

Confirmed Minutes

Planning Meeting Agenda

Thursday, 14 August 2025 held at Council Chambers, Station Street, Mullumbimby



BYRON
SHIRE
COUNCIL

BYRON SHIRE COUNCIL
BUSINESS OF ORDINARY MEETING

**MINUTES OF THE BYRON SHIRE COUNCIL ORDINARY MEETING HELD ON THURSDAY,
AUGUST 14, 2025 COMMENCING AT 03:07 PM AND CONCLUDING AT 07:29 PM.**

Attendance

Present: Councillor Michael Lyon, Councillor Michelle Lowe, Councillor Elia Hauge, Councillor Sarah Ndiaye, Councillor Jack Dods, Councillor David Warth, Councillor Janet Swain, Councillor Asren Pugh

Staff: Mark Arnold (General Manager)
Esmeralda Davis (Director Corporate and Community Services)
Phil Holloway (Director Infrastructure Services)
Shannon Burt (Director Sustainable Environment and Economy)
Chris Larkin (Manager Sustainable Development)
Heather Sills (Manager Corporate Services)
Sarah McCabe (Minute Taker)

Welcome and Acknowledgement of Country

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:

Submissions

Subject	Name	Representing	Via
Noise reaching into residential area	Janet Gay-Jordan	Self	In person

Public Access

Report No.	Report Title	For/ Against	Name	Representing	Via
9.1	No new gas connections	For	James Conlan	350 Australia	Zoom
9.3	Safe and Vibrant Nightlife for Byron Bay	For	Chris Hanley	Self	In person
			Anthony Stante	Self	In person

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Cr Lowe left the meeting at 03:38pm.

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Public Access

Report No.	Report Title	For/ Against	Name	Representing	Via
13.2	PLANNING - 26.2025.4.1 Housekeeping Amendments to Byron Local Environmental Plan 2014	Against	Carrie Christensen	Self	In person
			John Roberts McIntosh	Self	In person

Moved: Cr Ndiaye **Seconded:** Cr Hauge

25-302 Resolved that Public Access be extended for one hour.

The motion was put to the vote and carried unanimously.

Public Access

Report No.	Report Title	For/ Against	Name	Representing	Via
13.5	PLANNING - Development Application 10.2024.438.1 for a Community Title Subdivision comprising twelve neighbourhood lots and one community lot and modification to delete condition 4 of consent of DA 10.2020.242.1 at 84 Blindmouth Road, Main Arm	For	Luke Houghton	Balanced Systems Planning Consultants	In person
		Against	Agnes Koutsioulis	Self	In person
			Simone O'Brien	Self	In person

Cr Lowe returned to the meeting at 04:19pm.

Public Access

Report No.	Report Title	For/ Against	Name	Representing	Via
13.7	Draft DCP 2014 Chapter 11 - Gulgan (BILS Area 5)	For	Steve Connelly	Planners North	In person
13.10	PLANNING - Development Application 10.2025.180.1 for Two Lot Subdivision and dedicate land as road reserve at 70 Station Street, Mullumbimby	Against	Dale Emerson	Mullumbimby Residents Association	In person

Cr Dods left the meeting at 04:50pm.

Cr Dods returned to the meeting at 04:53pm.

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Submissions

Subject	Name	Representing	Via
10.2021.575.1 breach of original consent condition	Svea Pitman	Self	In person
Reference Number 9556/2025 - Whian Whian Rd Eureka to causeway bridge	Len Derkacz	Self	In person

Question No. 1 Residences in the proposed precinct

Chris Hanley registered the following question:

Has council contacted all residential and commercial owners in the proposed 30 hectare SEP zone and advised them specifically of their inclusion in the zone and has any detailed assessment as to the impact on property values been undertaken? Is there also a specific buffer zone distance around the SEP zone that requires notification by council?

The Mayor took the question on notice.

Question No. 2 BSC Enforceability of Biodiversity Protection

Dean Prosser registered the following question:

The Seacliffs Community Title was approved by council in 2007 with a restriction for cats and dogs included in the Community Management Statement. All owners were made of this restriction in their pre-purchase information. A recent breach resulted in a report to council and a Development Control Order to cease use issued. That order was appealed to the Land and Environment Court and in a Conciliation Conference between the parties was deemed invalid, due to the council failure to apply the restriction consent condition on the dwelling consent, despite the property consent and the CMS identifying the restriction. Did council receive legal advice and how does it propose to rectify the situation?

