

Minutes Ordinary Meeting

Thursday, 27 June 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 Meeting Minutes
27 June 2024

INDEX OF ITEMS DISCUSSED

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MINUTES OF THE BYRON SHIRE COUNCIL ORDINARY MEETING HELD ON THURSDAY, 27 JUNE 2024 COMMENCING AT 9.08AM AND CONCLUDING AT 5:04PM

I2024/965

PRESENT: Cr M Lyon (Mayor) (left at 4:58PM), Cr C Coorey, Cr D Dey, Cr A Hunter (left at 4:55PM), Cr S Ndiaye, 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)
Heather Sills (Manager Corporate Services)
James Flockton (Infrastructure Planning Coordinator) – Notice of Motion 9.1
Chris Larkin (Manager Sustainable Environment and Economy) – Report 13.10, 13.14)
Claudia Caliarì (Biodiversity Projects Officer) – Report 13.13
Malcolm Robertson (Manager Open Spaces) – Report 13.18, 13.19, 13.22, 13.24
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	
9.2	For	Subhi Awad	Northern Rivers Friends of Palestine	In person	
		Esther Berkon	Northern Rivers Jews for Palestine		
	Against	Annalee Atia	The Northern Rivers Jewish Community Association		Zoom
		Yonit Oakley	Self		
		Amir Paiss			
		Romy Grace			

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9.3	Nomination of Wallum Heath as a Threatened Ecological Community (TEC)	For		Self	In person
9.4	Establishment of a Register of Interested Parties for Development Applications Contradicting Biodiversity Regulations in Council's LEP and DCP	For	Dave Rawlins	Self	
11.1	Petition No. 11.1 Lack of public transport options for residents in Ocean Shores on Sundays compared to other areas in the Byron Shire	For	Louise Doran	Self	
			Adam Luck		
13.9	PLANNING: 26.2022.9.1 - Submissions report - New heritage items for Byron Local Environmental Plan 2014	For	Jo Pilgrim	Brunswick Heads Progress Association	
		Against	Ian Holmes	Bangalow Community Association	
13.10	PLANNING - DA 10.2023.230.1 - Rural Function Centre - 1390 Hinterland Way, Bangalow	For	Dale Viola	Bangalow Koalas & Friends of the Koala	
			Ian Holmes	Self	
		Against	Matt Walker	Planning consultant	
			Jane Magnus	Byron Event Industry Association	

PROCEDURAL MOTION

24-273 Resolved that Public Access be extended until 11.00am.
The motion was put to the vote and carried unanimously.

(Lyon)

Report No. and Title	For/Against	Name	Representing	Via
13.14	For	Wandy Hochgrebe	Self	Zoom
		Tom Vidal	Self	In person
	Against	Richard Johnston	Self	

The Mayor left the meeting at 10:30am due to a conflict with item 13.14 and returned at 10.44am.

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Cr Ndiaye chaired the meeting in his absence.

Report No. and Title	For/Against	Name	Representing	Via
13.25 Brunswick Heads Pay Parking - Implementation Update	For	Jo Pilgrim	Brunswick Heads Progress Association	In person
14.6 Report of the Floodplain Management Advisory Committee meeting held on the 14 May 2024	Against	Matthew Lambourne	Self	In person

Submissions

Subject	Name	Representing	Via
Tyagarah Clothes-Optional Beach	Bradley Benham	Northern Rivers Naturists Inc	In person

The meeting adjourned at 11.04am for a short break and resumed at 11.15am.

APOLOGIES

PROCEDURAL MOTION

- 24-274** **Resolved** that the apologies from Crs Balson and Pugh be accepted and a leave of absence granted. (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 a leave of absence.

DECLARATIONS OF INTEREST – PECUNIARY AND NON-PECUNIARY

Cr Lyon declared a pecuniary interest in Report 13.14. The nature of the interest being that the Development Application applicant was a donor to a previous election campaign. Cr Lyon elected to leave in Chamber and will not participate in discussion and the vote.

TABLING OF PECUNIARY INTEREST RETURNS

There were no Pecuniary Interest Returns tabled.

ADOPTION OF MINUTES FROM PREVIOUS MEETINGS

24-275 Resolved that the minutes of the following meetings be confirmed:

- Ordinary Meeting held 23 May 2024
 - Extraordinary Meeting held 23 May 2024 (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. 13.3 Adoption of Operational Plan 2024/25, including Budget, Statement of Revenue Policy, and Fees and Charges
- Report No. 13.4 Making of the 2024/25 Ordinary Rates, Charges, Fees and Interest Rate

Sustainable Environment and Economy

- Report No. 13.9 PLANNING: 26.2022.9.1 - Submissions report - New heritage items for Byron Local Environmental Plan 2014.
- Report No. 13.10 PLANNING - DA 10.2023.230.1 - Rural Function Centre - 1390 Hinterland Way, Bangalow
- Report No. 13.13 Flying-fox Camp Management Plan 2024-2029
- Report No. 13.14 PLANNING - DA 10.2023.451.1 - Swimming Pool, Three (3) padel courts, replacement office and ancillary works associated with an existing Dwelling House and Recreation Facility– 46 Melaleuca Drive Byron Bay

Infrastructure Services

- Report No. 13.18 Options for additional Off-Leash dog exercise areas in Suffolk Park
- Report No. 13.19 Heritage Park Mullumbimby - Off Leash Dogs
- Report No. 13.20 Resident Parking Permit Scheme
- Report No. 13.22 Ewingsdale Slash Pine Plantation
- Report No. 13.24 Shire Wide Aquatic Strategy

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REPORTS OF COMMITTEES

Infrastructure Services

Report No. 14.6 Report of the Floodplain Management Advisory Committee Meeting held on 14 May 2024

CONFIDENTIAL REPORTS

General Manager

Report No. 16.1 CONFIDENTIAL - Neighbourhood Dispute, Talofa

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. **24-276** and concluding with Resolution No. **24-307**.

