



Byron Shire Council



Minutes **Ordinary (Planning) Meeting** Thursday, 11 March 2021

BYRON SHIRE COUNCIL

Ordinary (Planning) Meeting Minutes
11 March 2021

INDEX OF ITEMS DISCUSSED

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

Report No. 13.2	PLANNING - 26.2019.1.1 - Planning Proposal for an amendment to Byron LEP 2014 to permit Community Title subdivision and dwellings at Lot 38 DP 1059938, Alidenes Road, Wilsons Creek.....	5
Report No. 13.7	PLANNING - Report of the 11 February 2021 Planning Review Committee.....	6
Report No. 13.4	Council's role in Housing Delivery.....	6
Report No. 13.6	PLANNING - DA 10.2020.358.1 Primitive Camping Ground Consisting of Eight (8) Sites with Ancillary Ensuites.	7
Report No. 13.1	PLANNING - 24.2018.10.1 DCP 2014 Chapter B2 Tree and vegetation Management submission report	9
Report No. 13.3	Byron Shire Key Workers Issues Paper.....	9
Report No. 13.5	PLANNING - s4.55 10.2014.417.2 S4.55 to Modify Staging. Stage 1: Conversion of Existing Garage to Temporary Sales and Display Office for on-site Marketing of Approved Residential Flat Building, Temporary Car Parking Space, Pedestrian Access and Landscaping. Stage 2: Completion of all Works and Demolition of Existing Building 43 Lawson Street Byron Bay.....	10

BYRON SHIRE COUNCIL

ORDINARY (PLANNING) MEETING MINUTES

11 March 2021

MINUTES OF THE BYRON SHIRE COUNCIL ORDINARY (PLANNING) MEETING HELD ON THURSDAY, 11 MARCH 2021 COMMENCING AT 11.10AM AND CONCLUDING AT 12.45PM

I2021/358

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)

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	
13.4	Council's role in Housing Delivery	Matthew O'Reilly	For	CABS	In person
13.6	Planning - DA 10.2020.358.1 Primitive Camping Ground Consisting of Eight Sites and Ancillary Ensuites	Philip and Margaret McMurdo	For		Letter to be read out by staff
		Dwayne Roberts	Against	Ardill Payne and Partners	In person

BYRON SHIRE COUNCIL

ORDINARY (PLANNING) MEETING MINUTES

11 March 2021

Submissions

Subject	Name	Representing Organisation	Submission Received in form of
DA 10.2019.245.3	David Hughes		Phone
Cultural value of bunya nut trees	Matthew O'Reilly	CABS	In person

APOLOGIES

There was an apology from Cr Martin.

PROCEDURAL MOTION

21-057 Resolved that the apology from Cr Martin be accepted and a leave of absence granted.
(Richardson/Coorey)

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

There were no declarations of interest.

TABLING OF PECUNIARY INTEREST RETURNS

There were no Pecuniary Interest Returns tabled.

ADOPTION OF MINUTES FROM PREVIOUS MEETINGS

21-058 Resolved that the minutes of the Ordinary (Planning) Meeting held 11 February 2021 be confirmed.
(Lyon/Hunter)

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 PLANNING - 24.2018.10.1 DCP 2014 Chapter B2 Tree and vegetation Management submission report
- Report No. 13.3 Byron Shire Key Workers Issues Paper
- Report No. 13.4 Council's role in Housing Delivery
- Report No. 13.5 PLANNING - s4.55 10.2014.417.2 S4.55 to Modify Staging. Stage 1: Conversion of Existing Garage to Temporary Sales and Display Office for on-site Marketing of Approved Residential Flat Building, Temporary Car Parking Space, Pedestrian Access and Landscaping. Stage 2: Completion of all Works and Demolition of Existing Building 43 Lawson Street Byron Bay
- Report No. 13.6 PLANNING - DA 10.2020.358.1 Primitive Camping Ground Consisting of Eight (8) Sites with Ancillary Ensuites.

The remaining Recommendations and Committee Recommendation were adopted as a whole, being moved by Cr Richardson and seconded by Cr Lyon. Each recommendation is recorded with a separate resolution number commencing at Resolution No. 21-059 and concluding with Resolution No. 21-060.

STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

- Report No. 13.2 PLANNING - 26.2019.1.1 - Planning Proposal for an amendment to Byron LEP 2014 to permit Community Title subdivision and dwellings at Lot 38 DP 1059938, Alidenes Road, Wilsons Creek**
- File No:** I2021/249

21-059 Resolved that Council:

1. Proceeds with a revised planning proposal (as contained in Attachment 1 – E2021/29384) to permit the creation of a neighbourhood Community Title scheme comprising up to 15 neighbourhood lots/dwellings, and one lot for association property that includes the Yankee Creek waterway and suitable riparian buffers on the subject land. No more than one dwelling will be permitted on each lot.
2. Forwards the revised planning proposal to the NSW Department of Planning, Industry and Environment for a Gateway determination.
3. Pending a positive Gateway determination, undertake public exhibition of the

BYRON SHIRE COUNCIL

ORDINARY (PLANNING) MEETING MINUTES

11 March 2021

planning proposal in accordance with the determination requirements.

4. Considers a submissions report post-exhibition that includes any recommended changes to the planning proposal for final adoption. (Richardson/Lyon)

Report No. 13.7 **PLANNING - Report of the 11 February 2021 Planning Review Committee**

File No: I2021/228

- 21-060** **Resolved** that Council endorses the outcomes of the Planning Review Committee meeting held on 11 February 2021. (Richardson/Lyon)

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

- 21-061** **Resolved** that Council change the order of business to deal with Reports 13.4 and 13.6 next on the Agenda. (Lyon/Richardson)

The motion was put to the vote and declared carried.

Report No. 13.4 **Council's role in Housing Delivery**

File No: I2021/306

- 21-062** **Resolved** that Council:

1. Notes the staff report on Council's role in Housing.
2. Requests staff to further investigate the Community Land Trust, Live-Work and Restricted Purchase models to see how they can be applied to Council owned land and developments including contributions under a SEPP 70 Affordable Housing Contribution Scheme.
3. Receives a report by or before mid-year on the findings of 2 with recommendations on the appropriate next steps for application and implementation of the preferred model/s to Council land and developments. (Ndiaye/Spooner)

The motion was put to the vote and declared carried.

BYRON SHIRE COUNCIL

ORDINARY (PLANNING) MEETING MINUTES

11 March 2021

Report No. 13.6 **PLANNING - DA 10.2020.358.1 Primitive Camping Ground
Consisting of Eight (8) Sites with Ancillary Ensuites.**
File No: I2021/179

21-063 Resolved:

- A. That pursuant to Section 4.16 of the Environmental Planning & Assessment Act 1979, Development Application No. 10.2020.358.1 for a primitive camping ground consisting of eight sites with ancillary en-suite and onsite sewage management system, be refused for the following reasons:
1. The proposed development fails to meet the definition of a primitive camping ground in LEP 1988 and is considered to be a prohibited use in the 7(d) (Scenic/Escarpment Zone).
 2. No verifiable information was provided to demonstrate that the land is uncontaminated, as per Clause 7 of *State Environmental Planning Policy No 55—Remediation of Land*.
 3. The proposed development is considered to be inconsistent with the objectives of the 7(d) (Scenic/Escarpment Zone).
 4. The proposed development fails to satisfy the Objectives and Performance Criteria of Byron Development Control Plan 2010, Parts C3.1 Visual Impact, C3.3 Element – Development On or Near Ridgetops and C3.4 Element – Development in Scenic Zones. The number of safari tents (8) is considered to be excessive and is likely to detract from the scenic quality and visual amenity of the area.
 5. The proposed development is located unacceptably close to overhead powerlines, which poses a safety risk to guests and impedes access to electricity infrastructure.
 6. Approval of a prohibited land use in contravention of Council’s planning controls would be contrary to the public interest.
 7. Insufficient information has been provided in relation to:
 - a) Byron Local Environmental Plan 1988, Clause 45 Services. The application did not include sufficient information to explain how potable water will be supplied to the proposed safari tents. The location and/or capacity of the rainwater tanks was not identified.
 - b) Byron Development Control Plan, Part C10.1 Element – Lot Size. The application has not included any information to identify or delineate the area of the primitive camping ground in relation to the area of the allotment.
 - c) Byron Development Control Plan, Part C10.2 Element – Recreation Areas. The application has not included any information to identify areas

BYRON SHIRE COUNCIL

ORDINARY (PLANNING) MEETING MINUTES

11 March 2021

set aside for recreation, open space or landscaping in the camping ground.

- d) Environmental enhancement and bush regeneration. A full, proper Vegetation Management Plan should be prepared in accordance with the *Byron Shire Council Guidelines for preparing Vegetation Management Plans (VMP) or Biodiversity Conservation Management Plans (BCMP)*.

