



Byron Shire Council



Minutes

Ordinary (Planning) Meeting
Thursday, 10 December 2020

BYRON SHIRE COUNCIL

Ordinary (Planning) Meeting Minutes
10 December 2020

INDEX OF ITEMS DISCUSSED

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

Report No. 13.2	Update - State Environmental Planning Policy Koala Habitat Protection (2019) Amendment 2020 and finalised guideline; Local Land Services (LLS) Amendment (Miscellaneous) Bill 2020	8
Report No. 13.5	PLANNING - 26.2017.6.1 - Byron Bay Town Centre Planning Controls - Update and Next Steps.....	8
Report No. 13.6	PLANNING - Section 8.2 Review of Development Application 10.2019.648.1 - Two (2) into Two (2) Lot subdivision at 39 Leslie Street, Bangalow	9
Report No. 13.9	PLANNING - Report of the 12 November 2020 Planning Review Committee ..	9
Report No. 13.3	Final Residential Strategy including submissions review report	9
Report No. 13.4	Federal Community Led Masterplan - Project Scope	11
Report No. 13.7	PLANNING - s4.55 to modify the approved plans and delete conditions of consent - Development Application 10.2020.310.2 at 30 Kingsley Street, Byron Bay.....	12
Report No. 13.8	PLANNING - Review of Planning Controls for Rural Tourist Accommodation	15
Delegates' Reports	1. Rous Meeting on Wednesday 16 December 2020	17
Delegates' Reports	2. NRJO	176
Delegates' Reports	3. Meeting with Reflections	176
Delegates' Reports	4. LGNSW Annual Conference	176
Report No. 13.1	Submission report on Development Control Plan 2014 Chapter B1 Biodiversity	17

BYRON SHIRE COUNCIL

ORDINARY (PLANNING) MEETING MINUTES

10 December 2020

MINUTES OF THE BYRON SHIRE COUNCIL ORDINARY (PLANNING) MEETING HELD ON THURSDAY, 10 DECEMBER 2020 COMMENCING AT 11.06AM AND CONCLUDING AT 2.49PM

12020/1928

PRESENT: Cr S Richardson (Mayor), Cr B Cameron, Cr C Coorey, Cr J Hackett, Cr A Hunter, Cr M Lyon, 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)
Alex Caras (Land Use Planning Coordinator) (Report 13.3)
Natalie Hancock (Senior Planner) (Report 13.3)
Ben Grant (Planner) (Report 13.8)
Ralph James (Legal Counsel)
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:

Public Access

Report No and Title	For / Against	Name	Representing Organisation	Submission Received in form of
13.3 Final Residential Strategy including submissions review report	For	Matthew O'Reilly	Community Alliance for Byron Shire	In person
	Against	Joanne Kay	Ardill Payne and Partners	In person
13.4 Federal Community Led Masterplan - Project Scope	For	Alan Goldstein	Federal Village Master Plan Steering Group	In person
13.6 PLANNING - Section 8.2 Review of Development Application 10.2019.648.1 - Two (2) into Two (2) Lot subdivision at 39 Leslie Street, Bangalow.	For	Luke Houghton	Balanced Systems Planning Consultants	In person
13.7 PLANNING - s4.55 to modify the approved plans and delete conditions of consent - Development Application 10.2020.310.2 at 30 Kingsley Street, Byron Bay	Against	Mary Dickie		In person
13.8 PLANNING - Review of Planning Controls for Rural Tourist Accommodation	For	Matthew O'Reilly		In person

Submissions

Subject	Name	Representing Organisation	Submission Received in form of
To submit the Petition to reject the Corso development in Bayside (DA 010.2020.00000571.001)	Lisa Sandstorm		In Person
Submitting petition against 'The Corso' - 39-room boarding house with eight top shop flats proposed for Bayside	Judith Brazenor		In Person
Denial in the Making	John Anderson		Read out by staff
Sustainable Tourism	Matthew O'Reilly	Community Alliance for Byron Shire	In Person
Biodiversity, buffers and riparian zones	Matthew O'Reilly		In Person

Question No. 1 Affordable Housing Moratorium

Annie Radermacher asked the following question:

Is Council able to petition to State Government to get a moratorium on affordable housing boarding houses since none of them have been found to be affordable. What can we do to stop this scourge on our residential areas when it's not in fitting with any of the areas and all it has done is cause issues for our residents?

