

Responses to Questions on Notice

Received at the 22 April 2021
Ordinary Meeting of Council

A handwritten signature in black ink, appearing to read "Mark Arnold".

Mark Arnold
General Manager

BYRON SHIRE COUNCIL

QUESTIONS WITH NOTICE

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Question with Notice No. 2 5G Infrastructure

File No: I2021/659

5 At Council's Ordinary Meeting held on 22 April 2021, Rinat Strahlhofer asked the following question which was taken on notice:

When will Council inform the local Byron Shire community of the forward plans of 5G infrastructure including small cell deployment?

Response Director Sustainable Environment and Economy:

10 The revised C564:2020 Mobile Phone Base Station Deployment Industry Code (Nov2020) includes a new public notification obligation that requires mobile carriers to inform local councils and local communities before they deploy temporary mobile phone radiocommunications infrastructure (temporary facilities). Extract below.

3.1.1 *A Carrier must respond to reasonable requests by a Council for information and assistance for the purpose of Council's forward planning.*

15 The Code lists examples of the kind of assistance that Carriers should give to Councils include:

1. providing the Council with the Carrier's forward project plans concerning the deployment of Mobile Phone Radiocommunications Infrastructure;
2. providing the Council with the Carrier's plans concerning service level targets for planned Mobile Phone Radiocommunications Infrastructure;
- 20 3. engaging with other Carriers to explore opportunities for colocation and to investigate opportunities for the coordinated, strategic and efficient deployment of Mobile Phone Radiocommunications Infrastructure;
4. providing the Council with an assessment of the opportunities for co-location of Mobile Phone Radiocommunications Infrastructure with the facilities of other Carriers;
- 25 and
5. providing the Council with as much forward planning notice as possible.

30 There are many other matters that the Code also covers including but not limited to site selection, notification to council and public about new infrastructure and complaints about infrastructure.

Council staff respond to these on a case-by-case basis.

Staff otherwise have not written to the mobile carriers under 3.1.1 of the new Code.

Notwithstanding the above, information is available publicly, Telstra for example has its mobile device coverage maps 3G – 4G and 5G published on their weblink below.

35 [https://www.telstra.com.au/coverage-networks/our-coverage?sacid=71700000074299367&sakwid=p58105662256&sac=Telstra+5G+FY21+-+Top+Keywords+\(GR:E\)&saadg=Generic+Exact+-+Map&saadgid=58700006434536391&gclid=EAlaIqobChMIivyS9Ifn7wIVyr2WCh1fXAWcEAYASAAEgLFuPD_BwE&gclsrc=aw.ds](https://www.telstra.com.au/coverage-networks/our-coverage?sacid=71700000074299367&sakwid=p58105662256&sac=Telstra+5G+FY21+-+Top+Keywords+(GR:E)&saadg=Generic+Exact+-+Map&saadgid=58700006434536391&gclid=EAlaIqobChMIivyS9Ifn7wIVyr2WCh1fXAWcEAYASAAEgLFuPD_BwE&gclsrc=aw.ds)

Question with Notice No. 3 Report 13.14

File No: I2021/660

5 At Council's Ordinary Meeting held on 22 April 2021, Judith Brazenor (Bayside Connected) asked the following question which was taken on notice:

Given the developer hasn't addressed the public transport and pedestrian amenity, as requested by Council, critical to support affordable rental accommodation, if approved will Council be providing public transport services (employment cannot be planned around the school bus) and a car park for the overspill of cars to make our streets safer?

10 **Response Director Sustainable Environment and Economy:**

The Councillors considered [Report 13.14 DA10.2020.571.1](#) at the 22 April 2021 meeting, and also the matters raised in public access on the day, and resolved as follows:

15 **21-154 Resolved that pursuant to Section 4.16 of the Environmental Planning & Assessment Act 1979, Development Application No. 10.2020.571.1 for Mixed Use Development comprising a General Store/Cafe, Cafe, Co-working Space, 8 Shop Top Dwellings and a Boarding House containing 39 Boarding Rooms, be approved subject to conditions listed in Attachment 1 #E2021/57439.**

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Question with Notice No. 4 Report 13.14

File No: I2021/661

5 At Council's Ordinary Meeting held on 22 April 2021, Lisa Sandstrom (Bayside Connected) asked the following question which was taken on notice:

Given the developer hasn't addressed the public transport and pedestrian amenity, as requested by Council, critical to support affordable rental accommodation, if approved will Council be providing public transport services (employment cannot be planned around the school bus) and a car park for the overspill of cars to make our streets safer?

10 **Response Director Sustainable Environment and Economy:**

The Councillors considered [Report 13.14 DA10.2020.571.1](#) at the 22 April 2021 meeting, and also the matters raised in public access on the day, and resolved as follows:

15 **21-154 Resolved that pursuant to Section 4.16 of the Environmental Planning & Assessment Act 1979, Development Application No. 10.2020.571.1 for Mixed Use Development comprising a General Store/Cafe, Cafe, Co-working Space, 8 Shop Top Dwellings and a Boarding House containing 39 Boarding Rooms, be approved subject to conditions listed in Attachment 1 #E2021/57439.**

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Question with Notice No. 5 Report 13.14

File No: I2021/662

5 At Council's Ordinary Meeting held on 22 April 2021, David Carnovale (Bayside Connected) asked the following question which was taken on notice:

10 *The Council Report declares this Boarding House is considered consistent with the 'desired' future character of Brunswick Heads. The Teven Street Boarding House was rejected by Court on the basis of character. In the future all land 400m from B2 and B4 - that's everything from Teven Street down - would surely be suitable on the basis of character. Do Councillors support this decision?*

Response Director Sustainable Environmental and Economy:

The Councillors considered [Report 13.14 DA10.2020.571.1](#) at the 22 April 2021 meeting, and also the matters raised in public access on the day, and resolved as follows:

15 **21-154 Resolved that pursuant to Section 4.16 of the Environmental Planning & Assessment Act 1979, Development Application No. 10.2020.571.1 for Mixed Use Development comprising a General Store/Cafe, Cafe, Co-working Space, 8 Shop Top Dwellings and a Boarding House containing 39 Boarding Rooms, be approved subject to conditions listed in Attachment 1 #E2021/57439.**

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Question with Notice No. 6 Holiday letting prosecution

File No: I2021/663

5 At Council's Ordinary Meeting held on 22 April 2021, John Anderson asked the following question which was taken on notice:

What formal delegation or Council resolution does Cr Ndiaye (or any other individual Councillor or any staff member) rely upon for the reported assertion that prosecution for holiday letting infringements is not financially worthwhile, a proposition that is clearly a policy matter and therefore ought to be decided by a Council vote?

10 **Response Director Ralph James, Legal Counsel:**

The prosecution of unauthorised holiday letting is subject to the following resolution of Council:

15 06-810 Resolved that Council staff not issue any orders or take legal action against a property owner deemed to be holiday letting without reporting to Council. (Tardif/Woods)

20 A limit on the General Manager's delegations may also see the necessity to report proposed holiday letting prosecutions to Council. The General Manager cannot undertake any prosecution where the estimated professional legal costs exceed \$50,000.

Any report to Council would include legal advice as to the state of the evidence and prospects of success, as well the estimate of costs for the Proceedings, should Council authorise the prosecution of unauthorised holiday letting.

25 Any prosecution would be considered on a case by case basis and would require a Council Resolution to commence proceedings.