

# Minutes Ordinary (Planning) Meeting

Thursday, 7 December 2023



**BYRON**  
SHIRE  
COUNCIL

# BYRON SHIRE COUNCIL

ORDINARY (PLANNING) MEETING MINUTES

7 December 2023

## INDEX OF ITEMS DISCUSSED

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

Report No. 13.2	Bangalow Heritage House .....	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 - Report of the Planning Review Committee held 2 November 2023 .....	7
Report No. 13.7	PLANNING - Review of Development Control Plan (DCP) 2014 planning controls for Biodiversity, Tree and Vegetation Management ...	8
Report No. 13.10	Bypassed Town Signage- Mullumbimby .....	8
Report No. 13.12	Review of Council's Onsite Sewage Management Strategy 2001 and Onsite Sewage Management Guidelines 2004 .....	8
Report No. 13.15	Results of Beach Naming Survey .....	9
Report No. 13.16	RFT2023-1860 Mullumbimby Recreation grounds Amenities Upgrade .	9
Report No. 13.13	PLANNING - 10.2014.361.4 s4.55 modification Waves Motel at 35 Lawson Street Byron Bay.....	10
Notice of Motion No. 9.1	Independent advice on Wallum ecology, Bayside Brunswick ..	10
Notice of Motion No. 9.4	Access at 656 and 660a Bangalow Road.....	11
Report No. 13.3	Byron Shire Wildlife Corridor System .....	12
Notice of Motion No. 9.2	Register of land to be acquired.....	14
Notice of Motion No. 9.3	Emergency Accommodation in Byron Shire .....	14
Report No. 13.1	Policy Commercial Activities on Coastal and Riparian Crown Reserves.....	16
Report No. 13.6	PLANNING - 10.2023.244.1 Multi Dwelling Housing Comprising Twenty (20) Units, Basement Parking and Associated Works Including Demolition, Removal of Nineteen (19) Trees and Earthworks at 310 Ewingsdale Road, Byron Bay.....	17
Report No. 13.8	26.2023.3.1 - Amendments to Byron Development Control Plan 2014 Chapter E5 to include the North Beach Byron site .....	18
Report No. 13.9	Update Resolution 23-462 Waiver of contributions on secondary dwellings .....	19
Report No. 13.11	Submissions Report - Busking Policy.....	19
Report No. 13.14	New Brighton Parking Improvements.....	20
Report No. 13.17	Rifle Range Road Traffic Calming for Koala Safety .....	20
Report No. 13.18	Social Enterprise Commercial Laundry - Beacon Laundry - s64 Sewer Developer Contributions .....	20
Report No. 13.19	Part Road Reserve Closure and sale adjoining Lot 4 & 5 DP 246401, 154 & 156 Lighthouse Road, Byron Bay NSW .....	21

# BYRON SHIRE COUNCIL

ORDINARY (PLANNING) MEETING MINUTES

7 December 2023

## MINUTES OF THE BYRON SHIRE COUNCIL ORDINARY (PLANNING) MEETING HELD ON THURSDAY, 7 DECEMBER 2023 COMMENCING AT 11:04AM AND CONCLUDING AT 5.01PM

I/2023/1958

**PRESENT:** Cr M Lyon (Mayor), Cr S Balson, Cr C Coorey, Cr D Dey, Cr A Hunter, Cr S Ndiaye (left at 1.00pm), Cr A Pugh, Cr M Swivel (arrived at 12.22pm) 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)  
Ralph James (Legal Counsel)  
Chris Larkin (Manager Sustainable Development) – item 13.3  
Liz Caddick (Biodiversity Team Leader) – 13.3  
James Flockton (Infrastructure Planning Coordinator) – 9.2  
Sarah Nagel (Manager Public & Environmental Services) – 13.11  
Dean Baulch (Principle Engineer Systems Planning) – 13.18  
Heather Sills (Manager Corporate Services)  
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.*

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### PROCEDURAL MOTION

**23-578 Resolved** that Council authorises Sharon Shostak to undertake filming during Item 9.1 of the Public Access session at the Planning Meeting held on 7 December 2023. (Lyon)

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

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Cr Balson left at 11:07am returned to the Chambers at 11:53pm.