- B. That Council note the alleged unauthorised use of the land as a wedding venue (Byron View Farm) and the presence of two safari tents which appear to have been constructed without consent. That these matters be referred to Council's Community Enforcement Team to further investigate and commence enforcement action as required or necessary in the circumstances of the case.

(Hunter/Richardson)

The motion was put to the vote and declared carried.

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

Cr Hackett voted against the motion.

PROCEDURAL MOTION

- 21-064 Resolved** that Cr Richardson be granted a two minute extension to his speech.
(Coorey/Ndiaye)

The motion was put to the vote and declared carried.

MAYORAL MINUTE

There was no Mayoral Minute.

PETITIONS

There were no petitions.

SUBMISSIONS AND GRANTS

There were no submissions and grants.

DELEGATES' REPORTS

There were no delegates' reports.

BYRON SHIRE COUNCIL

ORDINARY (PLANNING) MEETING MINUTES

11 March 2021

Report No. 13.1 **PLANNING - 24.2018.10.1 DCP 2014 Chapter B2 Tree and vegetation Management submission report**
File No: I2021/248

21-065 Resolved:

1. That Council adopts the Draft Development Control Plan 2014 Chapter B2 Tree and Vegetation Management contained in Attachment 1, E2020/102196 with the following amendment.

Delete 'Bunya Pine (Araucaria Bidwilli)' from Appendix 3.

2. That Council publishes Chapter B2 on its website and notifies the public as required by the Environmental Planning and Assessment Act and Regulation.
(Cameron/Richardson)

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. 13.3 **Byron Shire Key Workers Issues Paper**
File No: I2021/270

21-066 Resolved:

1. That Council receives and notes the staff report on 'Byron Shire Key Workers Issues Paper'.
2. That Council requests staff to:
 - a) Invite the Hon. Melinda Pavey, MP Minister for Water, Property and Housing, and the Hon. Rob Stokes, MP Minister for Planning and Public Spaces to Byron Shire to:
 - discuss key worker housing stress;
 - visit key council project sites; and
 - discuss the potential for state government grant funding to support infrastructure delivery needed to facilitate local affordable and diverse housing initiatives already commenced in Byron Shire.
 - b) Seek interest from other northern rivers councils about undertaking a case study of local employer/s facing attraction/retention challenges due to housing unaffordability. This study to support point d.
 - c) Seek cross council collaboration from other northern rivers councils to identify innovative solutions to regional housing affordability challenges that go beyond the current LGA boundaries. These solutions to support point d and form the basis of pilot projects for the region.
 - d) Advocate for Federal and State Government to change the policy and regulatory setting to facilitate investment through to councils undertaking

BYRON SHIRE COUNCIL

ORDINARY (PLANNING) MEETING MINUTES

11 March 2021

development. This could include councils directly facilitating development through planning, providing land, and financial levers such as subsidies and private public partnerships, thereby providing the private sector with the certainty that it needs to invest confidently in the region.

3. That Council receives an update report on 2 a-d at the Ordinary June Council meeting. (Spooner/Lyon)

The motion was put to the vote and declared carried.

PROCEDURAL MOTIONS

- 21-067 Resolved** that Cr Richardson be granted a two minute extension to his speech. (Ndiaye/Coorey)

The motion was put to the vote and declared carried.

- 21-068 Resolved** that Cr Lyon be granted a two minute extension to his speech. (Richardson/Coorey)

The motion was put to the vote and declared carried.

Report No. 13.5 PLANNING - s4.55 10.2014.417.2 S4.55 to Modify Staging. Stage 1: Conversion of Existing Garage to Temporary Sales and Display Office for on-site Marketing of Approved Residential Flat Building, Temporary Car Parking Space, Pedestrian Access and Landscaping. Stage 2: Completion of all Works and Demolition of Existing Building 43 Lawson Street Byron Bay

File No: I2021/253

- 21-069 Resolved** that Development Application No. 10.2014.417.2, for S4.55 to Modify Staging -Stage 101: Conversion of Existing Garage to Temporary Sales and Display Office for on-site Marketing of Approved Residential Flat Building, Temporary Car Parking Space, Pedestrian Access and Landscaping. Stage 2: Completion of all Works and Demolition of Existing Building, be deferred and subject to a further report to Council at a subsequent meeting. (Lyon/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

11 March 2021

There being no further business the meeting concluded at 12.45pm.

I hereby certify that these are the true and correct Minutes of this Meeting
as confirmed at Council's Ordinary Meeting on 8 April 2021.



Mayor Simon Richardson