

Responses to Questions on Notice

Received at the 13 March 2025

5 Ordinary (Planning) Meeting of Council



10 **Mark Arnold**
General Manager

QUESTIONS WITH NOTICE

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Question with Notice No. 1 Clifford Street/ Broken Head Road Intersection

File No: I2025/321

- 10 At Council's Planning Meeting held on 13 March 2025, Liz Levy asked the following question which was taken on notice:

15 *Policy vacillation and previous grants failing at land acquisition, have kept this intersection a known safety hazard for thirty years. As a 2016 report recommended signalisation as the best compromise between capacity, safety and cost, Council staff applied successfully for an option addressing all safety needs and removing the historical impediment to completion with their decision vindicated by the 2024 Metis study.*

20 *Council's recent resolve to again pursue a roundabout and land acquisition carries less, rather than increased chance of success. If its current reversal fails again to utilise grant funding to address long existing safety concerns, will Council seek legal advice on the liability implications of decisions based on community preference for a different culture or "vibe"? To what extent would Crown indemnity of councillors be jeopardised by a decision to ignore expert advice on a known safety risk and would this be deemed "acting in good faith"?*

Response Legal Counsel

- 25 Regarding the query about the 'Crown indemnity of Councillors', assuming this means the *Local Government Act's* protections for Councillors, these protections generally aren't 'jeopardised' by Council as a body making policy decisions.

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Question with Notice No. 2 Clifford Street/Broken Head Road Intersection - Lynne Richardson

File No: I2025/328

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At Council's Ordinary Meeting held on 13 March 2025, Lynne Richardson asked the following question which was taken on notice:

- 10 *Should the resolution proposed and passed re Petition 11.1 on 27/02/2025, be considered an "amendment" given that "c) Notifying an intent to seek a variation to the grant by altering the means by which community safety is delivered for the Broken Head Road / Clifford Street intersection" represents, if not a complete reversal, then a significantly different position to the tabled staff recommendation: "That Council reaffirms its decision in resolution 24-533 to adopt traffic signals as an interim option for the Broken Head Road*
- 15 */Clifford St intersection?"*

Is a resolution of the type passed more appropriately deemed a rescission motion or a separate motion requiring notice (NOM)? In either case wouldn't the resolution require more notice to allow sufficient scrutiny of its implications?

Response Director Phil Holloway:

- 20 Resolution 25-035 was not considered a rescission motion, as it did not revoke or repeal the original resolution 24-533.

Several actions had already been taken on resolution 24-533 such as the General Manager having signed the funding deed, and the remainder are intended to proceed unless a future decision of Council changes this direction.

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**Question with Notice No. 3 Clifford St/ Broken Head
Intersection - Margaret Wiles**

File No: I2025/329

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At Council's Ordinary Meeting held on 13 March 2025, Margaret Wiles asked the following question which was taken on notice:

- 10 *Prior to the decision at the last Council meeting, to change direction on the treatment of the Clifford St/Broken Head Rd intersection, there seemed a dearth of relevant, publicly available information. Crucial to the decision was last minute updated information on Council's website addressing questions and concerns raised by the community and clarifying some of the more outlandish projections being promulgated.*
- 15 *In addition to the absence of any tabled notice of a proposed change of position, what was behind a decision not to publicly release additional material distributed to councillors prior to 27/02/25 meeting? When will this information be publicly available?*

Response Director Infrastructure Services:

Staff are working to update the project website with a dedicated email address to register interest in the project and to send out fortnightly project updates.

- 20 Given the complexities of the project, outstanding grant and developer services agreements with TfNSW, and insufficient design and scope detail, Council did not yet have the necessary information to share with Councillors at that point in time.

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Question with Notice No. 4 Clifford Street/Broken Head rd Intersection

File No: I2025/330

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At Council's Ordinary Meeting held on 13 March 2025, Tony Christie asked the following question which was taken on notice:

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The Resolution re Petition 11.1 (27/02/2025) prescribes a number of steps including:

*Apply for grant variation to a roundabout
Clarify RMS acceptance of a mini roundabout
Conduct land valuations and purchase negotiations
Prepare a report to Council*

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What will be the sequencing of these steps and are any sunset clauses envisaged? How will negotiations and purchases be funded?

By which date will any/all of the above need to be completed to make the March 26 completion deadline feasible? On what grounds might a project extension be sought?

20 Response Director Infrastructure Services:

Resolution 25 - 067 - Item 1 has directed staff to pursue a grant variation for design and construction of pedestrian safety improvement treatments (without traffic lights or a roundabout). This has changed the process and sequencing.

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Res 25 -067 - Item 4 requires staff to plan and investigate the option of a roundabout for the Broken Head Road/Clifford Street intersection.

Council staff are working to determine the updated project program based on the variation design. Once more information is available, Council will provide an update.

TfNSW have advised it would be unlikely to support a completion deadline extension for this project.

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Question with Notice No. 5 Clifford Street Intersection - Kelly Minahan

File No: I2025/331

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At Council's Ordinary Meeting held on 13 March 2025, Kelly Minahan asked the following question which was taken on notice:

10 *Has council undertaken a "SIDRA" study or the equivalent to Assess the safety of a traffic light in this location which analyses traffic flow & bottlenecks of the proposal & potential new collision zones that result, like the downhill S bend south where's speeding cars will be confronted*

with cars banked back due to stoppages at the proposed traffic light & are you aware that almost no pedestrians cross at this intersection?

15 **Response Director Phil Holloway:**

SIDRA intersection modelling was undertaken by Council staff to check against the modelling undertaken by Metis. This primarily focussed on the traffic performance aspects of the intersection and had results that were comparable to the Metis report for both the Roundabout and Signalised options.

