



Byron Shire Council



Agenda Ordinary (Planning) Meeting

Thursday, 8 April 2021
held at Council Chambers, Station Street, Mullumbimby
commencing at 11.00am

Public Access relating to items on this Agenda can be made between 11.00am and 11.30am on the day of the Meeting. Requests for public access should be made to the General Manager or Mayor no later than 12.00 midday on the day prior to the Meeting.

A handwritten signature in black ink that reads "Mark Arnold".

Mark Arnold
General Manager

CONFLICT OF INTERESTS

What is a “Conflict of Interests” - A conflict of interests can be of two types:

Pecuniary - an interest that a person has in a matter because of a reasonable likelihood or expectation of appreciable financial gain or loss to the person or another person with whom the person is associated.

Non-pecuniary – a private or personal interest that a Council official has that does not amount to a pecuniary interest as defined in the Code of Conduct for Councillors (eg. A friendship, membership of an association, society or trade union or involvement or interest in an activity and may include an interest of a financial nature).

Remoteness – a person does not have a pecuniary interest in a matter if the interest is so remote or insignificant that it could not reasonably be regarded as likely to influence any decision the person might make in relation to a matter or if the interest is of a kind specified in the Code of Conduct for Councillors.

Who has a Pecuniary Interest? - a person has a pecuniary interest in a matter if the pecuniary interest is the interest of the person, or another person with whom the person is associated (see below).

Relatives, Partners - a person is taken to have a pecuniary interest in a matter if:

- The person's spouse or de facto partner or a relative of the person has a pecuniary interest in the matter, or
- The person, or a nominee, partners or employer of the person, is a member of a company or other body that has a pecuniary interest in the matter.

N.B. “Relative”, in relation to a person means any of the following:

- (a) the parent, grandparent, brother, sister, uncle, aunt, nephew, niece, lineal descends or adopted child of the person or of the person's spouse;
- (b) the spouse or de facto partners of the person or of a person referred to in paragraph (a)

No Interest in the Matter - however, a person is not taken to have a pecuniary interest in a matter:

- If the person is unaware of the relevant pecuniary interest of the spouse, de facto partner, relative or company or other body, or
- Just because the person is a member of, or is employed by, the Council.
- Just because the person is a member of, or a delegate of the Council to, a company or other body that has a pecuniary interest in the matter provided that the person has no beneficial interest in any shares of the company or body.

Disclosure and participation in meetings

- A Councillor or a member of a Council Committee who has a pecuniary interest in any matter with which the Council is concerned and who is present at a meeting of the Council or Committee at which the matter is being considered must disclose the nature of the interest to the meeting as soon as practicable.
- The Councillor or member must not be present at, or in sight of, the meeting of the Council or Committee:
 - (a) at any time during which the matter is being considered or discussed by the Council or

Committee, or

- (b) at any time during which the Council or Committee is voting on any question in relation to the matter.

No Knowledge - a person does not breach this Clause if the person did not know and could not reasonably be expected to have known that the matter under consideration at the meeting was a matter in which he or she had a pecuniary interest.

Non-pecuniary Interests - Must be disclosed in meetings.

There are a broad range of options available for managing conflicts & the option chosen will depend on an assessment of the circumstances of the matter, the nature of the interest and the significance of the issue being dealt with. Non-pecuniary conflicts of interests must be dealt with in at least one of the following ways:

- It may be appropriate that no action be taken where the potential for conflict is minimal. However, Councillors should consider providing an explanation of why they consider a conflict does not exist.
- Limit involvement if practical (eg. Participate in discussion but not in decision making or vice-versa). Care needs to be taken when exercising this option.
- Remove the source of the conflict (eg. Relinquishing or divesting the personal interest that creates the conflict)
- Have no involvement by absenting yourself from and not taking part in any debate or voting on the issue as of the provisions in the Code of Conduct (particularly if you have a significant non-pecuniary interest)

RECORDING OF VOTING ON PLANNING MATTERS

Clause 375A of the Local Government Act 1993 – Recording of voting on planning matters

- (1) In this section, **planning decision** means a decision made in the exercise of a function of a council under the Environmental Planning and Assessment Act 1979:
- (a) including a decision relating to a development application, an environmental planning instrument, a development control plan or a development contribution plan under that Act, but
- (b) not including the making of an order under that Act.
- (2) The general manager is required to keep a register containing, for each planning decision made at a meeting of the council or a council committee, the names of the councillors who supported the decision and the names of any councillors who opposed (or are taken to have opposed) the decision.
- (3) For the purpose of maintaining the register, a division is required to be called whenever a motion for a planning decision is put at a meeting of the council or a council committee.
- (4) Each decision recorded in the register is to be described in the register or identified in a manner that enables the description to be obtained from another publicly available document, and is to include the information required by the regulations.
- (5) This section extends to a meeting that is closed to the public.

