

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, 30 May 2024
Time	2.00pm

Shannon Burt
Director Sustainable Environment and Economy

I2024/859
Distributed 27/05/24

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 Adopted Minutes Housing and Affordability Committee Meeting held 16
November 2023 6

4. STAFF REPORTS

Sustainable Environment and Economy

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4.3 Inquiries Legislative Assembly Committee on Environment and Planning -
Historical development consents in NSW 21

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 29 February 2024 .

Report to Council

- 5 The minutes were reported to and adopted by Council on 14 December 2023. **Comments**

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

Minutes of Meeting
Housing and Affordability Advisory
Committee Meeting

Venue	Council Chambers, Station Street, Mullumbimby
Date	Thursday, 16 November 2023
Time	2.00pm



BYRON SHIRE COUNCIL

ADOPTION OF MINUTES FROM PREVIOUS MEETINGS

3.1 - ATTACHMENT 1

BYRON SHIRE COUNCIL

ADOPTION OF MINUTES FROM PREVIOUS MEETINGS

3.1 - ATTACHMENT 1

BYRON SHIRE COUNCIL

HOUSING AND AFFORDABILITY ADVISORY COMMITTEE MEETING MINUTES 16
NOVEMBER 2023

Minutes of the Housing and Affordability Advisory Committee Meeting held on Thursday, 16 November 2023

File No: I2023/1814

PRESENT:

Councillors:	Cr S Balson	Present
	Cr D Dey	Present
	Cr S Ndiaye	Apology
	Cr M Lyon	Present
Staff:	Shannon Burt (Director Sustainable Environment and Economy)	Apology
	Sharyn French (Manager Environmental & Economic Planning)	Present
	Ari McElroy (Project Support Officer)	Present
	Sharyn French (Minute taker)	
Community Representatives:	Jack Dods	Present
	Phil Hoffman	Present
	Stephanie Smith	Present
	Joe Vescio	Present
	Craig Brennan	Absent
	Sue Franklin	Apology

Cr Balson (Chair) opened the meeting at 2.08pm and acknowledged that the meeting was being held on Bundjalung Country.

APOLOGIES:

Cr S Ndiaye, Sue Franklin, Shannon Burt (Director Sustainable Environment and Economy).

DECLARATIONS OF INTEREST – PECUNIARY AND NON-PECUNIARY

There were no declarations of interest.

BYRON SHIRE COUNCIL

ADOPTION OF MINUTES FROM PREVIOUS MEETINGS

3.1 - ATTACHMENT 1

BYRON SHIRE COUNCIL

HOUSING AND AFFORDABILITY ADVISORY COMMITTEE MEETING MINUTES 16
NOVEMBER 2023

ADOPTION OF MINUTES FROM PREVIOUS MEETINGS

Report No. 3.1 **Confirmation of minutes from the 21 September meeting**
File No: I2023/1763

Committee Recommendation:

That the minutes of the Housing and Affordability Advisory Committee Meeting held on 21 September 2023 be confirmed.

(Dods/Hoffman)

The recommendation was put to the vote and declared carried.

Note: The minutes of the meeting held on 21 September 2023 were noted, and the Committee Recommendations adopted by Council, at the Ordinary Meeting held on 28 September 2023.

BUSINESS ARISING FROM PREVIOUS MINUTES

There was no business arising from previous minutes.

STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

Report No. 4.1 **Outcomes - Enquiry By Design Workshop Former Mullumbimby Hospital Site**
File No: I2023/1725

Committee Recommendation:

That the Housing and Affordability Advisory Committee:

- 1. Thanks the community for their active participation in the design process.**
- 2. Thanks Hip v Hype for the presentation on the outcomes Enquiry by Design workshop held for the Former Mullumbimby Hospital site.**
- 3. Notes that staff will continue to progress the project work in accordance with Resolution 23-298.**

(Hoffman/Dods)

The recommendation was put to the vote and declared carried.

