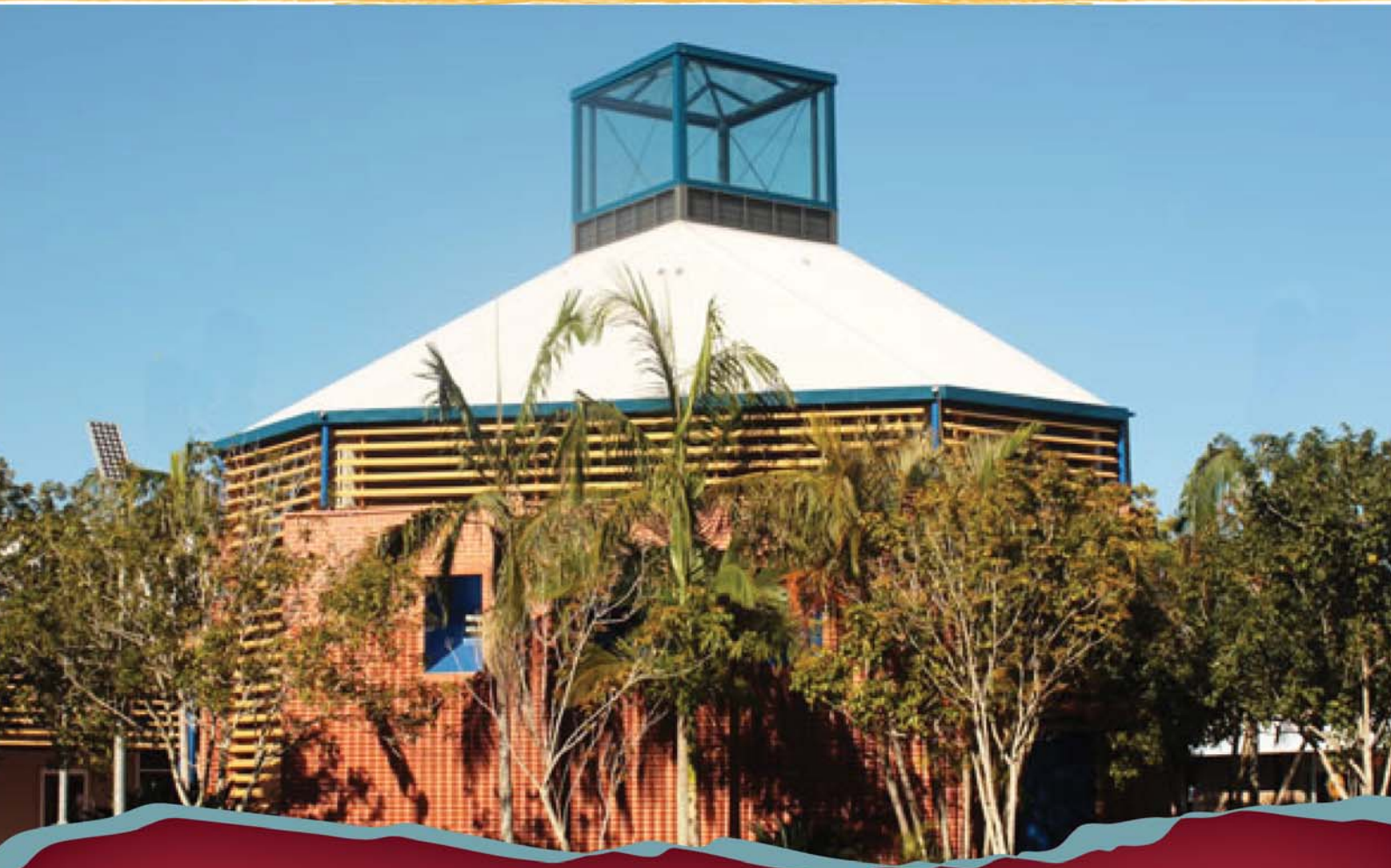




Byron Shire Council



Minutes

Extraordinary Meeting
Thursday, 26 June 2014

BYRON SHIRE COUNCIL

Extraordinary Meeting Minutes
26 June 2014

INDEX OF ITEMS DISCUSSED

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

Notice of Motion No. 4.1.	Public Transport in Rural Areas of NSW	2
Report No. 5.4.	BSC at Gordon Highlands LEC 10216 of 2014 and 10284 of 2014...	3
Report No. 5.1.	PLANNING - Public Exhibition Report - Draft Byron Development Control Plan (DCP) 2014 and related documents	3
Report No. 5.2.	Northern Councils Environmental Zones Interim Report – Submission to Department of Planning and Environment	9
Report No. 5.3.	PLANNING –Report on the exhibition of the Draft Byron Developer Contributions Plan 2012.....	14
Report No. 14.3.	Report of the Biodiversity and Sustainability Advisory Committee Meeting held on 8 May 2014	15
Report No. 14.5.	Report of the Water, Waste and Sewer Advisory Committee Meeting held on 20 May 2014	15