BYRON SHIRE COUNCIL
BUSINESS OF ORDINARY (PLANNING)
MEETING

1. PUBLIC ACCESS
2. APOLOGIES
3. REQUESTS FOR LEAVE OF ABSENCE
4. DECLARATIONS OF INTEREST – PECUNIARY AND NON-PECUNIARY
5. TABLING OF PECUNIARY INTEREST RETURNS (CL 4.9 CODE OF CONDUCT FOR COUNCILLORS)
6. ADOPTION OF MINUTES FROM PREVIOUS MEETINGS
 - 6.1 Ordinary (Planning) Meeting held on 11 March 2021
7. RESERVATION OF ITEMS FOR DEBATE AND ORDER OF BUSINESS
8. MAYORAL MINUTE
9. NOTICES OF MOTION

Nil
10. PETITIONS
11. SUBMISSIONS AND GRANTS
12. DELEGATES' REPORTS
13. STAFF REPORTS
 - Sustainable Environment and Economy**
 - 13.1 Parklet trial..... 5
 - 13.2 PLANNING - Report of the 11 March 2021 Planning Review Committee 8
 - 13.3 Update Resolution 21-062 Creation of a Byron Shire Council Community Land Trust 10
14. QUESTIONS WITH NOTICE
 - 14.1 Agglomerated data on dwelling supply in Byron Shire 20

Councillors are encouraged to ask questions regarding any item on the business paper to the appropriate Director prior to the meeting. Any suggested amendments to the recommendations should be provided to Councillor Support prior to the meeting to allow the changes to be typed and presented on the overhead projector at the meeting.

STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

Report No. 13.1 Parklet trial

Directorate: Sustainable Environment and Economy

5 **Report Author:** Kylie Grainey, Business Improvement Officer

File No: I2021/353

Summary:

10 Council resolved to conduct a shire-wide Parklet trial in 2020 whereby businesses could use car parking spaces as an extension of their business between 5-11pm daily for a 12 month period.

An expression of interest to take part in the trial was opened between December 2020 and February 2021. One EOI was received and feedback was received from other interested businesses.

15 In preparing the EOI, a number of issues were identified that resulted in a change to the original intention of the resolution. These issues were also raised through enquiries to the EOI and are discussed in the report.

20 **RECOMMENDATION:**

1. **That Council uses the results and feedback from the first three months of the Talking Streets trial in Mullumbimby to inform the development of a Shire wide 'Parklets and Street Activation Policy.**
- 25 2. **That the development of the 'Parklets and Street Activation Policy be commenced, including (but not limited to) consultation with relevant chambers around site suitability, consideration of loss of car parking spaces and safety requirements.**

30

Report

Council resolved to conduct a shire-wide Parklet trial. The trial was to allow businesses to use car parking spaces adjacent to their premises between 5-11pm.

5 The resolution called for a pilot-program to operate from November 2020 for a 12 month period. Issues around the management of car parking spaces and the ability of businesses to pack and unpack a parklet for evening use were flagged. Parklet initiatives in other shires, such as those discussed in the original NOM have been installed on a semi-permanent or permanent basis. Mobile options are also available.

10 Therefore an expression of interest was formulated that would then be reported to Council to further progress the initiative.

The [EOI was opened](#) between December 2020 and February 2021. One official response was received. General enquiries were made from other businesses. Questions around safety, management and viability were raised. These are discussed below.