BYRON SHIRE COUNCIL

HOUSING AND AFFORDABILITY ADVISORY COMMITTEE MEETING MINUTES 16
NOVEMBER 2023

Report No. 4.2 **Discussion Items for Housing and Affordability Advisory
Committee as per Resolutions 23-472 & 23-429**

File No: I2023/1724

Committee Recommendation:

That the Housing and Affordability Advisory Committee:

1. Discuss the items as per Resolutions 23-472 and 23-429 and request the following items be brought to a future meeting:

- **Information and discussion on Government schemes including: Shared Equity, Regional First Home Buyers, Family Home Guarantee, and Rent to Buy/Rent to Own together with Dr Michael Kleins presentation**
- **Modular housing (tiny homes, portable, demountable homes)**
- **Update on Housing Options Paper and community feedback**
- **Staff update from the Northern Coast Roundtable initiatives 7. Accelerated rezonings 8. Land banking and 9. Contribution Framework**

2. Notes the House You Village meeting on the weekend.

(Balson/Dey)

The recommendation was put to the vote and declared carried.

There being no further business the meeting concluded at 4.08pm.

STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

Report No. 4.1 Future Items Report

Directorate: Sustainable Environment and Economy

5 **Report Author:** Shannon Burt, Director Sustainable Environment and Economy

File No: I2024/358

Summary:

This report summarises reports and information requested by the Housing and Affordability Advisory Committee.

10 These requests, resourcing and alignment with Council’s Operational Plan are tabled for discussion by the Committee, to resolve whether these requests are taken to Council for consideration for inclusion in a future Council OP and budget.

15

RECOMMENDATION:

That the Housing and Affordability Advisory Committee notes the report.

Report

At previous Housing and Affordability Advisory Committee meetings, the Committee sought a follow up response to the following items that were discussed at the meeting.

Information Requested	Resourcing	Operational Plan & Other Council Strategies
<p>Information and discussion on Government schemes including Shared Equity, Regional First Home Buyers, Family Home Guarantee, and Rent to Buy/Rent to Own together with Dr Michael Kleins presentation.</p>	<p>Invitations have been extended and due to time and dates of meetings confirmation of ability to attend has not been possible to date.</p> <p>Should this change in between times, a presentation time allocation will be made prior to the committee meeting and members notified by separate email.</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>
<p>Modular housing (tiny homes, portable, demountable homes)</p>	<p>State Government review of Caravan parks, manufactured home estates and moveable dwellings Planning (nsw.gov.au) current. Staff are monitoring changes and making submissions where necessary and relevant.</p> <p>Living Differently is a Keyway to be addressed in the 2024 Residential Strategy Actions. Further work will occur as these actions are progressed by staff following endorsement of the Strategy by the Department.</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>Update on Housing Options Paper and community feedback</p>	<p>Project Updates report addresses this item.</p>	<p>4.1.2.5 Revise and update Residential Strategy</p>

BYRON SHIRE COUNCIL

STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

4.1

<p>Staff update from the Northern Coast Housing Roundtable initiatives 7. Accelerated rezonings 8. Land banking and 9. Contribution Framework</p>	<p>The North Coast Affordable Housing Roundtable meeting no 3 was held 29 February 2024. The progress on initiatives is summarised in the table below.</p> <p>The purpose of the roundtable has been to identify changes within the planning system that would improve housing affordability.</p> <p>There are no current meetings planned for the roundtable given recent changes to State Government Agencies including the creation of Homes NSW.</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>
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Progress on initiatives

Initiative		Status
1.	Survey of council land for affordable housing and affordability projects	Survey completed. DPE received site nominations from five councils with a further five advising they had no suitable sites.
2.	Affordable housing demonstration project/s	Council site nominations being considered by DCJ and Landcom.
3.	Housing affordability demonstration project/s	Council site nominations being considered by DCJ and Landcom.
4.	Affordable purchase housing	DPE executive currently considering preparation of a discussion paper.
5.	Housing diversity for large release areas	These strategic planning initiatives are proposed to be put forward for delivery in the next round of strategic plans (most likely regional plans) for each of the regions. Under the Act, strategic plans are subject to Minister approval. Roundtable members will be updated on the broader DPE program of establishing housing targets.
6.	Housing targets	
7.	Accelerated rezoning if CHPs provided discounted access to presales	
8.	Land banking	Information/awareness item - complete.
9.	Contributions framework	Information/awareness item - complete.

