



# Byron Shire Council



## **Minutes Ordinary Meeting**

**Thursday, 25 November 2021**

# BYRON SHIRE COUNCIL

Ordinary Meeting Minutes  
25 November 2021

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# BYRON SHIRE COUNCIL

## ORDINARY MEETING MINUTES

25 November 2021

### MINUTES OF THE BYRON SHIRE COUNCIL ORDINARY MEETING HELD ON THURSDAY, 25 NOVEMBER 2021 COMMENCING AT 9:20AM AND CONCLUDING AT 2.05PM

I/2021/1858

**PRESENT:** Cr M Lyon (Mayor), Cr B Cameron, Cr C Coorey, Cr J Hackett, Cr A Hunter, Cr J Martin, Cr S Ndiaye and Cr P Spooner

**Staff:** Mark Arnold (General Manager)  
Vanessa Adams (Director Corporate and Community Services)  
Phil Holloway (Director Infrastructure Services)  
Shannon Burt (Director Sustainable Environment and Economy)  
Ralph James (Legal Counsel)  
James Flockton (Infrastructure Planning Coordinator) – item 13.17  
Heather Sills (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	Submission Received in form of
9.1	So Long, Thanks for all the Fish	Against	John Anderson	Read out by staff
10.1	Petition Regarding More Traffic Calming Measures in Brandon Street Suffolk Park	For	Tony Christy on behalf of Lynne Richardson	In Person

### Submissions

Subject	Name	Representing Organisation	Submission Received in form of
STRA Update	David Wallace	Victims of Holiday Letting (VOHL)	In person
St Oswalds Memorial Church Broken Head	Jan Barham		Dial in to the Council Meeting via phone

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### Question No. 1 – Short Term Rental Accommodation

David Wallace asked the following question:

*Has Council's final application for the 90 day cap on STRL been submitted to the Planning Department, and if so, on what date? Is the economic impact assessment available for public examination?*

The Director Sustainable Environment and Economy provided the following response:

*The Council's STRA PP has had a protracted and difficult recent history.*

*By way of update, Council received a conditional Gateway determination for it to be exhibited on 24 June 2021 with a 12-month completion date.*

*Council's PP is for unhosted STRA accommodation and proposes a 90-day cap with some selected parts of the Shire having no cap i.e., 365 days.*

*Council received further correspondence from the DPIE dated 22 July 2021. This correspondence advised:*

*the provisions of the SEPP will take effect on 31 January 2022, whether or not the proposal has been finalised..... It is not proposed to alter the 31 January 2022 date in the SEPP. No extension to complete the proposal beyond 24 June 2022 will be supported despite the pending Local Government elections and the time that will be required to complete the required economic impact assessment.*

*The process required to update, exhibit, and finalise the PP will extend beyond the date the SEPP commences for Byron Shire i.e., 31 January 2022.*

*The conditional Gateway determination requires amongst other things, that the PP reflect the recommendations of an Economic Impact Assessment (EIA).*

*The Planning Delivery Unit (PDU) of the DPIE engaged consultants URBIS to prepare an EIA, partly funded by Council.*

*A draft EIA was received on 21 October 2021 for Council staff review and feedback.*

*Council staff provided preliminary comments on the draft EIA to the PDU on 4 November 2021 with further detailed comments sent 10 November 2021.*

*In these comments, staff raised concerns with aspects of the methodology, the technical assessment, the language, the lack of social impact assessment and consideration of mitigation measures.*

*It is understood that these comments are now being reviewed by the consultants Urbis along with comments provided by the DPIE staff on the EIA with a view to finalising an EIA to inform the gateway determination and next steps for Council.*

*I understand from the DPIE that they have been approached by a number of industry bodies and homeowners about this PP, wanting it to be finalised to align at the very least with the SEPP's 180-day cap. This would be neat and expeditious.*

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*However, there is nothing neat about the incursion of unhosted investor led STRA or the opportunistic seasonal holiday letting of second homes now prevalent in Byron Shire. It has taken over whole residential neighbourhoods and left our local community and key workers with nowhere to live. Our housing crisis is well reported and getting worse.*

*What Council has asked the DPIE to do is to respect proper process, the ministerial direction, and the resolution of Council, and permit broader community consultation on the Council resolved 90/365 unhosted STRA day cap PP to occur transparently and fully with our community with an appropriately prepared EIA.*

*I am unable to provide a date, or confirmation of what will occur today but am hopeful of a decision from the DPIE before the end of the year.*

- *planning proposal controls not assessed instead mapped 365-day precincts arbitrarily changed without rationale for expanded 365 day mapped areas*
- *unsound and imbalanced criteria for the assessment of cumulative distributed benefits and disbenefits.*
- *analysis of specific property owners' drivers and impacts limited*
- *consideration of community and commercial accommodation operators' views limited*
- *brevity of social impact data and analysis*
- *absence of some economic considerations*
- *technical rigour, objectivity, inherent bias and use of language*
- *consideration of mitigation measures.*