Key issues

15 Business feedback was similar to issues considered when preparing the EOI. These include:

1. Difficulty of managing the availability of car parking spaces from 5pm. For example if a car is left in an allocated parklet space, who is responsible for moving it should the business have that area booked for the evening. This would then have impacts on the license fees and the business.
20
2. It would be onerous and possibly not viable for businesses to pack and unpack a space each night. If a mobile option was proposed, where the mobile unit could be kept during the day so to not reduce parking spaces outside of 5-11pm.
3. Safety issues and the need for solid bollards to protect patrons. How this would be managed on a day to day basis by businesses?
25

The Talking Streets trial in Mullumbimby is about to commence. Council has purchased two parklets to be installed in Stuart Street to allow the community to try out these spaces and decide if they are something that they would like to be seen on a more permanent basis.

30 Sydney City has recently set up a similar initiative, but not of a temporary nature where businesses would pack and unpack daily. Cafes, restaurant, bars and cultural venues can apply to [take over parking spaces](#). They have clear guidelines around who is eligible to make application. As part of the trial Council are providing [safety barriers for sites](#), that will be installed and removed for free.

Options

In considering the feedback from businesses, Council would need to determine if temporary parklets are something to pursue, or should semi-permanent or permanent options be considered more suitable.

- 5 If this were the case, Council would need to agree to the loss of car parking spaces, and revenue where paid parking is in place. Parking spaces are important to the community. If the resolution was to allow businesses to use them on a semi-permanent or permanent basis, further consultation may be required.

- 10 Council could decide to use the results and feedback from the Mullumbimby trial to inform the development of a shire-wide 'Parklets and Street Activation Policy' as per 5 in the resolution to hold the trial.

- 15 Through development of the policy, issues such as managing the reduction in car parking spaces, site suitability and safety could be addressed. It would also provide opportunity for consultation with the business chambers, and interested groups to enable identification of suitable and unsuitable areas within the town centres.

Strategic Considerations

Community Strategic Plan and Operational Plan

4.1.1.5 Implement Our Mullumbimby Masterplan, Bangalow Village Plan and Byron Arts and Industry Estate Plan.

20 Legal/Statutory/Policy Considerations

Not applicable

Financial Considerations

There is no budget for the Parklet trial.

Consultation and Engagement

- 25 The trial was opened up to businesses to submit an EOI. One response was received.

Report No. 13.2 **PLANNING - Report of the 11 March 2021 Planning Review Committee**
Directorate: Sustainable Environment and Economy
Report Author: Chris Larkin, Manager Sustainable Development
File No: I2021/415

5

Summary:

10 This report provides the outcome of the Planning Review Committee (PRC) held on 11 March 2021.

NOTE TO COUNCILLORS:

15 In accordance with the provisions of S375A of the Local Government Act 1993, a Division is to be called whenever a motion for a planning decision is put to the meeting, for the purpose of recording voting on planning matters. Pursuant to clause 2(a) under the heading Matters to be Included in Minutes of Council Meetings of Council's adopted Code of Meeting Practice (as amended) a Division will be deemed to have been called by the mover and seconder of all motions relating to this report.

RECOMMENDATION:

20 That Council endorses the outcomes of the Planning Review Committee meeting held on 11 March 2021.

REPORT

The Planning Review Committee meeting was held on 11 March 2021. The Meeting commenced at 1:30pm and concluded at 2:00pm.

Councillors: Crs Lyon, Martin, Cameron, Ndiaye, Richardson, Coorey, Hunter

5 Apologies: Crs Spooner, Martin, Hackett

Staff: Chris Larkin (Manager Sustainable Development)

The following development applications were reviewed with the outcome shown in the final column.

DA No.	Applicant	Property Address	Proposal	Exhibition Submissions	Reason/s Outcome
10.2021.16.1	Matt Walker	10 Huonbrook Road UPPER WILSONS CREEK	Change of Use to General Store and Restaurant	Level 2 25/1/21-8/2/21 80 submissions	The number of public submissions. Council
10.2021.84.1	RE Darney	68 Rankin Drive Bangalow	Subdivision One (1) into Three (3) Lots	Level 2 18/2/21-3/3/21 19 submissions	The number of public submissions. Council

10 The Land and Environment Court and Council determined the following original development applications as noted.

The Section 4.56 and 4.55 applications to modify these development consents were referred to the Planning Review Committee to decide if these modification applications can be determined under delegated authority. The outcome is shown in the final column.

