



Byron Shire Council



Minutes

Ordinary (Planning) Meeting

Thursday, 11 February 2021

BYRON SHIRE COUNCIL

Ordinary (Planning) Meeting Minutes
11 February 2021

INDEX OF ITEMS DISCUSSED

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ORDINARY (PLANNING) MEETING MINUTES

11 February 2021

MINUTES OF THE BYRON SHIRE COUNCIL ORDINARY (PLANNING) MEETING HELD ON THURSDAY, 11 FEBRUARY 2021 COMMENCING AT 11.03AM AND CONCLUDING AT 12.50PM

I2021/148

PRESENT: Cr S Richardson (Mayor), Cr B Cameron, Cr C Coorey, Cr J Hackett, Cr A Hunter, Cr M Lyon, Cr J Martin, Cr S Ndiaye and Cr P Spooner (virtual)

Staff: Mark Arnold (General Manager)

Vanessa Adams (Director Corporate and Community Services)

Evan Elford (Acting Director Infrastructure Services)

Shannon Burt (Director Sustainable Environment and Economy)

Chris Larkin (Manager Sustainable Development)

Sharyn French (Manager Environmental and Economic Planning)

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	Name	For / Against	Representing Organisation	Submission Received in form of
9.1	Brunswick Heads Heritage Conservation	Matthew O'Reilly	For	In person
13.3	PLANNING – da 10.2020.443.1 – New Dwelling to Create Dual Occupancy (Detached)	Leif Canuto	For	In person

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Report No and Title	Name	For / Against	Representing Organisation	Submission Received in form of
13.4	PLANNING - S4.55 application to modify consent 10.2018.480.1 to amend driveway design - 8 Cemetery Road Byron Bay	Philip Shine	Against	In person

Submissions

Subject	Name	Representing Organisation	Submission Received in form of
Matter No. 1646 {Napoli v BSC, L&E Court 2020}	John Anderson		To be read by staff

Question No. 1 Wilshire Webb

John Anderson asked (read by staff) the following question:

Given that Wilshire Webb were Max Eastcott's personal lawyers when he appeared before ICAC in 1995 and that subsequently this firm were selected as Council's lawyers out of a field of 28 applicants, and given that the firm was quite controversial during its tenure prior to having their services "discontinued" about 20 years ago, what is the basis for Council's reinstatement of said firm in recent times, as per their involvement in Napoli v BSC [2020] NSW LEC 1646?

Legal Counsel responded:

Wilshire Webb Staunton Beattie is not a member of Council's external legal services panel.

In 2018 Council awarded contracts for external legal services to four firms one of which was Swaab Attorneys.

Since then Council developed a strong professional relationship with Swaab's planning and environment law partner.

When that partner ceased employment at Swaab and became a partner at Wilshire Webb Staunton Beattie, Council continued its relationship with that partner.

Council's legal services contracts provide that Council may at its discretion, allocate work to non-contracted legal services providers.

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APOLOGIES

There were no apologies.

REQUESTS FOR LEAVE OF ABSENCE

There were no requests for leave of absence

DECLARATIONS OF INTEREST – PECUNIARY AND NON-PECUNIARY

Cr Coorey declared a pecuniary interest in Report 13.4. The nature of the interest being that the DA is on her property. Cr Coorey elected to leave the Chamber and will not participate in discussion and the vote.

Cr Ndiaye declared a non-pecuniary interest in Report 13.4. The nature of the interest being that Cr Coorey has been a friend for many years prior to being a Councillor. Cr Ndiaye elected to remain in the Chamber and will not participate in the debate and not vote.

Cr Cameron, later in the meeting, declared a non-pecuniary interest in Report 13.4. The nature of the interest being that the applicant is a personal friend. Cr Cameron elected to remain in the Chamber and will not participate in discussion and not vote.

TABLING OF PECUNIARY INTEREST RETURNS

In accordance with clause 4.9 of the Code of Conduct for Staff, the Mayor tabled an annual interest return for Craig Bridge, Community Enforcement Coordinator.

ADOPTION OF MINUTES FROM PREVIOUS MEETINGS

- 21-001 Resolved** that the minutes of the Ordinary (Planning) Meeting held 10 December 2020 meetings be confirmed. (Ndiaye/Hackett)

The motion was put to the vote and declared carried.

RESERVATION OF ITEMS FOR DEBATE AND ORDER OF BUSINESS

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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 Department of Primary Industries - Agricultural Land Use Planning Strategy Options Paper - Submission

Report No. 13.4 PLANNING - S4.55 application to modify consent 10.2018.480.1 to amend driveway design - 8 Cemetery Road Byron Bay

Cr Coorey left the meeting at 11.25am in accordance with her earlier declared pecuniary interest in Report 13.4.