The Mayor took the question on notice.

The meeting adjourned at 5.13pm for a recess break and reconvened at 5.36pm.

Report No. 1.1. Approved Submissions

Apologies

Moved: Cr Ndiaye **Seconded:** Cr Dods

25-303 Resolved that the apology from Cr Kay be accepted and a leave of absence granted. The motion was put to the vote and carried unanimously.

Attendance by Audio-Visual Link

Moved: Cr Ndiaye **Seconded:** Cr Hauge

25-304 Resolved that Cr Lowe be permitted to attend the meeting held on 14 August 2025 by

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audio-visual link.

The motion was put to the vote and carried unanimously.

Requests for Leave of Absence

There were no requests for leave of absence.

Declaration of Interest – Pecuniary and Non-pecuniary

Cr Dods declared a Pecuniary interest in Report 13.2. The nature of the interest being that Cr Dods is a part owner of the property listed in Item 9 of this report - 911 Binna Burra Rd Federal. It is proposed to add a heritage curtilage to the farm house on the property as part of the Housekeeping Amendments. Cr Dods elected to leave the Chamber and will not participate in discussion and the vote.

Cr Dods declared a Not Significant Non-Pecuniary (Stay) interest in Report 13.7. The nature of the interest being that Cr Dods has a past, minor business relationship with Planners North (PN), who is the applicant town planner for this DCP. His relationship with PN is infrequent and not particularly close as defined by Clause 5.9 (b) of the Code of Conduct for Councillors Policy. Cr Dods elected to stay in the meeting and will participate in discussion and the vote.

Tabling of Pecuniary Interest Returns (CI 4.14 Code of Conduct for Councillors)

There were no Pecuniary Interest Returns tabled.

Adoption of Minutes from Previous Meetings

There were no minutes of previous meetings to be adopted at this meeting.

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

13.2 PLANNING - 26.2025.4.1 Housekeeping Amendments to Byron Local Environmental Plan 2014

13.5 PLANNING - Development Application 10.2024.438.1 for a Community Title Subdivision comprising twelve neighbourhood lots and one community lot and modification to delete condition 4 of consent of DA 10.2020.242.1 at 84 Blindmouth Road, Main Arm

13.6 PLANNING - Development Application 10.2025.98.1 for Dwelling House including Demolition of the Existing Building and a New Swimming Pool at 16 Palm Valley Drive, Byron Bay

13.7 Draft DCP 2014 Chapter 11 - Gulgan (BILS Area 5)

The remaining Recommendations were adopted as a whole, being moved by Cr Lyon and seconded by Cr Dods. Each recommendation is recorded with a separate resolution number commencing at Resolution No. **25-305** concluding with Resolution No. **25-311**.

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Report No. 13.1. Land and Environment Court Report

Moved: Michael Lyon **Seconded:** Jack Dods
25-305 Resolved that Council notes the report.

Report No. 13.3. Status report on Development Applications (DAs) with bodies like the Northern Regional Planning Panel (NRPP)

Moved: Michael Lyon **Seconded:** Jack Dods
25-306 Resolved that Council notes the status report on Development Applications (DAs) with bodies like the Northern Regional Planning Panel (NRPP).

Report No. 13.4. PLANNING - 26.2024.6.1 - Post Exhibition Submissions Report - Planning Proposal for 40 The Tunnell Road, Billinudgel

Moved: Michael Lyon **Seconded:** Jack Dods
25-307 Resolved that Council adopts the planning proposal in Attachment 1 (E2025/42837) and forwards it, along with all supporting information, to the NSW Department of Planning, Housing and Infrastructure requesting finalisation.

Report No. 13.8. PLANNING - Development Application 10.2025.7.1 for Alterations and Additions to an existing Dwelling – House to provide additional living areas and outdoor living spaces at 12 Pacific ESP, South Golden Beach.

Moved: Michael Lyon **Seconded:** Jack Dods
25-308 Resolved that pursuant to Section 4.16 of the Environmental Planning and Assessment Act 1979, Development Application No. 10.2025.7.1 for alterations and additions to the existing dwelling to improve functionality and increase indoor and outdoor living space be granted consent subject to the conditions of approval in Attachment 2 (E2025/78226).

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Report No. 13.9. PLANNING - 26.2024.11.1 - Post Exhibition Submissions Report - Planning Proposal: Additional Permitted Uses on certain lots within Zone E4 General Industrial, Centennial Circuit, Byron Arts and Industry Estate

Moved: Michael Lyon **Seconded:** Jack Dods

25-309 Resolved that Council adopts the planning proposal in Attachment 1 (E2025/39040) and forwards it, along with all supporting information to the NSW Department of Planning, Housing and Infrastructure requesting finalisation.

