



**Byron Shire Council**



# **Minutes**

**Planning Meeting**

**Thursday, 21 February 2019**

# BYRON SHIRE COUNCIL

Planning Meeting Minutes  
21 February 2019

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**MINUTES OF THE BYRON SHIRE COUNCIL PLANNING MEETING HELD ON THURSDAY,  
21 FEBRUARY 2019 COMMENCING AT 11.08AM AND CONCLUDING AT 1.12PM**

12019/233

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

Staff: Mark Arnold (General Manager)  
Phil Holloway (Director Infrastructure Services)  
Shannon Burt (Director Sustainable Environment and Economy)  
Ralph James (Legal Counsel)  
Chris Larkin (Manager Sustainable Development)  
Anna Vinfield (Manager Corporate Services)  
Mila Jones (Minute Taker)

*The Acting Mayor opened the meeting and acknowledged that the meeting is being held on Arakwal Country and that we pay our respects to the elders past and present and extend our respect to the Bundjalung clans whose lands and waters are part of the Shire.*

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**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:

**6.3 Council's Climate Change Adaptation Processes – Update Report**

*Matthew Lambourne and Craig Johnston addressed Council in favour of the recommendation. John Anderson addressed Council against the recommendation.*

**6.5 Bangalow Master Plan**

*Jenny Bird (representing the Bangalow Progress Association and Bangalow Masterplan Guidance Group) addressed Council in favour of the recommendation.*

**6.6 PLANNING – 10.2017.678.1 Demolition of existing buildings and construction of two (2) residential flat buildings, containing 17x3 bedrooms and 2x4 bedroom dwellings including swimming pool, landscaping, basement car parking and strata subdivision**

*Malcolm Scott addressed Council in favour of the recommendation.*

**6.8 PLANNING – 10.2018.372.1 Use of dwelling house to create dual occupancy (detached) at 361 Huonbrook Road, Huonbrook**

*Stephen Toneguzzo addressed Council in favour of the recommendation. Duncan Dey addressed Council against the recommendation.*

*Cr Ndiaye left the Chambers at 11.52am.*

**7.1 CONFIDENTIAL – PLANNING – Car share Pilot Implementation**

*John Anderson addressed Council against the recommendation.*

*The meeting adjourned at 12.05pm and reconvened at 12.25pm. Cr Ndiaye returned at the commencement of the meeting.*

**APOLOGIES**

There was an apology received from Cr Spooner.

- 19-001 Resolved** that the apology from Cr Spooner be accepted and a leave of absence granted.  
(Lyon/Ndiaye)  
*The motion was put to the vote and declared carried.*
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**REQUESTS FOR LEAVE OF ABSENCE**

There was a request for leave of absence from Cr Richardson.

**19-002 Resolved:**

1. That leave of absence be granted to Cr. Richardson to 3 May 2019.
2. That pursuant to the provisions of section 235A of the Local Government Act Cr Richardson be granted a leave of absence for the following meetings of Council on 21 February 2019, 28 February 2019, 21 March 2019, 28 March 2019, 11 April 2019 and 18 April 2019 and any Council Committee, Panel or Project Reference Group meeting, where he is a member of that Committee, Panel or Project Reference Group, and which is scheduled in the period of the leave of absence granted.
3. That during the period that Cr. Lyon acts in the office of the Mayor he is authorised to exercise all statutory duties and responsibilities of that office. (Cameron/Coorey)

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

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

There were no declarations of interest.

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**ADOPTION OF MINUTES FROM PREVIOUS MEETINGS**

There have been no previous Planning Meetings.