# BYRON SHIRE COUNCIL

## ORDINARY (PLANNING) MEETING MINUTES

7 December 2023

### 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	Independent advice on Wallum ecology, Bayside Brunswick	James Barrie	For	Save Wallum	In person
		Luciana Bowen			Via Zoom
9.4	Access at 656 and 660a Bangalow Road	Alex Brown	For	Self	In person
		Chris Grudnoff	Against	Self	In person
13.3	Byron Shire Wildlife Corridor System	Claire Oelrichs	For	Broken Head Wildlife Action Group	Read by staff
13.13	10.2014.361.4 s4.55 modification Waves Motel at 35 Lawson Street Byron Bay	Hannah Hopkinson	For	MP Group	In person
		Paul Grech		GLN Planning	Via Zoom

#### Submissions

There were no Submissions presented.

#### Questions

There were no Questions presented.

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*The meeting adjourned at 11:56pm and reconvened at 12:12pm.*

# BYRON SHIRE COUNCIL

## ORDINARY (PLANNING) MEETING MINUTES

7 December 2023

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### APOLOGIES

#### PROCEDURAL MOTION

- 23-579 Resolved** that the apology from Cr Swivel be accepted for his late arrival at the meeting and a leave of absence granted for that period.

(Lyon)

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

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### APPLICATIONS TO ATTEND BY AUDIO-VISUAL LINK

There were no attendances by audio-visual link.

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### REQUESTS FOR LEAVE OF ABSENCE

#### PROCEDURAL MOTION

- 23-580 Resolved** that Cr Ndiaye be granted a leave of absence for the meeting from 12:45pm. (Lyon)

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

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

Cr Balson declared a Significant non-pecuniary interest in Report 9.1. The nature of the interest being personal relationships and friendships with those opposed to the development and residential issues. Cr Balson elected to leave the Chamber and will not participate in discussion and the vote.

Cr Balson declared a non-pecuniary interest in Report 13.8. The nature of the interest being that a non-significant relationship to a person who made a submission having previously sat on a Board with the person. Cr Balson elected to remain in the Chamber and will participate in discussion and the vote.

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### TABLING OF PECUNIARY INTEREST RETURNS

In accordance with clause 440AAB of the Local Government Act and clause 4.22 of the Code of Conduct for Staff, a Primary Return of Interests for Jeeva Selina Ali in the position of Asset Management Coordinator, is now tabled.

# BYRON SHIRE COUNCIL

## ORDINARY (PLANNING) MEETING MINUTES

7 December 2023

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### ADOPTION OF MINUTES FROM PREVIOUS MEETINGS

- 23-581** **Resolved** that the minutes of the Ordinary (Planning) Meeting held 9 November 2023 be confirmed. (Hunter/Lyon)

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

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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

Report No. 13.1 Policy Commercial Activities on Coastal and Riparian Crown Reserves

##### Sustainable Environment and Economy

Report No. 13.3 Byron Shire Wildlife Corridor System

Report No. 13.6 PLANNING - 10.2023.244.1 Multi Dwelling Housing Comprising Twenty (20) Units, Basement Parking and Associated Works Including Demolition, Removal of Nineteen (19) Trees and Earthworks at 310 Ewingsdale Road, Byron Bay

Report No. 13.8 26.2023.3.1 - Amendments to Byron Development Control Plan 2014 Chapter E5 to include the North Beach Byron site

Report No. 13.9 Update Resolution 23-462 Waiver of contributions on secondary dwellings

Report No. 13.11 Submissions Report - Busking Policy

Report No. 13.13 PLANNING - 10.2014.361.4 s4.55 modification Waves Motel at 35 Lawson Street Byron Bay

##### Infrastructure Services

Report No. 13.14 New Brighton Parking Improvements

Report No. 13.17 Rifle Range Road Traffic Calming for Koala Safety

Report No. 13.18 Social Enterprise Commercial Laundry - Beacon Laundry - s64 Sewer Developer Contributions

Report No. 13.19 Part Road Reserve Closure and sale adjoining Lot 4 & 5 DP 246401, 154 & 156 Lighthouse Road, Byron Bay NSW

The remaining Recommendations and Committee Recommendation were adopted as a whole, being moved by Cr Lyon and seconded by Cr Ndiaye. Each recommendation is recorded with a separate resolution number commencing at Resolution No. **23-582** and concluding with Resolution No. **23-589**.