BYRON SHIRE COUNCIL

EXTRAORDINARY MEETING MINUTES

26 JUNE 2014 (1 of 16)

MINUTES OF THE BYRON SHIRE COUNCIL EXTRAORDINARY MEETING HELD ON THURSDAY, 26 JUNE 2014 COMMENCING AT 9.00AM AND CONCLUDING AT 3.45PM
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#E2014/39179

PRESENT: Cr S Richardson (Mayor), Cr B Cameron, Cr C Cubis (arrived at 9.45am), Cr D Dey, Cr A Hunter, Cr S Ibrahim, Cr P Spooner, Cr R Wanchap and Cr D Woods

Staff: Ken Gainger (General Manager)
Mark Arnold (Director Corporate and Community Services)
Phil Holloway (Director Infrastructure Services)
Ray Darney (Executive Manager Environment and Planning)
Shannon McKelvey (Executive Manager Organisation 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:

Report No. 5.1 PLANNING – Public Exhibition Report – Draft Byron Development Control Plan (DCP) 2014 and related documents

Tony Hart (representing Bangalow Progress Association and Bangalow Futures) addressed Council against the recommendation.

Report No. 5.3 PLANNING –Report on the exhibition of the Draft Byron Developer Contributions Plan 2012

Francesca Esposito-Rose (representing Byron Hinterland Collective) addressed Council regarding this report.
Obi Saint-McDonald (Secretary Mullumbimby Chamber of Commerce) and Malcolm Price representing Creative Mullumbimby) addressed Council regarding this report.

Report No. 5.4 BSC ats Gordon Highlands LEC 10216 of 2014 and 10284 of 2014

Susan Boyle (Principal Bangalow Primary School), John Sparks, and Tony Hart (President Bangalow Progress Association and Bangalow Futures) addressed Council against the recommendation.

APOLOGIES

There were no apologies.

DECLARATIONS OF INTEREST – PECUNIARY AND NON-PECUNIARY

Crs Ibrahim, Dey, Cubis, Cameron, Wanchap, Richardson, Spooner and Hunter tabled Forms of Special Disclosure of Pecuniary in accordance with section 451(4) and (5) of the Local Government Act 1993.

MOTION TO THE LG NSW ANNUAL CONFERENCE 2014

Notice of Motion No. 4.1. Public Transport in Rural Areas of NSW

#E2014/40302

14-305 Resolved:

1. That Local Government NSW remind the State Government of the dire lack of public transport in many rural areas of NSW, including within Byron Shire and between it and its neighbouring Shires.
2. That Local Government NSW ask the State Government to support public transport in rural NSW including those Shires by promoting and funding public transport infrastructure and initiatives in those Shires and groups of Shires (ie regional transport).
3. That LGNSW calls upon the state government to implement the actions relating to public transport within the Regional Transport Plans.
4. That Council note the following changes to the supporting notes of the "Details of issue" section supporting the motion to LGNSW Conference as follows:
 - a) amend the second paragraph to state "Lack of public transport equivalent to major towns and cities seriously affects those without their own transport or under age for a license be able to make medical appointments, attend University or Trade College, or simply to be able to shop if there are no buses to coordinate their requirements."
 - b) add a paragraph after the paragraph noted in number 4a) above which highlights that youth who are wanting tertiary training and/or employment which is only available in regional centres are unable to travel. (Woods/Dey)

The motion was put to the vote and declared carried.

Cr Cubis arrived at 9.45am.

ENVIRONMENT AND PLANNING – STAFF REPORTS

Report No. 5.1. PLANNING - Public Exhibition Report - Draft Byron Development Control Plan (DCP) 2014 and related documents

File No: #E2014/30401

14-306 Resolved that Council move into committee. (Woods/Dey)

The motion was put to the vote and declared carried.

14-307 Resolved that Council move out of committee and resume the Extraordinary Meeting. (Woods/Dey)

The motion was put to the vote and declared carried.

14-308 Resolved that this matter rest on the table and change the order of business to deal with Report No. 5.4 next on the agenda. (Woods/Richardson)

The motion was put to the vote and declared carried.

**CORPORATE AND COMMUNITY SERVICES and ENVIRONMENT AND PLANNING –
STAFF REPORT**

Report No. 5.4. BSC ats Gordon Highlands LEC 10216 of 2014 and 10284 of 2014
File No: #E2014/39478

Moved: That the General Manager be authorised to enter into a s34 Conciliation Agreement approving development application 10.2013.570.1, as amended, subject to appropriate conditions to be finalised under delegation including that the traffic treatment be returned to two way access via Station Street. (Woods/Hunter)

The motion was put to the vote and declared lost.

Crs Cubis, Woods, Wanchap and Hunter voted in favour of the motion.

Crs Ibrahim, Dey, Richardson, Cameron and Spooner voted against the motion.

FORESHADOWED MOTION

14-309 Resolved that Council vigorously defend the refusal on 20 March 2014 of DA 10.2013.570.1 (mixed residential & commercial building), along with the associated refusal of DA 10.2014.4.1 (tree removal), for the reasons stated in Resolution 14-87 plus:

- a) reliance of the proposal on deep excavation for a basement to satisfy its parking needs;
- b) non-compliance with Chapter 12 of the DCP 2010; and
- c) the impact on child pedestrian safety in Station Lane. (Ibrahim/Richardson)

PROCEDURAL MOTION

14-310 Resolved that Cr Wanchap be granted a two minute extension to her speech. (Woods/Richardson)

The motion was put to the vote and declared carried.

