



Byron Shire Council



Minutes Ordinary (Planning) Meeting

Thursday, 8 April 2021

BYRON SHIRE COUNCIL

Ordinary (Planning) Meeting Minutes

8 April 2021

INDEX OF ITEMS DISCUSSED

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

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MINUTES OF THE BYRON SHIRE COUNCIL ORDINARY (PLANNING) MEETING HELD ON THURSDAY, 8 APRIL 2021 COMMENCING AT 11.04AM AND CONCLUDING AT 12.25PM

I2021/549

PRESENT: Cr S Richardson (Mayor), Cr J Hackett, Cr A Hunter, Cr M Lyon, and Cr J Martin

Virtually: Cr B Cameron, 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)

Ralph James (Legal Counsel)

Jo Bourke (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.

The General Manager read out an unreserved apology received from John Anderson as follows:

"I hereby apologise unreservedly to Cr Lyon for any injury he felt as a result of my calling him a "dickhead" at the Council meeting of 25 Feb, which was undoubtedly an "insult" in terms of the material you have forwarded."

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:

Submissions

Subject	Name	Representing Organisation	Submission Received in form of
The problems that will emanate from granting a DA modification for a rooftop pool and leisure area at 139 Jonson Street	Peter O'Connor	-	In person.
Ancillary dwellings in industrial and business zones	Matthew O'Reilly	-	In person.
Personal reflection as it relates to Council Proceedings	John Anderson	-	In person.

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Question No. 1 Final Costs for Byron Bypass

John Anderson asked the following question:

Will the General Manager please provide a detailed breakdown of final costs and outlays for the Butler St/Byron Bypass, including the fate of an amount expressly set aside for contingencies, excluding category overlaps and/or the arbitrary grouping of items together which have no obvious connection?

The General Manager responded:

A report will be coming to Council during May on the Bypass Project. That report will include the financial implications of the project. It's likely that report will come to the Planning Meeting in May along with the Quarterly Budget Review so that Council can consider that and consider the Budget Review at the same time.

Question No. 2 Caretaker Residences in Industrial and Business Zones

Matthew O'Reilly asked the following question:

How many caretaker residences and managers dwellings have been given DA approval in Industrial and Business Zones since the commencement of the Byron LEP 2014 and when they are approved are they required to pay the full development contribution amounts for new dwellings in Byron Shire?

The question was taken on notice.

APOLOGIES

There was an apology from Cr Coorey.

PROCEDURAL MOTION

- 21-118 Resolved** that the apology from Cr Coorey be accepted and a leave of absence granted. (Richardson/Lyon)

The motion was put to the vote and declared carried.

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REQUESTS FOR LEAVE OF ABSENCE

There were no requests for leave of absence.

PROCEDURAL MOTION

21-119 Resolved that Council accepts the following requests to attend meetings remotely:

1. Councillor Spooner's request to attending meetings remotely for the remainder of the current term of Council be accepted.
2. Councillor Ndiaye and Cameron's request to attend the meeting held on 8 April 2021 be accepted. (Richardson/Lyon)

The motion was put to the vote and declared carried.

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

21-120 Resolved that the minutes of the Ordinary (Planning) Meeting held 11 March 2021 be confirmed. (Lyon/Hackett)

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 Parklet trial

Report No. 13.3 Update Resolution 21-062 Creation of a Byron Shire Council
Community Land Trust

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 being Resolution No. 21-121.

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STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

Report No. 13.2 **PLANNING - Report of the 11 March 2021 Planning Review Committee**

File No: I2021/415

21-121 **Resolved** that Council endorses the outcomes of the Planning Review Committee meeting held on 11 March 2021. (Richardson/Lyon)

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

MAYORAL MINUTE

There was no Mayoral Minute.

PETITIONS

There were no petitions.

SUBMISSIONS AND GRANTS

There were no submissions and grants.

DELEGATES' REPORTS

1. NRJO

Cr Richardson advised:

We had a meeting last week to give a response to the State Government who wants to get some feedback as to how it's working or not working. It was a pretty universal belief that it was I'll use the term 'utterly broken', as an organisation and as a structure. State Government has created it, have got no idea what it wants us to do, have no real funding for it, and some of the grant applications are competitive against member councils so therefore no one wants to put anything in. So it's been quite a frustrating couple of years of process.

So what we've decided to do is more regularly work amongst ourselves within that group to highlight and work together on some of the priorities and one of the things that came out very strongly was the use of agricultural land. I do note we've got a report coming next week but there is a genuine concern that the State Government seems more focussed on keeping farmers on the land rather than making the land productive and it's a very different angle to take. The second can ensure a farmer stays on the land, but the first thing could simply ensure there's more tourism on that land rather than actual production on the land.

