

Notice of Meeting

Housing and Affordability Advisory Committee Meeting

A Housing and Affordability Advisory Committee Meeting of
Byron Shire Council will be held as follows:

Venue	Conference Room, Station Street, Mullumbimby
Date	Thursday, 16 March 2023
Time	11.30am

Shannon Burt
Director Sustainable Environment and Economy

I2023/361
Distributed 15/03/23



BYRON
SHIRE
COUNCIL

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)

Committee members are reminded that they should declare and manage all conflicts of interest in respect of any matter on this Agenda, in accordance with the [Code of Conduct](#).

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.

OATH AND AFFIRMATION FOR COUNCILLORS

Councillors are reminded of the oath of office or affirmation of office made at or before their first meeting of the council in accordance with Clause 233A of the Local Government Act 1993. This includes undertaking the duties of the office of councillor in the best interests of the people of Byron Shire and the Byron Shire Council and faithfully and impartially carrying out the functions, powers, authorities and discretions vested under the Act or any other Act to the best of one's ability and judgment.

BYRON SHIRE COUNCIL

BUSINESS OF MEETING

1. APOLOGIES

2. DECLARATIONS OF INTEREST – PECUNIARY AND NON-PECUNIARY

3. ADOPTION OF MINUTES FROM PREVIOUS MEETINGS

- 3.1 Adoption of the Minutes Housing and Affordability Advisory Committee Meeting held on 17 November 2022..... 6

4. STAFF REPORTS

Sustainable Environment and Economy

- 4.1 Housing Initiative and Project Updates 12
4.2 Housing SEPP amendments update 21

ADOPTION OF MINUTES FROM PREVIOUS MEETINGS

Report No. 3.1 Adoption of the Minutes Housing and Affordability Advisory Committee Meeting held on 17 November 2022

5

Directorate: Sustainable Environment and Economy

Report Author: Noreen Scott, EA Sustainable Environment and Economy

File No: I2023/379

10

RECOMMENDATION:

That the minutes of the Housing and Affordability Advisory Committee Meeting held on 17 November 2022 be confirmed.

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Attachments:

1 Minutes 17/11/22 Housing and Affordability Advisory Committee, I2022/1646 , page 8 

20

BYRON SHIRE COUNCIL

ADOPTION OF MINUTES FROM PREVIOUS MEETINGS

3.1

Report

The attachment to this report provides the minutes of the Housing and Affordability Advisory Committee Meeting of 17 November 2022 .

Report to Council

- 5 The minutes were reported to Council on 15 December 2022

Comments

In accordance with the Committee Recommendations, Council resolved the following:

Council endorsed all the Committee's recommendations at Resolution **22-722**.

Minutes of Meeting
Housing and Affordability Advisory
Committee Meeting

Venue	Cavanbah Centre, Ewingsdale Road, Byron Bay
Date	Thursday, 17 November 2022
Time	11:30am



BYRON SHIRE COUNCIL

ADOPTION OF MINUTES FROM PREVIOUS MEETINGS

3.1 - ATTACHMENT 1

BYRON SHIRE COUNCIL

HOUSING AND AFFORDABILITY ADVISORY COMMITTEE MEETING MINUTES 17
NOVEMBER 2022

**Minutes of the Housing and Affordability Advisory Committee Meeting held on
Thursday, 17 November 2022**

File No: I2022/1646

PRESENT: Cr Sama Balson, Cr Sarah Ndiaye, Cr Michael Lyon

Staff: Shannon Burt (Director Sustainable Environment and Economy)
Sharyn French (Manager Environmental and Economic Planning)
Natalie Hancock (Planner)
Kristie Hughes (Project Planner)

Community Representatives:

David Brown, Jack Dods, Sue Franklin, Phil Hoffman, Stephanie
Smith, Craig Brennan

Guest: Louise Crabtree-Hayes

*Cr Ndiaye (Chair) opened the meeting at 11.32am and acknowledged that the meeting
was being held on Bundjalung Country.*

ATTENDANCE VIA AUDIO-VISUAL LINK:

Cr Sama Balson, Natalie Hancock

APOLOGIES:

Joe Vescio, John McKenna, Cr Duncan Dey

DECLARATIONS OF INTEREST – PECUNIARY AND NON-PECUNIARY

There were no declarations of interest.