The Mayor took the question on notice.

Question No. 2 Cost of Code of Conduct complaints

John Anderson asked the following question:

Not long ago Cr Lyon complained in a letter to the Echo that my Code of Conduct complaints had cost Council thousands of dollars in terms of a professional conduct reviewer. Putting aside the question of whether alleged Councillor conduct on the day in question might have been the ultimate cause of said expenditure, could Cr Lyon please indicate precisely how much was paid out?

Cr Lyon responded:

Yes, of course. I do find it interesting that after six months exclusion through inappropriate behaviour, from attending public access and then complaining about the way we read out his things that he still doesn't now actually turn up even though he's allowed to.

\$2850 is the amount that John Anderson cost the Council and the community in terms of the code of conduct complaints that were referred to, which was against four Councillors. There has been 12 hours of staff time as well. There has subsequently been 11 other complaints lodged by him.

The irony is the actual code of conduct complaint in question where he was saying we weren't listening to him, and we were talking amongst ourselves, he'd actually made an interesting point and a valid point and that was what we were discussing at the time so maybe he needs to reflect on that.

Question No. 3 Legal privilege

Coorabella Vista Pty Ltd asked the following question:

Recently Council's lawyer Ralph James cleverly (he thought) avoided answering a question about his professional duties vis-à-vis the Mayor's performance in the Chair by claiming legal privilege i.e. client confidentiality. Does Mr James concede that it is the Council which is his client, not the Mayor, and that accordingly in relation to the Mayor he is in the relevant situation merely another employee of the Council and must provide the information which was legitimately sought – unless of course he would prefer to have the matter sorted by the Legal Services Commission?

Legal Counsel responded:

Legal professional privilege, also called client legal privilege, protects confidential communications and confidential documents between a lawyer and a client made for the dominant purpose of the lawyer providing legal advice to the client..

Clause 5(1) of Schedule 1 to the GIPA Act states that it is conclusively presumed that there is an overriding public interest against disclosure of information that would be privileged from production in legal proceedings on the ground of client legal privilege (legal professional privilege), unless the person subject to that privilege has waived the privilege.

In my role as Legal Counsel my client is Council. All of my instructions come from or through the General Manager

When I answered the question I had no instructions to waive privilege. I will not waive privilege unless I am instructed to do so.

If the Legal Services Commission tells me that I am wrong I will abide by its determination.

Question No. 4 Holiday letting cap

Community Alliance for Byron Shire asked the following question:

Why were areas in New Brighton and South Golden Beach not included in the proposed 365 day short term holiday letting cap at the last Planning meeting?

The Director Sustainable Environment and Economy responded:

In terms of referring back to the report that went to Council, we were relying on some previous data analysis that had been undertaken by staff to support the amendments previously for 90 days across the Shire as a whole. When we looked at that, South Golden, New Brighton and Ocean Shores as an area as a whole had one of the lowest frequent available listings as a proportion of dwellings supply when you compared to other suburbs. It was somewhere around 9%. So when we looked at that analysis and looked at the hotspot maps in preparing the new amendments we didn't consider adding, per se, South Golden or New Brighton at that point.

The other issue is we hadn't really had representations from that community around their thoughts, one way or the other and neither of those areas had previously been mapped in an earlier precinct map planning proposal, I think that predated me being here at Council. That being said, should we get some submissions from the community or the chamber, we can have a look at that once the gateway hopefully is issued and we go on exhibition more formally with that planning proposal.

Question No. 5 Mullumbimby to Brunswick Heads cycle path

Matthew O'Reilly asked the following question:

Can Council please clarify the status of the proposed Mullumbimby to Brunswick Heads dedicated cycle path?

The Director Infrastructure Services responded:

With the Mullumbimby to Brunswick Heads cycleway, in summary, Council resolved through resolution 19-611 to make the Brunswick to Mullumbimby cycleway it's next priority in terms of cycleway. That was reliant on funding being made available from savings in relation to the Byron to Suffolk Park cycleway which was funded by the election commitment funding from the NSW Government.

We're in the process of finalising, in the next few weeks, the Suffolk Park cycleway and that will release funds to come forward to commence works, design etc. on the cycleway. Further to that, at the last Council meeting, through resolution 20-611 Council resolved to also apply under the bush fire local economy recovery fund for the full contribution for the construction of the cycleway. That will be based at this stage as an on-road cycleway but through the resolution 20-611 we'll be considering options for that to come back to Council before we fully proceed with those works. The estimate of those works at this stage is approximately \$6m.