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What we're trying to do as a regional approach is to work out how can we lobby the State Government to actually open up agricultural land for farmers who want to farm it, rather than the broken system of having 40 hectares as a viable farm, and an older farmer who no longer is able to do it, so our only response is putting tourist cabins on to try to give them an income. That doesn't make the land more productive in fact if anything it makes them more expensive and less productive.

One of the things that came out of our State Government meetings that Shannon, Mark and I went to was again that understanding that we need to start speaking regionally, because really we're all in this boat, most of especially the coastal councils have got agricultural land that is increasingly unproductive because it is expensive and really throwing cattle on it or sugar cane in the dozens of hectares etc just no longer cuts it when we've got a myriad of young farmers or innovative farmers, regenerative farmers that would love access to the land.

So we think we need to have a conversation with Primary Industries to get that concept changed. Is protecting Primary Industries about protecting the farmer or is it about increasing the production of that land? As I said, the first one simply gives them another revenue source, the second one gets more productive land. For example, if those 10 tourist cabins instead had 10 workers working the land, that would still provide income to the farmer and preserve them on that land but it would actually make the land more productive. So these are the sort of conversations we're starting to have on a regional basis.

What was clear at that Joint Organisation is that we need to kind of work outside the state system which has been created for it to fail and we need to start working together as a region more on the issues that really impact us all.

STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

Report No. 13.1 **Parklet trial**
File No: I2021/353

Moved:

1. That Council uses the results and feedback from the first three months of the Talking Streets trial in Mullumbimby to inform the development of a Shire wide 'Parklets and Street Activation Policy.
2. That Council put any further action on hold until Council receives expressions of interest of ideas as to how to proceed. (Hunter/Hackett)

*The motion was put to the vote and declared lost.
Crs Martin, Lyon, Richardson, Cameron, Spooner and Ndiaye voted against the motion.*

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FORESHADOWED MOTION

No. 13.1 **Parklet trial**
File No: I2021/353

21-122 Resolved:

1. That Council uses the results and feedback from the first three months of the Talking Streets trial in Mullumbimby to inform the development of a Shire wide 'Parklets and Street Activation Policy.
2. That the development of the 'Parklets and Street Activation Policy be commenced, including (but not limited to) consultation with relevant chambers around site suitability, consideration of loss of car parking spaces and safety requirements.
(Richardson/Ndiaye)

The motion was put to the vote and declared carried.

Report No. 13.3 **Update Resolution 21-062 Creation of a Byron Shire Council
Community Land Trust**
File No: I2021/430

21-123 Resolved that Council:

1. Notes the staff report Update Resolution 21-062 Creation of a Byron Shire Council Community Land Trust.
2. Agrees in principle to the establishment of a Land Trust as a Council legal entity to hold land for the development of local housing that meets the needs of the community. The agreed name of the entity to be 'Byron Shire Land Limited'.
3. Agrees that the most appropriate Council legal entity is a company limited by guarantee and licensed with Council being the majority shareholder. A board of directors to be appointed, via an EOI process, comprising representatives from Council, community housing providers, not-for-profit organisations; and suitably qualified individuals with specialist expertise (e.g., legal, financial, and management) beneficial to the operation of the Land Trust. The Board to be responsible for all aspects of running the Land Trust including the development of a comprehensive Business Plan with an annual report to council on achievement of the Trust's objectives and affordable housing outcomes.
4. Agrees that Byron Shire Land Limited will:
 - a) aim to provide 10% of the Shire's housing stock within the first 10 years of operation.
 - b) use 30% of the median weekly household income for the Byron Shire as the benchmark of affordability.
(Spooner/Lyon)

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

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PROCEDURAL MOTION

- 21-124 Resolved** that Cr Ndiaye be granted a two minute extension to her speech.
(Richardson/Lyon)
- The motion was put to the vote and declared carried.*
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QUESTIONS WITH NOTICE

Question With Notice No. 14.1 **Agglomerated data on dwelling supply in
Byron Shire**
File No: I2021/397

At Council's Ordinary Meeting held on 25 February 2021, Cr Coorey asked the following question which was taken on notice:

In view of the recently adopted Residential Strategy and to assist in considering future planning decisions, can Councillors and the community be advised of changes in residential approvals since the operation of the Byron LEP 2014.