Strategic Considerations

Community Strategic Plan and Operational Plan

CSP Objective	CSP Strategy	DP Action	Code	OP Activity
4: Ethical Growth		4.2: Enable housing diversity and support people experiencing housing insecurity		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
4: Ethical Growth		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
2: Inclusive Community		2.5: Create social impact and initiatives that address disadvantage		2.5.2: Advocacy - Advocate for services and funding to enhance social outcomes across the Shire

Legal/Statutory/Policy Considerations

As discussed in the table.

Financial Considerations

5 As discussed in the table.

Consultation and Engagement

Not relevant.

Report No. 4.2 Housing Initiatives and Project Updates Report

Directorate: Sustainable Environment and Economy

Report Author: Shannon Burt, Director Sustainable Environment and Economy

5 **File No:** I2024/357

Summary:

Relevant staff will provide verbal updates to the Housing and Affordability Advisory Committee on some of the current housing initiatives and projects being progressed by Council.

10

RECOMMENDATION:

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

15

Report

Former Mullumbimby Hospital Site

5 Link to Project Web Page [Mullumbimby Hospital redevelopment - Byron Shire Council \(nsw.gov.au\)](https://www.nsw.gov.au/mullumbimby-hospital-redevelopment)

The Planning Proposal as adopted by Council has been submitted to the Department of Planning for finalisation. Notification of the LEP change is imminent.

10 Further work however is needed to inform and finalise the next steps of the project which include a robust feasibility assessment of a preferred concept plan / masterplan and Development Control Plan chapter for the site. This work is needed to inform further decision making by Council about the future of development option pathways for the site.

To this end, Council has applied under the Commonwealth Housing Support Grant Program Stream 1 for additional monies to support this work. Success of this application will not be known until July 2024.

15 Residential Strategy 2041

[Residential Strategy - Byron Shire Council \(nsw.gov.au\)](https://www.nsw.gov.au/residential-strategy)

Housing Options Submissions report presented to Council Meeting of 14 December 2023 (Resolution 23-654).

20 Final report and updated version of Residential Strategy to Council Meeting 14 March 2024.

Residential Strategy submitted to Department Planning, Housing, and Infrastructure 31 March 2024.

The Department is still reviewing the submitted Strategy and staff expect feedback on this in coming weeks.

25 Reconstruction Authority Resilient Lands Strategy

Verbal update on the RLS can be provided at the Committee meeting post NRJO meeting 29 May.

30 Otherwise link to media release about Byron Shire Council receiving \$300,000 through the Resilient Lands Program to provide safe, flood resilient land for new housing at the Saddle Road Precinct in Brunswick Heads.

[\\$300,000 funding agreement to help deliver flood resilient land in the Byron Shire \(paulscullymp.com.au\)](https://paulscullymp.com.au)

35 The funding will support work including an Aboriginal Heritage and Environmental Sensitivity Assessment, a Structure Plan that includes a vision and concept plan for the Saddle Road precinct, a Planning Proposal to amend Council's LEP and an Infrastructure

BYRON SHIRE COUNCIL

STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

4.2

Priority Plan that addresses the infrastructure required to support a new community such as roads, sewer, and water.

57 Station Street Mullumbimby Affordable Housing Project

5 Council resolved **24-252** as per [Minutes of Ordinary Meeting - Thursday, 23 May 2024 \(infocouncil.biz\)](#)

Link to Project web page [Affordable Housing Project in Station Street Mullumbimby - Byron Shire Council \(nsw.gov.au\)](#) which will now be updated to reflect this resolution and next steps for the project.