The remaining Recommendations and Committee Recommendation were adopted as a whole, being moved by Cr Richardson and seconded by Cr Ndiaye. Each recommendation is recorded with a separate resolution number commencing at Resolution No. 21-002 and concluding with Resolution No. 21-003.

Cr Coorey returned to the meeting following the vote on reservation of items for debate.

STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

Report No. 13.2 PLANNING - s4.55 to Modify approved Motel at 3 Shirley Street, Byron Bay - DA10.2014.398.4

File No: I2021/39

21-002 Resolved that Development Application No. 10.2014.398.4 for S4.55 to Modify Internal Layout and Carpark of Approved Motel, be approved by modifying Development consent number 10.2014.398.1 as per the modified conditions in Attachment 1 (E2021/4955).

(Richardson/Ndiaye)

The motion was put to the vote and declared carried.

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

No Councillors voted against the motion.

Cr Coorey was not present for the vote.

Report No. 13.3 PLANNING - DA 10.2020.443.1 - New Dwelling to Create Dual Occupancy (Detached)

File No: I2021/43

21-003 Resolved that pursuant to Section 4.16 of the Environmental Planning & Assessment Act 1979, Development Application No. 10.2020.443.1 for New Dwelling to Create Dual Occupancy (Detached), be granted consent subject to conditions in Attachment 2 (E2021/4856).

(Richardson/Ndiaye)

The motion was put to the vote and declared carried.

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

No Councillors voted against the motion.

Cr Coorey was not present for the vote.

PROCEDURAL MOTION

21-004 Resolved that Council change the order of business to deal with Items 9.1, 13.4 and 13.1 next on the Agenda. (Richardson/Ndiaye)

The motion was put to the vote and declared carried.

NOTICE OF MOTION

Notice of Motion No. 9.1 Brunswick Heads Heritage Conservation

File No: I2021/133

21-005 Resolved that Council:

1. Notes resolution 20-265 adoption of Heritage Panel Recommendation to consider parts of Brunswick Heads as a Heritage Conservation Area in the Shire.
2. Prepare a report on the merits of developing a plan for parts of Brunswick Heads to be included in the Shire as a Heritage Conservation Area.
3. Works with community organisations, property owners, businesses and architects to inform the report.
4. Sets a timeframe for the consultation to occur before August 2021.
5. Considers a budget allocation at the next quarterly budget review. .
(Coorey/Cameron)

The motion was put to the vote and declared carried.

Crs Lyon, Richardson, Spooner and Hunter voted against the motion.

STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

**Report No. 13.4 PLANNING - S4.55 application to modify consent
10.2018.480.1 to amend driveway design - 8 Cemetery Road
Byron Bay**

File No: I2021/78

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Crs Coorey and Cameron left the meeting due to their declared interest in this matter.

21-006 Resolved that pursuant to Section 4.55 of the Environmental Planning & Assessment Act 1979, Application No. 10.2018.480.2, for S4.55 to Amend the Driveway Design, be approved by modifying Development consent number 10.2018.480.1 as indicated in Attachment 1 (E2021/8918) with the following amendments:

- Delete Recommendation 2

- And add the following:

Amend Condition No 1 to include the Carport Plans Numbers A01 dated August 2020, and prepared by Ardill Payne.

And insert the following additional condition 64A:

64A. Carport on Lot 1

A Building Information Certificate is required to be issued by Council for the carport on Lot 1. Prior to issue of the Building Information Certificate the applicant is to demonstrate to Councils satisfaction with evidence in the form of detailed report/s from suitably qualified and experienced professionals the constructed works satisfies.

1. A land survey from a registered surveyor is required with the Building Information Certificate application identifying all structures located upon the subject property.
2. The following Performance Provisions of the Building Code of Australia.
3. Any recommended works identified in this report/s or identified by Council must be completed prior to issue of the Building Information Certificate;

Performance Requirement of the Building Code of Australia

P2.1.1 Structural stability and resistance to actions

P2.2.1 Rainwater management (Hunter/Richardson)

The motion was put to the vote and declared carried.

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

No Councillors voted against the motion.

Cr Ndiaye did not participate in the vote due to her non-pecuniary interest in this matter.

Crs Coorey and Cameron were not present for the vote.

Crs Coorey and Cameron returned to the meeting at 12.15pm.