20 The safety of the options was both assessed in the report produced by Council staff and by the 2016 TTM report. The TTM report did identify potential safety concerns with the signals however, adequate mitigation could be provided for them without significant redesign or additional costs.

25 Any safety issues are expected to be addressed in a design stage road safety audit. This is standard procedure for most road upgrades

Question with Notice No. 6 BSC Motion 27.2.25 Planning Meeting

File No: I2025/332

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At Council's Ordinary Meeting held on 13 March 2025, Dean Prosser asked the following question which was taken on notice:

10 *Can the BSC please provide an update on all 5 points included in the motion (25-035) that was unanimously supported at the last planning meeting on the 27/3/25*

And

Could the BSC please advise specifically on actions undertaken towards the below motion point 5.

15 *Note that 2 representatives of the Group, David Fligelman & Dean Prosser remain available for this community engagement.*

Response Director Infrastructure Services:

Staff are working to update the project website with a dedicated email address to register interest in the project and to send out fortnightly project updates.

20 Resources were diverted to the disaster management of Ex. TC Alfred and staff are now working to update the project website to align with the grant variation submission.

As of the date of the preparation of this response staff are in the process of developing a variation as per resolution 25-067 that has not yet been submitted to TfNSW.

Staff expect that the variation request will be submitted by mid-April 2025.

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**Question with Notice No. 7 Update on grant variation
Clifford Street**

File No: I2025/333

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At Council's Ordinary Meeting held on 13 March 2025, Joti Jaffray asked the following question which was taken on notice:

- 10 *At the meeting of 27/2 there was a timeline issue raised regarding the next grant funding progress payment date specific to the original Traffic Light project. With respect to the BSC interruptions brought on by cyclone Alfred and also the motion passed at the last meeting. Can you please provide an update on this deadline and forward considerations of such.*

Response Director Infrastructure Services:

- 15 As per Council Resolution 25 - 067, Council has ceased pursuing the implementation of a signalised intersection.

The progress payment date no longer impacts this project as the project is on hold until Council receives a response from TfNSW regarding the outcome of grant variation submission.

- 20 If approved the variation would need to be delivered by 31 March 2026.

Question with Notice No. 8 Community Communication

File No:

I2025/334

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At Council's Ordinary Meeting held on 13 March 2025, Renee Achjian asked the following question which was taken on notice:

10 *We commend the BSC community communication process & updates during the recent cyclone. Is there a reason why these effective & efficient mediums of communication have not & are still not utilised regarding communication with the Suffolk Park & Broken Head community re the Suffolk Park intersection project.*

Response Director Infrastructure Services:

15 Given the complexities of the project, outstanding grant and developer services agreements with TfNSW, and insufficient design and scope detail, Council did not yet have the necessary information to publicly release further details on the project.

However, information on the project has been available on Council's website, with updates provided as needed.

Moving forward, Council remains committed to ensuring regular updates are made available to keep the community informed.

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Question with Notice No. 9 Prior resolutions for road safety in Suffolk Park

File No: I2025/335

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At Council's Ordinary Meeting held on 13 March 2025, Jan Barham asked the following question which was taken on notice:

10 *Last week I provided to the Mayor a document that included council resolutions from 2016 to 2020 that related to safety outcomes for the Broken Head Road and Clifford Street intersection and requested it be provided to all councillors. Will the questions and or reporting on the resolutions in relation to the failure to implement the safety outcomes be answered? and identify why they weren't implemented and provide responses on the website?*

15 **Response Director Infrastructure Services:**

In reference to Resolution 16-064; Resolution 20-432 and Resolution 21-263 staff have noted the concerns and safety outcomes raised.

20 The submission of the grant application in 2024 was intended to address current safety issues for vulnerable road users which relate to the previous resolutions associated with safety at the intersection.

Following further reporting on the matter since November 2024, which has included consideration of alternative options, Council have now resolved as per Resolution 25-067 to seek a variation to the original grant application to address safety concerns.

25 Information on the project has been available on Council's website, with further updates to be provided.

Council remains committed to ensuring regular updates are made available to keep the community informed.

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Question with Notice No. 10 STRA non-compliance with 60 day cap zones

File No:

I2025/336

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At Council's Ordinary Meeting held on 13 March 2025, David Wallace asked the following question which was taken on notice:

- 10 *There is concern within the community that recalcitrant STRA owners and managers are not complying with the 60 day cap, or, intend to not comply based on observation of potential future bookings. Using the DPHI Premises Register, how many un-hosted STRA are located in Byron Shire 60 day cap zones and how many of these are required to renew their registration between the date this data is accessed and the 22nd September, 2025?*

Response Director Shannon Burt:

- 15 Council monitors the NSW STRA register to track the number of hosted and unhosted STRA registrations in Byron Shire. As of 13 March 2025, the following data was recorded for non-hosted STRA:
- 60-day cap: 652
 - 180-day (currently blocked*): 153
 - 20 • 180-day registrations expiring up until 23 September 2025: 208

**Blocked – 3-month period given to re-register after current expiration.*

- 25 Due to the STRA registration being operator-dependent, it is not possible to provide an accurate count of un-hosted STRA in the 60-day cap zones at any particular time. An observation is that 'non-hosted' operators are registering as 'hosted' to obtain a 365 day exemption or claiming 'exempt' status on booking websites. We are actively monitoring the STRA Register and booking sites to identify these breaches.

Additionally, due to the way registration changes have been implemented in Byron Shire, the 60-day cap will not fully normalize across the precincts until after 25 September 2025.

- 30 Council is otherwise actively monitoring the available day cap data and responds to breaches in accordance with its Enforcement Policy.