Question No. 6 Residential Strategy

Duncan Dey asked the following question:

Councillors, would you please hold off on the Residential Strategy for all or any of the following reasons?

- 1. it is based on out-of-date information (2017) on current uptake;*
- 2. it doesn't sit within a growth management strategy;*
- 3. it is predicated on a limitless capacity to supply water, thus requiring a contentious new dam (under current thinking);*
- 4. it is predicated on a limitless capacity to get rid of sewage, which is already a huge headache within the Belongil catchment, for example;*
- 5. it is predicated on a limitless capacity to transport people into and out of these towns (each of whose amenity already suffers traffic chaos and parking stress);*
- 6. other reasons to come.*

There were no responses, however the Mayor advised that once the item was dealt with today, Duncan Dey would become aware of the answer.

The meeting adjourned at 11.57am and reconvened at 12.13pm.

APOLOGIES

There was an apology from Cr Martin.

PROCEDURAL MOTION

- 20-678 Resolved** that the apology from Cr Martin be accepted and a leave of absence granted.
(Richardson/Hunter)

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 Coorey declared a non-pecuniary interest in Report 13.7. The nature of the interest being that the applicant is a former employer of hers. Cr Coorey elected to remain in the Chamber and will participate in discussion and the vote.

TABLING OF PECUNIARY INTEREST RETURNS

There were no Pecuniary Interest Returns tabled.

ADOPTION OF MINUTES FROM PREVIOUS MEETINGS

20-679 Resolved that the minutes of the Ordinary (Planning) Meeting held 19 November 2020 be confirmed. (Lyon/Ndiaye)

The motion was put to the vote and declared carried.

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. 13.1 Submission report on Development Control Plan 2014 Chapter B1 Biodiversity
- Report No. 13.3 Final Residential Strategy including submissions review report
- Report No. 13.4 Federal Community Led Masterplan - Project Scope
- Report No. 13.7 PLANNING - s4.55 to modify the approved plans and delete conditions of consent - Development Application 10.2020.310.2 at 30 Kingsley Street, Byron Bay
- Report No. 13.8 PLANNING - Review of Planning Controls for Rural Tourist Accommodation

The remaining Recommendations and Committee Recommendation 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. 20-680 and concluding with Resolution No. 20-683.

STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

Report No. 13.2 **Update - State Environmental Planning Policy Koala Habitat Protection (2019) Amendment 2020 and finalised guideline; Local Land Services (LLS) Amendment (Miscellaneous) Bill 2020**

File No: I2020/1793

20-680 Resolved:

1. That Council notes the report and implications of the State Environmental Planning Policy Koala Habitat Protection (2019) Amendment 2020 and published Guideline.
 2. That Council recognises the Local Land Services Amendment (Miscellaneous) Bill 2020 will now be subject to an inquiry by the Legislative Council.
 3. That Council notes the newly enacted State Environmental Planning Policy Koala Habitat Protection (2019) may be subject to change. (Richardson/Hunter)
-

Report No. 13.5 **PLANNING - 26.2017.6.1 - Byron Bay Town Centre Planning Controls - Update and Next Steps**

File No: I2020/1447

20-681 Resolved:

1. That Council forward the Planning Proposal in Attachment 1 (E2020/71526)) to the Department of Planning Industry and Environment to request an amended gateway determination. That Council then exhibit the Planning Proposal as required by the Department.
2. That Council exhibit the amended DCP Chapter E10 in Attachment 2 (E2019/91843), and receive a further report on completion of the exhibition period.
3. That Council approve the Design Excellence Policy contained in Attachment 3 (E2020/21765) for exhibition in accordance with the Local Government Act 1993 and receive a further report at the close of submissions.
4. That Council approve the Design Excellence Panel Procedure contained in Attachment 4 (E2020/21922) for exhibition in accordance with the Local Government Act 1993 and receive a further report at the close of submissions. (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.