### **Question No. 2 – Short Term Rental Accommodation**

John Dunn asked the following question:

*What attempts were made by Council staff to communicate with Dr Kooyman prior to the engagement of an ecologist for the Land and Environment Court Case?*

Legal Counsel provided the following response:

*Council staff made no attempts to contact Dr Kooyman to engage him as an expert in the proceedings.*

*Council staff nominated Dr Kooyman as a potential expert and left the engaging of all experts to its external solicitors as part of their professional services.*

*The ecologist in the proceedings was retained in early January 2021.*

*At first instance, Council's solicitors did attempt to contact Dr Kooyman to discuss his involvement, but his office did not answer (noting that it was a holiday period).*

*After further consideration, it was determined by Council's solicitors that because Dr Kooyman had had 'public' involvement with the local community (which was known to the Applicant) an independent expert should be retained in the proceedings. This was to avoid any 'perception' of bias or conflict (with the emphasis on 'perception' noting Dr Kooyman's professionalism).*

*Dr Kooyman's reports were tendered in Council's case in the proceedings.*

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### Question No. 3 – Old Council Website

Duncan Dey submitted the following question that was read by staff:

*As Council's website no longer contains so many historical documents, including some from just the previous term of Council, would Council please consider reactivating the old website and having a link to it from the current one? The old site is such a valuable library of Council documents.*

*The General Manager took the question on notice.*

### Question No. 4 – Butler Street Bypass

John Anderson submitted the following question that was read by staff:

*When and as the result of what processes were the firm GHD and H.W. Hebsworth engaged by Council, in particular relation to the Butler Street bypass?*

*The Mayor took the question on notice.*

*The meeting adjourned at 9.50am and reconvened at 10.17am.*

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## APOLOGIES

There were no apologies.

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## REQUESTS FOR LEAVE OF ABSENCE

There were no requests for leave of absence.

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## DECLARATIONS OF INTEREST – PECUNIARY AND NON-PECUNIARY

There were no declarations of interest.

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## TABLING OF PECUNIARY INTEREST RETURNS

There were no Pecuniary Interest Returns tabled.

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### ADOPTION OF MINUTES FROM PREVIOUS MEETINGS

- 21-508 Resolved** that the minutes of the Ordinary Meeting held on 28 October 2021 be confirmed. (Spooner/Hunter)

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

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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

##### Corporate and Community Services

Report No. 13.6 End of Term Report 2021

Report No. 13.9 Report of The Public Art Panel Meeting held on 21 October 2021

##### Infrastructure Services

Report No. 13.17 Belongil Creek Entrance Opening Strategy (EOS) - Update on the EOS Review and Actioning of Resolution 21-298

Report No. 13.18 Water Sensitive Urban Design (WSUD)

Report No. 13.20 Belongil Parking Scheme Review

Report No. 13.22 Moving Byron (Transport Strategy)

#### REPORTS OF COMMITTEES

##### Corporate and Community Services

Report No. 14.1 Report of the Audit, Risk and Improvement Committee Meeting held on 21 October 2021

##### Sustainable Environment and Economy

Report No. 14.2 Report of the Biodiversity Advisory Committee Meeting held on 9 September 2021

The remaining Recommendations and Committee Recommendations were adopted as a whole, being moved by Cr Lyon and seconded by Cr Hunter. Each recommendation is recorded with a separate resolution number commencing at Resolution No. 21-509 and concluding with Resolution No. 21-537.

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### SUBMISSIONS AND GRANTS

**Report No. 11.1 Grants and Submissions October 2021**  
**File No:** I2021/1719

- 21-509 Resolved** that Council notes the report and Attachment 1 (#E2021/123605) for Byron Shire Council's Submissions and Grants as at 28 October 2021. (Lyon/Hunter)



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### STAFF REPORTS - GENERAL MANAGER

**Report No. 13.1**      **Request to change Railway Park Artisan Market day for one day only.**  
**File No:**              I2021/1629

- 21-510**   **Resolved** that Council, authorises the General Manager, under delegation, to vary the Railway Park Artisan Market Licence held by the Byron Bay Community Association Incorporated to move the scheduled market from 25 December 2021 to 24 December 2021. (Lyon/Hunter)
- 

**Report No. 13.2**      **Agistment licence to Leela Plantations Pty Ltd (A.C.N. 064 533 777)**  
**File No:**              I2021/1640

