declarations of Interest tabled.

TABLING OF PECUNIARY INTEREST RETURNS

There were no Pecuniary Interest Returns tabled.

ADOPTION OF MINUTES FROM PREVIOUS MEETINGS

- 24-342 Resolved** that the minutes of the Ordinary (Planning) Meeting held 13 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

General Manager

Report No. 13.1 Improving the visibility of significant Development Applications

Corporate and Community Services

Sustainable Environment and Economy

Report No. 13.6 PLANNING - DA 10.2024.20.1 - Use of land and existing shed for Landscaping Material Supplies - 1178 Myocum Road Myocum

Report No. 13.7 PLANNING - DA 10.2024.111.1 Subdivision of road reserve, lot consolidation – 89 Massinger Street, Byron Bay

Report No. 13.9 PLANNING - Byron Shire Affordable Housing Contribution Scheme 02

Report No. 13.10 Amendment to Chapter D5 Industrial Development and B4 Traffic Planning, Vehicle Parking, Circulation and Access to include new provisions for Artisan Food and Drink Industry

Report No. 13.11 PLANNING - DA 10.2024.63.1- Demolition of existing Dwelling House, construction of new Dual Occupancy (Attached) including basement carparking, swimming pool and removal of twelve (12) trees - 19 Marine Parade Byron Bay

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. **24-343** and concluding with Resolution No. **24-353**.

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

Report No. 13.2 Council Investments - 1 June 2024 to 30 June 2024
File No: I2024/1039

24-343 Resolved that Council notes the report listing Council's investments and overall cash position as of 30 June 2024. (Lyon/Westheimer)

BYRON SHIRE COUNCIL

ORDINARY (PLANNING) MEETING MINUTES

1 August 2024

STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

Report No. 13.3 **PLANNING -DA 10.2021.348.2 - Modification to mixed use development including changes to design and number of parking spaces and increase from two storey to three storeys in on-site car parking structure 156-158 Jonson Street BYRON BAY**
File No: I2024/995

24-344 **Resolved** that Council notes that s4.55 Application No.10.2021.348.2, for Modification to mixed use development including changes to design and number of parking spaces and increase from two storey to three storeys in on-site car parking structure 156-158 Jonson Street Byron Bay, has been withdrawn on the Planning Portal.
(Lyon/Westheimer)

Report No. 13.4 **Status report on Development Applications (DAs) with bodies like the Northern Regional Planning Panel (NRPP)**
File No: I2024/967

24-345 **Resolved** that Council notes the status report on Development Applications (DAs) with bodies like the Northern Regional Planning Panel (NRPP).
(Lyon/Westheimer)

Report No. 13.5 **PLANNING - 26.2021.7.1 - Submissions Report - Planning Proposal - 55 Settlement Road, Main Arm**
File No: I2024/972

24-346 **Resolved** that Council:

1. Adopts the Planning Proposal in Attachment 1 (E2024/79738), as amended to address the NSW SES submission issues outlined in Table 1 of this report.
2. Forwards the Planning Proposal to the NSW Department of Planning, Housing and Infrastructure requesting finalisation.
3. Grants delegation to the General Manager to execute the Planning Agreement associated with the Planning Proposal in Attachment 2 (E2024/63743).
(Lyon/Westheimer)

BYRON SHIRE COUNCIL

ORDINARY (PLANNING) MEETING MINUTES

1 August 2024

Report No. 13.8 **PLANNING - 26.2024.8.1 Planning Proposal for Public Road Subdivision**

File No: I2024/1002

24-347 **Resolved** that Council:

1. Proceeds with a planning proposal as attached to this report (Attachment 1 – E2024/75673) that would amend Byron LEP 2014 to include subdivision of Council-owned roads as an item within Schedule 2 Exempt Development.
2. Forwards the planning proposal to the NSW Department of Planning, Housing and Infrastructure for a Gateway determination.
3. Pending a positive Gateway determination, undertake a public exhibition of the planning proposal in accordance with the determination requirements.
4. Considers a submissions report post-exhibition that includes any recommended changes to the planning proposal for final adoption. (Lyon/Westheimer)

REPORTS OF COMMITTEES - SUSTAINABLE ENVIRONMENT AND ECONOMY

Report No. 14.1 **Report of the Housing and Affordability Advisory Committee Meeting held on 30 May 2024**