BYRON SHIRE COUNCIL

ORDINARY (PLANNING) MEETING MINUTES

10 December 2020

Report No. 13.6 **PLANNING - Section 8.2 Review of Development Application
10.2019.648.1 - Two (2) into Two (2) Lot subdivision at 39 Leslie
Street, Bangalow**

File No: I2020/1803

- 20-682** **Resolved** that pursuant to Section 8.2 of the Environmental Planning & Assessment Act 1979, Review of Development Application No. 10.2019.648.1 for Subdivision Two (2) into Two (2) Lots, be granted consent subject to the conditions of approval in Attachment 2 #E2020/94920. (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. 13.9 **PLANNING - Report of the 12 November 2020 Planning Review
Committee**

File No: I2020/1807

- 20-683** **Resolved** that Council endorses the outcomes of the Planning Review Committee meeting held on 12 November 2020. (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

- 20-684** **Resolved** that Council change the order of business to deal with Reports 13.3, 13.4, 13.7 and 13.8 next on the Agenda. (Richardson/Ndiaye)

The motion was put to the vote and declared carried.

STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

Report No. 13.3 **Final Residential Strategy including submissions review report**
File No: I2020/819

Moved that Council:

1. Acknowledges the need for a Residential Strategy and the work that has been done on the Draft Strategy thus far.
2. Recognises the increasing and changing pressures of social, economic and environmental factors on housing and liveability in Byron Shire.
3. Prioritises low cost and social housing in the Strategy ahead of other housing considerations.
4. Prioritises resilience to climate change and Ecologically Sustainable Development in all Strategy actions.

BYRON SHIRE COUNCIL

5. Defers adoption of the Residential Strategy until:
- a) a dedicated councillor workshop is held to gain further information pertaining to the Strategy, such as, but not limited to:
 - i. the recent spike in the demand for properties and sudden inflation of property prices and the social and economic impacts thereof,
 - ii. water insecurity in view of the Rous Water proposal for Dunoon Dam, and
 - iii. limitations on capacity to dispose of sewage.
 - b) the outcome of Council's Short Term Rental Accommodation Planning Proposal is decided.
 - c) more clarity is provided on Byron Shire's provision of dwellings of all kinds so far, in relation to the number of dwellings required to meet the targets set under the North Coast Regional Plan, noting that the Strategy is a residential strategy for urban areas.
 - d) more clarity is given on staging and clear sequencing of potential release areas.
(Coorey/Cameron)

PROCEDURAL MOTION

20-685 Resolved that Cr Coorey be granted a two minute extension to her speech. (Richardson/Ndiaye)

The motion was put to the vote and declared carried.

AMENDMENT

20-686 Resolved:

1. That Council does not support the following land being included as an 'investigation area' in the final draft Residential Strategy:
 - a) Lot 1 DP1256460, 152 Stuart Street, Mullumbimby due to high hazard flooding and contamination constraints
 - b) any further expansion to that part of Lot 350 DP 755695 located on Ewingsdale Road, Byron Bay (Strategy investigation area '10'), as exhibited in August 2019
2. In relation to recommendation '1.', that Council advise the respective landowners/consultants of Council's decision and the reasons for excluding the above land from the Strategy.
3. That Council notes the following updates made in relation to the draft Strategy 'investigation areas' and other sections:
 - a) strategy investigation area '5', comprising Lot 1 DP803292, Lot 2 DP1256460, Lot 2 DP803292, Lot 4 DP837851, Lot 5 DP1111848; 124, 127 and 130 – 134 Station Street, Mullumbimby, is identified only for a review of minimum lot size provisions and not a zone change due to flooding and access limitations, and is to be included in the Saltwater Creek Precinct structure planning process
 - b) the inclusion of "acoustic impacts" in Strategy Action '9' Saltwater Precinct structure plan considerations, in relation to traffic management
 - c) inclusion of the following additional wording in the profile for Investigation Area 10 (Part of Lot 350 DP 755695, Ewingsdale Road, Byron Bay in Appendix C): *"final development footprint will be determined following further flood assessment. Any variations must be in accordance with the North Coast Regional Plan Urban Growth Area Variation Principles (Appendix A) and will need to be considered and justified through a strategic planning or rezoning process. Only minor and contiguous*

BYRON SHIRE COUNCIL

variations to urban growth areas in the coastal strip will be considered due to its environmental sensitivity and the range of land uses competing for this limited area”