STAFF REPORTS – CORPORATE AND COMMUNITY SERVICES

Report No. 13.1 Grants May 2024
File No: I2024/606

24-276 Resolved that Council notes the Grant Submissions Report for the month of May 2024 (Attachment 1 #E2024/61551). (Lyon/Ndiaye)

Report No. 13.2 Mayor and Councillor Remuneration 2024/25
File No: I2024/770

24-277 Resolved that Council:

1. Fixes the fee payable to each Councillor under section 248 of the *Local Government Act 1993* for the period 1 July 2024 to 30 June 2025 at \$27,050.
2. Fixes the fee payable to the Mayor under section 249 of the *Local Government Act 1993*, for the period from 1 July 2024 to 30 June 2025 at \$66,800.
3. Does not determine a fee payable to the Deputy Mayor, in accordance with current practice. (Lyon/Ndiaye)

Report No. 13.5 Council Investments - 1 May 2024 to 31 May 2024
File No: I2024/893

24-278 Resolved that Council notes the report listing Council's investments and overall cash position as of 31 May 2024. (Lyon/Ndiaye)

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Report No. 13.6 **Policies for Review**
File No: I2024/898

24-279 **Resolved** that Council places the draft Tree/Vegetation Vandalism Policy (Attachment 1 E2021/30925) and the Child Safe Policy (Attachment 2 E2024/64408) on public exhibition for 28 days to allow for submissions and that:

1. Should there be no submissions received then the Policies be endorsed from the date after the close of the exhibition period; and
2. Should submissions be received, that the policy/policies be reported back to Council noting the submissions and amendments made because of the feedback received (Lyon/Ndiaye)

Report No. 13.7 **Byron Writers Festival Fee Reduction Request**
File No: I2024/874

24-280 **Resolved** that Council provides a fee reduction of \$5,150 to Byron Writers Festival for the 2024 and 2025 events at Bangalow Showgrounds. (Lyon/Ndiaye)

Report No. 13.8 **Additional Loan - Byron Bay Football Club**
File No: I2024/937

24-281 **Resolved** that Council lends the Byron Bay Football Club an additional \$56,214 over ten years fixed at the current TCorp interest rate and delegates responsibility to the General Manager to negotiate the terms. (Lyon/Ndiaye)

STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

Report No. 13.11 **PLANNING - Submissions Report - Planning Proposal -**
26.2021.5.1 - 114 Stewarts Road, Clunes
File No: I2024/327

24-282 **Resolved** that Council:

1. Adopts the Planning Proposal in Attachment 1 (E2024/16665).
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 (E2024/16702).

(Lyon/Ndiaye)

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

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Nil voted against the motion.

Report No. 13.12 PLANNING - Report of the Planning Review Committee held 6 June 2024

File No: I2024/668

24-283 Resolved that Council endorses the outcomes of the Planning Review Committee meeting held 6 June 2024. (Lyon/Ndiaye)

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

Nil voted against the motion.

Report No. 13.15 PLANNING - DA 10.2022.107.3 - s8.2 review to modify Condition 40(a) – 42 Wallum Place, Ewingsdale

File No: I2024/913

24-284 Resolved: that pursuant to Section 8.2 of the Environmental Planning & Assessment Act 1979, Application No. 10.2022.107.3, for Modification to Condition 40(a) of the Consent for the Approved Subdivision One (1) Lot into Three (3) Lots, be approved by modifying Development consent number 10.2022.107.1 as follows:

Amend condition 40 a) of the Notice of Determination to read:

40. Section 88B Instrument - Infrastructure

A Section 88B Instrument and one (1) copy are to be submitted with the application for a subdivision certificate. The final plan of subdivision and accompanying Section 88B Instrument are to provide for:

a) Ecological Buffer – Lot 1

A 25-metre ecological buffer be provided over Lot 1 from the western boundary with Lot 3 to prohibit any development (other than works associated with stormwater management) in this area other than VMP works. (Lyon/Ndiaye)

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

Nil voted against the motion.

STAFF REPORTS - INFRASTRUCTURE SERVICES

Report No. 13.16 2024-2232 Lot 12 Bayshore Drive Roundabout Construction Tender Evaluation Report

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File No: I2024/673

24-285 Resolved that Council:

1. Awards Tender 2024-2232 Lot 12 Bayshore Drive Roundabout Construction to Civilc Pty Ltd as set out in the confidential Evaluation Panel Recommendation Report Lot 12 Bayshore Drive Roundabout 2024-2232, #E2024/65161.
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)

Report No. 13.17 Litter and Illegal Dumping Prevention Strategy

File No: I2024/706

24-286 Resolved that Council:

1. Notes the submissions received during the public exhibition period as outlined in Attachment 1 (E2024/60568).
2. Adopts the Litter and Illegal Dumping Prevention Strategy 2024-2029 Attachment 2 (E2024/32361). (Lyon/Ndiaye)

Report No. 13.21 Renaming Hottentot Crescent, Mullumbimby

File No: I2024/806

24-287 Resolved that:

1. Council endorses the renaming of Hottentot Crescent, Mullumbimby to "Moonlight Close".
2. Staff will undertake the following actions:
 - a) Submit the endorsed name to the NSW Geographical Names Board for concurrence, advertising, and Gazettal in accordance with regulation requirements.
 - b) Coordinate new street name signs be erected and funded from the General Fund Budget for Sign Maintenance.
 - c) Coordinate a gazettal notice with the NSW Geographical Names Board to streamline the timing of the renaming process on behalf of residents.
 - d) Notify State / Federal Government Agencies, Australia Post, and Internal Council Depts.
 - e) Provide residents a letter confirming the renaming details to assist with their personal address updating. (Lyon/Ndiaye)

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Report No. 13.23 **Part Road Reserve Closure and sale adjoining Lot 1 DP 577281, 860 Coolamon Scenic Drive, Coorabell, NSW 2479**
File No: I2024/865

24-288 **Resolved** that:

1. Council endorses the closure of Part Road Reserve adjoining Lot 1 DP 577281 as detailed in the report.
2. Council accepts the valuation as per *Attachment 1 E2024/63301*, that has been agreed upon by the landowners.
3. The applicant pays all remaining costs associated with the part road closure and consolidation, including:
 - a) Council application fees
 - b) Council's surveyor's fees and survey, valuation, and legal costs
 - c) All registration fees
 - d) Legal costs
4. The allotments created by the part road closure to be consolidated into existing Parcel No 13060 Lot 1 DP 577281.
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/Ndiaye)

Report No. 13.25 **Brunswick Heads Pay Parking - Implementation Update**
File No: I2024/885

24-289 **Resolved** that Council:

1. Endorses the purchase of new meters and the related system operational costs for the Brunswick Heads Pay parking system, through the current pay parking contract with provider Orikan, as a variation to the existing pay parking contract based on the extenuating circumstances detailed within the Report.
2. Funds the initial costs required in recommendation 1 from the Pay Parking Meter Replacement Reserve.
(Lyon/Ndiaye)

REPORTS OF COMMITTEES - CORPORATE AND COMMUNITY SERVICES

Report No. 14.1 **Report of the Finance Advisory Committee Meeting held on 9 May 2024**
File No: I2024/730

24-290 **Resolved** that Council notes the minutes of the Finance Advisory Committee Meeting

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held on 9 May 2024.

(Lyon/Ndiaye)

24-291 Resolved that Council adopts the following Committee recommendation:

Report No. 3.1 Adoption of Minutes of the Finance Advisory Committee Meetings held 16 November 2023 and 15 February 2024

File No: I2024/253

Committee Recommendation 3.1.1

That the minutes of the Finance Advisory Committee Meetings held on 16 November 2023 and 15 February 2024 be confirmed. (Lyon/Ndiaye).

24-292 Resolved that Council adopts the following Committee recommendation:

Report No. 4.1 Budget Review - 1 January 2024 to 31 March 2024

File No: I2024/679

Committee Recommendation 4.1.1

That Council:

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

Report No. 14.2 Report of the Audit, Risk and Improvement Committee Meeting held on 9 May 2024

File No: I2024/887

24-293 Resolved that Council notes the minutes of the Audit, Risk and Improvement Committee Meeting held on 9 May 2024. (Lyon/Ndiaye)

24-294 Resolved that Council adopts the following Committee recommendation:

Report No. 3.1 Minutes of the Audit, Risk and Improvement Committee Meeting held 15 February 2024

File No: I2024/554

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Committee Recommendation 3.1.1

That the minutes of the Audit, Risk and Improvement Committee Meeting held on 15 February 2024 be confirmed. (Lyon/Ndiaye)

24-295 Resolved that Council adopts the following Committee recommendation:

Report No. 4.2 ARIC Term and Draft Terms of Reference - Outstanding items of the OLG Guidelines

File No: I2023/1624

Committee Recommendation 4.2.1

That Council:

1. Adopts the Audit, Risk and Improvement Committee Terms of Reference (Attachment 1 E2024/2652) and;
2. Endorses the conclusion of the Audit, Risk and Improvement Committee term following the 9 May 2024 Committee meeting. (Lyon/Ndiaye)

24-296 Resolved that Council adopts the following Committee recommendation:

Report No. 5.1 2023-2024 External Audit Engagement Plan

File No: I2024/201

Committee Recommendation 5.1.1

That Council notes the External Audit Engagement Plan prepared by the Audit Office of New South Wales for the year ended 30 June 2024 as outlined in Confidential Attachment 1 (#E2024/12864). (Lyon/Ndiaye)

24-297 Resolved that Council adopts the following Committee recommendation:

Report No. 5.2 Internal Audit Report Quarter 3 2023-2024

File No: I2024/553

Committee Recommendation 5.2.1

That Council:

1. Notes the Internal Auditors Summary of Internal Audit Recommendations for Quarter 3 2023-2024 and the status of audit recommendations at Attachment 1 (E2024/46545) and their Internal Audit Status Update May 2024 at Attachment 2 (E2024/46558)
2. Endorses the recommendations from the Executive Team to close off nine internal

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audit recommendations from Quarter 3 2023-2024 as listed in Table 1 of this report (a summary from Attachment 1).