DA No.	Applicant	Property Address	Proposal	Exhibition Submissions	Reason/s Outcome
10.2019.245.3	Northern Rivers Surveying Pty Ltd	1859 Hinterland Way EWINGSDALE	S4.55 to Modify Size of Building Envelope	Level 1 2/2/21-16/2/21 3 submissions	Staff Delegation
10.2016.444.2	Joe Davidson Town Planning	5 Bulgoon Crescent OCEAN SHORES	S4.55 to alter the approved subdivision layout and amend condition 28(g) to allow up to two (2) Dwellings per Lot	Level 1 25/2/21-8/2/21 4 submissions	Staff Delegation

Report No. 13.3 Update Resolution 21-062 Creation of a Byron Shire Council Community Land Trust

Directorate: Sustainable Environment and Economy

5 **Report Author:** Shannon Burt, Director Sustainable Environment and Economy
Natalie Hancock, Senior Planner

File No: I2021/430

Summary:

Council at the Planning Meeting on 11 March 2021 considered Report No. 13.4 Council's role in Housing Delivery and resolved **Res 21-062** as follows:

10 That Council:

1. Note the staff report on Council's role in Housing.
2. Request staff to further investigate the Community Land Trust, Live-Work and Restricted Purchase models to see how they can be applied to Council owned land and developments including contributions under a SEPP 70 Affordable Housing Contribution Scheme.
3. Receive a report by or before mid-year on the findings of 2 with recommendations on the appropriate next steps for application and implementation of the preferred model/s to Council land and developments.

20 This report presents the findings of an investigation into the Community Land Trust Model and how it can be applied to Council owned land and developments.

It recommends that Council progress with establishing a Land Trust as a Council entity to hold land for the development of local housing that meets the needs of the community.

25 A subsequent report on Live Work and Restricted House Models as per item 2 will be presented separately to Council before June.

RECOMMENDATION:



30 That Council:

1. **Notes the staff report Update Resolution 21-062 Creation of a Byron Shire Council Community Land Trust.**

BYRON SHIRE COUNCIL

2. **Agrees in principle to the establishment of a Land Trust as a Council legal entity to hold land for the development of local housing that meets the needs of the community. The agreed name of the entity to be 'Byron Shire Land Limited'.**
- 5
3. **Agrees that the most appropriate Council legal entity is a company limited by guarantee and licensed.**
4. **Subject to 2 and 3, authorises the General Manager to:**
- 10
- a) **seek the consent of the Minister for Local government to form and acquire a controlling interest in this Council legal entity.**
- b) **subject to Ministerial consent, undertake the following steps to:**
- i) **set up a company to progress the establishment of the Council legal entity.**
- 15
- ii) **investigate the means for resourcing the Council legal entity.**
- iii) **prepare a draft Memorandum of Understanding between Council and the Council legal entity.**
- iv) **identify and secure those parts of Lot 22 on DP 1073165 and old Mullumbimby hospital site to be designated for housing as assets to held by the Council legal entity.**
- 20
5. **Receive a further update report/s on item 4 as progressed and or completed.**

Attachments:

- 25
- 1 Byron Community Land Ltd Action Plan V3, E2021/47391 
- 2 Special Disclosure of Pecuniary Interests, E2012/2815 

Report

Background

The concept of a Land Trust is not new to Council.

5 It was talked about in the 2008 Affordable Housing Strategy by Judith Stubbs & Associates and more recently at the Byron Shire Housing Summit in early 2017.

The Summit brought together stakeholders from government, housing providers, private industry and community to look at current policies, development practices and programs for housing and to look at what could be done differently to improve the availability and supply of housing in Byron.

10 See the [Storybook sketches](#) for an overview of the Housing Summit topics.

<https://www.byron.nsw.gov.au/Community/Community-support/Housing-Affordability-Initiatives/Stakeholder-meetings-and-presentations>

On the back of the Summit, Council resolved to become a foundation member of the Byron Community Land Limited (BCLL) in 2018.

15 [Notice of Motion No 9.1 Byron Community Land Limited Foundation Memberships](#)

The principal purpose for which the BCLL was established was “to acquire land to provide Charitable housing in perpetuity for people in need of charitable housing who live or work in the Shire”.