- d) the Residential Strategy updates outlined in this report’s ‘Table 2: Summary of key strategy revisions to reflect the outcomes of consultation’ and Council’s more recent work in the affordable housing, local character and infrastructure planning spaces
 - e) the additional reader information on how the Residential Strategy has been revised, which will be removed from the final version when submitted to NSW Department of Planning, Industry & Environment for endorsement.
4. That Council adopts the Residential Strategy as contained in Attachment ‘6’ (E2020/5277) and forward to the NSW Department of Planning, Industry & Environment for final endorsement together with the Background Report (Attachments ‘1’ and ‘7’, E2020/37962 and E2020/91141 respectively) with the following land inclusion as an investigation area for two dwellings:
- a) Lot 285 DP 1198641, 64 Corkwood Crescent, Byron Bay
5. That Council delegates authority to the Director Sustainable Environment & Economy, through the General Manager, to amend the Residential Strategy in relation to any consequential (non-policy) and/or other minor editorial amendments required for clarity or accuracy, prior to submitting to Department of Planning & Environment for final endorsement. (Richardson/Hunter)

PROCEDURAL MOTIONS

- 20-687 Resolved** that Cr Cameron be granted a two minute extension to his speech. (Richardson/Ndiaye)

The motion was put to the vote and declared carried.

- 20-688 Resolved** that Cr Ndiaye be granted a two minute extension to her speech. (Lyon/Richardson)

The motion was put to the vote and declared carried.

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

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

The meeting adjourned at 1.01pm for lunch and reconvened at 2.00pm.

Report No. 13.4 **Federal Community Led Masterplan - Project Scope**
File No: I2020/1776

- 20-689 Resolved** that Council:
1. supports this community-led approach to masterplanning for the Village of Federal and recognises it as the next evolution of place planning for Byron Shire.
 2. thanks the Federal Community Village Steering Group for their work and efforts to date.
 3. endorses the Federal Community Village Masterplan Steering Group to undertake the project work as per the project scope detailed in this Council Report.
 4. agrees to endorse as presented a Federal Village Masterplan as proposed by the Federal

BYRON SHIRE COUNCIL

Village Masterplan Steering Group, subject to it being demonstrated that:

- community consultation has been carried out, generally in accordance with the communications and engagement plan (in Attachment 1 E2020/93026), ensuring that primary stakeholders have been given adequate opportunity to have meaningful involvement, and demonstrating that there is general community acceptance of the final masterplan within the Federal community;
 - all councillors have been invited to public community meetings and advised of other critical moments in the process that they may want to attend and/or participate in, and have received project milestone updates by SPW and or report.
 - agreed milestones have generally been met;
 - any proposed actions are realistic and achievable in terms of Council budget limitations;
 - timeframes put forward for proposed actions are cognizant of Council's forward works planning to ensure shire-wide project delivery is economical and efficient; and
 - any proposed actions adequately consider safety, lawfulness and other community risks.
5. allocates \$5,500 from Council's budget (GL2715.13) to enable project work to begin.
6. allocates up to \$10,000 for production of a short video to capture the community-led masterplan process for future use and reference by Council (as detailed in Attachment 2 E2020/91213), with the budget allocation to be staged, \$2,000 initially from (GL2715.13), with the remaining \$8,000 to be considered as part of the quarterly budget review in February 2021.
7. acknowledges that a detailed design of the Federal Village main street is a priority 'construction grant ready' project, and that a forward budget bid be considered for the 2021/22 operational plan process. (Cameron/Ndiaye)

The motion was put to the vote and declared carried.

Report No. 13.7 **PLANNING - s4.55 to modify the approved plans and delete conditions of consent - Development Application 10.2020.310.2 at 30 Kingsley Street, Byron Bay**

File No: I2020/1806

20-690 Resolved:

1. That the Section 4.55 of the Environmental Planning & Assessment Act 1979, that Application No. 10.2020.310.2 for S4.55 to Modify Approved Plans, be approved subject to the following conditions being amended or deleted:

Amend Condition 1 to read as follows:

- 1. Development is to be in accordance with approved plans**
The development is to be in accordance with plans listed below:

Plan No.	Description	Prepared by	Dated:
19.08.01	Site Plan Revision A	Michael Spiteri Design	March 2020
19.08.04	Floor Plan Revision A	Michael Spiteri Design	March 2020
19.08.05	Elevations 1	Michael Spiteri Design	March 2020
19.08.06	Elevations 2	Michael Spiteri Design	March 2020
19.08.06	Sections & Notes	Michael Spiteri Design	March 2020

The development is also to be in accordance with any changes shown in red and blue ink on the approved plans or conditions of consent.

