



Byron Shire Council



Minutes

Planning Meeting

Thursday, 16 May 2019

BYRON SHIRE COUNCIL

Planning Meeting Minutes

16 May 2019

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MINUTES OF THE BYRON SHIRE COUNCIL PLANNING MEETING HELD ON THURSDAY, 16 MAY 2019 COMMENCING AT 11.10AM AND CONCLUDING AT 3.34PM

12019/721

PRESENT: Cr S Richardson (Mayor) (left at 2.54pm), Cr B Cameron, Cr C Coorey, Cr J Hackett, Cr A Hunter, Cr M Lyon, Cr J Martin (left at 12.36pm), 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)
Chris Larkin (Manager Sustainable Development)
Mila Jones (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:

6.1 PLANNING – 10.2018.483.1 Rural Tourist Accommodation eight (8) cabins and pool

Frank Stewart (Frank Stewart Architect) addressed Council in favour of the recommendation. Stephen Bainbridge, Ben Fawcett and John Anderson addressed Council against the recommendation.

6.3 PLANNING – 10.2018.137.1 Rural land sharing community (Multiple Occupancy) consisting of fifteen (15) dwelling sites and associated works

Luke Houghton (Balanced Systems) addressed Council in favour of the recommendation. Geoffrey Cotton and Hilarie Dunn addressed Council against the recommendation.

6.6 PLANNING – 10.2013.587.6 S4.55 for minor changes to approved plans and amendments to easements and hours of operation and removal of requirement to comply with Council's Airspace Policy at 108-110 Jonson Street Byron Bay

Ross Fox (Fishburn Watson O'Brian Lawyers) addressed Council in favour of a component of the recommendation and John Anderson addressed Council in favour of the recommendation.

The meeting adjourned at 12.36pm for lunch and reconvened at 1.30pm.

APOLOGIES

Cr Martin left the meeting at 12.36pm due to illness.

DECLARATIONS OF INTEREST – PECUNIARY AND NON-PECUNIARY

There were no declarations of interest.

ADOPTION OF MINUTES FROM PREVIOUS MEETINGS

- 19-204 Resolved** that the minutes of the Planning Meeting held on 11 April 2019 be confirmed. (Hunter/Hackett)

*The motion was put to the vote and declared carried.
Cr Lyon was not present for the vote.*

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

Sustainable Environment and Economy

- Report No. 6.1 PLANNING - 10.2018.483.1 Rural Tourist Accommodation Eight (8) cabins and pool
- Report No. 6.3 PLANNING - 10.2018.137.1 - Rural Land Sharing Community (Multiple Occupancy) consisting of Fifteen (15) Dwelling Sites and Associated Works
- Report No. 6.6 PLANNING - 10.2013.587.6 S4.55 for Minor Changes to Approved Plans and Amendments to Easements and Hours of Operation and Removal of Requirement to Comply with Council's Airspace Policy at 108-110 Jonson Street BYRON BAY NSW 24

Infrastructure Services

- Report No. 6.7 Suffolk Beachfront Holiday Park - Sale of homes on site 3 & 8

The remaining Recommendations were adopted as a whole, being moved by Cr Richardson and seconded by Cr Hunter. Each recommendation is recorded with a separate resolution number commencing at Resolution No. 19-205 and concluding with Resolution No.19-207.

STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

- Report No. 6.2 PLANNING: Submission to 'Discussion Paper - Local Character Overlays'**
- File No:** I2019/447

- 19-205 Resolved** that Council note the information in this report and advise of any other issues to be included in a submission on the 'Discussion Paper – Local Character Overlays' to be submitted to the Department by 20 May 2019. (Richardson/Hunter)

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

- Report No. 6.4 PLANNING - 10.2019.42.1 Boundary Adjustment 2 lots into 2 lots at 1660 and 1670 Coolamon Scenic Drive MULLUMBIMBY**
- File No:** I2019/591

- 19-206 Resolved** that pursuant to Section 4.16 of the Environmental Planning & Assessment Act 1979, development application no. 10.2019.42.1 for Boundary Adjustment, be granted consent subject

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to conditions of approval listed in attachment 1 (#E2019/27699).