Report No. 13.10. PLANNING - Development Application 10.2025.180.1 for Two Lot Subdivision and dedicate land as road reserve at 70 Station Street, Mullumbimby

Moved: Michael Lyon **Seconded:** Jack Dods

25-310 Resolved pursuant to Section 4.16 of the Environmental Planning & Assessment Act 1979, Development Application No. 10.2025.180.1 for Subdivision (one into two lots and dedicate land as road reserve), be granted consent subject to the conditions of approval in Attachment 2 (E2025/78564).

Report No. 16.1. Variation 2 to Contract 2024-2433 Design, Construct & Certify Embankment Failure Wilsons Creek Road – Extension of retaining wall for safety reasons

Moved: Cr Lyon **Seconded:** Cr Dods

25-311 Resolved that Council approves the additional embankment failure repair works on Wilsons Creek Road by awarding Variation 2 to Quickway Constructions Pty Ltd for a lump sum of \$1,372,251.68 excluding GST, as funded by Transport for NSW.

The motions (Res. **25-305** to Res. **25-311**) were put to the vote and carried unanimously.
Crs Lyon, Lowe, Hauge, Ndiaye, Dods, Warth, Swain, Pugh voted in favour of the motions.
Nil voted against the motions.

Moved: Cr Ndiaye **Seconded:** Cr Hauge

25-312 Resolved that the order of business be changed to deal with items 9.3, 13.6, 13.7, 9.1, 13.2, and 13.5 next on the Agenda.

The motion was put to the vote and carried unanimously.

Notices of Motion

Notice of Motion No. 9.3. Safe and Vibrant Nightlife for Byron Bay

Moved: Cr Hauge **Seconded:** Cr Ndiaye
25-313 Resolved that Council:

1. Receives an report or reports on the Special Entertainment Precinct Kickstart Grant that includes:
 - a. A progress report and status update on work undertaken so far, for the period both before and since the grant was applied for and received
 - b. The mapped area and details of licensed venues (including trading hours, liquor licenses, and relevant development consent conditions) within that area
 - c. An explanation of how the SEP can extend, reduce, or incentivise the extension of trading hours for licensed venues, and how decisions about these trading hours are made (e.g. by council, or by other authorities)
 - d. Current Bureau of Crime Statistics and Research (BOSCAR) figures and trends for Byron Bay town and the wider Shire, focussing on alcohol-related violence, sexual assault and anti-social behaviour
 - e. Current plans, budgets, and known grant options for addressing community safety, public transport and road safety concerns
 - f. Details of how the areas of investigation at Step 1.1, 1.2 and 1.3 of the NSW SEP Handbook, that should've been undertaken prior to applying for the grant and or initiating the SEP, were addressed, including:
 - i. Establishing whether council has sufficient resourcing
 - ii. Preparing a transport review
 - iii. Establishing the strategic merit for the precinct area
 - iv. Whether "early consultation with key stakeholders" took place with community, businesses, venues and emergency services
 - v. Whether a Memorandum of Understanding has been established with NSW Police
 - g. Mechanisms by which the changes to the LEP made for the SEP trial can be reversed if the trial is not successful
2. Establish a community reference group ("working group") to guide the Special Entertainment Precinct trial, as per mandatory Step 1.3.4 of the SEP Handbook, that:
 - a. includes, but not exclusively, emergency services, local small business owners, creative industry representatives, local residents, representatives from Music NSW, Destination Byron, Arts Northern Rivers, NORPA, tourism industry representatives, and Byron Bay Masterplan Group representatives, and that the makeup of the working group be brought to council for approval
 - b. advice to council on desired outcomes and measures of success for the trial, or if an alternative to the trial is more appropriate to achieve the desired outcomes

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3. Receives a further report on why Council ceased to operate the Safer Communities Compact after the 2013-16 and 2016-19 plans, what community safety strategies replaced it, and if there is a need to re-instate the compact or a similar action plan.
4. To compliment the proposed Special Entertainment Precinct (SEP), and acknowledging the documented harms attributable to alcohol consumption, coupled with the State's intent to increase tourism numbers, council request the NSW State Government to allocate funding for emergency services and first responder provisions based on the combined totals of residents and visitor numbers rather than resident population figures, noting that this year's figures are estimated at 1.9 million visitors to the Byron Shire.