*Note: The minutes of the meeting held on 18 August 2022 were noted, and the Committee
Recommendations adopted by Council, at the Ordinary Meeting held on 29
September 2022.*

BUSINESS ARISING FROM PREVIOUS MINUTES

There was no business arising from previous minutes.

BYRON SHIRE COUNCIL

HOUSING AND AFFORDABILITY ADVISORY COMMITTEE MEETING MINUTES 17
NOVEMBER 2022

STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

Report No. 3.1 Presentation by Associate Professor Louise Crabtree-Hayes
File No: I2022/1427

Committee Recommendation:

That the Housing and Affordability Advisory Committee notes the report and thanks Associate Professor Louise Crabtree-Hayes for her presentation.

(Ndiaye/Brown)

The recommendation was put to the vote and declared carried.

Report No. 3.2 Housing Initiative and Project Updates
File No: I2022/1455

Committee Recommendation:

That the Housing and Affordability Advisory Committee notes the update on current initiatives and projects being undertaken by Council staff.

(Balson/Dods)

The recommendation was put to the vote and declared carried.

There being no further business the meeting concluded at 1.33pm.

STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

Report No. 4.1 Housing Initiative and Project Updates

Directorate: Sustainable Environment and Economy

5 **Report Author:** Shannon Burt, Director Sustainable Environment and Economy
Natalie Hancock, Senior Planner
Andrew FitzGibbon, Place Planning Coordinator

File No: I2023/286

Summary:

10 Relevant staff will attend to provide verbal updates to the Housing and Affordability Advisory Committee on current housing initiatives and projects being progressed by Council, including:

- Affordable Housing Contributions Scheme
- Mullumbimby Hospital Site redevelopment
- 15 • After the Flood Discussion Paper
- Residential Strategy Refresh
- Action 21 Rural Land Use Strategy
- Short Term Rental Accommodation Planning Proposal and IPC public hearing

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RECOMMENDATION:

25 **That the Housing and Affordability Advisory Committee notes the update on current initiatives and projects being progressed by Council staff.**

Attachments:

30 1 Special Disclosure of Pecuniary Interest Annexure for matters relating to environmental planning instruments, E2012/2815 , page 19  

Report

Affordable Housing Contributions Scheme

[Affordable Housing Contribution Scheme - Byron Shire Council \(nsw.gov.au\)](https://www.byron.nsw.gov.au/affordable-housing-contribution-scheme)

- 5 The Affordable Housing Contribution Scheme
<https://www.byron.nsw.gov.au/files/assets/public/hptrim/land-use-and-planning-planning-affordable-housing-contribution-scheme-sepp-70-key-records/affordable-housing-contribution-scheme-adopted-by-council-11-august-2022-26.2020.2.1.pdf> is in effect
10 following the amendment to Byron Local Environmental Plan LEP 2014. Byron Shire is the first council outside the greater metropolitan area to achieve a scheme.

This Scheme applies to certain land in Mullumbimby, Bangalow, and Byron Bay. It will help supply affordable rental housing when that land is upzoned.

Mullumbimby Hospital Site

[Mullumbimby Hospital redevelopment - Byron Shire Council \(nsw.gov.au\)](https://www.byron.nsw.gov.au/mullumbimby-hospital-redevelopment)

- 15 Council considered Report No. 13.16 Former Mullumbimby Hospital - Land Use and Development Planning Update [Agenda of Ordinary Meeting - Thursday, 15 December 2022 \(infocouncil.biz\)](#) and **Resolved 22-737** that Council:
1. *Thanks all community members who gave feedback during the consultation period on the draft Site Strategy and Urban Design Protocol.*
 - 20 2. *Notes that submissions have been used to improve the exhibited document and will be used as inputs into future planning and design stages.*
 3. *Endorses the revised Site Strategy and Urban Design Protocol (Attachment 1 E2022/113329) for the former Mullumbimby Hospital site to be used as a guiding document for the project.*
 - 25 4. *Requests staff to prepare a draft planning proposal informed by the Site Strategy and Urban Design Protocol and any required Baseline Studies and Advice and report this to Council for consideration prior to seeking a gateway determination.*
 5. *Requests staff to arrange an Enquiry by Design process (inclusive of community, industry and Councillor engagement) to underpin Concept Masterplan and Development Control Plan drafting.*
 - 30 6. *Requests staff to report the Concept Masterplan, Development Control Plan, and associated development options to Council.*
 7. *Requests that an arts facility / hub or artist in residence program be integrated as a core part of the community facilities.*