File No: I2024/968

24-348 **Resolved** that Council notes the minutes of the Housing and Affordability Advisory Committee Meeting held on 30 May 2024. (Lyon/Westheimer)

24-349 **Resolved** that Council adopts the following Committee recommendation:

Report No. 3.1 **Adopted Minutes Housing and Affordability Committee Meeting held 16 November 2023**

File No: I2024/91

Committee Recommendation 3.1.1

That the minutes of the Housing and Affordability Advisory Committee Meeting held on 16 November 2023 be confirmed. (Lyon/Westheimer)

BYRON SHIRE COUNCIL

ORDINARY (PLANNING) MEETING MINUTES

1 August 2024

24-350 Resolved that Council adopts the following Committee recommendation:

Report No. 4.1 Future Items Report

File No: I2024/358

Committee Recommendation 4.1.1

That the Housing and Affordability Advisory Committee:

1. Requests staff to follow up with Dr Michael Klein the potential for either a prerecorded presentation or an evening session at a future committee meeting.
2. Supports staff looking at opportunities to participate in discussions on module housing that may occur through government review or conferences.
(Lyon/Westheimer)

24-351 Resolved that Council adopts the following Committee recommendation:

Report No. 4.2 Housing Initiatives and Project Updates Report

File No: I2024/357

Committee Recommendation 4.2.1

That the Housing and Affordability Advisory Committee notes the update on current initiatives and projects being progressed by Council staff and thanks staff for their ongoing efforts.
(Lyon/Westheimer)

24-352 Resolved that Council adopts the following Committee recommendation:

Report No. 4.3 Inquiries Legislative Assembly Committee on Environment and Planning - Historical development consents in NSW

File No: I2024/811

Committee Recommendation 4.3.1

That the Housing and Affordability Advisory Committee:

1. Considers the Terms of Reference for the NSW Legislative Assembly Inquiry into the impact of historical consents, and whether committee members want to contribute to a staff submission.
2. Subject to item 1, provides staff with their comments relevant to the Terms of Reference for inclusion in the staff submission to the Inquiry. (Lyon/Westheimer)

CONFIDENTIAL REPORTS - INFRASTRUCTURE SERVICES

Report No. 16.1 **CONFIDENTIAL - Exemption from Tender and Extension of Contract 2014-0011 - Waste and Resource Recovery Collection Service**

File No: I2024/987

24-353 **Resolved** that Council:

1. Decides not to tender for the contract to replace contract 2014-0011 Waste and Resource Recovery Collection Service because the following extenuating circumstances mean a satisfactory result would not be achieved by inviting tenders:
 - a) Changes to the *Local Government Act 1993* regarding protections for waste management employees will materially increase the time required for market participants to make lawful and satisfactory tenders for a new waste and resource recovery collection service contract. This time will increase further if the incumbent contractor is not selected as the preferred contractor and arrangements need to be made regarding its staff potentially transferring to a new provider.
 - b) Current rates of inflation will impact the cost to procure new waste collection vehicles and this will have an unreasonable cost impact during the life of a new contract (10 years +).
2. In lieu of going to tender, extends contract 2014-0011 for 12 months, with an option for an additional 12 months if required, to manage the risk of the above extenuating circumstances.
3. Delegates the General Manager to finalise, execute and 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)

The motions were put to the vote and carried unanimously.

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

Nil voted against the motions.

PROCEDURAL MOTION

24-354 **Resolved** that Council change the order of business to deal with Reports 13.9, 9.1, 9.2, 9.4 and 13.11 next on the Agenda. (Lyon)

The motion was put to the vote and carried unanimously.

STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

**Report No. 13.9 PLANNING - Byron Shire Affordable Housing Contribution
Scheme 02**

File No: I2024/1022

24-355 Resolved that Council:

1. Authorises staff to prepare and submit a planning proposal to introduce a second Byron Shire Affordable Housing Contribution Scheme (AHCS 02), in accordance with Action 10 of the recently adopted Byron Residential Strategy 2041 (and Attachments 1-4).
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. (Swivel/Ndiaye)

The motion was put to the vote and carried unanimously.

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

Nil voted against the motion.