(Richardson/Hunter)

The motion was put to the vote and declared carried.

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

No Councillors voted against the motion.

Report No. 6.5 **PLANNING - Exceptions of Development Standards 1 January 2019 to 31 March 2019**

File No: I2019/639

19-207 Resolved that Council note the report on exceptions to development standards for the period 1 January 2019 to 31 March 2019. (Richardson/Hunter)

The motion was put to the vote and declared carried.

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

No Councillors voted against the motion.

PROCEDURAL MOTION

19-208 Resolved that Council change the order of business to deal with Reports 6.1, 6.3, 6.6 and 6.7 next on the Agenda. (Hunter/Hackett)

The motion was put to the vote and declared carried.

Cr Hunter was not present for the vote.

Report No. 6.1 **PLANNING - 10.2018.483.1 Rural Tourist Accommodation Eight (8) cabins and pool**

File No: I2019/433

19-209 Resolved that determination of application 10.2018.483.1 be deferred for the following reasons:

1. to review the road upgrade consent condition to consider ensuring the most regularly damaged segments are upgraded;

2. the submission by Tweed Byron Aboriginal Land Council be given due diligence and assessed;

3. a redesign be submitted of common entertaining area to minimise potential for gatherings and events and for noise attenuation; and

4. that staff review the number of cabins on the site and clustering arrangements of the cabins. (Ndiaye/Coorey)

Cr Lyon returned to the meeting at 1.35pm.

The motion was put to the vote and declared carried.

Cr Coorey, Lyon, Ndiaye, Richardson, Cameron, Hackett and Spooner voted in favour of the motion.

Cr Hunter voted against the motion.

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Report No. 6.3 **PLANNING - 10.2018.137.1 - Rural Land Sharing Community (Multiple Occupancy) consisting of Fifteen (15) Dwelling Sites and Associated Works**

File No: I2019/586

19-210 Resolved that this matter rest on the table. (Cameron/Richardson)

The motion was put to the vote and declared carried.

Report No. 6.6 **PLANNING - 10.2013.587.6 S4.55 for Minor Changes to Approved Plans and Amendments to Easements and Hours of Operation and Removal of Requirement to Comply with Council's Airspace Policy at 108-110 Jonson Street BYRON BAY NSW 24**

File No: I2019/641

19-211 Resolved:

1. That pursuant to Section 4.55 of the Environmental Planning & Assessment Act 1979, Application No. 10.2013.587.6:
 - a) Minor Changes to Approved Plans and Amendments to Easements and Hours of Operation, be approved by modifying Development consent number 10.2013.587.6 as in Attachment 2 (E2019/31159);
 - b) The deletion of condition 23 being the requirement to comply with Byron Shire Council's Airspace Policy be refused.
2. The current Draft 2019/2020 Fees and Charges for road airspace usage (commercial occupation) be reviewed as part of the annual Fees and Charges process. (Coorey/Lyon)

PROCEDURAL MOTION

19-212 Resolved that Cr Ndiaye be granted a two minute extension to her speech. (Richardson/Cameron)

The motion was put to the vote and declared carried.

AMENDMENT

Moved:

1. That pursuant to Section 4.55 of the Environmental Planning & Assessment Act 1979, Application No. 10.2013.587.6:
 - a) Minor Changes to Approved Plans and Amendments to Easements and Hours of Operation, be approved by modifying Development consent number 10.2013.587.6 as in Attachment 2 (E2019/31159);
 - b) The deletion of condition 23 being the requirement to comply with Byron Shire Council's Airspace Policy be refused.
 - c) Apply Fees and Charges for road airspace usage (commercial occupation) at a rate of 50% of the footpath dining adopted Fees and Charges per square metre rental rates for DA2013.587.6 applicable at the time of the application for a period of 5 years.

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2. The current Draft 2019/2020 Fees and Charges for road airspace usage (commercial occupation) be reviewed as part of the annual Fees and Charges process. (Ndiaye/Hunter)

PROCEDURAL MOTION

- 19-213 Resolved** that Cr Cameron be granted a two minute extension to his/her speech. (Richardson/Hackett)

The motion was put to the vote and declared carried.