35 After the Flood Discussion Paper

Council considered Report No. 13.10 After the Floods Discussion Paper – Submissions Report [Agenda of Ordinary Meeting - Thursday, 15 December 2022 \(infocouncil.biz\)](#) and **Resolved 22-739** that Council:

1. *Notes the Settlement Discussion Paper's engagement report 'After the Floods: Settlement Discussion Paper, Engagement Report' (Attachment 1 E2022/119447).*
2. *Recognises the findings report which summarises community feedback on long-term planning for how and where people will live and work in the future, and captures it in twenty Principles in 'After the Flood: Settlement Discussion Paper, Findings Report' (Attachment 2 E2022/119445).*
3. *Further recognises that other post-flood consultation processes like the two NSW Flood Inquiries (Independent and Parliamentary) will guide long-term planning for how and where people will live and work in the future.*
4. *Recognises that bushfire risks must be considered along with flood risks in that planning.*
5. *Considers all the above input and more in our strategic land use planning framework, including for the preparation and / or review of:*
 - *Residential Strategy*
 - *Rural Land Use Strategy*
 - *Business and Industrial Lands Strategy*
 - *Place Plans*
6. *Thanks all who participated in the 'After the Flood Discussion Paper' engagement process.*

Residential Strategy Refresh

Council considered Report No. 13.3 Residential Strategy and Lot 22 Update [Agenda of Ordinary \(Planning\) Meeting - Thursday, 9 June 2022 \(infocouncil.biz\)](#) and **Resolved 22-247 that Council:**

1. *Not progress the Planning Proposal for Lot 22 on DP 1073165, Mullumbimby at this time until the implications of the 2022 Flood Events and any further potential natural disasters are understood on the suitability of this land for future development.*
2. *Supports, subject to funds being allocated, the adopted Residential Strategy being updated as per the peer review report Option 1 (Attachment 2 - E2022/27777) and clarified by the Department of Planning and Environment correspondence (Attachment 1 - E2022/40467).*
3. *Requests a draft of the updated Residential Strategy be reported back to Council.*

Action 21 Rural Land Use Strategy

Council considered Report No. 13.3 PLANNING - Rural Land Use Strategy Review Scoping Report [Agenda of Ordinary \(Planning\) Meeting - Thursday, 8 December 2022 \(infocouncil.biz\)](#) and **Resolved 22-685** that Council:

1. *Supports staff progressing the scope of work and process as outlined in this report to review the Rural Land Use Strategy (RLUS) and to deliver RLUS Action 21: Investigate capacity for re-subdivision within existing Large Lot Residential estates.*
2. *Acknowledges:*
 - a) *that infrastructure capacity is a key consideration when denser land use as proposed under Action 21 is considered;*
 - b) *that staff will investigate capability, capacity, and feasibility of any site considered for change from rural to serviced residential;*
 - c) *a requirement of the Department of Planning, Industry, and Environment's North Coast Regional Plan is that, where transition to urban is not feasible, then the potential for smaller lot R5 subdivision (with on-site sewage) will be investigated.*

BYRON SHIRE COUNCIL

STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

4.1

3. *Supports staff progressing as a precursor to the Action 21 delivery, Residential Strategy refresh and the RLUS review, preparation of a Housing Response Options Paper that would encompass Resolution 22-246 Item 4.*
4. *Notes that funding to progress both the Housing Response Options Paper and Action 21 of the RLUS will be funded from Flood Response Planning Grant from the NSW Planning Delivery Unit.*
5. *Notes that any new or additional funding for the comprehensive review of the RLUS, will be considered in the 2023/24 budget process/compilation amongst other priorities.*