- 21-511**   **Resolved** that Council authorises the General Manager, under delegation, to enter into an agistment licence with Leela Plantations (A.C.N. 364 533 777) on the following terms:
- a) part Lot 15 DP 1178892,
  - b) term 12-months plus an option of 12-months,
  - c) base rent set at \$6,240 (excluding GST) with rent increased annually thereafter by Consumer Price Index All Groups Sydney,
  - d) purpose of grazing no more than 40 head of cattle and five horses, with horses to be grazed in the 'Top Paddock' on the Land,
  - e) the Licensee to pay:
    - i) all outgoings payable to occupy the Land for the purpose, and
    - ii) required insurances, and
    - iii) carry out improvements to existing fencing, weed control and other on the Land as negotiated with the Licensor prior to commencement of the Licence.
  - f) the Licence to terminate prior to expiry of the term and option if Council commences work on a 5MW Solar Farm Project on the Land. (Lyon/Hunter)
- 

**Report No. 13.3**      **Sub-licence to Zephyr Equine Pty Ltd (A.C.N 638 961 850) and Cape Byron Seahorses Riding Centre for access through Crown Land.**  
**File No:**              I2021/1687

- 21-512**   **Resolved:**
- 1. That Council authorises the General Manager, under delegation, to grant a sub-licence to Zephyr Equine Pty Ltd (A.C.N. 638 961 850) for a term of 12 -months for the purpose of access through Lot 407 DP 729057 being Crown Reserve R755695 on condition that:
    - a) Zephyr Equine Pty Ltd holds a current permit with Cape Byron Marine Park for the term of the sub-licence; and
    - b) Zephyr Equine Pty Ltd take all steps necessary to ensure that all horse

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droppings are removed from the sub-licenced area during and at the end of each access session.

2. That Council authorises the General Manager to grant a sub-licence to Cape Byron Seahorses Riding Centre for a term of 12-months for the purpose of access through Lot 428 DP 729272 being Crown Reserve R81780 on condition that:
  - a) Cape Byron Seahorses Riding Centre holds a current permit with Cape Byron Marine Park for the term of the sub-licence; and
  - b) Cape Byron Seahorses Riding Centre takes all steps necessary to ensure that all horse droppings are removed from the sub-licenced area during and at the end of each access session.
3. That each sub-licence fee is set in accordance with Councils current Fees and Charges. (Lyon/Hunter)

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**Report No. 13.4      Draft Leasing and Licensing Policy**  
**File No:              I2021/1779**

**21-513 Resolved:**

1. That Council authorises a 28-day public consultation of the Draft Leasing and Licencing Policy.
2. That Council adopts the Draft Leasing and Licencing Policy in (1) above if no submissions are received from public consultation.
3. That a report be brought to Council for consideration to adopt the Draft Leasing and Licensing Policy in (1) above if submissions are received from the public consultation of the Draft Policy. (Lyon/Hunter)

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## STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

**Report No. 13.5      Budget Review - 1 July 2021 to 30 September 2021**  
**File No:              I2021/1669**

**21-514 Resolved:**

1. That Council authorises the itemised budget variations as shown in Attachment 2 (#E2021/135696) which include the following results in the 30 September 2021 Quarterly Review of the 2021/2022 Budget:
  - a) General Fund – \$271,800 increase to the Estimated Unrestricted Cash Result
  - b) General Fund - \$9,327,100 decrease in reserves
  - c) Water Fund - \$773,300 decrease in reserves
  - d) Sewerage Fund - \$2,716,300 decrease in reserves
2. That Council adopts the revised General Fund Estimated Unrestricted Cash Result of \$789,400 for the 2021/2022 financial year as at 30 September 2021. (Lyon/Hunter)

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**Report No. 13.7      Council Resolutions Quarterly Review - Q1 - 1 July to 30 September 2021**

**File No:** I2021/1711

**21-515 Resolved:**

1. That Council notes the information provided in this report on active Council Resolutions in Attachment 1 (#E2021/121861).
2. That Council notes the completed Resolutions in Attachment 2 (#E2021/121862).
3. That Council endorses the closure of Resolutions 19-679, 20-069, 20-189, 20-601, 20-669, 20-689, 20-702, 21-062, 21-066, 21-112 as identified in Table 1: Council resolutions that are to be closed; and included in the completed Resolutions in Attachment 2 (#E2021/121862). (Lyon/Hunter)

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**Report No. 13.8      2021/22 Operational Plan Report - Q1 - September 2021**

**File No:** I2021/1713

**21-516 Resolved:**

1. That Council notes the 2021/22 Operational Plan Quarter 1 Report for the period ending 30 September 2021 (Attachment 1 #E2021/132378).
2. That Council adopts the proposed amendments to the Operational Plan 2021/22 outlined in Attachment 2 (#E2021/120213). (Lyon/Hunter)

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**Report No. 13.10      Council Investments - 1 October 2021 to 31 October 2021**

**File No:** I2021/1759

- 21-517 Resolved** that Council notes the report listing Council's investments and overall cash position as at 31 October 2021. (Lyon/Hunter)

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**Report No. 13.11      Presentation of 2020/2021 Financial Statements**

**File No:** I2021/1768

- 21-518 Resolved** that the Audited Financial Statements and Auditor's Report for the 2020/2021 financial year be presented to the public in accordance with Section 419(1) of the Local Government Act 1993. (Lyon/Hunter)