NOTICES OF MOTION

Notice of Motion No. 9.1 Undetected water leak & water charges

File No: I2024/1050

Moved that Council:

1. Recognises that a leak started in about February 2022 as a crack in the pressure pipe within the residential property at 4 Barkala Crescent Ocean Shores, possibly as a result of the property being inundated by the extreme flooding of that month, and grew progressively until it was detected by the property owner and repaired by a licensed plumber early in June 2024;
2. Acknowledges that water bills for the property rose gradually over a two-year period as shown on the table below, from 'normal' usage of about 240 litres/day in the quarter to February 2022 to huge amounts like 4,455 litres/day for the latest period ending May 2024;
3. Recognises that the owner has paid eight quarterly bills prior to the quarter ending in May 2024 at an estimated total of \$1,145 above the amount that would have been charged for eight quarters of 'normal' usage;
4. Accordingly, waives the water bill of \$1,297.52 for the current quarter to May 2024;
5. Estimates consumption for the next quarterly period (May to August 2024) by waiting for readings for the following period (August to November) and charging double that amount at that time to cover those two quarters;
6. Revises the trigger for issuing a Notice of "Higher than Usual Water Usage" downwards and adopts an approach similar to that used by electricity providers of including on bills a graph of the previous rolling five quarters of consumption.
7. Prepares a report for Council on options for Policy for Undetected Water Leaks.
(Dey/Westheimer)

AMENDMENT

24-356 Resolved:

1. Recognises that a leak started in about February 2022 as a crack in the pressure pipe within the residential property at 4 Barkala Crescent Ocean Shores, possibly as a result of the property being inundated by the extreme flooding of that month, and grew progressively until it was detected by the property owner and repaired by a licensed plumber early in June 2024;
2. Acknowledges that water bills for the property rose gradually over a two-year period as shown on the table below, from 'normal' usage of about 240 litres/day in the quarter to February 2022 to huge amounts like 4,455 litres/day for the latest period ending May 2024;
3. Recognises that the owner has paid eight quarterly bills prior to the quarter ending

BYRON SHIRE COUNCIL

ORDINARY (PLANNING) MEETING MINUTES

1 August 2024

in May 2024 at an estimated total of \$1,145 above the amount that would have been charged for eight quarters of 'normal' usage;

4. Accordingly, as a one off concession waives \$500 off the May 2024 water bill;
5. When software allows installs a system that estimates consumption for the next quarterly period (May to August 2024) by waiting for readings for the following period (August to November) and charging double that amount at that time to cover those two quarters;
6. When software allows installs a system that revises the trigger for issuing a Notice of "Higher than Usual Water Usage" downwards and adopts an approach similar to that used by electricity providers of including on bills a graph of the previous rolling five quarters of consumption.
7. Prepares a report for Council on options for Policy for Undetected Water Leaks.
(Lyon/Hunter)

PROCEDURAL MOTION

- 24-357 Resolved** that the motion be put. (Pugh/Swivel)

The motion was put to the vote and carried unanimously.

The amendment was put to the vote and declared carried.

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

Crs Coorey, Dey and Ndiaye voted against the amendment.

PROCEDURAL MOTION

- 24-358 Resolved** that the amendment as the substantive motion be put. (Lyon)

The motion was put to the vote and declared carried.

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

Crs Dey and Ndiaye voted against the motion.

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

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

Crs Dey, Ndiaye and Coorey voted against the motion.

PROCEDURAL MOTION

- 24-359 Resolved** that Council change the order of business to deal with Reports 9.4 and 13.11 next on the Agenda. (Lyon)

The motion was put to the vote and carried unanimously.

Notice of Motion No. 9.4 New Brighton River Bank Erosion

File No: I2024/1053

24-360 Resolved that Council:

1. Urgently Investigates Grant funding opportunities for remediation along the whole section of riverbank from Casons Rd to Pacific St, New Brighton
2. Then receives a further report:
 - a. On an expanded section of land from Casons Rd to Pacific Street and options for remediation on all sections of this land
 - b. Outlining whether compulsory acquisition is an option on the land identified in the current report, given the urgent need for remediation
 - c. On restarted negotiations with the owners of the land opposite the Post Office with a view to purchase or to at least allow access for remediation.
3. Requests an urgent onsite meeting with relevant stakeholders and land managers. (Lyon/Ndiaye)

The motion was put to the vote and carried unanimously.

STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

Report No. 13.11 PLANNING - DA 10.2024.63.1- Demolition of existing Dwelling House, construction of new Dual Occupancy (Attached) including basement carparking, swimming pool and removal of twelve (12) trees - 19 Marine Parade Byron Bay
File No: I2024/1037

24-361 Resolved that:

1. Pursuant to Section 4.16 of the Environmental Planning & Assessment Act 1979, Development Application No. 10.2024.63.1 for Demolition of existing Dwelling House, construction of new Dual Occupancy (Attached) including basement carparking, swimming pool and removal of twelve (12) trees, be deferred subject to amended plans being submitted to Council within 28 days of the date of this resolution with the following changes made to provide for reduced impacts from the development proposal:
 - a. The floor space ratio being reduced to comply with the Clause 4.4 of Byron LEP 2014.
 - b. the plans being amended to a single dwelling house only.
 - c. The plans to clearly demonstrate compliance with the maximum height of buildings limit under Clause 4.3 of Byron LEP 2014, via survey details on the amended architectural plans.
 - d. The rear lane setbacks designed to comply with the three metre requirements under Chapter D1 DCP 2014.
 - e. The single dwelling house setback to comply with a minimum of 3 metres from the western boundary to protect the existing stormwater main and demonstrate compliance with Building In the Vicinity of Underground Infrastructure Policy 2020
 - f. An amended Stormwater Management Plan submitted demonstrating compliance with Chapter B3 of Byron DCP 2014.
 - g. Driveways from Marine Parade being redesigned to comply with AS 2890 and Chapter B4 of DCP 2014 with the driveway to be set square to the road carriageway, and with site triangles compliant under AS2890 Clause 3.2.4 and located within the subject property.
 - h. Basement and subterranean rooms to be limited to a maximum of 50m² in accordance with provisions of Chapter E5.10 Wategos of the Byron DCP 2014.
 - i. Amended Geotechnical assessment to be submitted addressing landslip and groundwater in accordance with provisions of Chapter E5.10 Wategos and Chapter B14 of the Byron DCP 2014 and clause 6.2 of Byron LEP 2014.
 - j. Site coverage to be reduced to a maximum of 50% of the property and the external appearance of the dwelling to be changed to include lightweight building and cladding materials in accordance with provisions of Chapter

BYRON SHIRE COUNCIL

ORDINARY (PLANNING) MEETING MINUTES

1 August 2024

E5.10 Wategos of the Byron DCP 2014.

- k. Provision of an updated Visual Impact Assessment including details addressing any view loss from neighbouring properties.
 - l. Provision of amended plans to provide for an increased level of compliance with the prescriptive measures for Building Height Plane under Chapter D1 of Byron DCP 2014.
 - m. Any other matters that arise during the assessment of the Amended Plans.
2. Council notes the amended plans with change of use to a dwelling house will require notification under the Community Participation Plan. This notification will be to adjoining landowners and submitters to the first exhibition allowing 7 days for new submissions. That the applicant will engage also directly with the rear property owner during this time.
 3. Council returns delegations to the General Manager (or their delegate) to determine the amended Development Application no later than 60 days from the date of this resolution. (Hunter/Ndiaye)

*The motion was put to the vote and carried unanimously
Crs Coorey, Hunter, Lyon, Ndiaye, Dey, Swivel, Westheimer and Pugh voted in favour of
the motion.*

Nil voted against the motion.

NOTICES OF MOTION

Notice of Motion No. 9.2 Men's Shed Byron Bay

File No: I2024/1057

24-362 Resolved that Council:

1. Acknowledges the importance of Men's Sheds in promoting mental health, well-being, and social inclusion among men in the community;
2. Formally supports the establishment of a Men's Shed for Byron Bay;
3. Requests staff to collaborate with the Men's Shed executives to identify and secure suitable land for the construction of the Men's Shed; and
4. Considers at the first quarterly review of the 2024/25 budget, a funding allocation for any costs resulting from this initiative. (Dey/Lyon)

Cr Westheimer left the Chambers at 3.33pm

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

Cr Westheimer returned to the Chambers at 3.39pm

Notice of Motion No. 9.3 Telstra proposal to install a new mobile phone base station at 161 Broken Head Road, Newrybar

File No: I2024/1052

24-363 Resolved that Council writes to Telstra:

1. Asking them to consider resident requests to house their proposed telecommunications equipment on the existing NBN tower in Newrybar rather than build a new tower.
2. Expressing support for better telecommunications reception to be implemented as quickly as possible. (Lyon/Pugh)

The motion was put to the vote and carried unanimously.