10 **Short Term Rental Accommodation Planning Proposal and IPC hearing**

Council considered 13.9 Planning Proposal 26.2020.1.1 Amendment to State Environmental Planning Policy (Housing) 2021 Short-term Rental Accommodation in Byron Shire - Submissions Report [Agenda of Ordinary Meeting - Thursday, 15 December 2022 \(infocouncil.biz\)](#) and **Resolved 22-729** that Council:

- 15 1. *Amends the planning proposal to:*
 - a) *include in the 365-day cap precinct, the area as per the maps in the body of this report, namely:*
 - 20 i) *Shirley Lane and south of Shirley Street and precinct west of bus interchange around Sommerset Street, Byron Bay*
 - ii) *Byron Bay central business area*
 - b) *remove from the 365-day cap precinct the areas as per the maps in the body of this report, namely:*
 - i) *Suffolk Park*
 - ii) *area south of Booyun Street, Brunswick Heads*
- 25 2. *Adopts the amended planning proposal to amend State Environmental Planning Policy (Housing) 2021 to:*
 - a) *increase the number of days of non-hosted short term rental accommodation in part of the Byron Shire Local Government Area from the current 180-day cap to a 365-day cap for areas in set mapped precincts in the Brunswick Heads and Byron Bay localities;*
 - 30 *and*
 - b) *reduce the number of days of non-hosted short term rental accommodation for the balance of the Byron Shire Local Government Area from the current 180-days cap to a 90-day cap.*
- 35 3. ***Forwards the adopted planning proposal to Department of Planning Industry and Environment requesting that the amendment to the Housing SEPP 2021 be finalised. In doing so, acknowledges that the Minister for Planning is to seek the advice of the Independent Planning Commission before the planning proposal is finalised.***
4. ***Invites the Independent Planning Commission to meet with Council about the adopted planning proposal as soon as possible and practical;***
- 40 5. *Notes staff will report to Council in 2023 on:*
 - a) *an updated STRA risk mitigation and monitoring strategy that reflects the finalised planning proposal and mapped precincts; and*
 - b) *STRA enforcement strategy.*

BYRON SHIRE COUNCIL

STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

4.1

6. *Notes should the planning proposal be adopted by Council, there will be a 12-month transition period for any changes to commence. This means any changes will likely not come into effect until 2024.*
7. *Requests staff write to the NSW government advocating for changes in response to the alternative policy measures shared by many stakeholders including:*
- a) *differential rating of STRA properties*
 - b) *establishing a levy to generate funds to cover enforcement and infrastructure demands*
 - c) *assigning the STRA register to Council to administer with appropriate fees for servicing*
8. *Appoints the Audit Risk and Improvement Committee to review and regularly advise Council on matters of compliance, risk management, financial management, governance, community service, data collection and the overall performance of the proposed planning STRA amendment 26.2020.1.1.*
9. *Recognises the submissions made during public access that identified specific areas in need of further investigation as part of the monitoring strategy for potential inclusion in the 90 day cap precinct such as in Brunswick Heads.*

The Independent Planning Commission process timeline is shown below:



A link to all relevant documentation and submissions is shown below:

[Independent Planning Commission - Byron Shire Short Term Rental Accommodation Planning Proposal \(nsw.gov.au\)](https://www.nsw.gov.au/independent-planning-commission/byron-shire-short-term-rental-accommodation-planning-proposal)

Council staff have submitted a final submission to the IPC following the public hearings and in response to questions asked by the IPC commissioners. A copy can be found on the above link.

The IPC determination time for the STRA planning proposal is that for a determination subject to a public hearing.

Under the [Minister's Statement of Expectations for the Independent Planning Commission](#), the Commission is expected to meet the following average annual timeframes:

- **32 calendar days** for **routine determination** (no public meeting or hearing), modification applications where a reportable political donations disclosure has been made
- **five weeks** (35 calendar days) for advice
- **50 calendar days** for **determinations subject to a public meeting**
- **12 weeks** (84 calendar days) for **determinations subject to a public hearing**

These timeframes are an average of all cases that have been completed in the last 12 months. They are calculated from the date of the provision of the assessment report by the Department of Planning and Environment (DPE) to the date of determination by the Commission, excluding any time where the Commission has requested further information from DPE or the applicant.