The approved plans and related documents endorsed with the Council stamp and authorised signature must be kept on site at all times while work is being undertaken.

Delete Condition 6:

6. Front setback: Amendment to the plan required

The Byron Development Control Plan (DCP) 2014 prescribes a front boundary setback distance of 5.5m for garages, carports and car parking spaces.

The plans submitted for approval of the Construction Certificate must be amended in accordance with Plan No. 19.08.01, titled 'Site Plan, Revision A' and dated August 2020, stamped and returned with this Notice of Determination. The plans must demonstrate the minimum dimensions required for the tandem car parking spaces and a minimum front boundary setback of 4.5m from the outermost projection of the carport to the Kingsley Street property boundary.

Such plans are to be approved as part of the Construction Certificate.

Insert Condition 24 under a new heading 'The following conditions are to be complied with at all times', which reads as follows:

24. Tree Removal and Screen Landscape Planting

In the event that the two (2) mango trees and the umbrella tree (*Schefflera actinophylla*) located adjacent to the south-east corner of the existing dwelling are removed, the following trees shall be planted in lieu to assist in landscape screening of the carport structure.

- Two (2) semi-mature lilly-pilly trees (*Acmena* or *Syzygium* sp.) of minimum pot size 400mm (45 litres) which will grow to approximately 4m in height at maturity, to replace the trees to be removed adjacent to the south-east corner of the house; and
- The required lilly-pilly trees shall be planted within 28 days of the removal of the mango trees and umbrella tree.

(Note: The imposition of this condition has regard for the circumstance where the mango trees and the umbrella tree may be removed without any approval, and the need to ensure continued provision of landscaping screening for the carport).

Council may pursue compliance action for non-compliance with this condition.

2. That, noting the unique context of this application, the DCP provisions for corner allotments in heritage conservation areas or for heritage items be reviewed to clarify setback provisions for car parking to be beyond the building façade. (Ndiaye/Cameron)

AMENDMENT

Moved:

1. That the Section 4.55 of the Environmental Planning & Assessment Act 1979, that Application No. 10.2020.310.2 for S4.55 to Modify Approved Plans, be approved subject to the following conditions being amended:

Amend Condition 1 to read as follows:

1. **Development is to be in accordance with approved plans**
The development is to be in accordance with plans listed below:

Plan No.	Description	Prepared by	Dated:
19.08.01	Site Plan Revision A	Michael Spiteri Design	March 2020
19.08.04	Floor Plan Revision A	Michael Spiteri Design	March 2020
19.08.05	Elevations 1	Michael Spiteri Design	March 2020
19.08.06	Elevations 2	Michael Spiteri Design	March 2020
19.08.06	Sections & Notes	Michael Spiteri Design	March 2020

The development is also to be in accordance with any changes shown in red and blue ink on the approved plans or conditions of consent.

The approved plans and related documents endorsed with the Council stamp and authorised signature must be kept on site at all times while work is being undertaken.

Amend Condition 6:

6. **Front setback: Amendment to the plan required**
The Byron Development Control Plan (DCP) 2014 prescribes a front boundary setback distance of 5.5m for garages, carports and car parking spaces.

The carport to be set back behind the existing building line by a minimum of 600mm. Such plans are to be approved as part of the Construction Certificate.

Insert Condition 24 under a new heading 'The following conditions are to be complied with at all times', which reads as follows:

24. **Tree Removal and Screen Landscape Planting**
In the event that the two (2) mango trees and the umbrella tree (Schefflera actinophylla) located adjacent to the south-east corner of the existing dwelling are removed, the following trees shall be planted in lieu to assist in landscape screening of the carport structure.
 - Two (2) semi-mature lilly-pilly trees (Acmena or Syzygium sp.) of minimum pot size 400mm (45 litres) which will grow to approximately 4m in height at maturity, to replace the trees to be removed adjacent to the south-east corner of the house; and
 - The required lilly-pilly trees shall be planted within 28 days of the removal of the mango trees and umbrella tree.

(Note: The imposition of this condition has regard for the circumstance where the mango trees and the umbrella tree may be removed without any approval, and the need to ensure continued provision of landscaping screening for the carport).

Council may pursue compliance action for non-compliance with this condition.

BYRON SHIRE COUNCIL

2. That, noting the unique context of this application, the DCP provisions for corner allotments in heritage conservation areas or for heritage items be reviewed to clarify setback provisions for car parking to be beyond the building façade. (Hunter/Hackett)

The amendment was put to the vote and declared lost.

