

# BYRON SHIRE COUNCIL

Extraordinary Meeting Minutes  
6 June 2012

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## INDEX OF ITEMS DISCUSSED

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

Report No. 3.1. Changes to Draft Byron Local Environmental Plan 2012 in response to DoPI feedback .....	1
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# BYRON SHIRE COUNCIL

EXTRAORDINARY MEETING MINUTES

6 JUNE 2012

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<b>MINUTES OF THE BYRON SHIRE COUNCIL EXTRAORDINARY MEETING HELD ON WEDNESDAY 6 JUNE 2012 COMMENCING AT 10.05AM AND CONCLUDING AT 1.40PM</b>
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#1234075

PRESENT: Cr J Barham (Mayor), Cr B Cameron, Cr T Heeson, Cr P Morrissey, Cr R Staples,  
Cr T Tabart, Cr R Tucker and Cr D Woods

Staff: Phil Warner (Acting General Manager)  
Mark Arnold (Executive Manager Corporate Management)  
Ray Darney (Executive Manager Environment and Planning)  
Shannon McKelvey (Executive Manager Organisational Support)  
Mila Jones (Minute Taker)

*The Mayor opened the meeting and acknowledged that the meeting was being held on Bundjalung Country.*

APOLOGIES: There was an apology received from Cr Richardson.

**12-402 Resolved** that the apology from Cr Richardson be accepted and leave of absence granted. (Barham/Morrissey)

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

## REQUESTS FOR LEAVE OF ABSENCE

There were no requests for leave of absence.

## DECLARATIONS OF INTEREST – PECUNIARY AND NON-PECUNIARY

Cr Tucker declared a non-pecuniary interest in recommendation 6 of Report 3.1. The nature of the interest being that the land in recommendation 6(b) is owned by a friend of his.

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## **ENVIRONMENT AND PLANNING – EXECUTIVE MANAGER'S REPORT**

**Report No. 3.1. Changes to Draft Byron Local Environmental Plan 2012 in response to DoPI feedback**

**File No:** PLN559000 #1214877

**12-403 Resolved** that the meeting move into committee. (Staples/Cameron)

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

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## **COMMITTEE MEETING**

Moved: That clause 6.22 be deleted from the current Plan and land affected by existing 7(F1) and 7(F2) zone provisions in Byron LEP 1988 be deferred from the Draft LEP 2012 and note the Director General's letter of 22 May 2012 and the representations from representatives of the New Brighton and Belongil residents, and that the existing Byron LEP 1988 and DCP 2010 provisions prevail. (Woods/Barham)

COMMITTEE RECOMMENDATION:

AMENDMENT

That in relation to *Coastal Erosion Hazard* replace 'Coastal Hazard' Clauses 6.22 – 6.25 with the amended clause 6.22 contained in Table 4 of this report. (Tabart/Cameron)

*The amendment was put to the vote and declared carried.  
Cr Woods and Barham voted against the amendment.*

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

RECOMMENDATION:

That the letter from the Director General dated 22 May 2012 be acknowledged and a letter be drafted in response explaining Council's rationale for supporting the draft instrument at this time in that it most accurately translates coastal planning hazards as currently defined by 7(F1) and 7(F2) to the standard instrument E2 zone, and that Council believes it is important to exhibit the considerable body of work already done. (Staples/Barham)

*The motion was put to the vote and declared tied.  
Crs Tucker, Woods, Heeson and Cameron voted against the motion.*

COMMITTEE RECOMMENDATION:

That in relation to *Coastal Erosion Hazard* issues, Council intends to consider relevant quantitative controls (eg total floor area) in the corresponding Shire-wide DCP chapter 'C4 – Coastal Erosion and Hazard Areas. (Cameron/Staples)

*The motion was put to the vote and declared carried.  
Crs Tucker, Woods and Heeson voted against the motion.*

COMMITTEE RECOMMENDATION:

That in relation to *Multiple Occupancy development*:

- a) Delete clause 6.5 and incorporate the relevant provisions into Clause 4.2B; and
- b) Remove the Items 7, 8 and 9 from Schedule 1 and instead include the properties on the *Multiple Occupancy and Community Title Map* along with the maximum number of dwelling specified; and
- c) That Council notes that the provisions in the BRSS and LEP 1988 that have been deleted in the new draft clause 4.2B will be incorporated in a DCP chapter. (Cameron/Staples)