3. Endorses the implementation by Management of the recommendations made in the following internal audits:
- a) Waste Management (Attachment 3 E2024/36640)
 - b) Work Health and Safety (Attachment 4 E2024/46592)
 - c) Property Services (Community Buildings) (Attachment 5 E2024/40570).
- (Lyon/Ndiaye)

REPORTS OF COMMITTEES - SUSTAINABLE ENVIRONMENT AND ECONOMY

Report No. 14.3 **Report of the Climate Change and Resource Recovery Advisory Committee Meeting held on 9 May 2024**

File No: I2024/878

- 24-298** **Resolved** that Council notes the minutes of the Climate Change and Resource Recovery Advisory Committee Meeting held on 9 May 2024. (Lyon/Ndiaye)

Report No. 14.4 **Report of the Biodiversity Advisory Committee Meeting held on 9 May 2024**

File No: I2024/880

- 24-299** **Resolved** that Council:
- 1. Notes the minutes of the Biodiversity Advisory Committee Meeting held on 9 May 2024.
 - 2. Determines whether the Committee or Management Recommendation(s) be adopted regarding Report No. 4.3. (Lyon/Ndiaye)

Report No. 14.5 **Report of the Coast and ICOLL Advisory Committee Meeting held on 14 May 2024**

File No: I2024/886

- 24-300** **Resolved** that Council notes the minutes of the Coast and ICOLL Advisory Committee Meeting held on 14 May 2024. (Lyon/Ndiaye)

REPORTS OF COMMITTEES - INFRASTRUCTURE SERVICES

**No. 14.7 Report of the Moving Byron Advisory
Committee Meeting held on 30 May 2024**

File No: I2024/888

24-301 Resolved that Council notes the minutes of the Moving Byron Advisory Committee Meeting held on 30 May 2024 (Lyon/Ndiaye)

24-302 Resolved that Council adopts the following Committee Recommendation:

Report No. 3.1 Adoption of Minutes from Previous Meeting

File No: I2024/751

Committee Recommendation 3.1.1

That the minutes of the Moving Byron Advisory Committee Meeting held on 11 April 2024 be confirmed. (Lyon/Ndiaye)

24-303 Resolved that Council adopts the following Committee Recommendations:

Report No. 4.1 Bus Shelter & Bus Stop Strategic Planning Update

File No: I2023/1644

Committee Recommendation 4.1.1

That Council:

1. Notes the 10-year delivery program for shire wide bus stop upgrades in principle, noting that it is subject to funding availability and Council operational capacity.
2. Supports staff seeking funding opportunities to deliver the bus stop upgrade program.
3. Notes that Resolution 20-448 Part 2 to call for Expressions of Interest for locals to maintain some rural bus shelters cannot be implemented because of legal and insurance implications of Council delegating the responsibility to maintain assets which have been constructed on Council road reserve.
4. Notes that the old timber bus shelters at Huonbrook and Upper Main Arm cannot be brought up to a compliant standard without changing the current look and feel of the shelters.
5. Accepts the old timber bus shelters at Huonbrook and Main Arm remaining in their current layout and be removed once they are deemed to have become a public hazard, with a minimum of two weeks' notice to those communities.

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- Writes to the Premier Christopher Minns and Minister for Transport Jo Haylen explaining the back log of upgrades to meet Disability Discrimination Act compliance and the inadequacy of funding for construction and maintenance of bus shelters and bus stops in the Byron Shire and seeks more funding. (Lyon/Ndiaye).

Report No. 14.8 Report of the Water and Sewer Advisory Committee Meeting held on 30 May 2024

File No: I2024/889

24-304 Resolved that Council notes the minutes of the Water and Sewer Advisory Committee Meeting held on 30 May 2024. (Lyon/Ndiaye)

24-305 Resolved that Council adopts the following Committee Recommendation:

Report No. 3.1 Adoption of Minutes from Previous Meeting

File No: I2024/752

Committee Recommendation 3.1.1

That the minutes of the Water and Sewer Advisory Committee Meeting held on 21 March 2024 be confirmed. (Lyon/Ndiaye)

24-306 Resolved that Council adopts the following Committee Recommendations:

Report No. 4.1 Infrastructure Services Utilities Monthly status Report - February - April 2024

File No: I2024/750

Committee Recommendation 4.1.1

- That the Water and Sewer Advisory Committee notes the report.
- That Council writes to the Federal Minister for Communications and Minister for Emergency Management, with a copy to the Australian Local Government Association, asking for changes in federal legislation to reduce the stranglehold that Telcos have on Council's infrastructure such as critical water supply reservoirs. (Lyon/Ndiaye)

24-307 Resolved that Council adopts the following Committee Recommendations:

Report No. 4.2 Incident Response Plan and Information Update

File No: I2024/763

Committee Recommendation 4.2.1

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1. That the Water and Sewer Advisory Committee notes the report.
2. The Water and Sewer Advisory Committee thank staff for detailed reporting.

(Lyon/Ndiaye)

PROCEDURAL MOTION

- 24-308 Resolved** that Council change the order of business to deal with Reports 9.2, 9.3, 9.4, 11.1, 13.9, 13.10, 13.14 and 14.6 next on the Agenda. (Lyon)

The motion was put to the vote and carried unanimously.

NOTICES OF MOTION

Notice of Motion No. 9.2 Humanitarian crisis in Gaza
File No: I2024/919

- 24-309 Resolved** that Council:

1. Notes that the cause of peace has always been and remains central to the values of the Byron Shire community, demonstrated in 2001 by a community peace march that culminated in the installation of a Peace Pole at Main Beach inscribed with the words "May Peace Prevail on Earth".
2. Recognises the distress caused to members of our community due to the attacks by Hamas on October 7, and the State of Israel's response in Israel and Gaza, and condemns the loss of innocent lives on both sides of the conflict.
3. Accepts that it cannot possibly comprehend either the breadth and complexity of the issue, or the suffering, in Gaza and Israel, but expresses empathy for all those who are suffering.
4. Acknowledges there can be no path to peace without respect for human rights and international law and writes to the Prime Minister, Anthony Albanese and Foreign Minister, Penny Wong:
 - i) stating our support for the international institutions to which Australia is a party, including the United Nations, the International Court of Justice and the International Criminal Court
 - ii) calling on them to advocate for the release of all hostages and an immediate ceasefire in the Israel-Gaza conflict.
 - iii) calling on them to advocate for an immediate lifting of the siege on Gaza to allow unlimited access to food, water, fuel, electricity and medical

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supplies.