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

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

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. 13.8 PLANNING - Review of Planning Controls for Rural Tourist Accommodation

File No: I2020/1810

20-691 Resolved that Council:

1. Requests staff to prepare a planning proposal to amend Byron Local Environmental Plan 2014 and a draft amendment to Byron Development Control Plan 2014, to accord with the recommendations of the Review of Planning Controls for Rural Tourist Accommodation in Attachment 1 (E2020/94209).
2. Authorises staff to submit the planning proposal to the Department of Industry and Environment for Gateway determination.
3. Pending gateway determination, undertakes public exhibition of the planning proposal and development control plan amendment and consult with government agencies as required by the gateway determination; and
4. Receives a report outlining the public exhibition outcomes.
5. Supports the use of the amendments in point 1 as drafted by staff as guiding principles for assessment of Rural Tourist Accommodation until such time as the amendments are finalised.
6. Requests staff to complete a review of the current developer contributions regime as it applies to Rural Tourist Accommodation and receive a report on the outcomes.

(Lyon/Cameron)

The motion was put to the vote and declared carried.

MAYORAL MINUTE

There was no Mayoral Minute

PETITIONS

A petition was delivered during Public Access regarding The Corso at Bayside Brunswick Heads.

SUBMISSIONS AND GRANTS

There were no submissions or grants.

DELEGATES' REPORTS

1. Rous Meeting on Wednesday 16 December 2020

Cr Richardson advised he will be resubmitting his notice of motion that was unsuccessful last time for Rous to conduct and engage a consultant to provide thorough reports on water tanks, demand management, recycled water for both drinking and non-drinking to sit alongside any EIS work for the dam. I'll also be moving that we take the term of preferred option off the table until all options are on the table. Not too sure how I'll go – I'm an optimist.

2. NRJO

Cr Richardson advised he was part of the launching of our Northern Rivers brand. We still as a Council have diplomatically stated that we won't be providing funding that's been requested to us. But we're wishing them all luck. A significant percentage, if not the majority of sign up businesses are from the Byron Shire so they understand the benefits of having a brand from a commercial point of view for food products etc, but that was a few weeks ago.

3. Meeting with Reflections

Cr Richardson advised that the General Manager, Ms Burt, and himself met with Minister Pavey, Ben Franklin, Reflections and the café etc, trying to find a way forward for the bags to stay a bit longer until they get clarity with their Development Applications. That was supported, certainly verbally, by the Minister and their Departments. There is a very clear thrust for the café to be getting their Development Application into gear to move back. Reflections is probably going to be a 'pricklier' one, as it is one state department next to another. We were informed that, from the Government's perspective, they have a policy of retreat for any of their infrastructure. Which didn't go down well with the Reflections group. But we will see. For us it was just a matter of not wanting machinery on the beach in December and January, also with storms when potentially we could have all sorts of erosion issues right now. So just to give a little bit of leeway to get to a final solution so to speak.

4. LGNSW Annual Conference

Cr Ndiaye advised that 'they' (Crs Ndiaye, Lyon, and Coorey) attended the LGNSW Annual (Virtual) Conference, where they had to vote on 149 different notices of motion. It was really hard and she can't wait until they are back in person again, because it was really dry.

STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

Report No. 13.1 **Submission report on Development Control Plan 2014 Chapter B1 Biodiversity**
File No: I2020/1561

20-692 Resolved:

1. That Council adopts the Draft Development Control Plan 2014 Chapter B1 Biodiversity, as revised and contained in Attachment 1 (E2020/92568).
2. That Development Control Plan 2014 'Part A Dictionary' be updated to reflect Chapter B1 Biodiversity definitions.
3. That Council staff publish the adopted Development Control Plan 2014 Chapter B1 on Council's website and notify the public as required.
4. That Council notes the recent parliamentary decision regarding the Local Land Services Amendment (Miscellaneous) Bill 2020 and that State Environmental Planning Policy Koala Habitat Protection 2019 may be subject to change. (Coorey/Ndiaye)

The motion was put to the vote and declared carried.

There being no further business the meeting concluded at 2.49pm.

I hereby certify that these are the true and correct Minutes of this Meeting as confirmed at Council's Ordinary Meeting on 11 February 2021.



Mayor Simon Richardson