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

COMMITTEE RECOMMENDATION:

That Council insert draft Clause 4.2B *Multiple occupancy development* as contained in Table 3 of this report and amend clause 4.2B 3(b) to delete 6 dwellings and insert 3 dwellings. (Staples/Barham)

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

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## COMMITTEE RECOMMENDATION:

That Council amend the *Multiple Occupancy and Community Title Map* to accord with the relevant properties identified in Map 2 (as adopted in April 2000) of the Byron Rural Settlement Strategy 1998 and that the Broken Head MOs from Amendment 53 be inserted in the map ie items 16 and 17 (if not approved) in schedule 8 of the Byron LEP 1988 with relation to clause 29. (Barham/Staples)

*Cr Woods left the chambers at 12.30pm.*

*The motion was put to the vote and declared carried.  
Crs Tucker, Cameron and Morrisey voted against the motion.  
Cr Woods was not present for the vote.*

*Cr Woods returned to the chambers at 12.33pm.*

## COMMITTEE RECOMMENDATION:

That in relation to Clause 4.6(8), delete references to Clause 6.2 and 6.9 and amend Clause 6.22 reference to read "6.22(3A)". (Cameron/Barham)

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

## COMMITTEE RECOMMENDATION:

That Council does not adopt recommendation 19 of the report in this Agenda. (Tucker/Heeson)

*The motion was put to the vote and declared carried.  
Crs Staples, Cameron and Morrisey voted against the motion.*

## RECOMMENDATION:

That in relation to lands owned by Mullumbimby Rugby League and Byron Shire Council, that relevant parts of the *RU1 - Primary Production Zone* and *E3 - Environmental Management Zone* not be amended in accordance with item '22' (Map 5) of this report. (Cameron/Staples)

*The motion was put to the vote and declared tied.  
Crs Tucker, Woods Heeson and Tabart voted against the motion.*

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## PROCEDURAL MOTIONS

That the meeting be extended past 1.00pm to complete the business on the Agenda. (Barham/Staples)

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

That the meeting move out of committee and resume the Extraordinary Meeting. (Barham/Cameron)

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

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## EXTRAORDINARY MEETING

Moved: That the letter from the Director General dated 22 May 2012 be acknowledged and a letter be drafted in response explaining Council's rationale for supporting the draft

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instrument at this time in that it most accurately translates coastal planning hazards as currently defined by 7(F1) and 7(F2) to the standard instrument E2 zone, and that Council believes it is important to exhibit the considerable body of work already done.

(Staples/Barham)

*Cr Morrissey left the chambers at 1.00pm.*

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

*Crs Tucker, Woods, Heeson and Cameron voted against the motion.*

*Cr Morrissey was not present for the vote.*

*Cr Morrissey returned to the chambers at 1.05pm.*

- 12-404 Resolved** that, in relation to lands owned by Mullumbimby Rugby League and Byron Shire Council, that relevant parts of the *RU1 - Primary Production Zone* and *E3 - Environmental Management Zone* not be amended in accordance with item '22' (Map 5) of this report.

(Cameron/Staples)

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

*Crs Tucker, Woods, Heeson, Tabart voted against the motion.*

*The Mayor used her casting vote and declared the motion carried.*

- 12-405 Resolved** that Council does not adopt recommendation 27 of the report in this Agenda.

(Barham/Staples)

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

*Crs Tucker, Woods and Heeson voted against the motion.*

- 12-406 Resolved** that Council does not adopt recommendation 28 of the report in this Agenda.

(Barham/Staples)

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

*Crs Tucker, Woods and Heeson voted against the motion.*

- 12-407 Resolved** that in relation to land fronting Tweed Street, Brunswick Heads, that certain areas be rezoned from *R2 - Low Density Residential* to *B4 - Mixed Use Zone* in accordance with item '29' (Map 17) of this report.