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

Crs Ibrahim, Dey, Richardson, Cameron, Wanchap and Spooner voted in favour of the motion.

Crs Cubis, Woods and Hunter voted against the motion.

14-311 Resolved that Report No. 5.1 be lifted off the table. (Woods/Richardson)

The motion was put to the vote and declared carried.

ENVIRONMENT AND PLANNING – STAFF REPORTS

Report No. 5.1. PLANNING - Public Exhibition Report - Draft Byron Development
continued Control Plan (DCP) 2014 and related documents
File No: #E2014/30401

Crs Ibrahim, Dey, Cubis, Cameron, Wanchap, Richardson, Spooner and Hunter tabled Forms of Special Disclosure of Pecuniary in accordance with section 451(4) and (5) of the Local Government Act 1993.

14-312 **Resolved** that the meeting move into committee.

(Richardson/Woods)

The motion was put to the vote and declared carried.

COMMITTEE MEETING

COMMITTEE RECOMMENDATION

4. That the Byron Shire Liquor Licensing and Approvals Policy at Annexure 1(d) (#E2014/33077), be adopted for commencement on 21 July 2014 with the following changes:

a) change 2.6 Hours of Operation to read as follows:

Hours of Operation Across the Shire:

Friday and Saturday:	10am-2am the following morning
Sunday and Public Holidays:	10am-12midnight
Good Friday and ANZAC Day:	12 noon to midnight
New Year's Eve:	10am to 3am following morning
Any other day:	10am to 1am the following morning

b) amend 2.5(b) to read "Council may not support..."

(Richardson/Woods)

AMENDMENT

Moved: That the Byron Shire Liquor Licensing and Approvals Policy at Annexure 1(d) (#E2014/33077), be adopted for commencement on 21 July 2014 with the following change:

1. Change 2.6(d) to read as recommended on page 6 of 8 of Annexure 1(d) with the following changes:
 - a) Delete the line "Good Friday and ANZAC Day..."
 - b) New Year's Eve ... 10am until 1am.
2. Change 2.5(b) to read "Council may not support..."

(Dey/Ibrahim)

The meeting adjourned at 10.40am for a break and reconvened at 10.55am.

The amendment was put to the vote and declared lost.

Crs Cubis, Woods, Richardson, Cameron, Wanchap, Spooner and Hunter voted against the amendment.

The recommendation was put to the vote and declared carried.

Crs Ibrahim and Dey voted against the motion.

The Deputy Mayor took the Chair at 11.55am due the Mayor having laryngitis.

COMMITTEE RECOMMENDATION

1. That the Draft Byron Shire Development Control Plan 2014 at Annexure 1(a) (#E2014/39356, 39363, 39366, 39367, 39368) incorporating any changes made in accordance with Recommendations 6 and 7 of this report and any changes made by this resolution, is approved pursuant to clause 21 of the *Environmental Planning & Assessment Regulation 2000* and will commence on 21 July 2014:

COMMITTEE RECOMMENDATION

- a) Change the last sentence of paragraph 1 of introduction to the Performance Criteria in B6.2.4 Buffers to read:

"Measures to ensure that buffers are maintained for the life of the proposed development should be nominated in the development." (Woods/Cubis)

The recommendation was put to the vote and declared carried.

COMMITTEE RECOMMENDATION

- b) Aim 1 of B14.1.2.1 be replaced with:

"To ensure that development applications for earthworks address aesthetics, character, engineering and geotechnical factors." (Hunter/Woods)

*The recommendation was put to the vote and declared carried.
Crs Dey and Richardson voted against the motion.*

COMMITTEE RECOMMENDATION

- c) Amend Table B2.1, Column headed 'Type of planted vegetation removal', change the words "Removal of planted vegetation in residential areas as part of routine garden maintenance activities" by deleting the words 'routine garden maintenance activities'.

(Ibrahim/Woods)

The recommendation was put to the vote and declared carried.

PROCEDURAL MOTION

- 14-313 Resolved** that the meeting adjourn at 1.00pm and reconvene after lunch and a presentation at 2.05pm.

(Richardson/Dey)

The motion was put to the vote and declared carried.

The meeting reconved at 2.05pm.

