

Responses to Questions on Notice

Received at the 22 August 2019
Ordinary Meeting of Council



Mark Arnold
General Manager

BYRON SHIRE COUNCIL
ORDINARY MEETING

1. QUESTIONS WITH NOTICE

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Question with Notice No. 1
File No:

Short Term Rental Accommodation
I2019/1358

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At Council's Ordinary Meeting held on 22 August 2019, David Wallace, on behalf of Vohl, asked the following question which was taken on notice:

At the Planning meeting on 15 August, report 8.11 Update on STRA was presented. The report stated "Council resolutions, brought about due to the rise in complaints, on the subject of holiday letting date back to 2003. Complaints include:

- *prohibited development in residential areas*
- *loss of neighbourhood amenity*
- *noise and antisocial behaviour, particularly from late-night parties*
- *excessive numbers of people and cars*
- *parking which may block driveways or impede visibility and traffic movement*
- *excess or poorly managed garbage"*

How many complaints has Council received since 2003 and how many of these have led to prosecutions or fines against the holiday let owners?

Response Director Sustainable Environment and Economy:

A review of 'holiday letting' complaints received since 2003 registered in CRM has been completed. It is only an approximate given the changes made to the CRM processes over the years.

- 537 CRMs registered between 04/05/2012 and 10/09/2019 (CRM Holiday let category was created 04/05/2012)
- 179 CRMs received from 2003 to 03/05/2012 (Prior to the Holiday Let category, complaints were not consistently recorded in one category (i.e. Illegal works – Development or Building or Business or Land use or Pollution – Noise).

Due to the above categorisation changes in our CRM system during this period, it is not possible to advise with any certainty fines against holiday let owners the direct result of complaints received on 'holiday letting'.

Further, as a consequence of a mix of resolutions over time, and the more recent legislative flux with the State government developing its position on STRA no prosecutions have been launched.

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At Council's Ordinary Meeting held on 22 August 2019, John Anderson asked the following question which was taken on notice:

Given the absurd drama I had to go through to finally get access to the Construction Environmental Management Plan for the Bypass, and given that the document itself says that access much be created "upon request", will the Mayor now re-acquaint himself with the notion of transparency by immediately ensuring that:

- a) *Said document is posted on Council's website (as is entirely normal)*
- b) *That all remaining documents specified in the Court's consent conditions for the Bypass, such as the Flood Management Plan (condition 6), Engineering Plans (condition 5), Stormwater Management Plan (condition 7), agreement with Transport NSW (condition 8), Public Safety Management Plan (condition 9), Traffic Management Plan (condition 10), Environmental Management System (condition 11), animal fencing (condition 19), Biobanking Statement (condition 20), additional biobanking credits (condition 21), Road Signage Plan (condition 22), Noise Mitigation Plan (condition 24), Heritage Management Plan (condition 25), Aboriginal Cultural Heritage (condition 26), stakeholder consultation (condition 27), nothing that several condition omitted from this list are supposed to be addressed as part of the Construction Environmental Management Plan?*

Response Director Infrastructure Services:

The Construction Environmental Management Plan and other documents associated with the approval of the Bypass have been uploaded to the Council website.

The current link is as follows:

<https://www.byron.nsw.gov.au/Services/Major-construction-projects/Byron-Bay-Bypass/Byron-Bay-Bypass-Project-Approvals?BestBetMatch=bypass%20approvals|d13b95b2-5146-4b00-9e3e-a80c73739a64|4f05f368-ecaa-4a93-b749-7ad6c4867c1f|en-AU>

Question with Notice No. 13.3 Byron Bypass Expenditure
File No: I2019/1360

At Council's Ordinary Meeting held on 22 August 2019, John Anderson asked the following question which was taken on notice:

Will the Mayor please detail Bypass expenditures past and present in light of the apparent contractors' fee of some \$14 million for the entire construction project – given that \$20.5 million was the total cost repeatedly given out until quite recently, and given that Ralph James last week told me that the projected figure now is approved \$25 million – and will the Mayor also detail what percentage of the correct total figure is down to Government grants versus Council's own input, and what proportion (if any) is State Government compensation for Council's previous expenditures, including on consultancy fees; i.e. how much has Council spent to date, prior to construction?

Response Director Infrastructure Services

The \$24M Bypass is jointly funded with \$20M from the NSW Government and \$4m from Council. The cost to date prior to civil construction is \$3.3M.

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At Council's Ordinary Meeting held on 22 August 2019, Matthew O'Reilly asked the following question which was taken on notice:

Land owners along the Saddle Road responded to Council's resolution 17-260 in 2017 and submitted Expressions of Interest (EOIs) in good faith but now over two years later Council has not even acknowledged receipt of those EOIs through the State Government tender webpage. Does Council have any intention of responding to the non-planning proposal EOIs submitted by land owners at Council's invitation? In particular Council resolution 18-038 called for a Report to be submitted to Council. Other relevant Council Resolutions are 17-260, 17-601, 18-038, 18-543, 18-823.

Response Director Sustainable Environment and Economy:

Land owners along the Saddle Road responded to Council's resolution 17-260 in 2017 and submitted Expressions of Interest (EOIs) in good faith but now over two years later Council has not even acknowledged receipt of those EOIs through the State Government tender webpage.

Response: All proponents received an electronic acknowledgement of their submission.

Does Council have any intention of responding to the non-planning proposal EOIs submitted by land owners at Council's invitation?

Response: Over the last 2 years, a number of letters have been issued and meetings held with Saddle Road EOI proponents and Area 17 landowners, in general. A summary of the engagement has been previously prepared in response to a Question on Notice in 23 August 2018 by the same. This is available on Council's website: <https://www.byron.nsw.gov.au/Council/Council-meetings/Questions-on-notice>

In particular Council resolution 18-038 called for a Report to be submitted to Council. Other relevant Council Resolutions are 17-260, 17-601, 18-038, 18-543, 18-823.

Response: **Res 18-543** supersedes previous resolutions with regard to the accessible housing project and EOI applications currently with Council staff for assessment.

On 19 September 2018, a letter was sent to EOI Affordable Housing Saddle Road proponents advising of **Res 18-543**. This correspondence stated 'we may be in touch further regarding the actioning of this resolution.'

In actioning this resolution, a stay of implementation has been associated with:

- finalising the Residential Strategy – the Preliminary Draft Residential Strategy exhibited in 2016 identified The Saddle Road area as a possible urban residential. At the December 2019 Council meeting Council resolved (**Res 18-823**) to endorse a working draft strategy for public exhibition that does not include this area as a potential urban residential area. This strategy is currently on exhibition until 11 October 2019.
- finalising the Business and Industrial (employment) Lands Strategy – the draft strategy was public exhibited in August - November 2018. A submission was received that sought inclusion of an area of land within Area 17 in this strategy. At the June 2019 Planning meeting Council resolved (**Res 19-281**) to progress with consideration of this land. A public exhibition advising of this intent and calling for submissions has just closed.

With both strategies progressed, staff are now in a position to scope the invitation and issue in coming months.