(Woods/Tucker)

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

Moved: That in relation to *Clause 6.15 Flood Planning* as contained in Annexure 1(b), that the following draft Flood Planning Maps tabled at this meeting not be adopted for public exhibition purposes:

<b>Map Sheet</b>	<b>Map Identification Number</b>	
FLD_002A	1350_COM_FLD_002A_040_2012	
FLD_002B	1350_COM_FLD_002B_040_2012	
FLD_002BA	1350_COM_FLD_002BA_020_2012	
FLD_002C	1350_COM_FLD_002C_040_2012	
FLD_002CA	1350_COM_FLD_002CA_020_2012	
FLD_002D	1350_COM_FLD_002D_040_2012	
FLD_002DA	1350_COM_FLD_002DA_020_2012	
FLD_003A	1350_COM_FLD_003A_040_2012	
FLD_003B	1350_COM_FLD_003B_040_2012	
FLD_003CA	1350_COM_FLD_003CA_020_2012	
FLD_003CB	1350_COM_FLD_003CB_020_2012	
FLD_003CC	1350_COM_FLD_003CC_020_2012	
FLD_003CD	1350_COM_FLD_003CD_020_2012	
FLD_003D	1350_COM_FLD_003D_040_2012	(Tucker/Woods)

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

*Crs Staples, Barham, Cameron, Tabart and Morrissey voted against the motion.*

FORESHADOWED MOTION

**12-408 Resolved** that in relation to *Clause 6.15 Flood Planning* as contained in Annexure 1(b) , that the following draft Flood Planning Maps tabled at this meeting be adopted for public exhibition purposes:

<b>Map Sheet</b>	<b>Map Identification Number</b>	
FLD_002A	1350_COM_FLD_002A_040_2012	
FLD_002B	1350_COM_FLD_002B_040_2012	
FLD_002BA	1350_COM_FLD_002BA_020_2012	
FLD_002C	1350_COM_FLD_002C_040_2012	
FLD_002CA	1350_COM_FLD_002CA_020_2012	
FLD_002D	1350_COM_FLD_002D_040_2012	
FLD_002DA	1350_COM_FLD_002DA_020_2012	
FLD_003A	1350_COM_FLD_003A_040_2012	
FLD_003B	1350_COM_FLD_003B_040_2012	
FLD_003CA	1350_COM_FLD_003CA_020_2012	
FLD_003CB	1350_COM_FLD_003CB_020_2012	
FLD_003CC	1350_COM_FLD_003CC_020_2012	
FLD_003CD	1350_COM_FLD_003CD_020_2012	
FLD_003D	1350_COM_FLD_003D_040_2012	(Barham/Cameron)

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

*Crs Tucker and Woods voted against the motion.*

**12-409 Resolved:**

1. That the boundary between SP2 and the E2 zone at Brunswick Boat Harbour be adjusted to the west to permit the road access to the boat ramp to be within the SP2 zone.
2. That Council make submissions to ensure the SEPP 14 wetland boundary matches the zone. (Woods/Tucker)

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

**12-410 Resolved** that Council adopt as a whole the following recommendations in relation to the Draft Byron Local Environmental Plan 2012, as contained in Annexure 1(b) (#1178304):

1. In relation to *dwelling houses and dual occupancies (attached) in certain rural and environmental zones:*
  - a) Delete Clause 6.7 and the associated 'Potential Dwelling Opportunities in E2 Zone Map', and amalgamate the relevant provisions with Clause 4.2A; and
  - b) Replace current draft Clause 4.2A with the amended draft wording contained in Table 1 of this report.
2. In relation to *Community Title development:*
  - a) Delete clause 6.4 and incorporate the relevant provisions into Clause 4.1AA; and
  - b) Remove the community title property identified as 'Dingo Lane, Myocum' from Schedule 1 (Item '10') and instead include on the *Multiple Occupancy and Community Title Map* along with the maximum number of neighbourhood lots specified (within the meaning of the Community Land Development Act 1989); and