Notice of Motion No. 9.5 Laneways in Brunswick Heads

File No: I2024/1054

24-364 Resolved that Council:

1. Investigates, through the Local Traffic Committee, changes to Slessor Lane in Brunswick Heads, where recent development activity on the corner of Tweed Street is causing conflicts between patrons and residents, including investigating changing it to one-way out to Tweed Street.
2. Investigates other laneways in Brunswick Heads that may benefit from changes to traffic conditions. (Lyon/Hunter)

The motion was put to the vote and carried unanimously.

Notice of Motion No. 9.6 Mullumbimby Railway Station

File No: I2024/1055

24-365 Resolved that Council lobbies Transport for NSW:

1. To ensure that the Mullumbimby Railway Station is rebuilt if at all possible and following any reconstruction be able to be managed by Council for community uses.
2. To prevent the demolition of the Railway Cottage and find alternative ways to deal with any contamination surrounding this valuable historical Cottage. (Lyon/Ndiaye)

The motion was put to the vote and carried unanimously.

The meeting adjourned at 4.04pm for a short break and reconvened at 4.17pm.

MAYORAL MINUTE

Mayoral Minute No. 10.1 Costing Update for 2021 Hydrosphere Report

- 24-366 Resolved** that Council receives a report prior to the Ordinary Council meeting on 15 August 2024 which updates the costings in the Hydrosphere report from 2021 so that a more current NPV comparison can be obtained between the off-stream storage/new water treatment plant, and connecting to Rous options. (Lyon)

PROCEDURAL MOTION

- 24-367 Resolved** that Cr Dey be granted a one minute extension to his speech. (Lyon)

The motion was put to the vote and carried unanimously.

AMENDMENT

Moved that Council receives a report which updates the costings in the Hydrosphere report from 2021 so that a more current NPV comparison can be obtained between the off-stream storage/new water treatment plant, and connecting to Rous options. (Dey/Ndiaye)

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

Crs Dey and Ndiaye voted in favour of the amendment.

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

The motion (Lyon) was put to the vote and declared carried.

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

Crs Dey and Ndiaye voted against the motion.

PROCEDURAL MOTION

- 24-368 Resolved** that Council change the order of business to deal with Reports 13,1, 13.6, 13.7 and 13.10 next on the Agenda. (Lyon/Coorey)

The motion was put to the vote and carried unanimously.

STAFF REPORTS - GENERAL MANAGER

Report No. 13.1 Improving the visibility of significant Development Applications

File No: I2024/953

Moved that Council investigates options for:

1. The establishment of a subscription service to alert subscribers to DAs in a particular area or Shire-wide.
2. Reinstating a block advertisement in the Byron Shire Echo, and
3. Increasing Council advertising on Bay FM – particularly for alerting residents to how they can find out about developments and other key issues potentially affecting them. (Coorey/Ndiaye)

FORESHADOWED MOTION

24-369 Resolved that Council investigates options for the establishment of a subscription service to alert subscribers to DAs in a particular area or Shire-wide. (Pugh/Hunter)

The motion was put to the vote and carried unanimously.

PROCEDURAL MOTION

24-370 Resolved that Cr Coorey be granted a one minute extension to her speech. (Lyon)

The motion was put to the vote and carried unanimously.

*The motion (Coorey/Ndiaye) was put to the vote and declared lost.
Crs Westheimer, Ndiaye, Dey and Coorey voted in favour of the motion.
Crs Hunter, Pugh, Lyon and Swivel voted against the motion.
Cr Lyon used his casting vote and declared the motion lost.*

*The foreshadowed motion (Pugh/Hunter) was put to the vote and declared carried.
Crs Hunter, Pugh, Westheimer, Lyon, Swivel, Dey and Coorey voted for the motion.
Cr Ndiaye voted against the motion.*

Cr Coorey left the Chambers at 5.16pm and did not return.

STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

Report No. 13.6 **PLANNING - DA 10.2024.20.1 - Use of land and existing shed for Landscaping Material Supplies - 1178 Myocum Road Myocum**
File No: 12024/973

24-371 **Resolved** that Pursuant to Section 4.15 of the Environmental Planning & Assessment Act 1979, Development Application No. 10.2024.20.1 for Use of land and existing shed for Landscaping Material Supplies, be refused for the following reasons:

1. Pursuant to Section 4.15(1)(a)(i) the proposed development is inconsistent with the objectives of the RU1 Primary Production Zone under Byron LEP 2014 as the existing shed and sand stockpile detract from the scenic quality of the locality.
2. Pursuant to Section 4.15(1)(a)(i) the application has not demonstrated compliance with Clause 5.21(2) – “Flood planning” of Byron LEP 2014.
3. Pursuant to Section 4.15(1)(a)(iii) the application has not demonstrated compliance with Chapter C2 – “Areas affected by flood” of Byron DCP 2014.
4. Pursuant to Section 4.15(1)(b) the proposed development has not demonstrated that it will not have a significant adverse impact upon the built environment with respect to potential flood impacts on adjoining land, and the natural environment having regards to the visual amenity impacts of the existing shed and sand stockpile on the locality.
5. Pursuant to Section 4.15(1)(c) the application has not demonstrated that the site is suitable for the proposed development with respect to visual amenity impacts and potential flood impacts on adjoining land. The application did not provide an assessment of the impacts of the existing sand stockpile on the natural flow of flood waters during flood events.
6. Pursuant to Section 4.15(1)(e) the proposed development is not in the public interest having regards to visual amenity impacts, the objectives of the zone, potential flood impacts on adjoining land, and the bonafides of the proposal as a landscaping material supplies business given that concrete batching equipment remains onsite and use of such equipment is prohibited in the zone, and lack of attempt at compliance with the approved DA 10.2020.568.1 which has since lapsed. (Westheimer/Dey)

The motion was put to the vote and carried unanimously.

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

Nil voted against the motion.

BYRON SHIRE COUNCIL

ORDINARY (PLANNING) MEETING MINUTES

1 August 2024

Report No. 13.7 **PLANNING - DA 10.2024.111.1 Subdivision of road reserve, lot consolidation – 89 Massinger Street, Byron Bay**
File No: I2024/978

24-372

Resolved that pursuant to Section 4.16 of the Environmental Planning & Assessment Act 1979, Development Application No. 10.2024.111.1 for Subdivision – part road closure and lot consolidation, be granted consent subject to the conditions contained in attachment 2 (#E2024/72360) with an additional condition:

7. *Weed removal*

Singapore Daisy to be removed from the subject land prior to the issue of the subdivision certificate. Confirmation from a suitably qualified bush regenerator to be provided to Council that the weed has been removed.

(Lyon/Westheimer)

*The motion was put to the vote and carried unanimously
Crs Hunter, Lyon, Ndiaye, Dey, Swivel, Westheimer and Pugh voted in favour of the motion.*

Nil voted against the motion..

Report No. 13.10 **Amendment to Chapter D5 Industrial Development and B4 Traffic Planning, Vehicle Parking, Circulation and Access to include new provisions for Artisan Food and Drink Industry**
File No: I2024/1030

24-373

Resolved that Council:

1. Proceeds with the public exhibition of the Byron Development Control Plan 2014 amendments to Chapter D5 Industrial Development and B4 Traffic Planning, Vehicle Parking, Circulation and Access to include new provisions for Artisan Food and Drink Industry as detailed in the report.
2. Receives a further report for consideration on the amendments following the public exhibition period. (Pugh/Lyon)

The motion was put to the vote and carried unanimously.

PETITIONS

There were no Petitions tabled.

DELEGATES' REPORTS

Cr Lyon presented a Delegates Report on his attendance at the last Rous City Council Committee meeting. Cr Lyon advised it was resolved at the meeting, should Mullumbimby permanently connect to the Rous network, Council will not have to pay headworks charges due to being a founding member of Rous.

There being no further business the meeting concluded at 5:43pm.

I hereby certify that these are the true and correct Minutes of this Meeting
as confirmed at Council's Ordinary Meeting on 14 November 2024.

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Mayor Michael Lyon