20 Notwithstanding the commitment of the Board to the principle purpose, the decision was taken by the Board to voluntarily deregister the company on 23 March 2020.

This mainly occurred around the lack of financial viability and organisational capacity of getting a pilot project off the ground given the need to acquire land for this purpose in the first instance. Both these impediments can be overcome by a Council led Land Trust.

25 Note: Source of below content - AHURI web page <https://www.ahuri.edu.au/research/ahuri-briefs/what-is-a-community-land-trust>

What is a Community Land Trust?

A Community Land Trust (CLT) is a form of shared ownership of a property, where the land component of a residential property is owned by community based, not-for-profit legal entity and the actual building is owned (or leased long-term) by an individual household.

30 How does a CLT work?

As CLTs remove land costs from the cost of housing they can make housing more affordable, particularly in markets where increases in land value outpace income gains for lower income workers. The CLT will charge an ongoing ground lease (i.e. a form of rent) for the land, often payable monthly by the householder. This ground lease may be subsidised for low income households so as to make housing affordable.

35

What are the benefits?

5 *CLTs offer householder's many of the benefits of home ownership, including householder's control over a dwelling, security of tenure and transfer of occupancy rights, and the potential for some asset wealth building. The ground leases on which the homes are built are inheritable, and properties on leased land can be bought and sold at prices determined by a resale formula spelt out in each CLT's ground lease.*

10 *When the householder decides to sell, any increases in the value of the property are limited through the use of predetermined price formulae instead of being based upon open market values. The intention is that, rather than the initial subsidy dissipating when the household sells; the community partner's ongoing financial interest ensures the home will remain affordable for future households.*

The benefits for governments come from assisting lower income households into affordable rental or housing ownership, which can relieve the strain on housing assistance programs.

15 Community Land Trust examples

In Australia, Community Land Trusts are not common.

The Australian Capital Territory is the largest and most familiar government run Land Trust.

20 Other examples include the Brisbane Housing Company, Mount Alexander Community Land Limited (MACLL), St Kilda Community Housing Limited (SKCH).

<https://bhcl.com.au/>

<http://www.macll.org.au/>

<https://stkch.org.au/>

25 Notwithstanding the above, interest in Land Trusts to address local housing needs is on the increase. A recent proposal submitted for a Sydney metropolitan Land Trust concept as part of a Sydney City Council affordable housing ideas challenge exemplifies this.

<https://www.cityofsydney.nsw.gov.au/vision-setting/alternative-housing-ideas-challenge>

30 Staff have been in contact with one of the authors of the proposal Dr Louise Crabtree for further advice in this regard. Dr Crabtree is known for her expertise having written several publications on Community Land Trusts in Australia.

Further, and in response to our declaration of a housing emergency (Report 9.4 Housing Crisis 25/03/21), the establishment of a Byron Shire Land Trust has been raised directly

BYRON SHIRE COUNCIL

STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

13.3

with the Minister for Planning and Minister for Local Government. The support of both will be necessary if Council is to take the next steps as per the report and recommendation.

By comparison, there are over 500 Community Land Trusts (CLT) operating throughout the U.S., Canada, UK and New Zealand.

- 5 The operation of these CLTs has demonstrated success by flexibility. That is, they can be designed to serve the most critical housing needs their own community, whatever these may be.

CLTs in the main:

- Provide affordable housing for lower income residents in the community.
- 10 • Promote resident ownership and control of housing.
- Keep housing affordable for future residents.
- Capture the value of public investment for long-term community benefit.
- Gain control over local land use and reduce absentee ownership.

- 15 The Champlain Housing Trust (CHT) was formed by the merger between the Burlington Community Land Trust and Lake Champlain Housing Development Corporation in 2006.

<https://web.vermont.org/Real-Estate-Housing/Champlain-Housing-Trust-1220>

The Queenstown Lakes Community Housing Trust (QLCHC) established by the Queenstown Council (Council), has operated since 2008.

<https://www qlcht.org.nz/>

- 20 AHURI research from 2012 found:
- 25 *“CLTs may have potential application in Australia to address affordable home ownership concerns, increase the range of housing tenure options available, foster community development and social capital, and maintain a stock of perpetually affordable housing options.”*

Why does Byron Shire need a Land Trust?