COMMITTEE MEETING

- Moved: d) Change B2.2.1 to delete 8(f) and 10. (Woods/Cubis)

*The recommendation was put to the vote and declared lost.
Crs Dey, Richardson, Cameron, Wanchap and Spooner voted against the recommendation.*

COMMITTEE RECOMMENDATION

- f) Change the Introduction in Appendix B2.4 to put a full stop after the word "experience" and delete the words "in Northern NSW and/or South East Queensland". (Woods/Ibrahim)

*The recommendation was put to the vote and declared carried.
Cr Dey voted against the recommendation.*

COMMITTEE RECOMMENDATION

g) Amend following definitions in Part A Preliminary Appendix A1 Dictionary to read:

- "Core koala habitat (page 29)
means an area of land with a resident population of koalas, evidenced by attributes such as breeding females (that is females with young) and recent sightings of and historical records of a population."
- "Koala food tree (page 32)
means a species of tree whose leaves are consumed by koalas as an important component of their diet. Includes primary and secondary food species listed in Appendix 2 of the Approved Recovery Plan for the Koala for Koala Management Area 1: North Coast, (DECC 2008)."
- "Koala habitat (page 33) (amending Secondary class B definition)
Means areas of forest or woodland wherein primary food tree species are absent, habitat comprised of secondary and supplementary food tree species, capable of supporting viable, low density populations (<0.10 koala/ha)."
(Ibrahim/Woods)

The recommendation was put to the vote and declared carried.

COMMITTEE RECOMMENDATION

h) Defer Chapter B1 Natural environment and review with the draft Koala comprehensive Plan of Management. (Ibrahim/Woods)

The recommendation was put to the vote and declared carried.

Crs Dey, Richardson, Cameron and Spooner voted against the recommendation.

COMMITTEE RECOMMENDATION

10. That Council:

- a) recognise the value of the submission from the Design Advisory Panel Northern Rivers (DAP Submission) (#E2014/32684) and of their alternate Chapter E2 for the CBD and urban release areas of Bangalow;
- b) provide a new Chapter E2 Bangalow in light of the DAP submission; and
- c) if it is considered appropriate, exhibit it as a full stand alone review of Chapter E2 as soon as possible. (Dey/Ibrahim)

The recommendation was put to the vote and declared carried.

Cr Woods voted against the recommendation.

COMMITTEE RECOMMENDATION

11. Review Chapter B7 Mosquitoes and Biting Midges to re-consider the operational impact of required buffer zones. (Ibrahim/Woods)

The recommendation was put to the vote and declared carried.

COMMITTEE RECOMMENDATION

12. Review Chapter B12 to re-consider the elements for consideration in a Social Impact Assessment that better reflect the differing degrees of impact and risk associated with the list of developments requiring an assessment listed in B12.1.3. (Ibrahim/Hunter)

The motion was put to the vote and declared carried.

COMMITTEE RECOMMENDATION

13. That Council review the approach and language used when reviewing any parts of the DCP. (Hunter/Woods)

The motion was put to the vote and declared carried.

- 14-314 Resolved** that the meeting move out of committee. (Dey/Richardson)
-

ORDINARY MEETING

14-315 Resolved:

1. That the Draft Byron Shire Development Control Plan 2014 at Annexure 1(a) (#E2014/39356, 39363, 39366, 39367, 39368) incorporating any changes made in accordance with Recommendations 6 and 7 of this report and any changes made by this resolution, is approved pursuant to clause 21 of the *Environmental Planning & Assessment Regulation 2000* and will commence on 21 July 2014 subject to the following:
- a) Change the last sentence of paragraph 1 of introduction to the Performance Criteria in B6.2.4 Buffers to read:

"Measures to ensure that buffers are maintained for the life of the proposed development should be nominated in the development."
 - b) Aim 1 of B14.1.2.1 be replaced with:

"To ensure that development applications for earthworks address aesthetics, character, engineering and geotechnical factors."
 - c) Amend Table B2.1, Column headed 'Type of planted vegetation removal', change the words "Removal of planted vegetation in residential areas as part of routine garden maintenance activities" by deleting the words 'routine garden maintenance activities'.
 - d) Change the Introduction in Appendix B2.4 to put a full stop after the word "experience" and delete the words "in Northern NSW and/or South East Queensland".
 - e) Amend following definitions in Part A Preliminary Appendix A1 Dictionary to read:
 - "Core koala habitat (page 29)
means an area of land with a resident population of koalas, evidenced by attributes such as breeding females (that is females with young) and recent sightings of and historical records of a population."
 - "Koala food tree (page 32)
means a species of tree whose leaves are consumed by koalas as an important component of their diet. Includes primary and secondary food species listed in Appendix 2 of the Approved Recovery Plan for the Koala for Koala Management Area 1: North Coast, (DECC 2008)."
 - "Koala habitat (page 33) (amending Secondary class B definition)
-

Means areas of forest or woodland wherein primary food tree species are absent, habitat comprised of secondary and supplementary food tree species, capable of supporting viable, low density populations (<0.10 koala/ha)."