The period from 20 December to 26 January is also excluded from the Commission's determination timeframes. This is because many people who may wish to participate in the Commission's decision-making processes, including public meetings and public hearings, take leave and are often away from their place of residence during this school holiday period.

Also excluded from the Commission's determination timeframes is any time the Department is considering, as the Commission's delegate, an application to amend a development application or modification application before the Commission for determination (including any time needed to publicly exhibit any amendments to a development application or modification application).

Strategic Considerations

Community Strategic Plan and Operational Plan

<p>4: Ethical Growth We manage growth and change responsibly</p>	<p>4.2: Enable housing diversity and support people experiencing housing insecurity</p>	<p>4.2.3: Legislation changes - Establish planning mechanisms and advocate for changes to legislation to support housing that meets the needs of our community</p>
<p>4: Ethical Growth We manage growth and change responsibly</p>	<p>4.2: Enable housing diversity and support people experiencing housing insecurity</p>	<p>4.2.2: Partnerships and pilots to address housing needs - Investigate partnerships and pilots that deliver an innovative and affordable housing model for the Shire</p>

Recent Resolutions

- 5 • Multiple

Legal/Statutory/Policy Considerations

Specific to initiative and project.

Financial Considerations

Specific to initiative and project.

Consultation and Engagement

Specific to initiative and project.

5

Schedule 3 Form of special disclosure of pecuniary interest

submitted under Clause 4.25 of the Code of Conduct for Councillors

1. This form must be completed using block letters or typed.
2. If there is insufficient space for all the information you are required to disclose, you must attach an appendix which is to be properly identified and signed by you.

Important information

This information is being collected for the purpose of making a special disclosure of pecuniary interests under clause 4.24(c) of the Byron Shire Council Code of Conduct for Councillors (the Code of Conduct).

The special disclosure must relate only to a pecuniary interest that a councillor has in the councillor's principal place of residence, or an interest another person (whose interests are relevant under clause 4.3 of the Code of Conduct) has in that person's principal place of residence.

Clause 4.3 of the Code of Conduct states that you will have a pecuniary interest in a matter because of the pecuniary interest of your spouse or your de facto partner or your relative or because your business partner or employer has a pecuniary interest. You will also have a pecuniary interest in a matter because you, your nominee, your business partner or your employer is a member of a company or other body that has a pecuniary interest in the matter.

"Relative" is defined by clause 4.4 of the Code of Conduct as meaning your, your spouse's or your de facto partner's parent, grandparent, brother, sister, uncle, aunt, nephew, niece, lineal descendant or adopted child and the spouse or de facto partner of any of those persons.

You must not make a special disclosure that you know or ought reasonably to know is false or misleading in a material particular. Complaints about breaches of these requirements are to be referred to the Office of Local Government and may result in disciplinary action by the Chief Executive of the Office of Local Government or the NSW Civil and Administrative Tribunal.

This form must be completed by you before the commencement of the council or council committee meeting at which the special disclosure is being made. The completed form must be tabled at the meeting. Everyone is entitled to inspect it. The special disclosure must be recorded in the minutes of the meeting.

Special disclosure of pecuniary interests

by _____
[full name of councillor]

in the matter of _____
[insert name of environmental planning instrument]

which is to be considered at a meeting of the

[name of council or council committee (as the case requires)]