- iv) calling on them to end military ties with the any country that is in breach of their obligations under international law.
5. Urges the members of the Byron Shire community to show understanding and compassion for all Byron Shire residents and strongly condemns any expression of hate or vilification of local residents of Byron Shire, including the boycott of their businesses, due to their ethnic, religious or national origin.
6. Encourages the prompt removal by Council staff of any racist graffiti in the Byron Shire
7. Acknowledges Australia's proud history at the United Nations in creating the Universal Declaration of Human Rights in 1948, under the leadership of Dr HV Evatt as President of the General Assembly, to protect the rights and freedoms of people everywhere. (Coorey/Lyon)

The motion was put to the vote and carried unanimously.

PROCEDURAL MOTIONS

24-310 Resolved that Cr Coorey be granted a two minute extension to her speech. (Lyon)

The motion was put to the vote and carried unanimously.

24-311 Resolved that Cr Dey be granted a two minute extension to his speech. (Lyon)

The motion was put to the vote and carried unanimously.

24-312 Resolved that Cr Lyon be granted a two minute extension to his speech. (Lyon)

The motion was put to the vote and carried unanimously.

24-313 Resolved that Cr Ndiaye be granted a two minute extension to her speech. (Lyon)

The motion was put to the vote and carried unanimously.

24-314 Resolved that Cr Westheimer be granted a two minute extension to his speech. (Lyon)

The motion was put to the vote and carried unanimously.

The meeting adjourned for 5 minutes.

Notice of Motion No. 9.3 Nomination of Wallum Heath as a Threatened Ecological Community (TEC)

File No: I2024/920

24-315 Resolved that Council:

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1. Gives in principle support for a nomination of Wallum Heath, including associated woodland and shrubland, as a Threatened Ecological Community (TEC); makes Council-held information available to those making the nomination; and offers minor support to them, at the discretion of the Director Sustainable Environment & Economy;
2. Enables nominated members of the current Biodiversity Advisory Committee (BAC) to form a working group to complete the nomination form for submission to the Scientific Committee nominating Wallum Heath on Pleistocene sands as a TEC;
3. Notes this work would be done in kind by the BAC members; and
4. Receives a report on this work once prepared by the BAC members for Council endorsement as the nominating organisation. (Ndiaye/Dey)

The motion was put to the vote and carried unanimously.

Notice of Motion No. 9.4 Establishment of a Register of Interested Parties for Development Applications Contradicting Biodiversity Regulations in Council's LEP and DCP

File No: 12024/922

24-316 Resolved that Council holds a Councillor Workshop early in the next term of Council, and in conjunction with members of the Biodiversity Advisory Committee to address the following:

- The local planning process as it relates to Biodiversity assessments including triggers such as (i) DCP 'red flags', (ii) 'property constraints' identified during DA assessments, and (iii) any other triggers that identify development matters relating to Biodiversity;
- The different stakeholders in the process;
- The opportunities for community input;
- The ways community can access information. (Ndiaye/Westheimer)

The motion was put to the vote and carried unanimously.

MAYORAL MINUTE

There was no Mayoral Minute.

PETITIONS

Petition No. 11.1 **Lack of public transport options for residents in Ocean Shores on Sundays compared to other areas in the Byron Shire**

File No: I2024/903

24-317 **Resolved** that:

1. Council supports the petition regarding the lack of public transport options for residents in Ocean Shores on Sundays compared to other areas in the Byron Shire be noted.
2. The petition be referred to the Director Infrastructure Services. (Swivel/Ndiaye)

The motion was put to the vote and carried unanimously.

The meeting adjourned at 1:00pm for a lunch break and reconvened at 1.45pm.

STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

Report No. 13.9 **PLANNING: 26.2022.9.1 - Submissions report - New heritage items for Byron Local Environmental Plan 2014.**

File No: I2024/468

24-318 **Resolved** that Council:

1. Forwards the attached planning proposal to amend Byron LEP 2014 (Attachment 1), as revised to include the changes recommended in Table 4 of this report, to NSW Parliamentary Counsel's Office (PCO) requesting that a draft LEP instrument be prepared;
2. Requests confirmation from the NSW Department of Planning, Housing and Infrastructure that the changes made to the planning proposal post-exhibition are of such a minor nature that re-exhibition is not required; and
3. Pending receipt of PCO opinion that the plan can be made, forwards the plan to the NSW Department of Planning, Housing and Infrastructure requesting notification on the NSW Government legislation website.
4. Then also continues to investigate and consider for a future LEP Amendment the 11 sites removed under Part 1 above, as listed in Table 4 of today's Report 13.9 with recommendations to remove them. (Dey/Lyon)

The motion was put to the vote and carried unanimously.