- c) Replace current draft Clause 4.1AA with the amended draft wording contained in Table 2 of this report.
3. In relation to *Multiple Occupancy development*:
- Delete clause 6.5 and incorporate the relevant provisions into Clause 4.2B; and
  - Remove the Items 7, 8 and 9 from Schedule 1 and instead include the properties on the *Multiple Occupancy and Community Title Map* along with the maximum number of dwelling specified; and
  - Amend the *Multiple Occupancy and Community Title Map* to accord with the relevant properties identified in Map 2 (as adopted in April 2000) of the Byron Rural Settlement Strategy 1998; and
  - Insert draft Clause 4.2B *Multiple occupancy development* as contained in Table 3 of this report.
4. In relation the *Acquisition Clauses*:
- Amend Clause 5.1 *Relevant Acquisition Authority* by adding *Zone SP2 Infrastructure and marked "Local road"* under Column 1 (Type of land shown on Map) and by nominating *Council* under Column 2(Authority of the State) in the table relating to subclause (2); and
  - Insert a new Clause 5.1A *Development on land intended to be acquired for a public purpose* as contained in item '5' of this report.
5. In relation to Schedule 1 Additional Permitted Uses:
- Reduce the number of items listed in 'Schedule 1 – Additional Permitted Uses' of the draft Byron LEP 2012, such that items 5 and 6 are deleted and only items 1 to 4 are retained;
  - Amend the Minimum Lot Size Map for Lot 1 DP 123842 from 40ha to 10 hectares for this property;
  - Amend the zoning for Lot 346, 85 and 86 DP 755687 and Lots 1 and 2 DP 786006 to 'E4 - Environmental Living' to better reflect site constraints; and
  - Amend the Minimum lot Size map to 5000m<sup>2</sup> for Lots 346 and 85 DP 755687 and 10,000 m<sup>2</sup> (1ha) for Lot 86 DP 755687.
6. In relation to the *RU1 Primary Production Zone* that the last four objectives of the zone be deleted and replaced with the following two objectives (as shown in item '7'):
- "To enable the provision of tourist accommodation, facilities and other small scale rural tourism uses associated with primary production and environmental conservation consistent with the rural character of the locality.*
  - To protect significant scenic landscapes and to minimise impacts on the scenic quality of the locality."*
7. In relation to the *RU2 Rural Landscape Zone* that that the last four objectives of the zone be deleted and replaced with the following two objectives (as shown in item '8'):
- "To enable the provision of tourist accommodation, facilities and other small scale rural tourism uses associated with primary production and environmental conservation consistent with the rural character of the locality.*
  - To protect significant scenic landscapes and to minimise impacts on the scenic quality of the locality."*
8. In relation to the *IN1 General Industrial Zone* that the fifth objective be deleted (as shown in item '9').
9. In relation to the *RE1 Public Recreation Zone*:
- That *entertainment facilities* and *function centres* should remain as 'permitted with consent' in the Land Use table for the RE1 Public Recreation Zone; and

- b) That the reasons outlined in item '10' of this report be submitted to DoPI as further justification for retaining entertainment facilities and function centres in the RE1 Zone.
10. In relation to the *Land Use Table* for *Zone R2 - Low Density Residential*, amend item '3 Permitted with consent' to include *Neighbourhood shops*.
11. In relation to *Clause 4.1B Minimum lot sizes for dual occupancy, multi dwelling housing and residential flat buildings*, that the clause be amended as shown in item '13'.
12. In relation to *Schedule 2 Exempt Development - Signage*:
- a) amend subclause (1)(e) by replacing "200m" with "100m";
  - b) delete subclause (1)(f);
  - c) amend *Clause (10) Real estate signs* by deleting "SP3" from list of zones;
  - d) amend *Clause (13) Public notice* as indicated in item '14' of this report; and
  - e) amend *Clause (14) Temporary signs* as indicated in item '14' of this report.
13. In relation to *Schedule 5 – Environmental heritage*, amend the heritage significance of items as indicated in item '15' of this report.
14. In relation to *Clause 6.1 Earthworks*, amend subclause (3) as indicated in item '16' of this report to include a mechanism that requires consideration of whether proposed earthworks will have a detrimental impact on heritage items.
15. In relation to the *Dictionary*, replace "*Waterways Map*" with "*Watercourse Map*".
16. In relation to Rural Workers' Dwellings, insert draft *Clause 6.3 Erection of Rural Workers Dwellings* into the LEP as indicated in item 18 of this report.
17. In relation to *Byron Bay Golf Club land*, that relevant parts of the *R5 - Large Lot Residential Zone* and *RE2 - Private Recreation Zone* be amended in accordance with item '20' (Map 3) of this report.
18. In relation to northern part of Lot 5 DP 258562, West Suffolk Park, that the draft *RU2 - Rural Landscape Zone* be replaced with an *E2 - Environmental Conservation Zone* in accordance with item '21' (Map 4) of this report.
19. In relation to *Lot 438 DP 729107 & adjoining areas on Bangalow Road, Byron Bay*, that parts of the draft *E2 – Environmental Protection Zone* and *RU2 - Rural Landscape Zone* be rezoned to *E3 – Environmental Management Zone* in accordance with item '23' (Map 7) of this report.
20. In relation to *Lots 332 and 334 DP 755692 Riverside Crescent, Brunswick Heads*, that the draft *E3 - Environmental Management Zone* be replaced with an *E2- Environmental Conservation Zone* in accordance with item '24' (Map 8) of this report.
21. In relation to *Lot 43 DP 270338 Broken Head Road, Suffolk Park*, that the draft *R2 – Low Density Residential Zone* be replaced with *E4 – Environmental Living Zone* and the *Minimum Lot Size Map* be increased to 2000m<sup>2</sup> in accordance with item '25' (Maps 10 & 11) of this report.
22. In relation to *Lot 11 DP 594611, Seven Mile Beach Road, Broken Head*, that the proposed Minimum Lot Size Map be amended from 40 Ha to 10 Hectares in accordance with item '26' (Map 12) of this report.