- 30 Looking to the future, Council is likely to receive land for affordable housing development from land it currently holds such as Lot 22 and the old Mullumbimby hospital site; and as a result of two other key planning mechanisms:

- land dedication under a voluntary planning agreement; or

- land dedication (or land and housing or monetary contributions) under a SEPP 70 affordable housing contribution scheme.

As a consequence of the above, Council needs a simple means to receive and hold land to enable affordable housing to be built upon it by the Land Trust as agreed.

5 **Key components of a Byron Shire Council Land Trust**

Each component of a Byron Shire Council Land Trust model is identified and discussed below.

10 Land Trust Entity

The entity needs to be set up correctly so that it's eligible for tax concessions, can receive contributions and is as easy as possible to administer.

- 15 As a simplified explanation, the land trust would be set up as an incorporated company acting as trustee for the land.

20 Under the *Local Government Act 1993*, Council has the power to form such a company with Ministerial consent. In naming the land entity the words trust and trustee cannot be used in company or business names because of restrictions under the *Corporations Act 2021 (Cth.)* and the Business Names Registration.

25 A suggested name is '*Byron Shire Land Limited*' thus sending a clear message as to its purpose. The final naming would be subject to Australian Security and Investments Commission approval.

30 A constitution is fundamental to the company's governance. To be effective it should set out important objectives, certain rights, roles and responsibilities including who the Land Trust will support, how it will be funded and who will administer it and how.

35 That said the Land Trust needs to operate within the federal and state regulatory framework. For example, if land or funds held have been dedicated via an affordable housing contribution scheme its use by Land Trust must be compliant with the regulations governing such a scheme i.e. use for the purpose of providing affordable housing.

Below are some suggested criteria for a Byron Shire Land Trust, listed under typical constitutional headings.

40 Principal purpose

To acquire land to provide charitable housing in perpetuity for people in need of charitable housing who live or work in the Shire.

Administration

The entity to have:

- 5
- majority shareholder – Byron Shire Council
 - Chief Executive Officer or General Manager

 - Board members.

The Board to:

- 10
- initially comprise representatives from Council, community housing providers, not-for-profit organisations; and suitably qualified individuals with specialist expertise beneficial to the operation of the Land Trust.

The initial membership:

- 15
- to be determined by an expression of interest process.

In the longer term with the delivery of homes, residents may be added to the Board mix.

- 20
- All Board members would undergo the same training to understand their role in guiding the Land Trust according to its stated objectives.

Stewardship of Land

25 Principles as stated below:

- the land component to remain in the ownership of the Land Trust
- the Land Trust will be able to lease the land and charge an ongoing ground lease (i.e. a form of rent) for the land

30

- ground leases on which the homes are built are inheritable, and properties on leased land can be bought and sold at prices determined by a resale formula spelt out in each Land Trust's ground lease
- due to an encumbrance registered on the title, the land would revert back to the Council should the Land Trust wind up.

35

Ground leases

A primary intent could be to provide long term leases, say for 50 years to:

- 40
- Registered community housing providers
 - Not-for-profit organisation including co-operatives as legally incorporated member-based entities that provide housing for their members and are bound by relevant national or state legislation.

BYRON SHIRE COUNCIL

STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

13.3

Additional scope for leases directly to individuals satisfying social and affordable housing criteria to build homes could be considered.

5 Further and of note, staff from the Department of Planning, Industry and Environment have verbally advised that under the Short Term Rental Accommodation (STRA) regulations the Land Trust and any principle ground lessee will be able to prohibit residents from subletting for STRA.

Funding, Land Sources and Operating Cost

10 The Land Trust would be able to receive funding through government grants and also through ongoing contributions of land, buildings and/or funds from private local developers who have committed support for community housing as part of an upzoning process of their land under an AHCS or voluntary planning agreement.

15 The ground lease rent would also be a source of revenue.

20 It is recommended that an Action Plan be prepared once the entity is created and board members chosen to provide further guidance on the Land Trust's operations in regard to priorities, strategies and success indicators. Attachment 1 provides an example of an Action Plan that was prepared for Byron Community Land Limited.

Memorandum of Understanding (MOU)

25 An MOU arrangement is recommended to maintain the independence of the Land Trust from Council, so that it can act independently from the Council. It also enables capacity for Council to work with community housing providers or other not-for-profit housing organisations in other aspects of Council's operations. An example of this is the Queenstown Lakes Community Housing Trust.