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**Report No. 13.12      Request for Financial Assistance Due to Impacts of COVID-19**  
**File No:                I2021/1816**

**21-519      Resolved:**

1. That Council provides \$7,300.00 to Bangalow A&I Hall to cover operational expenditure for the four-month period of November 2021 to February 2022.
2. That Council provides \$2,100.00 to the Bangalow Heritage Society to cover outgoings for a six-month period with this amount repayable to Council over a six month term upon commencement of café operations. (Lyon/Hunter)

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**Report No. 13.13      New Year's Eve Event Sponsorship**  
**File No:                I2021/1829**

- 21-520      Resolved** that Council approves the request for sponsorship advertising on Denning Park for the evening of 31 December 2021. (Lyon/Hunter)

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**Report No. 13.14      Submission to the Office of Local Government on the Draft Risk Management and Internal Audit for Local Councils in NSW Guidelines**  
**File No:                I2021/1832**

- 21-521      Resolved** that Council approves the submission on the Draft Risk Management and Internal Audit for Local Councils in NSW Guidelines (Attachment 3 E2021/131297) to the Office of Local Government NSW. (Lyon/Hunter)

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### STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

**Report No. 13.15      PLANNING - Report of the 25 October 2021 Planning Review Committee**  
**File No:                I2021/1702**

- 21-522      Resolved** that Council endorses the outcomes of the Planning Review Committee meeting held on 25 October 2021. (Lyon/Hunter)

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**Report No. 13.16    Service NSW for Business**  
**File No:** I2021/1698

**21-523    Resolved** that Council:

1. Delegates authority to the General Manager to enter into an (updated) agreement with Service NSW; and
2. Approves any necessary documents be authorised for execution under the Common Seal of Council. (Lyon/Hunter)

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**Report No. 13.19    Completion of Brunswick Heads STP Remediation**  
**File No:** I2021/456

**21-524    Resolved** that Council notes that the remediation of the Brunswick Heads Sewage Treatment Plant land is now complete to a Health Investigation Level (HIL) C – Public Open Space as per the National Environment Protection (Assessment of Site Contamination) Measure 1999. (Lyon/Hunter)

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**Report No. 13.21    Land Acquisition part Lot 11 DP 1200712 for the purpose of facilitating the shared cycle/walking path**  
**File No:** I2021/1681

**21-525    Resolved** that Council:

1. Endorses the land transfer agreement for the acquisition of part lot 11 DP 1200712 152.6m<sup>2</sup> for NIL value on the condition that Council fund the construction of a protective barrier fence, 3.6m High Backstop x 53 lineal metres being Chainwire PVC on Council's part of the acquired land; and
2. Authorises the acquisition and the execution of all documents necessary to affect the land acquisition and land transfer between Byron Bay Golf Club and Byron Shire Council. (Lyon/Hunter)

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**Report No. 13.23    Use of Delegated Authority - Local Traffic Committee**  
**File No:** I2021/1796

**21-526    Resolved** that Council:

1. Approves the General Manager (or his delegate) using Delegated Authority in consultation with the Director of Infrastructure Services to act on recommendations arising from the 25 November Local Traffic Committee meeting and any additional extraordinary meetings held during December 2021 and January 2022.
2. Delegates chairing of the Local Traffic Committee to the General Manager (or his delegate) for the period from the December Local Council Elections until a new Chair of the committee is confirmed. (Lyon/Hunter)

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### REPORTS OF COMMITTEES - SUSTAINABLE ENVIRONMENT AND ECONOMY

**Report No. 14.3**      **Report of the Heritage Panel Meeting held on 9 September 2021**  
**File No:**              I2021/1791

- 21-527**   **Resolved** that Council notes the minutes of the Heritage Panel Meeting held on 9 September 2021. (Lyon/Hunter)

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**Report No. 14.4**      **Report of the Heritage Panel Meeting held on 17 June 2021**  
**File No:**              I2021/1792

- 21-528**   **Resolved** that Council notes the minutes of the Heritage Panel Meeting held on 17 June 2021. (Lyon/Hunter)

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### REPORTS OF COMMITTEES - INFRASTRUCTURE SERVICES

**Report No. 14.5**      **Report of the Water, Waste and Sewer Advisory Committee Meeting held on 21 October 2021**  
**File No:**              I2021/1699

- 21-529**   **Resolved** that Council notes the minutes of the Water, Waste and Sewer Advisory Committee Meeting held on 21 October 2021. (Lyon/Hunter)

- 21-530**   **Resolved** that Council adopts the following Committee Recommendation:

**Report No. 3.1 Adoption of Minutes from Previous Meetings**  
File No: I2021/1637

Committee Recommendation 3.1.1

That the minutes of the Water, Waste and Sewer Advisory Committee Meeting held on 30 September 2021 be confirmed with the adjustment that the word 'catchment' is added after each word 'STP' in point 3 of the minutes. (Lyon/Hunter)