The Mayor left the meeting at 2.49pm. The Deputy Mayor took the Chair. The Mayor returned to the Chair at 2.51pm.

The Mayor left the meeting at 2.54pm and did not return. The Deputy Mayor took the Chair.

The amendment (Ndiaye/Hunter) was put to the vote and declared lost.

Crs Ndiaye and Hunter voted in favour of the amendment.

Crs Coorey, Lyon, Cameron, Hackett and Spooner voted against the amendment.

The motion was put to the vote and declared carried.

Crs Coorey, Lyon, Cameron, Hackett and Spooner voted in favour of the motion.

Crs Ndiaye and Hunter voted against the motion.

PROCEDURAL MOTION

- 19-214 Resolved** that Report No. 6.3 be lifted from the table. (Cameron/Lyon)

The motion was put to the vote and declared carried.

Report No. 6.3 PLANNING - 10.2018.137.1 - Rural Land Sharing Community (Multiple Occupancy) consisting of Fifteen (15) Dwelling Sites and Associated Works

File No: I2019/586

Moved:

That this matter be deferred to seek a Rural Landsharing Management Plan from the proponent that addresses DCP 2014, D2.6.2, Cl.3 (Prescriptive Measures) and particularly 'the degree of recognition and understanding among the community members of collective land ownership and use of resources'. (Cameron/Coorey)

PROCEDURAL MOTION

- 19-215 Resolved** that Cr Cameron be granted a one minute extension to his speech. (Lyon/Hackett)

The motion was put to the vote and declared carried.

AMENDMENT

- 19-216 Resolved** that pursuant to Section 4.16 of the Environmental Planning & Assessment Act 1979, development application, 10.2018.137.1 - Rural Land Sharing Community (Multiple Occupancy) consisting of Fifteen (15) Dwelling Sites and Associated Works be granted consent subject to conditions in Attachment 4 #E2019/29581 with the following amendments to condition 29:

- (i) Amend condition 29 to include h and i:

- (h) provisions to prohibit holiday letting / short term rental accommodation or use of dwellings as tourist and visitor accommodation.
- i) Include the Management Zone Plan Illustration 6 prepared by Balance Systems Planning Consultants dated 14/4/19 in relation to the ongoing management and land use of the property.

(ii) include new condition 44:

44. Use of dwellings

Use of the dwellings for holiday letting / short term rental accommodation or use of dwellings as tourist and visitor accommodation prohibited. (Spooner/Ndiaye)

PROCEDURAL MOTION

19-217 Resolved that Cr Spooner be granted a one minute extension to his speech. (Lyon/Hackett)

The motion was put to the vote and declared carried.

The amendment (Spooner/Ndiaye) was put to the vote and declared carried.

Crs Lyon, Hackett, Spooner and Hunter voted in favour of the amendment.

Crs Coorey and Cameron voted against the amendment.

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

Crs Coorey, Lyon, Hackett, Spooner and Hunter voted in favour of the motion.

Cr Cameron voted against the motion.

STAFF REPORTS - INFRASTRUCTURE SERVICES

Report No. 6.7

Suffolk Beachfront Holiday Park - Sale of homes on site 3 & 8

File No:

12019/600

19-218 Resolved:

1. That subject to the meeting of the conditions set out in 2 below Council purchase dwellings in Suffolk Beachfront Holiday Park.
2. That Council's purchase is conditional upon the purchase price being within budget limits and does not exceed an amount which is 10% greater than the amount verified by an independent valuation of each dwelling.
3. That Council authorise the General Manager to take all steps necessary to enter into a purchase contract and to sign and counter-sign all documents associated with the purchase of the dwellings.
4. That any acquired sites are to remain as long-term agreement sites. (Ndiaye/Spooner)

The motion was put to the vote and declared carried.

There being no further business the meeting concluded at 3.34pm.

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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 20 June 2019.

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Mayor Simon Richardson