- f) Defer Chapter B1 Natural environment and review with the draft Koala comprehensive Plan of Management.
- 2. That the Byron Shire Climate Change Strategic Planning Policy at Annexure 1(b) (#E2014/26920), be adopted for commencement on 21 July 2014.
- 3. That the Draft Byron Shire Comprehensive Guidelines for Stormwater Management at Annexure 1(c) (#E2014/33087), be adopted for commencement on 21 July 2014.
- 4. That the Byron Shire Liquor Licensing and Approvals Policy at Annexure 1(d) (#E2014/33077), be adopted for commencement on 21 July 2014 with the following change:
 - a) change 2.6 Hours of Operation to read as follows:

Hours of Operation Across the Shire:
Friday and Saturday: 10am-2am the following morning
Sunday and Public Holidays: 10am-12midnight
Good Friday and ANZAC Day: 12 noon to midnight
New Year's Eve: 10am to 3am following morning
Any other day: 10am to 1am the following morning
 - b) amend 2.5(b) to read "Council may not support..."
- 5. That the Byron Shire Tree Preservation Order at Annexure 1(j) (#E2014/35575), be adopted for commencement on the date it is advertised in the newspaper.
- 6. That Council adopt the recommended amendments to the Draft DCP 2014 and related documents outlined in the tables in Annexures 1(e) (#E2014/38988), (f) (#E2014/31814), (g) (#E2014/30282), (h) (#E2014/38880) and (i) (#E2014/37371) for incorporation into the final Byron Shire DCP 2014 and related documents prior to commencement incorporating any changes made by this resolution.
- 7. That Council delegates to the Executive Manager Environment and Planning the authority to make changes to the Draft DCP 2014, Byron Shire Liquor Licensing and Approval Policy, Byron Shire Climate Change Strategic Planning Policy, Comprehensive Guidelines for Stormwater Management and Tree Preservation Order in accordance with the recommendations above, as well as to make any non-policy amendments or changes required including those to ensure consistency with State legislation and Byron LEP 2014 and consistency between draft DCP chapters.
- 8. That Council, for the purposes of implementing the Byron Shire Climate Change Strategic Planning Policy, Byron LEP 2014 and Byron DCP 2014 in the development assessment process for planning proposals and in the issuing of Section 149 planning certificates, endorse the use of revised flood mapping prepared in accordance with the parameters in Table 1 of the Climate Change Strategic Planning Policy (at Annexure 1(b)) for the Belongil Creek catchment (as part of the Belongil Floodplain Risk Management Study and Plan in preparation) and the Tallow Creek catchment (through a revision to the Tallow Creek Floodplain Risk Management Study and Plan (2009)).

9. That once the relevant revisions have been completed in accordance with Recommendation 8 of this report, the revised Tallow Creek Floodplain Risk Management Plan be presented to Council for adoption.
10. That Council:
 - a) recognise the value of the submission from the Design Advisory Panel Northern Rivers (DAP Submission) (#E2014/32684) and of their alternate Chapter E2 for the CBD and urban release areas of Bangalow;
 - b) provide a new Chapter E2 Bangalow in light of the DAP submission; and
 - c) if it is considered appropriate, exhibit it as a full stand alone review of Chapter E2 as soon as possible.
11. That Council review Chapter B7 Mosquitoes and Biting Midges to re-consider the operational impact of required buffer zones.
12. That Council review Chapter B12 to re-consider the elements for consideration in a Social Impact Assessment that better reflect the differing degrees of impact and risk associated with the list of developments requiring an assessment listed in B12.1.3.
13. That Council review the approach and language used when reviewing any parts of the DCP. (Richardson/Cameron)

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

Report No. 5.2. Northern Councils Environmental Zones Interim Report – Submission to Department of Planning and Environment

File No: #E2014/35297

Moved: That in relation to Council's submission on Parsons Brinckerhoff's *Northern Councils Environmental Zones Review Interim Report*, Council adopt for:

1. Recommendations 1, 2, 6, 7 and 12: Application of E2 Environmental Conservation and E3 Environmental Management zones:
 - a) Environmental Protection - Coastal lands:
Council reiterates previous requests for new zones to appropriately manage development within coastal hazard areas and call on the Minister to support the inclusion of coastal hazard zones in the SI LEP as recommended by the Local Planning Panel in 2012. In the interim, until new coastal hazard zones are provided, it is Council's preference for 7(f1) Environmental Protection – Coastal Lands and 7(f2) Environmental Protection – Urban Coastal Lands to be included in the E2 zone criteria, and in the absence of this to remain with their current zoning under Byron LEP 1988.
 - b) Environmental Protection - Scenic escarpment:
Council would prefer that a compatible zone to the current 7(d) is provided in the SI LEP to manage development in scenic escarpments and in the absence of this zone support Parsons Brinckerhoff's recommendation that scenic escarpment values be included on an overlay map with an accompanying clause in the LEP.