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**Report No. 13.10 PLANNING - DA 10.2023.230.1 - Rural Function Centre - 1390
Hinterland Way, Bangalow**
File No: I2024/732

24-319 Resolved that:

Pursuant to Section 4.16 of the Environmental Planning & Assessment Act 1979, Development Application No. 10.2023.230.1 for Temporary Use of land for Function Centre (3-Years), be approved subject to the conditions of consent in Attachment 6, with amendments to the following conditions:

- i. condition 20 to be amended to require a maximum speed limit of 25kmph
- ii. condition 2 to be amended to include a requirement that the applicant continue conversations with Transport for NSW to formalise the existing entrance off Hinterland Way. (Hunter/Lyon)

*The motion was put to the vote and declared carried.
Crs Coorey and Dey voted against the motion.*

**Report No. 13.14 PLANNING - DA 10.2023.451.1 - Swimming Pool, Three (3)
padel courts, replacement office and ancillary works
associated with an existing Dwelling House and Recreation
Facility– 46 Melaleuca Drive Byron Bay**
File No: I2024/802

*The Mayor (Cr Lyon) left the Chamber in accordance with his declared interest.
Cr Ndiaye chaired the meeting in his absence.*

24-320 Resolved that:

1. Pursuant to Section 4.15 of the Environmental Planning & Assessment Act 1979, Development Application No. 10.2023.451.1 for Swimming Pool, Three (3) Padel Courts, replacement Office and Ancillary Works associated with an Existing Dwelling House and Recreation Facility, be refused for the following reasons:
 - a. Pursuant to Section 4.15(1)(a)(i) the proposal development is inconsistent with the objectives of, and is prohibited in the E3 Environmental Management Zone under Byron LEP 1988.
 - b. Pursuant to Section 4.15(1)(a)(i) the proposed development does not satisfy the provisions contained within Clause 164 of Environmental Planning and Assessment Regulation 2021 pertaining to enlargement, expansion and intensification of existing uses.
 - b. Pursuant to Section 4.15(1)(a)(iv) the applicant has not provided written consent of the owner of all lots subject to the application in relation to works to the existing car parking on Lot 10 DP 1143215 and written consent from

this landowner has not been provided.

- c. Pursuant to Section 4.15(1)(b) the proposed development will have a significant adverse impacts upon the built environment with respect to the noise impact upon the amenity of neighbouring residences, and the natural environment having regards to the scale of the development on land that should be managed for environmental protection purposes as intended by its E3 zoning.
- d. Pursuant to Section 4.15(1)(c) the application has not demonstrated that the site is suitable for the proposed development with respect to noise from the padel courts and hours of operations
- e. Pursuant to Section 4.15(1)(d) and (e) the proposed development is not in the public interest having regards to acoustic amenity impacts on surrounding noise sensitive receivers, land use permissibility and submissions in objection to the development. (Ndiaye/Westheimer)

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

Cr Lyon returned to the meeting and assumed his position as Chair.

REPORTS OF COMMITTEES - INFRASTRUCTURE SERVICES

Report No. 14.6 Report of the Floodplain Management Advisory Committee Meeting held on 14 May 2024

File No: I2024/775

*Moved the recommendations as printed in the Agenda with an amendment to Report 4.2
Flood Levee Raising Investigation as shown below:*

3. That Council adopts the following Committee Recommendation:

Report No. 4.2 Flood Levee Raising Investigation - South Golden Beach

File No: I2024/161

That Council asks the Floodplain Advisory Committee:

1. To reconsider the issue of levee height at South Golden Beach; and
2. To also consider issues specific to north-east corner of the levee system, just south of Fern Beach. (Dey/Ndiaye)

The motion was put to the vote and declared lost.

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

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FORESHADOWED MOTION

Report No. 14.6 Report of the Floodplain Management Advisory Committee Meeting held on 14 May 2024

File No: I2024/775

24-321 Resolved that Council notes the minutes of the Floodplain Management Advisory Committee Meeting held on 14 May 2024. (Lyon/Westheimer)

24-322 Resolved that Council adopts the following Committee Recommendations:

Report No. 4.1 Amendments to Byron Shire DCP 2014 Chapter C2: Areas Affected by Flood - Draft for Exhibition

File No: I2024/661

Committee Recommendation 4.1.1

That Council:

1. Notes the committee received a presentation by BMT and as contained in the report attachments; and
2. Adds within the public exhibition version of the DCP, and note that the committee wishes to add the following sentence in C2.1.8 "Where a significant flood has occurred and studies require updating but that has not yet happened, flood data such as reported Flood Heights (where available) should be taken into account".
3. Notes that committee members are able to make submissions to the proposed amendments to Byron Shire DCP 2014, Chapter 'C2: Areas Affected by Flood', for Council's consideration prior to final adoption. (Lyon/Westheimer)

24-323 Resolved that Council adopts the following Committee Recommendation:

Report No. 4.2 Flood Levee Raising Investigation - South Golden Beach

File No: I2024/161

Committee Recommendation 4.2.1

That Council, based on the reasons discussed in this report, it is recommended that raising the levee by either 300mm or 600mm is not undertaken. (Lyon/Westheimer)

24-324 Resolved that Council adopts the following Committee Recommendations:

Report No. 4.3 Flood Gate Upgrade Options Investigation - South Golden Beach

File No: I2024/164

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Committee Recommendation 4.3.1

That Council:

1. Notes that the committee was presented with the Floodgate Upgrade Options Investigation prepared by JB Pacific March 2024– Attachment 1 (E2024/47404).
2. Applies to the State for funding to carry out the recommendations contained in Section 4.2 and 5 of the report. (Lyon/Westheimer)

24-325 Resolved that Council adopts the following Committee Recommendation:

Report No. 4.4 Post 2022 Event Flood Behaviour Analysis - Brunswick River , Belongil Creek and Tallow Creek - NSW Department of Planning & Environment

File No: I2024/676

Committee Recommendation 4.4.1

That the Floodplain Management Advisory Committee notes that the Department of Climate Change, Energy, the Environment and Water (DCCEEW) have finalised and published Post 2022 Flood Analysis Assessments for the three (3) main catchments contained within Byron Shire Council. These include the North Byron/Brunswick River, Belongil Creek and Tallow Creek catchments. (Lyon/Westheimer)

24-326 Resolved that Council adopts the following Committee Recommendation:

Report No. 4.5 Community Education Strategy and Review of Flood Options / North Byron Flood Investigations - Projects Update

File No: I2024/677

Committee Recommendation 4.5.1

That Council requests the NSW Department of Planning & Environment (DPE) to commission animation graphic models of the 2022 flood event and provide to Council to assist in future community engagement, with an extended area to the north.