- 21-531**   **Resolved** that Council adopts the following Committee Recommendation:

**Report No. 4.1 Inflow and Infiltration - April 2021 update**  
File No: I2021/718

Committee Recommendation 4.1.1

That Council:

- a) notes the report from Environmental Data Services;
- b) notes that the measuring system on which the report was based does not work when the manholes surcharge;
- c) investigates methods of assessing the benefits to Inflow and Infiltration of sewer

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repairs in our leakiest sewer catchments, to ascertain the efficacy of the repairs to date and into the future of ongoing repairs. (Lyon/Hunter)

**21-532 Resolved** that Council adopts the following Committee Recommendation:

**Report No. 4.2 Byron STP Condition 9 Additional Load - Quarterly Report**

File No: I2021/1611

Committee Recommendation 4.2.1

That Council:

- a) notes the report.
- b) reaffirms its commitment to reducing flows from the STP into Belongil Creek. (Lyon/Hunter)

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**Report No. 14.6      Report of the Local Traffic Committee Meeting held on 11 October 2021**

**File No:** I2021/1777

**21-533 Resolved** that Council notes the minutes of the Local Traffic Committee Meeting held on 11 October 2021. (Lyon/Hunter)

**21-534 Resolved** that Council adopts the following Committee Recommendations:

**Report No. 6.1 Change of Date - Byron Lighthouse Run 2021**

File No: I2021/1632

Committee Recommendation:

That Council supports the 21 November 2021 Byron Lighthouse Run, subject to:

1. Traffic guidance Scheme(s) and a Traffic Management Plan being designed and implemented by those with the appropriate and relevant TfNSW accreditation.
2. The road closures and hours of closure in accordance with the submitted Traffic Management Plan in Attachment 1 (E2021/126632).
3. Clarkes Beach car park open to the public by 9am. Alternatively, if car park is to be closed to the public after 9am an application is to be made to Council to occupy the car park and relevant application fees and parking fees are to be paid to Council prior to the event commencing.
4. Separate approvals from:
  - i) Council for Section 138 approval
  - ii) NSW Police - a COVID safety plan to be submitted to Police prior to any Police Approval
  - iii) TfNSW, as required
  - iv) Cape Byron Headland Trust, being obtained.
5. The event organiser:
  - i) advertising the impact of the event via a notice in the local weekly paper a minimum of one week prior to the operational impacts taking effect, noting it must include the event name, specifics of any traffic impacts or road closures

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and times, alternative route arrangements, event organiser, a personal contact name and a telephone number for all event related enquiries or complaints;

- ii) providing copy of the advert for Council's web page;
- iii) informing community and businesses that are directly impacted (e.g. adjacent to the event), including the Beach Byron Bay Café and North Coast Holiday Park Clarkes Beach, via written information which is delivered to the property in a timely manner so as to document, consider and respond to any concerns raised;
- iv) arranging for private property access and egress affected by the event;
- v) liaising with bus and taxi operators and ensuring arrangements are made for provision of services during conduct of the event;
- vi) consulting with emergency services with any identified issues being addressed;
- vii) holding \$20m public liability insurance cover which is valid for the event; and payment of Council's Road Event application fee prior to the event.

(Lyon/Hunter)

**21-535 Resolved** that Council adopts the following Committee Recommendations:

### **Report No. 7.1 Mercato on Byron - Amendment to Development Consent Conditions of Approval**

File No: I2021/1608

#### Committee Recommendation:

That Council approves the regulatory signs and lines as presented within the design plans presented in documents E2021/123595 and E2021/123596 with the following amendments:

1. Attachment E2021/123595 be amended as follows:
  - a. change line type SL to TF
  - b. Turning Arrows (AR-3c) not to extend beyond the end of the right turn lane
  - c. Replace proposed pole mounted Keep Left Sign R2-209 with R2-3AA
  - d. Continuity Line CL to be C1 Line type
2. Attachment E2021/123596 be amended as follows:
  - a. Pedestrian refuge to be designed and constructed in accordance with TfNSW technical direction TDT2011/01a
  - b. Install Pedestrian Refuge Advance Warning signs facing north bound traffic

(Lyon/Hunter)



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**Report No. 14.7**      **Report of the Local Traffic Committee Meeting held on 8 November 2021**

**File No:**                I2021/1823

**21-536**   **Resolved** that Council supports the minutes of the Local Traffic Committee Meeting held on 8 November 2021. (Lyon/Hunter)

**21-537**   **Resolved** that Council adopts the following Committee Recommendations:

**Report No. 6.1 Somerset Street - Time Limit Changes**

File No: I2021/1755

Committee Recommendation 6.1.1

That Council:

1. Supports changing the time limits along the Northern side of Somerset Street to No Parking 1am to 6am, 1P between 6am to 1am Thursdays and P between 6am to 1am All other days/. (Signage layout is to be in accordance to the sign plan shown in report I2021/1755); and
2. Requests that market operators to inform stall holders & patrons of the time limit changes within Somerset Street. (Lyon/Hunter)