# BYRON SHIRE COUNCIL

## ORDINARY (PLANNING) MEETING MINUTES

7 December 2023

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### STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

**Report No. 13.2**      **Bangalow Heritage House**  
**File No:**              I2023/1846

**23-582**    **Resolved** that Council:

1.    Endorses the allocation of \$12,000 from the Community Buildings budget (GL 2320.051) for the preparation of an Options Study to inform scoping of potential multi-purpose uses of the Premises; and
  2.    Receives a further report with the outcome of the Options Study, to inform a decision regarding appropriate future lease or license arrangements.
- (Lyon/Ndiaye)

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### STAFF REPORTS – SUSTAINABLE ENVIRONMENT AND ECONOMY

**Report No. 13.4**      **Status report on Development Applications (DAs) with bodies like the Northern Regional Planning Panel (NRPP)**  
**File No:**              I2023/1727

**23-583**    **Resolved** that Council notes the status report on Development Applications (DAs) with bodies like the Northern Regional Planning Panel (NRPP). (Lyon/Ndiaye)

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**Report No. 13.5**      **PLANNING - Report of the Planning Review Committee held 2 November 2023**  
**File No:**              I2023/1729

**23-584**    **Resolved** that Council endorses the outcomes of the Planning Review Committee meeting held 2 November 2023. (Lyon/Ndiaye)

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# BYRON SHIRE COUNCIL

## ORDINARY (PLANNING) MEETING MINUTES

7 December 2023

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**Report No. 13.7**      **PLANNING - Review of Development Control Plan (DCP) 2014 planning controls for Biodiversity, Tree and Vegetation Management**  
**File No:**              I2023/1819

**23-585**    **Resolved** that Council:

1. Authorises the public exhibition of Byron Development Control Plan 2014 Part A Preliminary, Chapter B1 Biodiversity and Chapter F1 Tree and Vegetation Management, as contained in Attachments 1 – 3 (E2023/119582, E2023/119583, E2023/119581) for a period of 28 days.
2. Receives a report outlining the public exhibition outcomes and any other matters that may arise during the exhibition period. (Lyon/Ndiaye)

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**Report No. 13.10**      **Bypassed Town Signage- Mullumbimby**  
**File No:**              I2023/1749

**23-586**    **Resolved** that Council:

1. Notes the Bypassed Town Signage Consultation report, January 2021. (Attachment 1 E2021/27467).
2. Endorses the proposed Mullumbimby Bypassed Town Signage Image included in this report at Figure 1. (Lyon/Ndiaye)

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**Report No. 13.12**      **Review of Council's Onsite Sewage Management Strategy 2001 and Onsite Sewage Management Guidelines 2004**  
**File No:**              I2023/1805

**23-587**    **Resolved** that Council adopts the draft Onsite Sewage Management Strategy 2023 (E2023/74357) and draft Onsite Sewage Management Guidelines 2023 (E2023/95318) amended as a result submissions received during public exhibition. (Lyon/Ndiaye)



# BYRON SHIRE COUNCIL

ORDINARY (PLANNING) MEETING MINUTES

7 December 2023

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## STAFF REPORTS – INFRASTRUCTURE SERVICES

### Report No. 13.15 Results of Beach Naming Survey

File No: I2023/475

**23-588 Resolved** that Council:

1. Recognises the widespread support within community for recognition of traditional custodian naming across the Shire, and extend an invitation to Tweed Byron ALC and Arakwal Board to continue to explore opportunities for renaming as these are identified.
2. Recognises that the process of delineating names and geographical boundaries for beaches is an important risk management exercise that assists emergency services response
3. Resolves to adopt the popular beach names as currently used and detailed in the maps accompanying this report, and that the names and coordinates of each named area in the attachment to this report be submitted to the Geographical Names Board for Gazettal. (noting that beaches within NPWS Estate are already adopted and gazetted). (Lyon/Ndiaye)

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### Report No. 13.16 RFT2023-1860 Mullumbimby Recreation grounds Amenities Upgrade

File No: I2023/1654

**23-589 Resolved** that Council:

1. Awards Tender for the Mullumbimby Recreation Grounds Amenities Upgrade to Bishton Group Pty Ltd, as outlined in the Tender Evaluation Report E2023/121708.
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/Ndiaye)

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*Cr Swivel joined the meeting at 12.22pm.*

### PROCEDURAL MOTION

**23-590 Resolved** that Council change the order of business to deal with Reports 13.13, 9.1, 9.4 and 13.3 next on the Agenda. (Lyon)