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23. In relation to the LEP Zoning Map Sheets, that the draft Byron LEP 2012 be amended to incorporate the *changes to zone labels* as outlined in the table for item '30'.
24. In relation to the LEP Maps, that the draft Byron LEP 2012 be amended to incorporate the *changes to map titles* as outlined in the table for item '31'.
25. In relation to the Land Zoning Map, that the draft Byron LEP 2012 be amended to incorporate the *other site-specific changes* as outlined in the table for item '32'.
26. That Council request the Department of Planning to issue a certificate pursuant to Section 65 of the Environmental Planning and Assessment Act 1979 to exhibit the Draft Byron Local Environmental Plan 2012 (Instrument & Maps), as amended in accordance with these resolutions of today.
27. That as soon as practical after receipt of a Section 65 certificate, the Draft Byron Local Environmental Plan 2012 be exhibited pursuant to Section 66 of the Environmental Planning and Assessment Act, 1979 for a period of sixty (60) days in accordance with Council *Resolution 11-434*.
28. That the General Manager be delegated authority to amend the Draft Byron Local Environmental Plan 2012 prior to submission to the Department of Planning and/or public exhibition as applicable, in relation to changes:
  - a) Required by these resolutions of today
  - b) To rectify minor errors or make minor changes; and
  - c) Required by Parliamentary Counsel; and
  - d) To comply with any condition/s attached to the S65 certificate issued by the Department of Planning. (Woods/Staples)

*Cr Heeson left the meeting at 1.35pm and did not return.*

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

**12-411 Resolved** that the following committee recommendations made during the committee meeting be adopted as a whole:

1. In relation to *Coastal Erosion Hazard* replace 'Coastal Hazard' Clauses 6.22 – 6.25 with the amended clause 6.22 contained in Table 4 of this report.
2. In relation to *Coastal Erosion Hazard* issues, Council intends to consider relevant quantitative controls (eg total floor area) in the corresponding Shire-wide DCP chapter 'C4 – Coastal Erosion and Hazard Areas.
3. In relation to *Multiple Occupancy development*:
  - a) Delete clause 6.5 and incorporate the relevant provisions into Clause 4.2B; and
  - b) Remove the Items 7, 8 and 9 from Schedule 1 and instead include the properties on the *Multiple Occupancy and Community Title Map* along with the maximum number of dwelling specified; and
  - c) That Council notes that the provisions in the BRSS and LEP 1988 that have been deleted in the new draft clause 4.2B will be incorporated in a DCP chapter.
4. Council insert draft Clause 4.2B *Multiple occupancy development* as contained in Table 3 of this report and amend clause 4.2B 3(b) to delete 6 dwellings and insert 3 dwellings.
5. That Council amend the *Multiple Occupancy and Community Title Map* to accord with the relevant properties identified in Map 2 (as adopted in April 2000) of the Byron Rural Settlement Strategy 1998 and that the Broken Head MOs from Amendment 53 be inserted

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in the map ie items 16 and 17 (if not approved) in schedule 8 of the Byron LEP 1988 with relation to clause 29.

6. In relation to Clause 4.6(8), delete references to Clause 6.2 and 6.9 and amend Clause 6.22 reference to read "6.22(3A)".
7. Council does not adopt recommendation 19 of the report in this Agenda. (Barham/Staples)

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

*Cr Tucker voted against the motion.*

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*There being no further business the meeting concluded at 1.40pm.*

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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 28 June 2012.

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Mayor Jan Barham