(Lyon/Westheimer)

The motions 24-321 to 24-326 were put to the vote and carried unanimously.

NOTICES OF MOTION

Notice of Motion No. 9.1 E-bike Safety Regulations

File No: I2024/916

24-327 Resolved that Council:

1. Writes to the Federal and State MPs about the safety issues surrounding E-bikes, specifically that current regulations are inadequate to prevent modifications to E-bikes which bypass the regulations around speed limiting.
2. Works with Tweed/Byron Police to:
 - a) Promote safe E-biking in a media campaign; and
 - b) Ensure appropriate enforcement of the regulations relating to E-bikes.
(Lyon/Ndiaye)

The motion was put to the vote and carried unanimously.

DELEGATES' REPORTS

Cr Ndiaye provided a Delegate's Report on her attendance at the Myall Creek Massacre commemoration.

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

Report No. 13.3 Adoption of Operational Plan 2024/25, including Budget, Statement of Revenue Policy, and Fees and Charges

File No: I2024/792

24-328 Resolved that Council:

1. Notes the submissions received during the public exhibition period for the Operational Plan 2024/25 (including the Budget, Statement of Revenue Policy, and Fees and Charges) as outlined in Attachment 2 (#E2024/62876).
2. Adopts the following documents:
 - a) Operational Plan 2024/25 as amended, Attachment 1 (#E2024/63298).
 - b) Statement of Revenue Policy 2024/25 including fees and charges as exhibited, with the amendments (included in Attachment 4 #E2024/65966) discussed in the report under the headings 'Draft General Land Rates and Charges (Statement of Revenue Policy)' and 'Draft Fees and Charges (Statement of Revenue Policy)'

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- c) Budget Estimates 2024/25 as exhibited, with the amendments discussed in the report under the heading 'Draft 2024/25 Budget Estimates (Statement of Revenue Policy)' and included at Attachment 5 (#E2024/65967)
- d) A budget of \$50,000-100,000 is sought in the September quarterly review to expedite the commencement of Delivery program item 4.1.4.9 - review of remaining 7D Scenic Escarpment zone areas [deferred matters].(Westheimer/C

*The motion was put to the vote and declared carried.
Cr Dey voted against the motion.*

Report No. 13.4 Making of the 2024/25 Ordinary Rates, Charges, Fees and Interest Rate

File No: I2024/892

24-329 Resolved that Council:

1. Makes the ordinary rates for 2024/25 in accordance with Sections 533, 534, 535, 543 and 566 of the Local Government Act 1993 (LGA) as listed in the tables within this report.
2. Makes the charges, makes the fees, and sets the interest rate to be charged on overdue rates and charges for 2024/25 in accordance with Sections 533, 534, 535, 543 and 566 of the Local Government Act 1993 (LGA) as listed in the tables within this report. (Lyon/Westheimer)

The motion was put to the vote and carried unanimously.

REPORTS OF COMMITTEES - SUSTAINABLE ENVIRONMENT AND ECONOMY

Report No. 13.13 Flying-fox Camp Management Plan 2024-2029

File No: I2024/652

24-330 Resolved that Council:

1. Adopts the Byron Shire Council Flying-fox Camp Management Plan (FFCMP) 2024-2029 (Attachment 1, E2024/54184) and Byron Shire Council Roosts (Camps) Plan Detailed Information (FFCMP-R) 2024-2029 (Attachment 2, E2024/48318).
2. Explores the biodiversity enhancing potential of flying fox camps as islands of native local species vegetation repair zones particularly in rural situations. (Westheimer/Ndiaye)

The motion was put to the vote and carried unanimously.

STAFF REPORTS - INFRASTRUCTURE SERVICES

Report No. 13.18 Options for additional Off-Leash dog exercise areas in Suffolk Park

File No: I2024/721

Moved that Council:

1. Notes the findings of this investigation into a new off leash dog park at Suffolk Park.
2. Notes the Master Plan for Linda Vidler Park does include a dog off-leash area and canvasses with the community the possibility of finding a time when dogs could be off-leash when the park is not being used by other groups.

(Coorey/Ndiaye)

AMENDMENT

24-331 Resolved that Council notes the findings of this investigation into a new off leash dog park at Suffolk Park. (Dey/Westheimer)

The amendment was put to the vote and declared carried.

Crs Coorey and Ndiaye voted against the amendment

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

Report No. 13.19 Heritage Park Mullumbimby - Off Leash Dogs

File No: I2024/774

24-332 Resolved that Council:

1. Revokes the current Off-Leash designated area within Heritage Park; and
2. Designates "Area B" as detailed within the body of this report as the designated Off-Leash dog exercise area within Heritage Park, with this area to remain unfenced. (Dey/Ndiaye)

PROCEDURAL MOTION

24-333 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 (Dey/Ndiaye) was put to the vote and carried.

Cr Westheimer voted against the motion.