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**RESERVATION OF ITEMS FOR DEBATE AND ORDER OF BUSINESS**

The Acting Mayor suspended standing orders to allow for items to be reserved for debate, being:

**STAFF REPORTS**

**Sustainable Environment and Economy**

- |                |  |
|----------------|--|
| Report No. 6.3 | Council's Climate Change Adaptation Processes - Update Report  |
| Report No. 6.6 | PLANNING - 10.2017.678.1 Demolition of existing buildings and construction of two (2) residential flat buildings, containing 17x3 bedrooms and 2 x 4 bedroom dwellings including swimming pool, landscaping, basement car parking and strata subdivision |

The remaining 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. 19-003 and concluding with Resolution No. 19-010.

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**STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY**

**Report No. 6.1                      Report of the Planning Review Committee Meeting held on 29 November 2018**

**File No:**                              I2018/2186

**19-003 Resolved** that Council note the report of the Planning Review Committee meeting held on 29 November 2018. (Lyon/Hunter)

*The motion was put to the vote and declared carried.  
Crs Coorey, Martin, Lyon, Ndiaye, Cameron, Hackett and Hunter voted in favour of the motion.  
No Councillors voted against the motion.*

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**Report No. 6.2                      26.2015.7.1 - 268 Ewingsdale Road Rezoning Planning Proposal (Ex-Sunnybrand Site)**

**File No:**                              I2018/2407

**19-004 Resolved:**

1. That future work on the Planning Proposal be put on hold until the adjacent development applications relating to West Byron, particularly the portion relating to industrial zoned land, have been determined.
2. That following the determination of development applications relating to West Byron, Council receive a further report to consider options for this Planning Proposal. (Lyon/Hunter)

*The motion was put to the vote and declared carried.  
Crs Coorey, Martin, Lyon, Ndiaye, Cameron, Hackett and Hunter voted in favour of the motion.  
No Councillors voted against the motion.*

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**Report No. 6.4                      PLANNING - Land and Environment Court Proceedings DA 10.2018.110.1 Yoga retreat and camping ground, Coolamon Scenic Drive Mullumbimby**

**File No:**                              I2019/68

**19-005 Resolved** that Council note the report regarding Land and Environment Court proceedings relating to refusal of Development Application 10.2018.110.1, which proposed a yoga retreat and camping ground at Coolamon Scenic Drive Mullumbimby. (Lyon/Hunter)

*The motion was put to the vote and declared carried.  
Crs Coorey, Martin, Lyon, Ndiaye, Cameron, Hackett and Hunter voted in favour of the motion.  
No Councillors voted against the motion.*

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**Report No. 6.5**                    **PLANNING - Submissions Report on the draft Bangalow Village Plan**  
**File No:**                            **I2019/85**

**19-006 Resolved** that Council:

1. Adopt the Bangalow Village Plan: visions and initiatives – Attachment 1 (#E2019/8581) with any necessary amendments to the Plan required for the purposes of proof reading and formatting edits.
2. Note following adoption of the Bangalow Village Plan: Visions and Initiatives, the preparation of an Implementation Plan will commence to prioritise the community priority projects identified during exhibition and the Implementation Plan will be considered in future budget processes.
3. Recommence work on preparing a Development Control Plan (DCP) for Bangalow town centre (started in accordance with Resolution 14-315), which acknowledges the initiatives from the Bangalow Village Plan and community priorities to prepare a structure plan to inform the future DCP amendments for Station Street and the area known as 'The Triangle', and consider a budget allocation to enable this work in the 2019/20 budget process.

(Lyon/Hunter)

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

*Crs Coorey, Martin, Lyon, Ndiaye, Cameron, Hackett and Hunter voted in favour of the motion.*

*No Councillors voted against the motion.*

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**Report No. 6.7**                    **26.2018.2.1 - Planning Proposal for an amendment to Byron LEP**  
**2014 and Byron LEP 1988 to permit Community Title subdivision and**  
**dwelling at Lot 1 DP 1031848, Broken Head Road, Broken Head (The**  
**Linnaeus Estate)**

**File No:**                            I2019/103

**19-007 Resolved:**

That Council:

1. Request the NSW Department of Planning and Environment to issue a Gateway determination for the planning proposal, as included at Attachment 1 (E2018/87474) which proposes to include Lot 1 DP 1031848 (The Linnaeus Estate, Broken Head) in Schedule 1 of BLEP 2014 and Schedule 8 of BLEP 1988 to permit the Community Title subdivision of the land to create 33 small lots, with the balance in a single community lot.
2. Prior to forwarding the Planning Proposal to the NSW Department of Planning and Environment for a Gateway determination, amend Attachment 1 under 'Part 2 – Explanation of Provisions' and table 'Consistency with s9.1 Directions' to insert the following paragraph:

*Additionally, the planning proposal seeks to replicate clause '8' in Schedule 1 of Byron LEP 2014 in Schedule 8 of BLEP88. This is to ensure that all lots under a community title scheme are subject to the same development restrictions.*

3. Obtain any further studies from the applicant if required by the Gateway determination. Then undertake public exhibition of the planning proposal and government agency consultation based on the Gateway determination; and

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4. Receive a further report post-exhibition about issues raised in public and/or government agency submissions received (if any). (Lyon/Hunter)

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

*Crs Coorey, Martin, Lyon, Ndiaye, Cameron, Hackett and Hunter voted in favour of the motion.*

*No Councillors voted against the motion.*

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**Report No. 6.8**                    **PLANNING - 10.2018.372.1 Use of Dwelling House to Create Dual Occupancy (detached) at 361 Huonbrook Road Huonbrook**  
**File No:**                            I2019/116

- 19-008 Resolved** that pursuant to Section 4.16 of the Environmental Planning & Assessment Act 1979, development application 10.2018.372.1 for use of dwelling house to create dual occupancy (detached), be granted consent subject to conditions in Attachment 3 #E2019/8091.(Lyon/Hunter)

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

*Crs Coorey, Martin, Lyon, Ndiaye, Cameron, Hackett and Hunter voted in favour of the motion.*

*No Councillors voted against the motion.*

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### CONFIDENTIAL REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

**Report No. 7.1**                    **CONFIDENTIAL - PLANNING - Car Share Pilot Implementation**  
**File No:**                            I2018/2396

- 19-009 Resolved** that Council select Popcar as the car sharing operator for the commencement of a 12 month pilot project. (Lyon/Hunter)

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

*Crs Coorey, Martin, Lyon, Ndiaye, Cameron, Hackett and Hunter voted in favour of the motion.*

*No Councillors voted against the motion.*

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**Report No. 7.2**                    **CONFIDENTIAL - Mullumbimby Administration Building Solar Carpark - Award of Tender 2018-0060**  
**File No:**                            I2019/146

- 19-010 Resolved** that Council adopt the Tender Evaluation Panel recommendation that SAE Pty Ltd be contracted to design and deliver the solar carpark at the Mullumbimby Administration Building. (Lyon/Hunter)

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### STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

**Report No. 6.3**                    **Council's Climate Change Adaptation Processes - Update Report**  
**File No:**                            I2019/25

- 19-011 Resolved:**

1. That Council consider the development of an updated Climate Change Adaptation Implementation Plan for Council operations in the preparation of the draft 2019/20 Operational Plan and an allocation of \$80,000 in the preparation of the draft 2019/20 Budget.

2. That the Climate Change Adaptation Process be made an agenda item at the next meeting of the Sustainable Emissions Reduction Advisory Committee for consideration.  
(Coorey/Ndiaye)

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

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**Report No. 6.6**                    **PLANNING - 10.2017.678.1 Demolition of existing buildings and construction of two (2) residential flat buildings, containing 17x3 bedrooms and 2 x 4 bedroom dwellings including swimming pool, landscaping, basement car parking and strata subdivision**

**File No:**                            I2019/87

- 19-012 Resolved** that pursuant to Section 4.16 of the Environmental Planning & Assessment Act 1979, development application no. 10.2017.678.1 for demolition of existing buildings and construction of two (2) residential flat buildings, containing 17x3 bedrooms and 2 x 4 bedroom dwellings including swimming pool, landscaping, basement car parking and strata subdivision, be granted Deferred Commencement (deferral period 12 months) subject to the following amendments:

**Amend Condition 4 to read**

**4. Permanent residential use**

This development consent allows only for the purposes of residential flat buildings only. The approved residential use including all individual strata units are not to be used as tourist and visitor accommodation, short term rental accommodation or holiday let unless separate development consent has been obtained for a change of use and or otherwise permitted under another environmental planning instrument.  
Nothing within this development consent allows for the development to be used as tourist and visitor accommodation.

**Amend Condition 101 to read**

**101 Strata Plan**

The strata plan must be in accordance with the approved plan/s. A strata plan administration sheet (original plus one (1) copy), two (2) copies of the strata plan and any necessary section 88B instrument (original plus one (1) copy) are to be submitted with the application for a Strata Certificate if lodged with Council. The strata scheme must have a Strata Management Statement that includes bylaws to prohibit the use of the lots for any form of tourist and visitor accommodation, short term rental accommodation or holiday letting unless separately development consent has been obtained for a change of use and or otherwise permitted under another environmental planning instrument.

**Insert the Following Condition after Condition 21**

**# Vegetation Management**

A Vegetation Management plan to be prepared and approved by Council prior to the issue of the Construction Certificate. The plan must be prepared by a suitably qualified consultant (eg Ecologist) and must include:

- a) a map at a scale of 1:200 or better illustrating the location and extent of retained vegetation on the site, including the land to be consolidated as identified in the draft plan of subdivision of Lot 1 in DP 1098133 and & Lot 4730 in DP 1228112 in accordance with the plan endorsed by this consent. This map should also identify all areas where weeds exist on the development site and areas to be rehabilitated and planted;
- b) a clear identification of responsibility for the weed removal and rehabilitation;
- c) a list of weed species proposed for removal with specific methods detailed of removal



strategies (eg. herbicides used, disposal of propagules in green waste, retention of native seedbank) (See Appendix 12 of the Byron Flora and Fauna Study 1999 for weed list);

- d) a list of species proposed to be planted in rehabilitation work;
- e) provision for specific adequate plantings of plant species native to the local vegetation community.
- f) means of protection of existing vegetation within and adjoining the site to be preserved during the construction and operational phases of the development.
- g) identification of all service connection locations within the site demonstrating that all services must be located independently of and will not be detrimental to any trees to be preserved.

**Insert the following Condition after Condition 99**

**# Completion of Vegetation Management Works**

A minimum of 75% of the works required under the Vegetation Management to be completed prior to the issue of the Occupation Certificate, with the remaining works to be completed within 2 years of the date of the occupation certificate.

**Insert the following Condition after Condition 108**

**# Vegetation Management Plan**

Implementation of the vegetation management plan approved under this consent is to be undertaken in perpetuity. (Cameron/Coorey)

AMENDMENT

Moved: That pursuant to Section 4.16 of the Environmental Planning & Assessment Act 1979, development application no. 10.2017.678.1 for demolition of existing buildings and construction of two (2) residential flat buildings, containing 17x3 bedrooms and 2 x 4 bedroom dwellings including swimming pool, landscaping, basement car parking and strata subdivision, be granted Deferred Commencement (deferral period 12 months). (Hunter/Hackett)

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

*Crs Hackett and Hunter voted in favour of the amendment.*

*Crs Coorey, Martin, Lyon, Ndiaye and Cameron voted against the amendment.*

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

*Crs Coorey, Martin, Lyon, Ndiaye, Cameron and Hackett voted in favour of the motion..*

*Cr Hunter voted against the motion.*

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*There being no further business the meeting concluded at 1.12pm.*

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I hereby certify that these are the true and correct Minutes of this Meeting as confirmed at Council's Planning Meeting on 21 March 2019.

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Acting Mayor Michael Lyon