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

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

*Crs Ndiaye, Dey, and Swivel voted against the motion.*

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**STAFF REPORTS – SUSTAINABLE ENVIRONMENT AND ECONOMY**

**Report No. 13.13 PLANNING - 10.2014.361.4 s4.55 modification Waves Motel at 35 Lawson Street Byron Bay**

**File No:** I2023/1844

**23-591 Resolved** that, pursuant to Section 4.55 of the *Environmental Planning & Assessment Act 1979*, Application No. 10.2014.361.4, for modifications to an existing motel development to provide a roof-top terrace, be approved by modifying Development consent number 10.2014.361.1 in accordance with Attachment 1 (E2023/122362 Recommended Amended Conditions of Consent) and Condition 43 and 44 be amended to read:

**43. Roof-Top Garden Terrace**

Use of the Roof-Top Garden Terrace is limited to motel guests, and their visitors. Use of this area limited to 8am to 10.00pm, any day of the week.

Maximum number of people on the Roof-Top Garden Terrace limited as follows:

- a) One Hundred (100) people between 8am to 6pm; and
- b) Sixty (60) people between 6pm and 10pm

**44. No interference with amenity of neighbourhood**

The proposed use of the roof-top garden terrace must not be conducted in such a manner as would interfere with the amenity of the neighbourhood.

Noise levels must comply with the EPA Industrial Noise Policy and ensure the 'offensive noise' as defined by the Protection of the Environment Operations Act 1997 is not emitted. (Lyon/Pugh)

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

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

*Cr Ndiaye voted against the motion.*

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**NOTICES OF MOTION**

**Notice of Motion No. 9.1 Independent advice on Wallum ecology, Bayside Brunswick**

**File No:** I2023/1845

*In accordance with her declaration of interest, Cr Balson left the meeting at 12.39pm and did not participate in the debate and vote of this item.*

**Moved** that Council:

1. Urgently seeks advice from an independent ecologist with expertise in Wallum heathland ecology on whether:
  - a) any native vegetation has been cleared or removed by slashing since May

# BYRON SHIRE COUNCIL

## ORDINARY (PLANNING) MEETING MINUTES

7 December 2023

- 2023 on Clarence Property's "Wallum Estate" at Bayside Brunswick;
- b) threatened species are being or could be impacted by on-going slashing there;
  - c) the heath area of the property contains native vegetation (it is mapped as being of High Environmental Value).
2. Asks the expert ecologist to also consult with ecologists known to the Save Wallum group as they have information about flora on the site. (Dey/Ndiaye)

### PROCEDURAL MOTION

**23-592 Resolved** that the motion be put. (Ndiaye)

*The motion was put to the vote and carried.  
Crs Pugh, Westheimer, and Dey voted against the motion.  
Cr Balson was not present for the vote.*

*The motion (Dey/Ndiaye) was put to the vote and declared lost.  
Crs Ndiaye and Dey voted in favour of the motion.  
Crs Coorey, Hunter, Lyon, Swivel, Westheimer and Pugh voted against the motion.  
Cr Balson was not present for the vote.*

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*Cr Ndiaye left the meeting at 1.00pm and did not return.  
Cr Balson returned to the Chambers at 1:09pm.*

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### **Notice of Motion No. 9.4 Access at 656 and 660a Bangalow Road** **File No:** I2023/1852

**23-593 Resolved** that Council receives a report on the access issues at 656 and 660a Bangalow Road Talofa that includes:

- a) whether the current road works are authorised or require a development application
- b) whether the current works meet Council standards for road building and are appropriate to be used as a joint accessway for the properties
- c) how Council can ensure that its own future needs and rights are preserved over the road reserve
- d) options for Council to resolve the issue over the works in the road reserve.

(Pugh/Lyon)