Can staff please provide figures for the number of new dwellings, rural tourist accommodation rooms and new lots approved as complying development, council approved development and NRPP approved development. Can these figures be divided into:

In rural areas all approvals, including:

- primary dwellings
- dual occupancies
- secondary dwellings
- workers dwellings
- studios
- Rural tourist cabins, farmstay accommodation or eco-tourism accommodation

In urban areas all approvals including:

- detached dwellings
- secondary dwellings
- dual occupancies approved as strata title or freehold developments
- multi dwelling housing approved as strata title or freehold developments
- studios

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- shop top housing dwellings

and

- Ancillary caretaker dwellings/Ancillary managers and staff dwellings.
- Ancillary dwellings in industrial and business zones
- New lots under 800m2 with dwelling entitlements
- New lots under 1000m2 with dwelling entitlements
- New lots over 10002 with dwelling entitlements

NB please count total dwellings, total rooms and total lots, not total approvals as often multiple dwellings are included in a single approval such as multi dwelling housing, dual occupancies or a new house and secondary dwelling.

Rural includes RU1, RU2, RU5, R5 and environmental zones.

Urban includes all Residential, Business and Industrial Zones.

Response Director Sustainable Environment and Economy:

Councillor Coorey asked the same [question](#) of staff for the period 2014-2017 at the 22 March 2018 Ordinary meeting. The [response](#) was reported to the 19 April 2018 meeting.

The tables below break down the Development (DA) and Complying Development (CDC) applications approved during the calendar years from 2018 to 2021.

It is not possible to provide the level of detail requested in the question above as information collected and collated by Council does not necessarily correlate. As such the breakdown in the response provided below is based on that information that is readily able to be accessed and presented by staff from Council records or other sources.

Dwellings

The figures show the total number of dwellings approved. Studios are reported on the number of applications.

Bedroom numbers are not captured on Council's electronic register. To capture this information each application would need to be individually reviewed by a staff member, a task that is not resourced to be done.

There has been an increase in the number of applications that include demolition to replace existing buildings. The type or portion of building being replaced is not easily captured. During the period 2018-2021 (YTD) there have been 129 applications that include demolition.

The Census includes a question on the number of bedrooms per household which may be of use in this regard. A link to the Byron Community profile web follows:

<https://profile.id.com.au/byron>

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Table 1 Urban dwellings approved between 2018-2021

Urban	2018	2019	2020	2021	Total
Dwelling	71	101	71	7	250
Secondary Dwelling	107	89	55	4	255
Dual Occupancy	67	43	49	4	163
Studio	12	14	10	0	36
Medium Density Development	120	30	71	9	230
Tourist facility/cabins	3	3	0	0	6
Total	380	280	256	24	940

Table 2 Rural dwellings approved between 2018-2021

Rural	2018	2019	2020	2021	Total
Dwelling	28	30	18	3	79
Rural Workers Dwelling	1	0	0	0	1
Secondary Dwelling	20	21	9	2	52
Dual Occupancy	15	27	28	3	73
Studio	8	15	16	1	40
Medium Density Development	0	0	0	0	0

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Tourist facility/cabins	35	10	36	1	82
Total	107	103	107	10	327

Subdivision

Lots approved

Lot sizes and dwelling entitlement information are not recorded on Council's electronic application register and have not been included in this data. To capture this information each application would need to be individually reviewed by a staff member, a task that is not resourced to be done.

Figures do not include the number of lots created by boundary adjustments. During the period 2018-2021 (YTD) there were 27 boundary applications approved.

Table 3 Urban subdivision lots approved between 2018-2020

Urban	2018	2019	2020	2021	Total
Torrens	51	51	61	5	168
Strata	149	94	45	17	305
Community Title	0	0	0	0	0
Total	200	145	106	22	473

Table 4 Rural subdivision lots approved between 2018-2020

Rural	2018	2019	2020	2021	Total
Torrens	0	5	0	0	5
Strata	0	0	0	0	0

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Community Title	0	5	21	0	26
Total	0	10	21	0	31

Lots created/registered

Breakdown of lots registered (i.e. constructed) between 2018 and 2021 including lot sizes (derived from Authority). This does not include strata subdivision lots or if there is a dwelling entitlement. The data also does not breakdown if the subdivision was through a boundary adjustment or torrens title (ie. additional lot/s)

Table 5 subdivision lots registered/created between 2018-2020

Lots created	2018	2019	2020	2021	Total
<800	62	58	27	3	150
>/=800 and <1000	35	23	11	1	70
>/=1000	65	72	87	6	230
Total	162	153	125	10	450

There being no further business the meeting concluded at 12:25pm.

I hereby certify that these are the true and correct Minutes of this Meeting
as confirmed at Council's Ordinary Meeting on 13 May 2021.



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Mayor Michael Lyon