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### PROCEDURAL MOTION

**21-538**   **Resolved** that Council change the order of business to deal with Reports 9.1, 10.1 next on the Agenda. (Lyon/Hackett)

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

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### NOTICES OF MOTION

**Notice of Motion No. 9.1 So Long, and Thanks for all the Fish**

**File No:**                I2021/1819

**21-539**   **Resolved** that Council:

1. Acknowledges the work of staff and volunteer committee members in contributing to the achievement of the many wonderful outcomes during this term of council.
2. Provides a special thanks to my fellow councillors for the positive contributions, tireless efforts, and collegial manner they have approached decision-making to ensure the Byron Shire is a better place to live, work, and play. (Spooner/Hunter)

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

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### PROCEDURAL MOTION

- 21-540 Resolved** that Cr Spooner be granted a two minute extension to his speech.  
(Lyon/Coorey)  
*The motion was put to the vote and declared carried.*
- 

### PETITIONS

**Petition No. 10.1**      **Petition Regarding More Traffic Calming Measures in Brandon Street Suffolk Park**  
**File No:**                I2021/1725

- 21-541 Resolved:**
1. That Council notes the petition regarding Traffic measures in Brandon Street, Suffolk Park.
  2. That the petition be referred to the Director Infrastructure Services for reporting back to Council.  
(Lyon/Cameron)
- The motion was put to the vote and declared carried.*
- 

### MAYORAL MINUTE

The Mayor provided an end of term round-up.

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### NOTICES OF MOTION

**Notice of Motion No. 9.2 Drafting a Strategic Plan for Arts and Culture**  
**File No:**                I2021/1822

- 21-542 Resolved:**
1. That a briefing be provided to Councillors in March 2022, outlining progress thus far on development of a Strategic Plan for the Arts and Culture. This progress report to consider:
    - a) Community and stake-holders engagement to date
    - b) Community needs and wants
    - c) What have we got, what's working for us, what's not?
    - d) Where do we want to take the arts and culture in this Shire (Vision)
    - e) Starting from what we've got, how might we reach our goals, over time.
  2. That the Strategic Plan for the Arts and Culture be delivered by October 2022.  
(Hackett/Spooner)

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### PROCEDURAL MOTIONS

- 21-543 Resolved** that Cr Hackett be granted a two minute extension to her speech. (Lyon/Ndiaye)

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

*The motion (Hackett/Spooner) was put to the vote and declared carried.*

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- 21-544 Resolved** that the matter 9.3 Terrace Reserve/Reflections Holiday Park boundaries and buffers rest on the table. (Lyon)

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

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### DELEGATES' REPORTS

There were no delegates' reports.

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### STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

**Report No. 13.6**      **End of Term Report 2021**  
**File No:**              I2021/1685

- 21-545 Resolved** that Council notes the End of Term Report 2021 (E2021/129464). (Ndiaye/Coorey)

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

---

### PROCEDURAL MOTION

- 21-546 Resolved** that the matter 13.9 Report of The Public Art Panel Meeting held on 21 October 2021 rest on the table. (Lyon)

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

**STAFF REPORTS - INFRASTRUCTURE SERVICES**

**Report No. 13.17    Belongil Creek Entrance Opening Strategy (EOS) - Update on the EOS Review and Actioning of Resolution 21-298**

**File No:** I2021/1107

**21-547    Resolved** that Council:

1. Notes the outcomes of the preliminary review of the Belongil Entrance Opening Strategy (2019).
2. Notes that berm scraping has generally proven unsuccessful and will no longer be used as an option for entrance management at Belongil.
3. Notes that the current breach/water level management controls are workable but will need to rise in parallel with rise in ocean levels. Maintaining levels below a certain height will become increasingly hard to achieve in the future (when the entrance is both open and closed) due to sea level rise.
4. Endorses changes to the excavation depth for mechanical opening from 0.2m below water level to up to 0.5m below water level.
5. Notes that pilot channel of 3m wide across the beach berm does not include the width required for batter slopes of the channel, it is the channels base width.
6. Notes the outcomes of the preliminary assessment into Melaleuca Forest dieback within an area of the Belongil catchment and staff pursue a research project to:
  - a) confirm how long the dieback has been occurring
  - b) carry out soil and groundwater testing and monitoring to understand operating conditions
  - c) confirm the extent of wetland recruitment in the catchment
6. Notes the outcomes of the preliminary assessment into Melaleuca Forrest dieback within an area of the Belongil catchment within former farming and grazing lands
- d) complete a catchment assessment to confirm that dieback is not occurring elsewhere in the catchment
- e) consider options for improved drain management and additional flooding to prevent prolonged drawdown of the water table
7. Notes that if items 1 to 4 recommended above are supported by Council, staff will amend the EOS and implement the changes effective immediately. (Hunter/Hackett)