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

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STAFF REPORTS – SUSTAINABLE ENVIRONMENT AND ECONOMY

**Report No. 13.3**      **Byron Shire Wildlife Corridor System**  
**File No:**              I2023/1723

**23-594 Resolved** that Council:

1. Endorses the Byron Shire Wildlife Corridor System as a conservation planning tool to support and encourage wildlife habitat restoration with the following changes and actions:
  - a. That Council writes to landholders who raised concerns, to clarify:
    - i) that the wildlife corridor map is not a statutory land use planning zone and that areas of high conservation value are currently protected in the LEP as C-Zones.
    - ii) that any further change to a land use zone requires public exhibition and notification to all affected landholders, as was done during the C-Zone review.
    - iii) that the wildlife corridor map does not impact on the requirement for a VMP for rural subdivisions.
  - b. That Council provides clear advice on the wildlife corridor web map that the wildlife corridor map:
    - i) is not a provision within the LEP and this map will not impact the ability of landholders to apply for land uses permitted under the LEP, including, those that relate to tourist cabins and secondary dwellings and those that relate to the ability of farmers to carry out permitted agricultural activities on rural land
    - ii) does not impact on the requirement for a VMP for rural subdivisions
    - iii) does not impact on the requirement for a BDAR under the Biodiversity Conservation Act.
    - iv) Include the following caveat (or similar) on the wildlife corridor map on Council's website: *A landholders right to carry out agricultural and development activities on their land under the Byron Shire LEP are not altered by their property being identified on this map.*
  - c. Realigns corridor boundaries to exclude densely urbanised land use zones, including R2, R3, IN1, B1, B2, B4 and B7 in the following towns and villages: Ocean Shores, South Golden Beach, New Brighton, Brunswick Heads, Mullumbimby, Byron Bay, Bangalow and Suffolk Park.
  - d. Updates Council's Guidelines for preparing Vegetation Management Plans or Biodiversity Conservation Management Plans (E2019/31834 - [Developing Vegetation and Biodiversity Conservation Management Plans - Byron Shire Council \(nsw.gov.au\)](#)), to ensure that wildlife corridors are identified on VMP and BCMP site maps and to recommend wildlife corridors be considered as

# BYRON SHIRE COUNCIL

## ORDINARY (PLANNING) MEETING MINUTES

7 December 2023

priority areas for planned management and restoration activities (e.g. tree planting required for tourist cabins).

- e. Continues to support local primary producers to maintain food security and adopt sustainable agricultural practices through the Agricultural Extension Program, Agriculture Cluster Group and providing ongoing support for the work done by Brunswick Valley Landcare.
  - f. Council recognises that local Aboriginal groups including Bundjalung of Byron Bay Arakwal Corporation and Local Aboriginal Land Councils have limited capacity to review the mapping, and allow an opportunity for these organisations to negotiate the wildlife corridor map on their land in future.
  - g. That all Council and Crown land be excised from the wildlife corridor map until such time that legislation pertaining to this land allows multiple land uses to occur on land mapped by Council as a wildlife corridor.
  - h. That rail corridor and state agency land continues to be included in the wildlife corridor map, with acknowledgement that, because the future status of this land is unknown, the wildlife corridor map may need to be revised in future (e.g. if rail corridor land is transferred to Council or Crown and is therefore included within the Local Government Act).
2. a. Develops a GIS map and data portal to give landholders user-friendly advice on corridor values in their local area and what species they can plant to enhance local wildlife corridors.
- b. Notes there are at least 11 Threatened ecological communities in the Shire as at 2022:  
Byron Bay Dwarf Graminoid Clay Heath  
Coastal Saltmarsh  
Coastal Cypress Pine Forest  
Freshwater Wetlands on Coastal Floodplains  
Littoral Rainforest  
Lowland Rainforest on Floodplain  
Lowland Rainforest in the NSW North Coast Bioregion  
Swamp Sclerophyll Forest on Coastal Floodplain  
Subtropical Coastal Floodplain Forest  
Swamp Oak Floodplain Forest  
Themeda grassland on seacliffs and coastal headlands
- c. Notes that of the 402 vertebrate species identified 95 species or 24% are threatened under the NSW Biodiversity Conservation Act 2016.
- d. Acknowledges that mitigating the impacts of anthropogenic climate change will be one of the primary benefits of implementing a corridor system within the Byron LGA, through the protection and buffering of refugia and facilitating the movement of plant and animal species with limited dispersal capabilities. (Westheimer/Dey)

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

*Cr Hunter voted against the motion.*

*Cr Ndiaye was not present for the vote.*

# BYRON SHIRE COUNCIL

## ORDINARY (PLANNING) MEETING MINUTES

7 December 2023

*The meeting adjourned at 1.28pm for a lunch break and reconvened at 2.13pm.*

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### NOTICES OF MOTION

#### **Notice of Motion No. 9.2 Register of land to be acquired**

**File No:** I2023/1848

**23-595 Resolved** that Council:

1. Supports staff to anticipate situations where the acquisition of part or all of an allotment would alleviate infrastructure bottlenecks such as those listed below, and
2. Considers, in future budget variations, the creation of a non-public register of such locations so that, when opportunities arise such as owner willingness or property sale, Council has the background ready plus any other steps to acquire the land to facilitate that infrastructure. (Dey/Coorey)

