

Responses to Questions on Notice

Received at the 14 December 2023
Planning 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 Fed Sheds Revised DA

File No: I2023/2076

At Council's Ordinary Meeting held on 14 December 2023, Gary Haughton asked the following question which was taken on notice:

When is Council upgrading the Coachwood Court stormwater drainage system after the requested inspection and how can council not refuse the development as all overflowing stormwater is flowing into my property without any easement?

Response: Legal Counsel

On 14 December 2023 Council resolved **23-646** that the General Manager be authorised to enter into a s34 Conciliation Agreement approving development application 10.2021.114.1, subject to appropriate conditions to be finalised under delegation, including consideration of:

- c) The impact of increased stormwater volumes leaving the site
- d) Existing flood problems downstream of the site and in Coachwood Court, to not be made worse by the increased stormwater volume, including year 2050 and 2100 scenarios of increased rainfall
- e) The proposed stormwater "raingarden" discharging over the property boundary onto a neighbouring property, without an easement.

The above parts of Council's resolution are currently subject of ongoing without prejudice discussions between Council's external expert and that of the Applicant.

**Question with Notice No.6 Impacts on Federal Masterplan if
FedSheds approved**

File No: I2024/1

At Council's Ordinary Meeting held on 14 December 2023, Alan Goldstein asked the following question which was taken on notice:

My one question comes about from the fact that exactly one year ago at this final Council meeting of the year Council, you, adopted and endorsed the Federal Village Masterplan, the first community led Masterplan in the Shire. Councillors and Council knows that this was a herculean effort by the community, and staff. If Councillors accept these amended DA plans, given one of the main Actions out of the Masterplan was Action 5 (slide), can Council or Councillors explain why and how the community and its representatives would continue to have faith that their efforts have any real substantive impact on their desire to be directly involved in the evolution of their village as expressed in their Masterplan?

Response Legal Counsel:

Whilst the Federal Village Masterplan has been adopted by Council, the primary built form controls which apply to the site are contained in the locality-specific provisions in Chapter E6 in Part D of the BDCP 2014 (and of course as set by the zoning of the site under the LEP). The LEP and the DCP must be given weight over the Masterplan, and in any case, the Masterplan is not specific in terms of providing for built form controls.

Question with Notice No.9 Fed Sheds consent conditions

File No: I2024/13

At Council's Ordinary Meeting held on 14 December 2023, Mary Mooney asked the following question which was taken on notice:

The on-site sewerage system for this development only caters for 30 staff in 8 large industrial units & in the original DA it stated that they could not be used for artisan food & drink or subdivided and sublet. There is no retail allowed and no toilets for visitors. In the previous Council meeting, the proponent suggested that each unit had been specifically designed to enable sub-division of the space to allow smaller businesses, or sole traders, solo artists etc to operate. Can the Council please explain what is actually allowed & how these constraints will be monitored and enforced?

Response Legal Counsel:

The development application seeks consent for the construction of 3 buildings divided into several separate tenancies to be used for the purposes of light industry, which is permissible with consent in Zone RU5 Village under BLEP 2014. The definition of light industry under BLEP 2014 is as follows:

***light industry** means a building or place used to carry out an industrial activity that does not interfere with the amenity of the neighbourhood by reason of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil, or otherwise, and includes any of the following—*

- (a) high technology industry,*
- (b) home industry,*
- (c) artisan food and drink industry,*
- (d) creative industry.*

The Applicant has confirmed that development for the purposes of an artisan food and drink industry will be excluded from the uses that will occupy the tenancies. If the development application is to be approved, the Council will seek the imposition of a condition of consent requiring a further development consent to be obtained for the fit-out and occupation of each of the various tenancies and this will reflect the exclusion of artisan food and drink industries. The acceptability of any proposed developments to occupy the tenancies will be subject to a merits assessment at the time the further development

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applications are lodged, and this will include consideration of the availability of parking and amenities within the building to service the proposed uses.

The definition of light industry requires that the industrial activity to be carried out not have impacts on the amenity of the neighbourhood and provides a list of examples of such uses, although that list is not exhaustive of the kinds of uses that may be light industries.

On 14 December 2024 Council resolved that the General Manager be authorised to enter into a s34 Conciliation Agreement approving development application 10.2021.114.1, subject to appropriate conditions to be finalised under delegation, including consideration of:

- g) Access to toilets for visitors, deliveries, and clients.

The above part of Council's resolution are currently the subject of ongoing without prejudice discussions between Council's external expert and that of the Applicant.

The proponent's use of the site will be governed by the conditions of development consent which are imposed.

It will be a matter for Council's Community Enforcement Team to investigate any complaints about the unauthorised use of the site and to determine those complaints in accordance with applicable planning instruments and Council's Enforcement Policy.

Question with Notice No.10 Survival of Federal Halls

File No: I2024/14

At Council's Ordinary Meeting held on 14 December 2023, Elizabeth Anne Campbell asked the following question which was taken on notice:

As the Public Officer of the Federal School of Arts Association Inc which manages the Federal Halls without Council assistance, how does Council plan to support the Federal Halls if this development receives approval to go ahead in its present form?

Response Legal Counsel:

At its Ordinary meeting on 14 December 2023 Council received extensive submissions in its Public Access session and debated the staff report at length.

Council resolved **23-646** that the General Manager be authorised to enter into a s34 Conciliation Agreement approving development application 10.2021.114.1, subject to appropriate conditions to be finalised under delegation, including consideration of:

- a) A further reduction in building footprint
- b) An increase in the on-site sewage buffer to boundaries, including where ground slope is 16%
- c) The impact of increased stormwater volumes leaving the site
- d) Existing flood problems downstream of the site and in Coachwood Court, to not be made worse by the increased stormwater volume, including year 2050 and 2100 scenarios of increased rainfall
- e) The proposed stormwater "raingarden" discharging over the property boundary onto a neighbouring property, without an easement
- f) Building setback distances
- g) Access to toilets for visitors, deliveries, and clients
- h) Parking

The form of the development continues to be part of without prejudice discussions between the Applicant and Council.

Question with Notice No.11 Community consultation

File No: I2024/15

At Council's Ordinary Meeting held on 14 December 2023, James Mayson asked the following question which was taken on notice:

In the enforced community consultation, the proponent offered a single concession to move the main building B, back 7 metres from the boundary in order to create a more open space - a sort of village square. Can the proponent please address what they have done with this single concession to the community?

Response Legal Counsel:

This question is addressed to the proponent, and it is a matter for the proponent as to the nature and extent of any response.

For Council's part, on 14 December 2023 Council resolved **23-646** that the General Manager be authorised to enter into a s34 Conciliation Agreement approving development application 10.2021.114.1, subject to appropriate conditions to be finalised under delegation, including consideration of:

- a) A further reduction in building footprint

The above part of Council's resolution is currently subject of ongoing without prejudice discussions between Council's external expert and that of the Applicant.