- c) Threatened Species – Koala:
Council requests clarification that the E2 zone applies to koala habitat (Primary, Secondary A and B) as per the E2 Zone criteria number 4. This position is supported, and if this is not the case, Council support an alternative that core koala habitat (as identified in a Comprehensive Koala Plan of Management or SEPP44) is zoned E2 and all other koala habitat (using Primary, Secondary A and B definitions) should be included as a criteria for E3.
- d) Riparian Corridors:
- i) Council requests that consideration be given to landscape scale biodiversity conservation issues such as riparian buffers in the environmental zoning criteria and overlay methodology.
 - ii) Council requests justification as to why previous Department of Planning and Environment advice stating that riparian corridors are to be zoned E2 are no longer acknowledged under Parsons Brinckerhoff's environmental zoning criteria.
 - iii) In the absence of riparian corridors being included in the environmental zone criteria, Council prefers Parsons Brinckerhoff's overlay and clause methodology over the Departments, as Council believes it is important to recognise the significant environmental values riparian areas provide at the landscape scale.
- e) E2 Zone Criteria:
- i) Council requests justification as to why previous Department of Planning and Environment advice stating that old growth forests, riparian corridors and coastal foreshores and land subject to coastal hazards, including climate change effects should be zoned E2, have not been applied in Parsons Brinckerhoff's environmental zoning criteria.
 - ii) Council supports criteria 1,2,5,6 and 7 of the proposed E2 zone criteria.
 - iii) Council supports in principle criteria 3 and 4 of the proposed E2 Zone Criteria and requests clarification on how to interpret and apply this criteria.
- f) E3 Zone Criteria:
- i) Council supports criteria 1 and 4 of the proposed E3 zone criteria.
 - ii) Council supports in principle criteria 3, 5 and 6 of the proposed E3 Zone Criteria and requests clarification on how to interpret and apply this criteria.
 - iii) Council does not support criteria 2, Old Growth Forest, as an E3 criteria and recommend that this should be included in the E2 zone criteria.
- g) Additional Criteria:
Council request that a mechanism be provided to allow some degree of flexibility to zone an area for environmental protection that does not meet the proposed criteria and where there is Landholders support.
2. Recommendation 14: Application of E4 Environmental Living zone:
- a) Council generally supports the application of a residential zone to the areas proposed to be zoned E4 in the exhibited draft Byron LEP 2014.
 - b) Council requests clarification if any of the Environmental Zones (E2, E3 and E4) can be applied in urban areas where sensitive environmental attributes are present. If not, zoning urban areas with tangible environmental attributes to an urban residential zone reinforces the need for terrestrial biodiversity overlays to consider the impact of development on these sensitive areas.

- c) Council requests clarification that Council would not be excluded from applying environmental zones, particularly E4, to future urban release areas if proposed.
3. Recommendations 4 and 5: Permissibility of 'extensive agriculture' in E Zones, Council request that 'extensive agriculture' is prohibited in E2 to allow conservation to remain the focus of land use in these areas and is consistent with current 7(j) zone. If not, the SI LEP objectives for the E2 Environmental Conservation zone should be amended.
4. Recommendations 10, 16 and 17: Environmental Overlays and associated clauses, Council support Parsons Brinckerhoff's overlay and clause methodology, as Council believes it is important to recognise the significant environmental values wildlife corridors and buffers provide at the landscape scale.
5. Recommendation 13: Aesthetic values should be removed as an attribute from the E3 zone, the same as for Recommendation 1. b) above.
6. Recommendation 15: Application of rural zone:
 - a) Council are supportive of applying a relevant rural zone if used for agricultural production (confirmed via onsite investigation) and it is shown as containing mapped State or Regionally Significant Farmland.
 - b) Council request clarification as to which mapping methodology (environmental zones and state significant farmland) is applied in the first instance.
7. Additional Considerations, Council seek financial assistance from the Department to ensure that Councils current vegetation mapping review methodology is robust and complies with the Interim Reports direction for 80% accuracy.
8. General Comments:
 - a) That Table 2.5 on page 62 of the interim report be amended to show that Council considered the following criteria in applying E2 zones:
 - i) Significance to local and regional habitat corridors/ contribution to wildlife corridors
 - ii) Extent to which ecosystem already reserved in local and regional context
 - iii) Vegetation growth stage, structure condition
 - b) That discussion be included in the Interim Report on statistical representative sample size methodology compared to the actual sample size and selection method the Interim Report is based on.
9. That in relation to Councils submission on Parsons Brinckerhoff's *Northern Councils Environmental Zones Interim Report* Council, adopt the draft submission in Annexure 2(a), with any changes so made, and submit to the Department of Planning and Environment as Council's adopted position. (Richardson/Cameron)

AMENDMENT

14-316 Resolved:

1. That in relation to Council's submission on Parsons Brinckerhoff's *Northern Councils Environmental Zones Review Interim Report*, Council adopt:
 - a) Environmental Protection - Coastal lands:
Council reiterates previous requests for new zones to appropriately manage development within coastal hazard areas and call on the Minister to support the

inclusion of coastal hazard zones in the SI LEP as recommended by the Local 20 Planning Panel in 2012.