Report No. _____ to be held on the _____ day of _____

Pecuniary interest	
Address of the affected principal place of residence of the councillor or an associated person, company or body (<i>the identified land</i>)	
Relationship of identified land to the councillor [Tick or cross one box.]	<input type="checkbox"/> The Councillor has interest in the land (e.g. is owner or has another interest arising out of a mortgage, lease, trust, option or contract, or otherwise). <input type="checkbox"/> An associated person of the councillor has an interest in the land. <input type="checkbox"/> An associated company or body of the councillor has an interest in the land.
Matter giving rise to pecuniary interest¹	
Nature of the land that is subject to a change in zone/planning control by the proposed LEP (<i>the subject land</i>) ² [Tick or cross one box]	<input type="checkbox"/> The identified land. <input type="checkbox"/> Land that adjoins or is adjacent to or is in proximity to the identified land.
Current zone/planning control [Insert name of current planning instrument and identify relevant zone/planning control applying to the subject land]	
Proposed change of zone/planning control [Insert name of proposed LEP and identify proposed change of zone/planning control applying to the subject land]	
Effect of proposed change of zone/planning control on councillor or associated person [Insert one of the following: "Appreciable financial gain" or "Appreciable financial loss"]	

[If more than one pecuniary interest is to be declared, reprint the above box and fill in for each additional interest.]

Councillor's signature

Date

[This form is to be retained by the council's general manager and included in full in the minutes of the meeting]

¹ Clause 4.1 of the Code of Conduct provides that a pecuniary interest is 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. 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 the matter, or if the interest is of a kind specified in clause 4.6 of the Code of Conduct.
² A pecuniary interest may arise by way of a change of permissible use of land adjoining, adjacent to or in proximity to land in which a councillor or a person, company or body referred to in clause 4.3 of the Code of Conduct has a proprietary interest.

Report No. 4.2 Housing SEPP amendments update

Directorate: Sustainable Environment and Economy

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

5 **File No:** I2023/290

Summary:

The [State Environmental Planning Policy \(Housing\) 2021](#) (Housing SEPP) commenced on 26 November 2021.

10 The Housing SEPP provides state enabled planning pathways for the development of different types of housing.

This report informs the Housing and Affordability Advisory Committee on proposed amendments to the Housing SEPP.

15

RECOMMENDATION:

That the Housing and Affordability Advisory Committee notes the report.

Attachments:

- 20
- 1 Submission on Housing SEPP Amendments EIE issued late 2022, E2022/126203 , page 24 
 - 2  Special Disclosure of Pecuniary Interest Annexure for matters relating to environmental planning instruments, E2012/2815 , page 27  

25

Report

The Housing SEPP and the Standard Instrument Local Environmental Plan provisions relating to the following are currently being reviewed:

- 5
 - In-fill affordable housing
 - Planning pathways for social housing and affordable housing
 - Group homes and hostels
 - Temporary supportive accommodation
 - Seniors independent living unit accessibility standards

- 10
 - Boarding houses.

An Explanation of Intended Effect (EIE), setting out the proposed changes to these provisions, was exhibited from Tuesday 22 November 2022 until Friday 13 January 2023. The exhibited EIE can be viewed on the [NSW Planning Portal](#).

The design guidance for seniors housing is also under review [Seniors housing](#).

- 15 The staff submission made to these amendments is attached to the report.

Strategic Considerations

Community Strategic Plan and Operational Plan

CSP Objective	CSP Strategy	DP Action	Code	OP Activity
4: Ethical Growth We manage growth and change responsibly	4.2: Enable housing diversity and support people experiencing housing insecurity	4.2.3: Legislation changes - Establish planning mechanisms and advocate for changes to legislation to support housing that meets the needs of our community	4.2.3.1	Prepare submission/s on draft changes to State government planning policy or legislative reforms.

Legal/Statutory/Policy Considerations

None applicable.

Financial Considerations

5 None applicable.

Consultation and Engagement

State Government led process.

Page 1 of 3

#E2022/126203
Your ref:
Contact: Natalie Hancock

13 January 2023

Department of Planning and Environment



To Whom it may concern

SEPP (HOUSING) 2021 EXPLANATION OF INTENDED EFFECT SUBMISSION

The following response is provided by Council staff on behalf of council in the absence of an available Council meeting for our elected representatives to formally consider this submission. As such Council reserves the right to alter and or provide further information.

Byron Shire Council welcomes the opportunity to provide a submission on the Explanation of intended effect – proposed changes to the in-fill affordable housing, group homes, supportive accommodation, and other provisions of the State Environmental Planning Policy (Housing) 2021. Noting that, several of the proposals pertain to reform of other legislation separate to the SEPP (Housing) 2021.