The motion was put to the vote and carried unanimously.

Moved: Cr Ndiaye **Seconded:** None

25-314 Resolved that Cr Hauge be granted a one minute extension to their speech.

The motion was put to the vote and carried unanimously.

Moved: Cr Ndiaye **Seconded:** Cr Hauge

25-315 Resolved that Cr Pugh be granted a one minute extension to their speech.

The motion was put to the vote and carried unanimously.

Moved: Cr Ndiaye **Seconded:** Cr Hauge

25-316 Resolved that Cr Ndiaye be granted a one minute extension to their speech.

The motion was put to the vote and carried unanimously.

Staff Reports

Sustainable Environment and Economy

Report No. 13.6. PLANNING - Development Application 10.2025.98.1 for Dwelling House including Demolition of the Existing Building and a New Swimming Pool at 16 Palm Valley Drive, Byron Bay

Moved: Cr Ndiaye **Seconded:** Cr Warth

25-317 Resolved that pursuant to Section 4.16 of the Environmental Planning and Assessment Act 1979, Development Application No. 10.2025.98.1 for a Dwelling House including Demolition of the Existing Building and a New Swimming Pool be granted consent subject to the conditions of approval in Attachment 2 (E2025/78283) and Conditions 34 and 76 being amended to read:

34. **Landscaping Plan required**

The application for a Construction Certificate is to include plans and specifications that indicate the landscaping of the site. Such landscaping plan must incorporate

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adequate detail to demonstrate compliance with the provisions of Chapter B9 of Development Control Plan 2014. Native Species identified in Chapter B9 of Development Control Plan 2014 endemic to the North Coast of NSW to be planted at the rear of the site including *Prickly Alyxia Alyxia ruscifolia*, *Coffee Bush Breynia oblongifolia*, *Hairy Psychotria Psychotria loniceroides*, *Palm Lily Cordyline petiolaris*, *stricta* or *rubra*.

The landscaping plan must indicate:

- a. proposed location for planted shrubs and trees
- b. botanical name of shrubs and trees to be planted
- c. List of weeds on the site and removal strategy
- d. mature height of trees to be planted
- e. location of grassed and paved areas, and
- f. location of trees identified for retention in the development application plans.
- g. The plan is to be prepared by a suitably qualified landscape architect / architect / ecologist who has appropriate experience and competence in landscaping.

Such plans and specifications must be approved as part of the Construction Certificate.

76. Landscaping works and weed removal to be completed

Landscaping and weed removal are to be implemented in accordance with the updated and approved Landscaping Plan prior to issue of the occupation certificate for the development. A site meeting must be arranged with Council to determine satisfaction of this condition or alternatively a report must be provided from a qualified and experienced Landscape Architect.

The motion was put to the vote and carried unanimously.

*Crs Lyon, Lowe, Hauge, Ndiaye, Dods, Warth, Swain and Pugh voted in favour of the motion.
Nil voted against the motion.*

Report No. 13.7. Draft DCP 2014 Chapter 11 - Gulgan (BILS Area 5)

Moved: Cr Lyon **Seconded:** Cr Dods
25-318 Resolved that Council:

1. Proceeds to exhibit the draft DCP 2014 Chapter E11 – Gulgan (BILS Area 5) incorporating the amendments shown in Attachment 1 (E2025/79126) and point 2 below for a period of 28 days.
2. Prior to public exhibition, amend the draft DCP (Attachment 1) to include:
 - a. a glossary of relevant terms;
 - b. incorporate references to the Movement and Place Framework for determining the appropriate street typologies in accordance with the Design of Roads and Streets

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(DORAS) guide produced by Transport for NSW.

3. Provide options for community engagement during the exhibition period as described in this report.
4. Following exhibition, receives a further report detailing key submission issues and planning response to these.
5. Should there be no submissions as of the close of the exhibition period, that Council adopts the amended Chapter and gives notice of its decision in accordance with the Environmental Planning and Assessment Regulation.

The motion was put to the vote and carried unanimously.

Moved: Cr Swain **Seconded:** Cr Hauge

25-319 Resolved that Cr Lyon be granted a one minute extension to their speech.

The motion was put to the vote and carried unanimously.

The meeting adjourned at 6.24pm for a recess break and reconvened at 7.06pm.