- b) **Environmental Protection - Scenic escarpment:**
Council would prefer that a compatible zone to the current 7(d) is provided in the SI LEP to manage development in scenic escarpments and in the absence of this zone support Parsons Brinckerhoff's recommendation that scenic escarpment values be included on an overlay map with an accompanying clause in the LEP.
- c) **Threatened Species – Koala:**
Council requests clarification regarding the type of koala habitat which is covered under the E2 Zone criteria number 4. Council supports an alternative that core koala habitat (as identified in SEPP 44) is zoned E2.
- d) **Riparian Corridors:**
 - i) Council requests that consideration be given to landscape scale biodiversity conservation issues such as riparian buffers in the environmental zoning criteria and overlay methodology.
 - ii) Council requests extension of E3 Criteria 3 to include all land within an appropriate buffer based on a water course hierarchy.
 - iii) In the absence of riparian corridors being included in the environmental zone criteria, Council prefers Parsons Brinckerhoff's overlay and clause methodology over the Departments, as Council believes it is important to recognise the significant environmental values riparian areas provide at the landscape scale.
- e) **E2 Zone Criteria:**
 - i) Council requests justification as to why previous Department of Planning and Environment advice stating that old growth forests, very high conservation value wetlands or riparian corridors, high conservation coastal foreshores and land subject to coastal hazards, including climate change effects should be zoned E2, have not been applied in Parsons Brinckerhoff's E2 environmental zoning criteria.
 - ii) Council supports criteria 1,2,5,6 and 7 of the proposed E2 zone criteria.
 - iii) Council supports in principle criteria 3 and 4 of the proposed E2 Zone Criteria and requests clarification on how to interpret and apply this criteria.
- f) **E3 Zone Criteria:**
 - i) Council supports criteria 1 and 4 of the proposed E3 zone criteria.
 - ii) Council supports in principle criteria 3, 5 and 6 of the proposed E3 Zone Criteria and requests clarification on how to interpret and apply this criteria.
 - iii) Council does not support criteria 2, Old Growth Forest, as an E3 criteria and recommend that this should be included in the E2 zone criteria.
- g) **Additional Criteria:**
Council request that a mechanism be provided to allow some degree of flexibility to zone an area for environmental protection that does not meet the proposed criteria and where there is Landholders support.

2. **Recommendation 14: Application of E4 Environmental Living zone:**

- a) Council generally supports the application of a residential zone to the areas proposed to be zoned E4 in the exhibited draft Byron LEP 2014.
- b) Council requests clarification if any of the Environmental Zones (E2, E3 and E4) can be applied in urban areas where sensitive environmental attributes are present. If not, zoning urban areas with tangible environmental attributes to an urban

- residential zone reinforces the need for terrestrial biodiversity overlays to consider the impact of development on these sensitive areas.
- c) Council requests clarification that Council would not be excluded from applying environmental zones, particularly E4, to future urban release areas if proposed.
3. Recommendations 4 and 5: Permissibility of 'extensive agriculture' in E Zones, Council request that 'extensive agriculture' is prohibited in E2 to allow conservation to remain the focus of land use in these areas and is consistent with current 7(j) zone. If not, the SI LEP objectives for the E2 Environmental Conservation zone should be amended.
4. Recommendations 10, 16 and 17: Environmental Overlays and associated clauses, Council support Parsons Brinckerhoff's overlay and clause methodology, as Council believes it is important to recognise the significant environmental values wildlife corridors and buffers provide at the landscape scale.
5. Recommendation 13: Aesthetic values should be removed as an attribute from the E3 zone, the same as for Recommendation 1. b) above.
6. Recommendation 15: Application of rural zone:
- a) Council are supportive of applying a relevant rural zone if used for agricultural production (confirmed via onsite investigation) and it is shown as containing mapped State or Regionally Significant Farmland.
- b) Council request clarification as to which mapping methodology (environmental zones and state significant farmland) is applied in the first instance.
7. Additional Considerations, Council seek financial assistance from the Department to ensure that Councils current vegetation mapping review methodology is robust and complies with the Interim Reports direction for 80% accuracy.
8. General Comments:
- a) That Table 2.5 on page 62 of the interim report be amended to show that Council considered the following criteria in applying E2 zones:
- i) Significance to local and regional habitat corridors/ contribution to wildlife corridors
- ii) Extent to which ecosystem already reserved in local and regional context
- iii) Vegetation growth stage, structure condition
- b) That discussion be included in the Interim Report on statistical representative sample size methodology compared to the actual sample size and selection method the Interim Report is based on.
9. That in relation to Councils submission on Parsons Brinckerhoff's *Northern Councils Environmental Zones Interim Report* Council, adopt the draft submission in Annexure 2(a), with any changes so made, and submit to the Department of Planning and Environment as Council's adopted position. (Ibrahim/Woods)

The amendment was put to the vote and declared carried.

Crs Dey, Richardson, Cameron and Spooner voted against the amendment.

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

Crs Cubis, Woods, Richardson, Spooner and Hunter voted against the motion.

14-317 Resolved that the vote be recommitted.

(Woods)

The motion was put to the vote and declared carried.

Crs Dey, Richardson and Spooner voted against the motion.

BYRON SHIRE COUNCIL

EXTRAORDINARY MEETING MINUTES

26 JUNE 2014 (14 of 16)

*The amendment (Ibrahim/Woods) was put to the vote and carried.
Crs Dey, Richardson, Cameron and Wanchap voted against the amendment.*

*The amendment upon becoming the substantive motion was put to the vote and declared carried.
Crs Richardson, Cameron and Spooner voted against the motion.*

Report No. 5.3. PLANNING –Report on the exhibition of the Draft Byron Developer Contributions Plan 2012

File No: #E2014/33297

14-318 Resolved:

1. That Council resolve to adopt the Byron Shire Developer Contributions Plan 2012 as listed in Annexure 3 #E2014/35850 (with the removal of all green highlighting) with the following amendments:
 - a) Add \$100,000 to the reconciliation amounts for the Mullumbimby Masterplan project in the community facilities (p 77 of 180 of annexure 3) to be funded by reallocation of pre 30 June 2012 reconciliation funds from the Shire Wide Community Facilities account allocated to Byron Bay Masterplan (p 77 of 180 of annexure 3).
 - b) Consequential adjustments to SDU values.
2. That Council notify the adoption of the plan in the local newspaper in accordance with *Clause 30 of EP&A Regulation 1994*.
3. That the Byron Shire Developer Contributions Plan 2012 commence operation on Monday, 15 July 2014.
4. That Council allocate a budget of \$134,000 out of the Section 94 Ocean Shores Community Facilities account to the South Golden Beach Community Hall Alterations and Additions Project.
5. That Council allocate a budget of \$114,000 out of the Section 94 Mullumbimby Community Facilities account for the Civic Hall precinct works upgrades. Work to include landscaping and Crime Prevention through Environmental Design (CPTED) upgrades.
6. That Council allocate a budget of \$16,000 out of the Pre plan Rural Roads account for the Upgrade of Skinners Shoot Road south of Yagers Lane. (Cameron/Spooner)

*The motion was put to the vote and declared carried.
No Councillors voted against the motion.*

FORESHADOWED MOTION

- 14-319 Resolved** that Council write to Julian Conrad, QUT School of Design, requesting a meeting regarding the School of Design collaborating with the Mullumbimby Masterplan project. (Hunter/Spooner)

The motion was put to the vote and declared carried.

ENVIRONMENT AND PLANNING - COMMITTEE REPORT

Report No. 14.3. Report of the Biodiversity and Sustainability Advisory Committee Meeting held on 8 May 2014

File No: #E2014/31699

14-320 Resolved that Council note the minutes of the Biodiversity and Sustainability Advisory Committee meeting held on 8 May 2014.

14-321 Resolved that in relation to Report No 5.2 – Terms of Reference for Environmental Levy, Council adopt:

Committee Recommendation B&S 5.2.1

That the committee constitution be amended to include the following additional 'Purpose':

5. Regarding the management of the Environment Levy:
 - a) Advise Council on matters to be considered for funding from the Environmental Levy each year.
 - b) Quarterly, review the projects funded by the Environmental Levy, following advice provided by Council Staff.
 - c) Advise Council on both allocation and expenditure of funds consistent with environmental levy Terms of Reference ie. by reviewing a draft budget each year and providing advice on priorities for expenditure and monitoring environmental outcomes of levy projects.

Committee Recommendation B&S 5.2.2

That the committee recommend the following Terms of Reference for the Environmental Levy:

1. The Environmental Levy will fund staff, priority actions and projects consistent with:
 - a) The Byron Shire Greenhouse Action Strategy (to be replaced by Byron Shire Low Carbon Strategy)
 - b) Biodiversity Conservation Strategy
 - c) Roadside Vegetation Management Plan
 - d) Those actions from the Coastal Zone Management Plans (CZMP) and Estuary Plans that are consistent with the objectives of the above strategies
2. That the Terms of Reference form the basis of a draft Environmental Levy Implementation Policy for Council's consideration. (Cameron/Woods)

*The motion was put to the vote and declared carried.
Crs Dey and Hunter voted against the motion.*

INFRASTRUCTURE SERVICES - COMMITTEE REPORT

Report No. 14.5. Report of the Water, Waste and Sewer Advisory Committee Meeting held on 20 May 2014

File No: #E2014/35229

14-322 Resolved:

1. That Council notes the Minutes of the Water, Waste and Sewer Advisory Committee Meeting of 20 May 2014.

BYRON SHIRE COUNCIL

EXTRAORDINARY MEETING MINUTES

26 JUNE 2014 (16 of 16)

2. That Council receive a report on the Rous Water Demand Management Plan 2012-2016.
(Dey/Wanchap)
The motion was put to the vote and declared carried.

FORESHADOWED MOTION:

14-323 Resolved:

1. That the revised Policy No. 5.59 – On-site Sewage Management Systems in Reticulated Sewer Areas (#E2013/48634) be placed on public exhibition for a minimum period of 28 days, following minor amendments made in accordance with the actions specified at the Committee Meeting.
2. That if there are no submissions received during the exhibition period, the revised Policy No. 5.59 – On-site Sewage Management Systems in Reticulated Sewer Areas be adopted.
(Dey/Cameron)

The motion was put to the vote and declared carried.

FORESHADOWED MOTION:

14-324 Resolved that Council notes:

1. the progress to date with regard to Resolution 13-691 and the commencement of the Community Engagement and Risk Communication Program for On-site Sewage Management.
2. that the dates scheduled in the accompanying Community Action Program will not be achieved and that new dates will be presented with a six monthly review, later in 2014.
(Dey/Richardson)

The motion was put to the vote and declared carried.

There being no further business the meeting concluded at 3.45pm.

I hereby certify that these are the true and correct Minutes of this Meeting
as confirmed at Council's Ordinary Meeting on 7 August 2014.

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Mayor Simon Richardson