Council is generally supportive of intent to:

- replace the current definitions of groups homes with high support accommodation and supported living
- update the Guidelines for Developing an Affordable Housing Contribution Scheme.
- introduce temporary supportive accommodation (TSA) pathways with guidance on standards to be met.

These align with a long-held Council position on the need for planning pathway improvements to be more responsive to the planning circumstances within regional areas.

In reference to the other proposed amendments, the following comments are made:

a. Infill provisions

There is potential for the increased bonuses to undermine council's local planning provisions, contributing to an inconsistency with an endorsed strategy, LSPS and infrastructure capacity and forward planning.

As with housing delivery, Council is embracing local solutions to more efficient and cost-effective infrastructure provision. The implications of potential ad hoc placement of density bonuses on car parking, water and waste-water servicing needs to be carefully managed to avoid undermining sound forward infrastructure planning.

This coupled with an intent to reform clause 4.6 of the Standard Instrument LEP, without articulation by the Department of the proposed revised content, places Council in a position of having to table concern that such reforms may be based on the housing markets and development pressures more attributed to metropolitan areas. Council

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Traditional home of the Bundjalung People

Page 2 of 3

requests that further consultation occurs on the draft wording to ensure any reforms support good planning outcomes for regional areas.

Council continues to reiterate the view held in an earlier submission on the draft SEPP (Housing) in 2020 on where development bonuses have been awarded or contributions concession provided at an impost on the greater community. The 'affordable housing' dwellings apportioned as a % of the development's GFA should be rented at affordable rates in perpetuity and the land identified potentially in a LEP schedule 1 under an Affordable Housing Contribution Scheme clause. This would also ensure that the dwellings transition to short term rental accommodation.

Only where concessions were not granted it is reasonable that after 15 years, rents could revert to market rates.

b. Planning pathways for social and affordable housing

Whilst acknowledging expansion of self-assessment powers for NSW Land and Housing Corporation (LAHC), Aboriginal Housing Office (AHO) and State significant development (SSD) residential development may not necessarily apply to Byron Shire at the present, Council is aware that TAHE are looking at their holdings in regional locations and that the Northern Rivers Reconstruction Commission undertakings are progressing.

When coupled with the proposed new lower SSD threshold, there may be point when a TAHE Affordable Housing Pilot Programs or LAHC, AHO are relevant. As such, Council requests that further consideration be given to how provisions relate to and support housing diversity in regional areas. There needs to be some flexibility to tailor the standards and consultation to suit the different conditions in regional locations. As an example, accessibility to public transport, work and services can be vastly different from metropolitan settings.

Minimum lot size for dual occupancy

It is proposed that a minimum lot size of 400m² for dual occupancy lots for LAHC and AHO will override minimum lot sizes in LEPs. A change to be given effect by a change to the SEPP (Exempt and Complying Development Codes) 2008. In Byron Shire dual occupancies are permitted with consent across diverse zones including rural, village and urban. It is unclear if this change will relate to unsewered locations, non LEP standard template zoned areas, or areas of risk such as coastal hazard. It is important the LEP provisions are retained in such circumstances.

Measures are required to avoid erosion of local planning oversight/assessment and a disconnect with council expertise and place-making.

c. More opportunities for boarding houses (p29)

The intent to:

- extend the boarding house 25% FSR bonuses to land where shop housing is permitted
- expand the catchment from 400m to 800m of a business zone.

will result in a broadening of land to which a bonus may be sought. For the reasons stated in a. above, it is important that councils are afforded the capacity to address this in the context of their local planning provisions, consistency with an endorsed strategy, LSPS and infrastructure capacity and forward planning.

Other matters

Page 3 of 3

Byron Shire Council is a net zero emission supportive Council. It is further requested that consideration be given to a standard for car parking, the installation of renewable energy (e.g. solar) accessible electric vehicle charging stations. This would avoid the need for the residents to retrospectively seek for the provision of such facilities and enable affordable housing renters access to a charging station.

As an example, it could be included in Appendix 4 Accessibility and usability standards for independent living units – Provision 5. It should also include a charging station in the visitor parking location so that aged care service providers to complex could charge their vehicle whilst its providing a service to a resident.