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

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**Report No. 13.18    Water Sensitive Urban Design (WSUD)**  
**File No:** I2021/1582

**21-548 Resolved** that the following be presented to the next available Council meeting:

1. Draft Water Sensitive Urban Design – Development Control Plan
2. Draft Water Sensitive Urban Design – Guidance Materials
3. Initial annual drainage infrastructure report (Coorey/Ndiaye)

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

### PROCEDURAL MOTIONS

**21-549 Resolved** that Cr Coorey be granted a two minute extension to her speech. (Lyon/Hackett)

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

---

**21-550 Resolved** that the matter *13.20 Belongil Parking Scheme Review* rest on the table. (Lyon)

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

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**Report No. 13.22    Moving Byron (Transport Strategy)**  
**File No:** I2021/1773

**21-551 Resolved** that Council:

1. Adopts the Draft version of the Moving Byron Strategy (Attachments 1,2 &3) for the purpose of Public Exhibition with the follow amendments and invites submissions from the public.
  - a) Addition of a foreword from the TIAC Chair to acknowledge the contributions of community representatives and stakeholders in the development of Moving Byron.
  - b) Review of formatting and content of column 4 (stakeholders) of the Action Plan (Attachment 2) to ensure correct alignment and to complete the stakeholder list on page one.
  - c) inclusion of additional photographs representative of the key themes.
  - d) Include Case Study 4 at A5 of Attachment 3.
  - e) Attachment 1 be named 'Moving Byron 2022-2042: Integrated Transport Strategy'.
2. Places the "Draft Moving Byron strategy" on Public Exhibition for a minimum of 28 days and the outcomes of the consultation be reported to Council for further consideration;
3. Undertakes consultation during the exhibition period with other government agencies and key stakeholders identified within the Draft Moving Byron Strategy to

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obtain their support, feedback and comments;

4. Receives a report on resourcing requirements in relation to the Draft Moving Byron Action Plan: and
5. Thanks members of the Transport and Infrastructure Advisory Committee (TIAC) for the extensive time and effort put into preparing the Draft Moving Byron Strategy.  
(Cameron/Coorey)

### PROCEDURAL MOTION

- 21-552 Resolved** that Cr Cameron be granted a two minute extension to his speech.  
(Lyon/Ndiaye)  
*The motion was put to the vote and declared carried.*  
*The motion (Cameron/Coorey) was put to the vote and declared carried.*
- 

### REPORTS OF COMMITTEES - CORPORATE AND COMMUNITY SERVICES

**Report No. 14.1 Report of the Audit, Risk and Improvement Committee Meeting held on 21 October 2021**  
**File No:** I2021/1694

- 21-553 Resolved** that Council notes the minutes of the Audit, Risk and Improvement Committee Meeting held on 21 October 2021 (Extraordinary) at Attachment 1 (I2021/1645).  
(Hunter/Lyon)

- 21-554 Resolved** that Council adopts the following Committee Recommendation:

**Report No. 3.1 Adoption of Minutes from Audit, Risk and Improvement Committee meeting of 19 August 2021**  
**File No:** I2021/1452

#### Committee Recommendation 3.1.1

That the minutes of the Audit, Risk and Improvement Committee Meeting held on 19 August 2021 be confirmed.  
(Hunter/Lyon)

- 21-555 Resolved** that Council adopts the following Committee Recommendation:

**Report No. 4.1 Proposed ARIC Work Plan for 2022**  
**File No:** I2021/1578

#### Committee Recommendation 4.1.1

That the Audit, Risk and Improvement Committee approves the draft Audit Risk and Improvement Committee Work Plan for 2022 (E2021/120219)  
(Hunter/Lyon).

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**21-556 Resolved** that Council adopts the following Committee Recommendation:

**Report No. 4.2 Office of Local Government - Risk Management and Internal Audit for Local Councils in NSW: Guidelines**

File No: I2021/1451

Committee Recommendation 4.2.1

That the Audit, Risk and Improvement Committee approves:

- i) the drafting of a submission to the Office of the Local Government on the Draft Risk Management and Internal Audit for Local Councils in NSW - Guidelines on behalf of Byron Shire Council, based on the matters at Attachment 3 (E2021/115947) and any further submissions from Audit, Risk and Improvement Committee members prior to 4 November 2021.
- ii) the consideration of the draft submission at the next Audit, Risk, and Improvement Committee meeting on 11 November 2021 prior to going to Council for endorsement on 25 November 2021. (Hunter/Lyon)

*The motions 21-553 to 21-556 were put to the vote and declared carried.*

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## REPORTS OF COMMITTEES - SUSTAINABLE ENVIRONMENT AND ECONOMY

**Report No. 14.2 Report of the Biodiversity Advisory Committee Meeting held on 9 September 2021**

**File No:** I2021/1684

**21-557 Resolved** that Council notes the minutes of the Biodiversity Advisory Committee Meeting held on 9 September 2021. (Ndiaye/Coorey)