#### PROCEDURAL MOTIONS

**23-596 Resolved** that Cr Dey be granted a two minute extension to his speech. (Lyon)

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

**23-597 Resolved** that Cr Pugh be granted a two minute extension to his speech. (Lyon)

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

*The motion (Dey/Coorey) was put to the vote and carried.  
Cr Hunter voted against the motion.  
Cr Ndiaye was not present for the vote.*

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#### **Notice of Motion No. 9.3 Emergency Accommodation in Byron Shire**

**File No:** I2023/1851

**23-598 Resolved** that Council:

1. Acknowledges that:
  - a) the most recent rough sleeping street count conducted by the NSW Department of Communities and Justice found 300 people sleeping rough in Byron Shire, the highest count of any local government area in NSW,
  - b) this outcome is a significant undercount of people sleeping rough and also does not count all homeless people, nor those in insecure, inadequate housing in the Shire or residents who have been forced to leave, due to lack

# BYRON SHIRE COUNCIL

## ORDINARY (PLANNING) MEETING MINUTES

7 December 2023

of housing options,

- c) acknowledges that homelessness is more than rough sleeping and that many more members of the community are couch surfing, house-minding, staying with friends, staying in sheds, garages, precarious dwellings, vehicles and constantly moving, unable to secure a rental property, many of these people are working in the community and were housed before the housing crisis, Covid lockdown rent increases and the 2022 floods,
  - d) there is currently very limited access to short term Emergency Accommodation for those who need it in Byron Shire, most people are required to travel out of their community to Ballina, Lismore or Tweed to access accommodation and support for homelessness services or accommodation.
2. Writes to the NSW Minister for Housing, Homelessness and the North Coast, the Hon. Rose Jackson MLC to:
- a) thank the NSW Government for the recent announcements to provide a one-time funding contribution to Fletcher Street Cottage and for a one- year commitment to expand the Assertive Outreach program into Byron Shire,
  - b) suggests that more funding is needed for all organisations addressing housing insecurity and homelessness in the region,
  - c) formally request that the relevant department conduct a needs analysis, in consultation with stakeholders, on the most appropriate and urgent form of short term emergency accommodation needed in Byron Shire,
  - d) offer Council's assistance in identifying and supporting the approval process for an appropriate permanent site for short term Emergency Accommodation within Byron Shire. (Pugh/Balson)

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

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### MAYORAL MINUTE

There was no Mayoral Minute.

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### PETITIONS

There were no Petitions tabled.

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### DELEGATES' REPORTS

There were no Delegate's Reports.

**STAFF REPORTS - GENERAL MANAGER**

**Report No. 13.1      Policy Commercial Activities on Coastal and Riparian Crown Reserves**

**File No:** I2023/1769

**23-599      Resolved** that Council:

1. Notes one (joint) submission was received on the Draft Policy Commercial Activities on Coastal and Riparian Crown Reserves.
2. Adopts the Draft Policy Commercial Activities on Coastal and Riparian Crown Reserves as attached to this report (E2023/2345).
3. That in the development of the foreshore concept plan that the size of the storage facility or facilities permitted be discussed with the current and potential future operators. (Hunter/Lyon)

**AMENDMENT**

Moved that Council:

1. Notes one (joint) submission was received on the Draft Policy Commercial Activities on Coastal and Riparian Crown Reserves.
2. Adopts the Draft Policy Commercial Activities on Coastal and Riparian Crown Reserves as attached to this report (E2023/2345). (Dey/Westheimer)

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

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

*Cr Ndiaye was not present for the vote.*

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

*Cr Dey voted against the motion.*

*Cr Ndiaye was not present for the vote.*



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**STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY**

**Report No. 13.6**      **PLANNING - 10.2023.244.1 Multi Dwelling Housing Comprising Twenty (20) Units, Basement Parking and Associated Works Including Demolition, Removal of Nineteen (19) Trees and Earthworks at 310 Ewingsdale Road, Byron Bay**

**File No:**                      I2023/1775

**23-600**      **Resolved** Pursuant to Section 4.16 of the Environmental Planning & Assessment Act 1979, Development Application No. 10.2023.244.1 for Multi Dwelling Housing Comprising Twenty (20) Units, Basement Parking and Associated Works Including Demolition, Removal of Nineteen (19) Trees and Earthworks, be refused for the following reasons:

1. Pursuant to Section 6.12 of the Biodiversity Conservation Act 2016, Council, being the consent authority, cannot be satisfied that the application makes demonstrated and justified efforts to avoid and minimise impacts on biodiversity values.
2. Pursuant to section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the application does not provide sufficient information to demonstrate compliance with Chapter 2 Coastal Management and Chapter 4 Remediation of land of State Environmental Planning Policy (Resilience and Hazards) 2021.
3. Pursuant to section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 the application does not provide sufficient information to demonstrate compliance with Chapter 2 Infrastructure of State Environmental Planning Policy (Transport and Infrastructure) 2021.
4. Pursuant to Section 4.15(a)(i) of the Environmental Planning and Assessment Act 1979 the application does not provide sufficient information to demonstrate compliance with Part 4 West Byron Bay Site of Byron Local Environmental Plan 1988 with regards to Clause 84 Height of buildings; Clause 85 Exceptions to development standards; Clause 97 Acid sulfate soils; Clause 98A Development for the purpose of stormwater management systems; and Clause 98B Earthworks.
5. Pursuant to Section 4.15(a)(iii) of the Environmental Planning and Assessment Act 1979, the application does not provide sufficient information to demonstrate compliance with Development Control Plan 2014 with regards to the applicable controls in Chapter E8 West Byron Urban Release Area and supplementary controls in Chapter B3 Services; Chapter B4 Traffic Planning, Vehicle Parking, Circulation and Access; Chapter B8 Waste Minimisation and Management' Chapter B13 Access and Mobility; and Chapter D1 Residential Accommodation.
6. Pursuant to Section 4.15(1)(b) of the Environmental Planning and Assessment Act 1979, the application does not satisfactorily address the likely impacts of the proposed development, including environmental impacts on both the natural and built environments in the locality.
7. Pursuant to Section 4.15(1)(c) of the Environmental Planning and Assessment Act

# BYRON SHIRE COUNCIL

## ORDINARY (PLANNING) MEETING MINUTES

7 December 2023

1979, the application does not provide sufficient information to demonstrate that the site is suitable for the proposed development.

8. Pursuant to Section 4.15(1)(d) of the Environmental Planning and Assessment Act 1979, Council, being the consent authority, cannot be satisfied that application provides sufficient information to demonstrate that the proposed development is acceptable with consideration for relevant issues raised in public submissions.
9. Pursuant to Section 4.15(1)(e) of the Environmental Planning and Assessment Act 1979 the application does not provide sufficient information to demonstrate that the proposed development is in the public interest. (Dey/Lyon)

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

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

*Nil voted against the motion.*

*Cr Ndiaye was not present for the vote.*

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**Report No. 13.8**      **26.2023.3.1 - Amendments to Byron Development Control Plan 2014 Chapter E5 to include the North Beach Byron site**  
**File No:**              I2023/1830

### 23-601 Resolved:

1. That Council proceeds to exhibit the draft DCP 2014 – Draft Chapter E5 incorporating the amendments shown in Attachment 1 (E2023/120263) and below, for a period of 28 days.
  - a. That Section 5.6.10.2 be amended at point 3 to read “No cats or dogs are to be kept on, or brought to or through the site.”
2. That following exhibition, Council receives a further report detailing key submission issues and planning response to these.
3. Should there be no submissions as of the close of the exhibition period, that Council adopts the amended Chapter and give notice of its decision in accordance with the Environmental Planning and Assessment Regulation. (Coorey/Dey)

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

*Cr Ndiaye was not present for the vote.*

# BYRON SHIRE COUNCIL

## ORDINARY (PLANNING) MEETING MINUTES

7 December 2023

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**Report No. 13.9      Update Resolution 23-462 Waiver of contributions on  
secondary dwellings**

**File No:** I2023/1745

**23-602      Resolved** that Council:

1. Notes the update provided on Resolution 23-462 Waiver of contributions on secondary dwellings and the suggested mechanisms that could be utilised to support such a proposal.
2. Supports an amendment to the Affordable Housing Contribution Policy 2020 or creation of a new policy to give effect to a framework and suite of mechanisms to constrain the future use of dwellings for the purposes of providing affordable and/or permanent accommodation, in exchange for an agreed level of funding or other support from Council.
3. Notes that a forward budget bid of \$20,000 will be included in the FY 24/25 Operational Plan and Budget process for an expression of interest process to support 2. (Lyon/Balson)