MAYORAL MINUTE

There was no Mayoral Minute.

PETITIONS

There were no petitions.

SUBMISSIONS AND GRANTS

There were no submissions or grants.

DELEGATES' REPORTS

1. Sustainable Cities Urban Regeneration Sustainability Development Forum

Cr Richardson advised:

Yesterday I presented at the second Sustainable Cities Urban Regeneration Sustainability Development Forum via zoom. The thing I want to mention is the part of the presentation about our zero emissions projects, that I talked quite strongly about the fact that we are representing our community who want us to do these sorts of things. I just think it's interesting that at some point it might be for all of us to consider, both this side of the chamber and potentially in the audience and various positions, is how true is that, as a community?

I will note for example the mayoral vehicle is now an EV. Now I would have thought that our community would see that at the same price as a normal vehicle, of course we would want an EV. Half of the fact is that we save a few thousand dollars every year so wouldn't we, as a community, be proud that Council's doing that? It's just interesting that when we launched it, I said we should do a little promotion about it even though we'll cop the "haters" - which we did on Facebook. Although the vast bulk said "cool". Even our local paper decided to smack into us. I understand it was probably an anti Simon Richardson hate comment as always, but really? Do we actually not want this Council to have an EV?

It's just strange that I'm asked to present at national and global conferences and I always talk about how our community demands to be part of the change and yet sometimes... there's solar farms that are leaving because well-healed people don't want to look at it. Even a basic thing of a \$45,000 car transitioning into a \$43,000 EV which will save \$5,000 or \$6,000 a year, that we get blow back on that. It's quite a fascinating thing how much we are actually willing to walk our talk.

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Having said that the presentation went well and the rest of Australia, both local government, university professors and the industry, were really impressed about what we do. Which happens every time I speak nationally or internationally and even locally.

2. Women's Village Meeting

Cr Ndiaye advised:

Earlier this week I went to a meeting with the Women's Village that is looking to help bridge the gap for affordable housing for women, particularly in the Shire. It was well attended with people that are still committed to making some changes in that space and trying to get some things happening. I sort of feel like that was one of the main things that I came on to Council to do and everything just takes a lot longer than anyone would want it to but we're still committed to delivering on that.

It was great to see so many other people from the community coming together, whether it was from a philanthropic perspective, North Coast Community Housing, and other people continuing to push for it because what's happening in the broader community at the moment in relation to accessible and affordable housing is dire. We're losing more and more families that have been here for a really long time, that work here, that have kids at school; I know one group of 20 year olds who were all just evicted because somebody else wants to put a family in there; a nurse or a mental health worker and a disability support worker who have all just been effected.

It's very, very complicated and we need to come up with solutions. Hopefully this meeting will bear fruit sooner rather than later.

3. Homelessness Forum

Cr Richardson advised:

Myself, Ms Adams, the General Manager and a couple of other staff members hosted a homelessness forum with Minister Ward a week or so ago which was really good. Staff did the organisation proud in how it shared our challenges and I think the objective of getting the Minister to be far more clearly aware of the scope of our problem here was well put and well received. Hopefully it will actually lead to a significant change.

4. Australia Day

Although not a delegate's report, the Mayor acknowledged and congratulated all Australia Day award winners in the Shire and all those that were nominated, who themselves could have all been eligible for awards. He also thanked staff for preparing the event.

STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

Report No. 13.1 **Department of Primary Industries - Agricultural Land Use
Planning Strategy Options Paper - Submission**

File No: I2021/13

21-007 **Resolved** that Council notes the draft submission at Attachment 1 (E2021/529) on the

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Department of Primary Industries, Agriculture Land Use Planning Strategy Options
Paper and requests:

1. an extension of time to lodge our submission on the basis of a need for further community consultation; and
2. Council distributes the draft submission to members of the Byron Shire Strategic Panel, the Agriculture Cluster Group and selected Byron Farming networks for comment and input into the submission prior to the end of February and lodging the submission; and
3. Council is provided with a report and copy of the formal submission at the first available opportunity once lodged. (Hunter/Coorey)

PROCEDURAL MOTIONS

21-008 Resolved that Cr Hunter be granted a one minute extension to his speech.
(Richardson/Ndiaye)

The motion was put to the vote and declared carried.

21-009 Resolved that Cr Coorey be granted a one minute extension to her speech.
(Richardson/Ndiaye)

The motion was put to the vote and declared carried.

The motion (Hunter/Coorey) was put to the vote and declared carried.

There being no further business the meeting concluded at 12.50pm.

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

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Mayor Simon Richardson