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Report No. 13.20 Resident Parking Permit Scheme
File No: I2024/798

24-334 Resolved that:

1. Council endorses the proposed implementation of the 'resident permit' system to respond to Council resolution 24-131, to *"reducing the resident permit fee from \$55 to \$0 when the Brunswick Heads scheme becomes operational"* such that:
 - a) The draft fees and charges 2024/25 be updated to rename this permit type *"Shire resident parking permit"*, from the current *"Shire resident or ratepayer exemption, or resident interim parking permit"*
 - b) Each rateable property in the Byron Shire can access two free *"Shire resident parking permit"*, subject to terms and conditions as detailed within the recommendations of this report.
 - c) That a fee for the purchase of additional *"Shire resident parking permit"* be included in the draft 2024/25 fees and charges to enable additional eligible permits to be purchased for \$55.
2. Council notes the parking scheme will be considered 'operational' when all essential components, including functioning meters capable of accepting payments, enforcement, and any associated regulations, are in place and ready to be enforced.
3. The parking permit terms and conditions be amended to reflect the proposed changes. (Lyon/Westheimer)

AMENDMENT

Moved that:

1. Council endorses the proposed implementation of the 'resident permit' system to respond to Council resolution 24-131, to *"reducing the resident permit fee from \$55 to \$0 when the Brunswick Heads scheme becomes operational"* such that:
 - a) The draft fees and charges 2024/25 be updated to rename this permit type *"Shire resident parking permit"*, from the current *"Shire resident or ratepayer exemption, or resident interim parking permit"*
 - b) Each rateable property in the Byron Shire can access one free *"Shire resident parking permit"*, subject to terms and conditions as detailed within the recommendations of this report.
 - c) That a fee for the purchase of additional *"Shire resident parking permit"* be included in the draft 2024/25 fees and charges to enable additional eligible permits to be purchased for \$55.
2. Council notes the parking scheme will be considered 'operational' when all essential components, including functioning meters capable of accepting

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payments, enforcement, and any associated regulations, are in place and ready to be enforced.

3. The parking permit terms and conditions be amended to reflect the proposed changes. (Ndiaye/Hunter)

The amendment (Ndiaye/ Hunter) was put to the vote and declared lost Crs Westheimer, Lyon, Swivel and Dey voted against the amendment. The motion (Lyon/ Westheimer) was put to the vote and declared carried Crs Hunter and Ndiaye voted against the motion.

Report No. 13.22 Ewingsdale Slash Pine Plantation
File No: I2024/864

24-335 Resolved that Council:

1. Notes the initial cost estimate for removal of slash pine plantation; and
2. Considers within the 2025/26 budget, all options for funding design for development of the slash pine area as overflow car parking. (Westheimer/Lyon)

The motion was put to the vote and carried unanimously.

Report No. 13.24 Shire Wide Aquatic Strategy
File No: I2024/866

24-336 Resolved that:

1. Council places the concept designs from the Draft Options Report on public exhibition for a minimum of 28 days; and
2. The Final Options Report to be returned to a future meeting of Council with consideration of Community feedback. (Swivel/Ndiaye)

PROCEDURAL MOTION

24-337 Resolved that Cr Ndiaye be granted a one minute extension to her speech. (Lyon)
The motion was put to the vote and carried unanimously.

Cr Hunter left the Chambers at 4:55PM and did not return.

The motion (Swivel/Ndiaye) was put to the vote and declared a tie.

Crs Swivel, Ndiaye, and Lyon voted in favour of the motion.

Crs Westheimer, Dey, and Coorey voted against the motion.

Cr Hunter was absent for the vote.

The Mayor used his casting vote in favour of the motion and it was declared carried.

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*Cr Lyon left the Chambers at 4:58PM and did not return.
Cr Ndiaye as Deputy Mayor resumed chairing of the meeting.*

CONFIDENTIAL REPORTS - GENERAL MANAGER

Report No. 16.1 **CONFIDENTIAL - Neighbourhood Dispute, Talofa**
File No: I2024/643

24-338 Resolved:

1. That pursuant to Section 10A(2)(b) of the Local Government Act, 1993, Council resolves to move into Confidential Session to discuss the report Neighbourhood Dispute, Talofa.
2. That the reasons for closing the meeting to the public to consider this item be that the report contains:
 - a) discussion in relation to the personal hardship of a resident or ratepayer
3. That on balance it is considered that receipt and discussion of the matter in open Council would be contrary to the public interest, as:

Discussion is in relation the personal hardship of a resident or ratepayer.

(Dey/Ndiaye)

The motion was put to the vote and carried unanimously.

Crs Hunter and Lyon were absent for the vote.

24-339 Resolved that Council:

1. Notes the report.
2. Takes the necessary steps to stop vehicles using the relevant part of the road reserve.
3. Writes to both parties outlining:
 - (a) Council's position resolved in Part 2 above,
 - (b) Council's preference that the parties resolve their issue without use of the road reserve or, if wanting to use the road reserve to provide alternative access, by seeking council approval, and

(c) Council's preference to maintain the road reserve in council ownership.

(Dey/Swivel)

The motion was put to the vote and carried unanimously.

Crs Hunter and Lyon was absent for the vote.

PROCEDURAL MOTION

24-340 Resolved that the meeting move out of confidential session.

(Ndiaye/Swivel)

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*The motion was put to the vote and carried unanimously.
Crs Hunter and Lyon were absent for the vote.*

There being no further business the meeting concluded at 5:04PM.

I hereby certify that these are the true and correct Minutes of this Meeting
as confirmed at Council's Ordinary Meeting on 15 August 2024.

.....
Mayor Michael Lyon

DRAFT