Notices of Motion

Notice of Motion No. 9.1. No new gas connections in the Byron Shire

Moved: Cr Hauge **Seconded:** Cr Pugh

25-320 Resolved that Council:

1. Notes that City of Sydney, Canada Bay, Canterbury-Bankstown, Lane Cove, Waverly, Parramatta, Hornsby and Newcastle councils have implemented changes to their Development Control Plans (DCPs) to require the electrification of new developments, and that another five councils, including North Sydney, Inner West, Blue Mountains, Ryde and Wagga Wagga, are in the process of making similar changes to achieve the electrification of new homes and businesses.
2. Includes, in the next round of DCP Housekeeping Amendments (by end of 2025), a requirement for new residential and commercial development across the Byron Shire be all-electric, based on the successful Lane Cove Council approach.

The motion was put to the vote and carried unanimously.

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Staff Reports

Sustainable Environment and Economy

Report No. 13.2. PLANNING - 26.2025.4.1 Housekeeping Amendments to Byron Local Environmental Plan 2014

Cr Dods left the meeting at 07:15pm in accordance with his declaration of interest.

Moved: Cr Lyon **Seconded:** Cr Swain
25-321 Resolved that Council:

1. Prepares a planning proposal encompassing the Housekeeping LEP Amendments detailed in this report and submits it to the NSW Department of Planning, Housing and Infrastructure for Gateway determination with the following amendments:
 - a. Remove Item 17: Remove Clause 4.2C Rural Workers' Dwellings and delete rural workers' dwellings as a permissible use in the RU1 and RU2 zones for council consideration in a future report.
 - b. Remove Item 34: Rezone E4 General Industrial portion of 204 Lismore Road Bangalow to RU1 Primary Production as per Resolution 19-281.
2. Subject to the Gateway determination, undertakes public exhibition of the planning proposal and consults with government agencies as required by the Gateway determination.
3. Receives a submissions report outlining the exhibition outcomes and any changes recommended.

The motion was put to the vote and carried unanimously.

Crs Lyon, Lowe, Hauge, Ndiaye, Warth, Swain and Pugh voted in favour of the motion.

Nil voted against the motion.

Cr Dods was not present for the vote.

Cr Dods returned to the meeting at 07:21pm.

Report No. 13.5. PLANNING - Development Application 10.2024.438.1 for a Community Title Subdivision comprising twelve neighbourhood lots and one community lot and modification to delete condition 4 of consent of DA 10.2020.242.1 at 84 Blindmouth Road, Main Arm

Moved: Cr Hauge **Seconded:** Cr Warth

25-322 Resolved: That pursuant to Section 4.16 of the Environmental Planning and Assessment Act 1979, Development Application No. 10.2024.438.1 for Community Title Subdivision comprising twelve neighbourhood lots and one community lot and modification to

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remove condition 4 of consent of DA 10.2020.242.1 be granted consent subject to the conditions of approval in Attachment 2 (E2025/49817).

The motion was put to the vote and carried unanimously.

Crs Lyon, Lowe, Hauge, Ndiaye, Dods, Warth, Swain and Pugh voted in favour of the motion.

Nil voted against the motion.

Notices of Motion

Notice of Motion No. 9.2. The Athens Democracy Forum

Moved: Cr Ndiaye **Seconded:** Cr Dods
25-323 Resolved that Council:

1. Notes the invitation to the Mayor, to present on the Urban Development and Urban Resilience – The Role of Local Administration in Building Sustainable Strategies for the Green Transition Mayors panel, as part of the Climate Change Hub at the Athens Democracy Forum in Athens, Greece.
2. Supports the Mayor's acceptance to showcase Byron Shire as outlined above and acknowledge the Mayor's travel arrangements have been funded by the City of Athens Council.
3. Supports the Mayor joining a panel of Mayors to discuss the challenges of high visitation numbers and the increasing frequency of extreme weather events, and exchange valuable insights into innovative urban planning and sustainable environmental practices.

The motion was put to the vote and carried unanimously.

Mayoral Minute

There was no Mayoral Minute.

Petitions

There were no petitions tabled at the meeting.

Delegates' Reports

There were no delegates' reports.

Staff Reports

General Manager

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Corporate and Community Services

Sustainable Environment and Economy

Infrastructure Services

Reports of Committees

Questions with Notice

Confidential Reports

There being no further business, the meeting concluded at 07:29 PM.

I hereby certify that these are the true and correct Minutes of this Meeting
as confirmed at Council's Planning Meeting on **11 September 2025**.



Mayor Sarah Ndiaye