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

*Cr Ndiaye was not present for the vote.*

*Cr Dey left the meeting at 3:55pm*

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**Report No. 13.11      Submissions Report - Busking Policy**

**File No:** I2023/1799

**23-603      Resolved** that Council:

1. Acknowledges the submissions detailed in Attachment 1 (E2023/121754) in response to the public exhibition of the Draft Busking Policy.
2. Adopts the Draft Busking Policy detailed in Attachment 2 (E2023/122264) which has been amended where appropriate to reflect submissions received.
3. Agrees to obtain public liability insurance to cover busking permit holders and for the cost of insurance to Council be recovered by increasing busking permit fees.
4. Agrees that the proposed fee increase for busking permits to include public liability insurance be placed on public exhibition for a period of 28 days in accordance with Section 610F of the Local Government Act 1993. That if:
  - a) submissions objecting to the fees are received, they are reported to Council for consideration.
  - b) no objections to the fees are received, Council adopts the fees.

(Coorey/Lyon)

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

*Crs Ndiaye and Dey were not present for the vote.*

# BYRON SHIRE COUNCIL

## ORDINARY (PLANNING) MEETING MINUTES

7 December 2023

*Cr Dey returned to the meeting at 4:01pm.*

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### STAFF REPORTS - INFRASTRUCTURE SERVICES

**Report No. 13.14     New Brighton Parking Improvements**  
**File No:** I2023/1408

- 23-604     Resolved** that agenda item 13.14 be deferred until the February 2024 Planning meeting to allow staff and Councillors to undertake consultation in January with adjacent residents given staff suggested 5 options to consider. (Hunter/Lyon)

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

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**Report No. 13.17     Rifle Range Road Traffic Calming for Koala Safety**  
**File No:** I2023/1761

- 23-605     Resolved** that:
1. This item be deferred until quarter 1 2024 and further information be provided regarding the option of introducing a lower speed limit and/or physical traffic calming, including speed bumps, and more detail on the access issues from physical calming devices referred to in the report.
  2. Staff consider an onsite meeting with impacted residents and invite representatives from Bangalow Koalas. (Pugh/Balson)

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

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**Report No. 13.18     Social Enterprise Commercial Laundry - Beacon Laundry - s64  
Sewer Developer Contributions**  
**File No:** I2023/1853

- 23-606     Resolved** that:
1. Council defers this matter until the 14 December Ordinary Meeting.
  2. The General Manager discusses the matter with Beacon Laundry and Rous County Council and provides further information to Councillors to inform the decision. (Dey/Pugh)

# BYRON SHIRE COUNCIL

## ORDINARY (PLANNING) MEETING MINUTES

7 December 2023

### PROCEDURAL MOTIONS

**23-607 Resolved** that Council move into Committee to allow for free debate. (Dey/Lyon)

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

*Cr Ndiaye was not present for the vote.*

**23-608 Resolved** that Council move out of Committee and resume the Ordinary Meeting. (Lyon)

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

*Cr Ndiaye was not present for the vote.*

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

*Cr Ndiaye was not present for the vote.*

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**Report No. 13.19 Part Road Reserve Closure and sale adjoining Lot 4 & 5 DP  
246401, 154 & 156 Lighthouse Road, Byron Bay NSW**  
**File No:** I2023/1866

Moved that Council does not proceed with the closure of part road reserve adjoining Lot 4 & 5 DP 246401 as detailed in the report. (Dey/Coorey)

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

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

*Cr Ndiaye was not present for the vote.*

**23-609 Resolved:**

1. Council endorses the closure of part road reserve adjoining Lot 4 & 5 DP 246401 as detailed in the report.
2. Council notes the valuation in *Attachment 1 E2023/99644* and *Attachment 2 E2023/99646*, however determines the value of the land for sale at twice the valuation provided.
3. On the basis of Council's determined value of the land, Council authorises the General Manager to execute all documents necessary to affect the road closure, sale, transfer, and consolidation of the part closed road.
4. 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
5. The allotments created by the part road closure to be consolidated into existing Parcel No 44960 Lot 4 DP 246401 and Parcel No 44970 Lot 5 DP 246401.

# BYRON SHIRE COUNCIL

## ORDINARY (PLANNING) MEETING MINUTES

7 December 2023

(Lyon/Hunter)

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

*Cr Dey voted against the motion.*

*Cr Ndiaye was not present for the vote.*

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*There being no further business the meeting concluded at 5.01pm.*

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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 8 February 2023.



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Mayor Michael Lyon