30 Some suggested basic criteria for an MOU between Council and a Trust could include:

- is intended to be part of the long term solution for housing in our Shire
- the parties agree to work together with openness and clarity on each parties' function
- 35 • the parties agree to serve as a model of land stewardship and community development that could be simply replicated
- the parties agree to help insulate the community housing interests by being able to exclude engagement with organisations/businesses that are monopolistic and/or speculative
- 40 • Council will confirm that the Land Trust is its preferred for receiving any contribution received by Council under a Affordable Housing Contribution Scheme or Voluntary Planning Agreement

BYRON SHIRE COUNCIL

STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

13.3

- land or cash contributed from the Council to the Land Trust is to be used exclusively for the mutually agreed purpose, and will be subject to an encumbrance in favour of the Council
- Council will provide administrative support, possibly provision of an annual grant, with the mutual aim of reducing the support services from the Council to the Land Trust over time with an intent to that the Land Trust largely operates at no cost to the rate payers.

Next steps

Seek the consent of the Minister for Local Government to form and participate in the formation of a Land Trust as a Council entity; and to acquire a controlling interest in a Council entity; which purpose is to hold land for the development of local housing that meets the needs of the community.

Strategic Considerations

Community Strategic Plan and Operational Plan

CSP Objective	L2	CSP Strategy	L3	DP Action	L4	OP Activity
Community Objective 4: We manage growth and change responsibly	4.2	Support housing diversity in appropriate locations across the Shire	4.2.1	Establish planning mechanisms to support housing that meets the needs of our community	4.2.1.2	Prepare a report on deliberative development models to facilitate the delivery of accessible housing

Recent Resolutions

- 20 -365
- 21- 062
- 21 -112
- 21- 114

Legal/Statutory/Policy Considerations

358 Restrictions on formation of corporations and other entities

(1) A council must not form or participate in the formation of a corporation or other entity, or acquire a controlling interest in a corporation or other entity, except—

BYRON SHIRE COUNCIL

STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

13.3

(a) with the consent of the Minister and subject to such conditions, if any, as the Minister may specify, or

(b) as provided by this Act.

5 (2) This section does not prevent a council from being a member of a co-operative society or a company limited by guarantee and licensed not to use the word "Limited" in its name.

(3) In applying for the Minister's consent under subsection (1)(a), the council is required to demonstrate, to the Minister's satisfaction, that the formation of, or the acquisition of the controlling interest in, the corporation or entity is in the public interest.

10 (3A) The regulations may make provision for or with respect to the matters to be taken into account by the Minister in deciding whether to grant consent under this section and the conditions that may or must be specified by the Minister under this section.

(4) In this section, entity means any partnership, trust, joint venture, syndicate or other body (whether or not incorporated), but does not include any such entity that is of a class prescribed by the regulations as not being within this definition.

15 Legal advice will be sought as required to inform the process.

Financial Considerations

Not applicable to this report recommendation.

QUESTIONS WITH NOTICE

Question with Notice No. 14.1 Agglomerated data on dwelling supply in Byron Shire

5 **File No:** 12021/397

At Council's Ordinary Meeting held on 25 February 2021, Cr Coorey asked the following question which was taken on notice:

10 In view of the recently adopted Residential Strategy and to assist in considering future planning decisions, can Councillors and the community be advised of changes in residential approvals since the operation of the Byron LEP 2014.

15 Can staff please provide figures for the number of new dwellings, rural tourist accommodation rooms and new lots approved as complying development, council approved development and NRPP approved development. Can these figures be divided into:

In rural areas all approvals, including:

- primary dwellings
- dual occupancies
- 20 • secondary dwellings
- workers dwellings
- studios
- Rural tourist cabins, farmstay accommodation or eco-tourism accommodation

In urban areas all approvals including:

- 25 • detached dwellings
- secondary dwellings
- dual occupancies approved as strata title or freehold developments
- multi dwelling housing approved as strata title or freehold developments
- studios
- 30 • shop top housing dwellings

and

- Ancillary caretaker dwellings/Ancillary managers and staff dwellings.
- Ancillary dwellings in industrial and business zones
- New lots under 800m2 with dwelling entitlements
- 5 • New lots under 1000m2 with dwelling entitlements
- New lots over 10002 with dwelling entitlements

NB please count total dwellings, total rooms and total lots, not total approvals as often multiple dwellings are included in a single approval such as multi dwelling housing, dual occupancies or a new house and secondary dwelling.