In summary, Council welcomes NSW government proposals that assist in delivering more appropriate and affordable housing choice. However, in doing so, it maintains the need for local government retaining control over the determination of locally appropriate development.

Your sincerely



Sharyn French
Acting Director Sustainable Environment & Economy

Schedule 3 Form of special disclosure of pecuniary interest

submitted under Clause 4.25 of the Code of Conduct for Councillors

1. This form must be completed using block letters or typed.
2. If there is insufficient space for all the information you are required to disclose, you must attach an appendix which is to be properly identified and signed by you.

Important information

This information is being collected for the purpose of making a special disclosure of pecuniary interests under clause 4.24(c) of the Byron Shire Council Code of Conduct for Councillors (the Code of Conduct).

The special disclosure must relate only to a pecuniary interest that a councillor has in the councillor's principal place of residence, or an interest another person (whose interests are relevant under clause 4.3 of the Code of Conduct) has in that person's principal place of residence.

Clause 4.3 of the Code of Conduct states that you will have a pecuniary interest in a matter because of the pecuniary interest of your spouse or your de facto partner or your relative or because your business partner or employer has a pecuniary interest. You will also have a pecuniary interest in a matter because you, your nominee, your business partner or your employer is a member of a company or other body that has a pecuniary interest in the matter.

"Relative" is defined by clause 4.4 of the Code of Conduct as meaning your, your spouse's or your de facto partner's parent, grandparent, brother, sister, uncle, aunt, nephew, niece, lineal descendant or adopted child and the spouse or de facto partner of any of those persons.

You must not make a special disclosure that you know or ought reasonably to know is false or misleading in a material particular. Complaints about breaches of these requirements are to be referred to the Office of Local Government and may result in disciplinary action by the Chief Executive of the Office of Local Government or the NSW Civil and Administrative Tribunal.

This form must be completed by you before the commencement of the council or council committee meeting at which the special disclosure is being made. The completed form must be tabled at the meeting. Everyone is entitled to inspect it. The special disclosure must be recorded in the minutes of the meeting.

Special disclosure of pecuniary interests

by _____
[full name of councillor]

in the matter of _____
[insert name of environmental planning instrument]

which is to be considered at a meeting of the

[name of council or council committee (as the case requires)]

Report No. _____ to be held on the _____ day of _____

Pecuniary interest	
Address of the affected principal place of residence of the councillor or an associated person, company or body (<i>the identified land</i>)	
Relationship of identified land to the councillor [Tick or cross one box.]	<input type="checkbox"/> The Councillor has interest in the land (e.g. is owner or has another interest arising out of a mortgage, lease, trust, option or contract, or otherwise). <input type="checkbox"/> An associated person of the councillor has an interest in the land. <input type="checkbox"/> An associated company or body of the councillor has an interest in the land.
Matter giving rise to pecuniary interest¹	
Nature of the land that is subject to a change in zone/planning control by the proposed LEP (<i>the subject land</i>) ² [Tick or cross one box]	<input type="checkbox"/> The identified land. <input type="checkbox"/> Land that adjoins or is adjacent to or is in proximity to the identified land.
Current zone/planning control [Insert name of current planning instrument and identify relevant zone/planning control applying to the subject land]	
Proposed change of zone/planning control [Insert name of proposed LEP and identify proposed change of zone/planning control applying to the subject land]	
Effect of proposed change of zone/planning control on councillor or associated person [Insert one of the following: "Appreciable financial gain" or "Appreciable financial loss"]	

[If more than one pecuniary interest is to be declared, reprint the above box and fill in for each additional interest.]

Councillor's signature

Date

[This form is to be retained by the council's general manager and included in full in the minutes of the meeting]

¹ Clause 4.1 of the Code of Conduct provides that a pecuniary interest is 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. 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 the matter, or if the interest is of a kind specified in clause 4.6 of the Code of Conduct.
² A pecuniary interest may arise by way of a change of permissible use of land adjoining, adjacent to or in proximity to land in which a councillor or a person, company or body referred to in clause 4.3 of the Code of Conduct has a proprietary interest.