

Responses to Questions on Notice

Received at the 13 May 2021
Planning Meeting of Council



Mark Arnold
General Manager

BYRON SHIRE COUNCIL

QUESTIONS WITH NOTICE

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Question with Notice No. 1 Zoning and height changes

File No: I2021/808

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At Council's Ordinary Meeting held on 13 May 2021, Hilary Naughton asked the following question which was taken on notice:

Can you tell the community why these changes will make Byron a better place to live?

Response Director Sustainable Environment & Economy:

10 Council considered Report No. 13.4 PLANNING -26.2017.6.1 - Byron Bay Town Centre Planning Controls - Review of submissions and next steps at the Planning meeting 13 May 2021.

Based on the issues raised in the submissions, the recommended changes to the exhibited planning proposal as adopted by Council included:

- 15
- remove the proposed height increase for the block bordered by Lawson St, Jonson St, Middleton St and Bay Ln. Retain the current 9m maximum building height for new development in this area; and
 - remove the change of zone from B2 Local centre to B3 Community Core. Retain the B2 Local Centre zone for all the town centre.

20 Link to the full report here [Agenda of Ordinary \(Planning\) Meeting - Thursday, 13 May 2021 \(infocouncil.biz\)](#)

Question with Notice No. 2 5G

File No: I2021/809

5 At Council's Planning Meeting held on 13 May 2021 the following questions in relation to 5G were asked and were taken on notice.

Tashi Lhamo asked the following question:

Will Council work towards reducing the enormous carbon footprint from the present wireless approach by opting for the implementation of wired, fibre-optic communications infrastructure wherever possible?

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

Council has been actively implementing emissions reduction actions for areas within its remit and reporting on emissions since 2004.

Council has committed to:

- 15 • Achieving 100% net zero emissions for Council operations by 2025 in collaboration with Zero Emissions Byron.
- Sourcing 100% of Council's energy needs through renewable energy within 10 years (2027).
- Becoming certified under the Climate Active Carbon Neutral Standard by 2025/26.

Rinat Strahlhofer asked the following question:

20 *Considering the potential safety risks and increased costs to ratepayers, will Council consult with the public before allowing telcos to install small cells on council-owned infrastructure and along our roads?*

Response Director Sustainable Environment & Economy:

25 Upgrades to mobile phone base stations are reviewed on a case by case basis as notifications are received from Telcos as required by the relevant legislation and or industry code.

Stephanie Jaffray asked the following question:

Where in the Byron Shire are Fibre Optic internet provisions available (suburbs and street names)?

30 **Response Director Sustainable Environment & Economy:**

Fibre Optic cable installation or use plans are the responsibility of Telcos and not Council.

Sher asked the following question:

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Did Byron Shire Council receive any money for signing up to ICLEI or any of ICLEI's projects like its 'Smart City Agenda' or its 'Daring cities' platform?

Response Director Sustainable Environment & Economy:

5 Byron Shire did not receive any money for signing up to ICLEI. Byron Shire has not received grant funding from ICLEI.

Isabel Lucas asked the following question:

Where has Fibre Optic cabling already been installed in the Byron Shire (suburbs and street names)?

Response Director Sustainable Environment & Economy:

10 Fibre Optic cable installation or use plans are the responsibility of Telcos and not Council.

Michael Stavrou asked the following question:

It is reported that 5G infrastructure may need to rely on 10 times more phone towers being built. Does the Byron Shire Council currently have any DAs for mobile phone towers under review by Council staff?

Response Director Sustainable Environment & Economy:

Development Applications received by Byron Shire Council are publicly available for viewing via the DA tracker link below:

[DA Tracker - Byron Shire Council \(nsw.gov.au\)](https://www.nsw.gov.au/da-tracker)

Henriette Blecher asked the following question:

20 *Will Council adopt a precautionary approach and take all necessary steps to ensure that 5G upgrades to towers in "areas of environmental significance" (as defined in the Telecommunications Low-impact Facilities Determination) do not proceed without ensuring long term safety for protected areas before development approval?*

Response Director Sustainable Environment & Economy:

25 Upgrades to mobile phone base stations are reviewed on a case by case basis as notifications are received from Telcos as required by the relevant legislation and or industry code.

Angela Bambach asked the following question:

30 *Has Council requested the telcos (i.e. Telstra, Optus TPG-owned Mobile JV) provide their forward project plans for the deployment of 5G (including tower upgrades, new towers and small cells) in the Byron Shire? If not, please advise the date that Council will request such information from telcos.*

Response Director Sustainable Environment & Economy:

35 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

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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.

5 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;
- 10 2. providing the Council with the Carrier's plans concerning service level targets for planned Mobile Phone Radiocommunications Infrastructure;
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;
- 15 4. providing the Council with an assessment of the opportunities for co-location of Mobile Phone Radiocommunications Infrastructure with the facilities of other Carriers; and
5. providing the Council with as much forward planning notice as possible.