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

*The meeting adjourned at 12.13pm for a lunch break and reconvened at 1.25pm.*

## PROCEDURAL MOTION

**21-558 Resolved** that Report No. 13.9 be lifted from the table. (Lyon/Cameron)

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

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### STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

**Report No. 13.9**      **Report of The Public Art Panel Meeting held on 21 October 2021**  
**File No:**              I2021/1722

**21-559 Resolved:**

1. That Council notes the minutes of the Public Art Panel Meeting held on 21 October 2021.
2. That Council adopts the Panel's recommendation 4.1 to provide funding of \$1,000 for the installation of Emma Anna's work 'Imagine' by Creative Mullumbimby over three months of Summer 2021. (Ndiaye/Lyon)

### PROCEDURAL MOTIONS

**21-560 Resolved** that Cr Ndiaye be granted a two minute extension to her speech. (Lyon/Martin)

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

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

**21-561 Resolved** that Report No. 13.20 be lifted from the table. (Lyon)

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

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### STAFF REPORTS – INFRASTRUCTURE SERVICES

**Report No. 13.20**      **Belongil Parking Scheme Review**  
**File No:**              I2021/1471

**21-562 Resolved** that Council:

1. Adopts the Belongil Parking Scheme Review, consisting of attachments 1 and 2 (E2021/113682 and E2021/113683).
2. That staff scope and estimate the short term actions from the Belongil Parking Scheme Review and report a proposed delivery program, with consideration of other conflicting Local Area Traffic Management priorities, to the next available Transport Infrastructure Advisory Committee meeting.
3. That a budget of \$100,000 from the Infrastructure Renewal Reserve – Byron Bay be allocated in the 2021/22 budget to fund the commencement of Local Area Traffic Management Programs and the short term actions from the Belongil Parking Scheme Review. (Ndiaye/Lyon)

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



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## NOTICES OF MOTION

### Notice of Motion No. 9.3 Terrace Reserve/Reflections Holiday Park boundaries and buffers

File No: I2021/1825

**21-563 Resolved** that Council:

1.
  - a) Convenes a community meeting with residents to seek clarification from staff as to the outcome of the Land and Environment Court ruling of 25 May 2021 between Crown Lands (Reflections) and Byron Council and their relationship to the setbacks and buffers in the approved Plan of Management and that Reflections Regional Manager Jennifer Scott be invited to attend
  - b) that a map be drafted for the understanding of residents which accurately reflects the 3m minimum setbacks and buffers
2. Recommits to the Pedestrian Access and Mobility Plan (PAMP) for Brunswick Heads which includes a shared foot path and bike path along the southern side of The Terrace from Tweed Street to Park Street, noting that The Terrace shared pathway will connect Brunswick Heads Primary School with the existing shared pathway from Bayside and the Brunswick Heads Sporting Fields. (Coorey/Ndiaye)

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

### PROCEDURAL MOTION

**21-564 Resolved** that Cr Coorey be granted a two minute extension to her speech.

(Lyon/Cameron)

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

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URGENCY MOTIONS

**No. 1                      Matter of Urgency - St Oswalds Memorial Church, Broken Head**

**21-565   Resolved** that, for the reasons set out below, the matter of St Oswald's Memorial Church, Broken Head be considered at this meeting notwithstanding that due notice of the matter has not been given.

*I was not made aware of the potential sale of St Oswald's Church prior to the close of Notices of Motion for this meeting. The first community meeting was only held on the 14 November. It is time sensitive because expressions of interest close on the 14 December 2021 and we have no meeting prior for this to be addressed.* (Lyon/Cameron)

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

*Mayor Michael Lyon declared the item 'St Oswald's Memorial Church, Broken Head' a matter of great urgency.*

**21-566   Resolved** that Council:

1. Acknowledges the heritage significance of the St Oswald's Memorial Church in Broken Head by reference to its identification in Byron Shire Council's Local Environmental Plan Heritage Schedule.
2. Writes to the Anglican Diocese of Grafton to inform them of the heritage significance and Council's support for the community efforts to seek protection of this site as a community asset, including the RSL support for it to remain as a memorial to the three Broken Head soldiers who lost their lives in WW1.
3. Requests the Anglican Diocese of Grafton to place a restriction on the use of the land, for the purpose of preserving the church building on the site.
4. Investigates if there is information held by Council regarding the heritage significance, specifically the heritage inventory that was required for the LEP determination listing and make that available to the descendants and the local community. (Hackett/Ndiaye)

PROCEDURAL MOTION

**21-567   Resolved** that Cr Ndiaye be granted a two minute extension to her speech. (Lyon/Hackett)

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

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

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*There being no further business the meeting concluded at 2.05pm.*

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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 24 February 2022.



.....  
Mayor Michael Lyon