10 Rural includes RU1, RU2, RU5, R5 and environmental zones.

Urban includes all Residential, Business and Industrial Zones.

Response Director Sustainable Environment and Economy:

Councillor Coorey asked the same [question](#) of staff for the period 2014-2017 at the 22 March 2018 Ordinary meeting. The [response](#) was reported to the 19 April 2018 meeting.

15 The tables below break down the Development (DA) and Complying Development (CDC) applications approved during the calendar years from 2018 to 2021.

It is not possible to provide the level of detail requested in the question above as information collected and collated by Council does not necessary correlate. As such the breakdown in the response provided below is based on that information that is readily able to be accessed and presented by staff from Council records or other sources.

20

Dwellings

The figures show the total number of dwellings approved. Studios are reported on the number of applications.

25 Bedroom numbers are not captured on Council's electronic register. To capture this information each application would need to be individually reviewed by a staff member, a task that is not resourced to be done.

There has been an increase in the number of applications that include demolition to replace existing buildings. The type or portion of building being replaced is not easily captured. During the period 2018-2021 (YTD) there have been 129 applications that include demolition.

30

The Census includes a question on the number of bedrooms per household which may be of use in this regard. A link to the Byron Community profile web follows:

<https://profile.id.com.au/byron>

BYRON SHIRE COUNCIL

QUESTIONS WITH NOTICE

14.1

Table 1 Urban dwellings approved between 2018-2021

Urban	2018	2019	2020	2021	Total
Dwelling	71	101	71	7	250
Secondary Dwelling	107	89	55	4	255
Dual Occupancy	67	43	49	4	163
Studio	12	14	10	0	36
Medium Density Development	120	30	71	9	230
Tourist facility/cabins	3	3	0	0	6
Total	380	280	256	24	940

Table 2 Rural dwellings approved between 2018-2021

Rural	2018	2019	2020	2021	Total
Dwelling	28	30	18	3	79
Rural Workers Dwelling	1	0	0	0	1
Secondary Dwelling	20	21	9	2	52
Dual Occupancy	15	27	28	3	73
Studio	8	15	16	1	40
Medium Density Development	0	0	0	0	0

BYRON SHIRE COUNCIL

QUESTIONS WITH NOTICE

14.1

Tourist facility/cabins	35	10	36	1	82
Total	107	103	107	10	327

Subdivision

Lots approved

5 Lot sizes and dwelling entitlement information are not recorded on Council's electronic application register and have not been included in this data. To capture this information each application would need to be individually reviewed by a staff member, a task that is not resourced to be done.

10 Figures do not include the number of lots created by boundary adjustments. During the period 2018-2021 (YTD) there were 27 boundary applications approved.

[Table 3 Urban subdivision lots approved between 2018-2020](#)

Urban	2018	2019	2020	2021	Total
Torrens	51	51	61	5	168
Strata	149	94	45	17	305
Community Title	0	0	0	0	0
Total	200	145	106	22	473

[Table 4 Rural subdivision lots approved between 2018-2020](#)

Rural	2018	2019	2020	2021	Total
Torrens	0	5	0	0	5
Strata	0	0	0	0	0

BYRON SHIRE COUNCIL

QUESTIONS WITH NOTICE

14.1

Community Title	0	5	21	0	26
Total	0	10	21	0	31

Lots created/registered

Breakdown of lots registered (i.e. constructed) between 2018 and 2021 including lot sizes (derived from Authority). This does not include strata subdivision lots or if there is a dwelling entitlement.

- 5 The data also does not breakdown if the subdivision was through a boundary adjustment or torrens title (ie. additional lot/s)

[Table 5 subdivision lots registered/created between 2018-2020](#)

Lots created	2018	2019	2020	2021	Total
<800	62	58	27	3	150
>/=800 and <1000	35	23	11	1	70
>/=1000	65	72	87	6	230
Total	162	153	125	10	450