20 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.

Tom Barnett asked the following question:

Which Councillors, and areas within Council, are responsible for liaising with ICLEI?

25 **Response Director Sustainable Environment & Economy:**

The International Council for Local Environmental Initiatives (ICLEI) is an international association of local governments and national and regional local government organisations that have made a commitment to sustainable development.

30 Byron Shire Council has been a member of ICLEI since October 2015, working alongside hundreds of other member organisations and cities to create a more sustainable, low emission development pathway.

Claire Alexander-Johnston asked the following question:

35 *As Byron Shire is a Member of ICLEI, to what extent is ICLEI's "Daring Cities" (formally branded as Smart Cities Agenda), influencing Council's approach to the roll out of 5G and the deployment of smart city technology?*

Response Director Sustainable Environment & Economy:

Council is not currently considering the deployment of smart city technology

Cherie Cowin asked the following question:

- 5 *Can council supply the independent risk assessment carried out for the installations of small cells on public utilities that address road safety, electrical safety hazards, radiation exposure risks to council staff and the general community of the Byron Shire?*

Response Director Sustainable Environment & Economy:

There is no requirement under the legislation and or industry code for Council to undertake its own independent risk assessment for the installation of small cells on its public utilities.

Lauren Antico asked the following question:

- 10 *Who are the key stakeholders that Byron Shire Council needs to discuss the provision of 'Fibre Optic to the Premises' internet with?*

Response Director Sustainable Environment & Economy:

Fibre Optic cable installation or use plans are the responsibility of Telcos and not Council.

Ture Schmidt asked the following question:

- 15 *How does Council plan to engage with the community on this issue of "Smart City" infrastructure that emits a pollutant called wireless radiation (also known as RF, EMR, EME)?*

Response Director Sustainable Environment & Economy:

- 20 Applications for smart city infrastructure upgrades or installations are reviewed on a case by case basis as notifications are received from Telcos as required by the relevant legislation and or industry code.

Justin Picone asked the following question:

- 25 *Will Council commit to objecting all future 5G upgrades or new mobile phone base stations that fall within a 500m distance from children's educational facilities across the Byron Shire?*

Response Director Sustainable Environment & Economy:

Upgrades to mobile phone base stations are reviewed on a case by case basis as notifications are received from Telcos as required by the relevant legislation and or industry code.

- 30 Maria Picone asked the following question:

What is the current status of discussions (either formal or informal) between Council and telcos (i.e. Telstra, Optus TPG-owned Mobile JV) regarding the 5G rollout and the installation of small cells on power poles, lamp posts, bus shelters or any other council assets?

- 35 **Response Director Sustainable Environment & Economy:**

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The rollout is reviewed on a case by case basis as notifications are received from Telcos as required by the relevant legislation and or industry code.

Natalie Stokes asked the following question:

5 *What future Fibre Optic cable installation or use plans does Council have, or is Council aware of?*

Response Director Sustainable Environment & Economy:

Fibre Optic cable installation or use plans are the responsibility of Telcos and not Council.

Daniel Rawson asked the following question:

10 *Will Council request telcos agree to indemnify Council for future losses and claims, arising from telecommunications equipment installed on Council infrastructure (such as lamp posts outside residents' homes and on roadsides and water tanks)?*

Response Director Sustainable Environment & Economy:

No, Council practice is to request indemnity for risks such as physical injury from falling equipment, and damage to Council property only.

15 Michael Leung asked the following question:

Has Council requested that telcos move the antennas from the tops of water tanks in the Byron Shire to ensure that the tanks can be accessed for maintenance and water is not contaminated?

Response Director Sustainable Environment & Economy:

20 Council has discussed relocation of the antennas from the water reservoirs in the Byron Shire with the telcos. Council cannot remove the telco assets due to existing lease agreements and powers under the Telecommunications Act for Telecommunication Utilities to install antennae on the water reservoirs within Byron Shire. Legal would be better suited to advise the legalities involved as it is a complex legal issue which a majority
25 of water utilities across Australia encounter.

Question with Notice No. 3 B3 Zoning

File No: I2021/810

At Council's Planning Meeting held on 13 May 2021, Brooke Crowle registered the following question which was taken on notice:

It is well known that rezoning property can be highly lucrative for the people who own them. The B2 zoning that Byron Bay currently has provides all the facilities for the people who live, work and visit this area. From my reading, B3 Zoning has less rules and regulations, less landscaping, less open space and less car parking. What are the benefits of changing to this B3 zoning?

Response Director Sustainable Environment & Economy:

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Based on the issues raised in the submissions, the recommended changes to the exhibited planning proposal as adopted by Council included:

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