Council Led Land Trust

10 An update report on the Council Led Land Trust proposed presented to Council Planning Meeting 8 February.

[Agenda of Ordinary \(Planning\) Meeting - Thursday, 8 February 2024 \(infocouncil.biz\)](#)

15 Work on an updated submission to the Minister for Local Government is dependant on the progression of Council's affordable housing contributions scheme 1 site planning proposal/s and scheme 2 new sites being endorsed. This work will progress on the updated submission second half of 2024.

Strategic Considerations

Community Strategic Plan and Operational Plan

CSP Objective	CSP Strategy	DP Action
4: Ethical Growth	4.1: Manage responsible development through effective place and space planning	4.1.2: Growth Management Strategies - Implement Local Growth Management Strategies
4: Ethical Growth	4.2: Enable housing diversity and support people experiencing housing insecurity	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
4: Ethical Growth	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: Ethical Growth	4.1: Manage responsible development through effective place and space planning	4.1.4: LEP & DCP - Review and update the Local Environmental Plan and Development Control Plans

Recent Resolutions

- Multiple

5 Legal/Statutory/Policy Considerations

Specific to initiative and project.

Financial Considerations

Specific to initiative and project.

Consultation and Engagement

10 Specific to initiative and project.

**Report No. 4.3 Inquiries Legislative Assembly Committee
on Environment and Planning - Historical
development consents in NSW**

Directorate: Sustainable Environment and Economy

5 **Report Author:** Shannon Burt, Director Sustainable Environment and Economy

File No: I2024/811

Summary:

10 The NSW Legislative Assembly is holding an inquiry into the impact of historical
development consents on the NSW planning system, development industry and property
ownership.

Submissions can be made to the inquiry by the closing date **3 June 2024**.

15

RECOMMENDATION:

That the Housing and Affordability Advisory Committee:

20 **1. Considers the terms of reference for the NSW Legislative Assembly Inquiry
into the impact of historical consents, and whether committee members want
to contribute to a staff submission.**

**2. Subject to 1, provides staff with their comments relevant to the terms of
reference for inclusion in the staff submission to the Inquiry.**

25

Report

5 Historical development consents have recently been termed 'zombie developments' and are developments that were granted development consent many years ago (sometimes decades ago), have achieved physical commencement such that the consent is prevented from lapsing and is in force, but have not been substantially carried out or completed.

10 The NSW Legislative Assembly is holding an inquiry into the impact of historical development consents on the NSW planning system, development industry and property ownership.

Terms of Reference

15 The Inquiry's Terms of Reference are:

- (a) The current legal framework for development consents, including the physical commencement test.
- (b) Impacts to the planning system, development industry and property ownership as a result of the uncertain status of lawfully commenced development consents.
- 20 (c) Any barriers to addressing historical development consents using current legal provisions, and the benefits and costs to taxpayers of taking action on historical development concerns.
- (d) Possible policy and legal options to address concerns regarding historical development consents, particularly the non-completion of consents that cannot lapse, and options for further regulatory support, including from other jurisdictions.
- 25 (e) Any other matters.

Call for Submissions

30 Submissions are sought specifically on:

- the impact of historical development consents on the NSW planning system, development industry and property ownership, and
- 35 • policy and legal solutions to address the issue, including what other jurisdictions have done to address similar issues.

Submissions close on 3 June 2024.

40 A link below to a recent legal article on zombie DAs provides a useful summary of what a zombie DA is and issues associated with them.

[Zombie Development: Acting on Old Development Consents | Lindsay Taylor Lawyers](#)

Further links below also provided to recent news articles on zombie development consents.

[NSW coastal communities join forces to fight against the rise of 'zombie' development approvals - ABC News](#)

['Zombie' housing approvals, some buried for up to 40 years, are rising from the dead in NSW | Housing | The Guardian](#)

5 Strategic Considerations

Community Strategic Plan and Operational Plan

CSP Objective	CSP Strategy	DP Action	Code	OP Activity
4: Ethical Growth	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

As referred to in the report.

Financial Considerations

10 N/A

Consultation and Engagement

N/A