



Byron Shire Council



Agenda

Ordinary Meeting

Thursday, 14 December 2017

held at Council Chambers, Station Street, Mullumbimby
commencing at 9.00am

Public Access relating to items on this Agenda can be made between 9.00am and 10.30am 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.

Ken Gainger
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 Local Government Act (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 Section 448 of the Local Government Act.

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.

Participation in Meetings Despite Pecuniary Interest (S 452 Act)

A Councillor is not prevented from taking part in the consideration or discussion of, or from voting on, any of the matters/questions detailed in Section 452 of the Local Government Act.

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 if the provisions in S451 of the Local Government Act apply (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 Division 2A of Part 6 of 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

ORDINARY MEETING

BUSINESS OF ORDINARY 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 (S450A LOCAL GOVERNMENT ACT 1993)
6. ADOPTION OF MINUTES FROM PREVIOUS MEETINGS
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 - 6.2 Extraordinary Meeting held on 28 November 2017
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Infrastructure Services

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15. QUESTIONS WITH NOTICE

Nil

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Corporate and Community Services

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Infrastructure Services

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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

BYRON SHIRE COUNCIL

ORDINARY MEETING

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.

MAYORAL MINUTE

Mayoral Minute No. 8.1 Appointment of Acting General Manager
File No: I2017/1963

5

I move:

- 1. That the Director – Corporate and Community Services, Mark Arnold, be appointed as Acting General Manager for the period following the retirement of the incumbent General Manager until a new General Manager commences duty with Council following recruitment.**
- 2. That Mr Arnold be granted the same delegated authority as is now being exercised by the current General Manager per Council resolution 17-422.**

10

Background Notes:

Council's General Manager, Ken Gainger, has recently announced his retirement from local government and his employment as Council's General Manager effective from 31st January 2018.

15

In accordance with the provisions of the Local Government Act 1993 Council must employ a General Manager and continuity in this position between when Mr Gainger leaves and a new General Manager is recruited and commences duty is required. Over recent years when Mr Gainger has been on leave or away from Council on business Council's Director – Corporate and Community Services, Mark Arnold has acted as General Manager. In my experience Mr Arnold has always performed the role effectively and competently and would be a steady hand on the tiller during the intervening period until a new GM is recruited.

20

The Acting General Manager will require the same level of delegated authority that Mr Gainger currently has and I recommend that such level of delegation be conferred on Mr Arnold should Council support his appointment. Current delegations were recently bestowed upon Mr Gainger per Council resolution 17-422.

25

Signed: Cr Simon Richardson, Mayor

30

Mayoral Minute No. 8.2
File No:

Railway Square Landscape Concept and Design
I2017/1980

I move that Council endorse the Railway Square Landscape Concept Plan.

5

Attachments:

1 RAILWAY SQUARE LANDSCAPE CONCEPT PLAN 171206 email, E2017/112080 [↔](#)

10 **Background Notes:**

Council adopted the Byron Bay Town Centre Masterplan in June 2016.

15 The staged implementation of the priority actions in the Masterplan has been occurring since this time, including development of concept plans for key catalyst sites.

Railway Square is a key catalyst site identified in the Masterplan.

20 The Railway Square area has a connection to both the centre of the Town, the Railway Station, the bus stop on Jonson Street, the Information Centre and Community Centre which has meant that the area is both a prominent gateway space within the town centre for visitors and also a valued public space for the local community.

25 Its prominence being one reason why it has been chosen as the first of many Masterplan projects to be progressed.

The design has been discussed and is supported by the Byron Bay Town Centre Master Plan Leadership Team.

30 Consultation has also been undertaken with a number of other community organisations and groups including the Arakwal Corporation. This feedback has informed the development of the concept plan.

35 The intent for the design as proposed is to reinvigorate the Railway Square and its immediate environs to recapture the space as a community meeting place and gathering space for community interaction, connection and recreation.

40 It is imperative for Council to endorse the Railway Square Landscape Concept Plan. It is the requirement of the NSW Government Tourism Demand Driver Infrastructure program that monies for the first stage of the works be expended by 30 April 2018. This timing is critical to commence procurement of works for this Stage to comply with the grant agreement conditions.

45 Included as an attachment to the report is the Railway Square Landscape Concept Plan as a total document. Below is a number of extracts from the Railway Square Landscape Concept Plan document showing the proposed layout and perspectives of the works when complete.

Signed: Cr Simon Richardson

20

NOTES

1. Existing flags on Jonson Street provide a feature to the street and the park- a town centre entry moment
2. A pocket park on the street- activating the street as well as the park- welcoming people into the park
3. Seats and tables in a garden setting improving the amenity of the northern edge of the park
4. Existing park outlet block relocated to the northern west entry area of the park. Ensures toilet is close to play area users and improves the visual and physical flow into the park from the south- see page 22 for alternative location
5. Paths connecting to critical east-west links through town
6. Shared zone / path through Lawson Street South car park
7. Central feature area- existing trees and nature play (night lighting)
8. Central built feature providing play and gathering opportunities
9. Linking path through the centre of the park
10. Plaza space as a forecourt to the 'social enterprise' building
11. A flexible hardstand plaza space running the full length of the southern edge of the park. Reduces car parking and provides space for movement, gathering, impromptu performance, temporary events
12. Permeable paving area to a high use area of the park- promotes gathering while maintaining tree health
13. Car park entry narrowed and turned into a shared zone to improve pedestrian amenity
14. New seating areas improve park amenity. Seating areas and the associated southern edge of the park, combined with topography, create an informal amphitheatre space within the park
15. New planting areas provide amenity to street and footpath
16. Eastern edge of park opened up to extend the park to the kerb
17. Public telephones reduced (2 removed)
18. Existing Rotunda (Byron Environment Centre)- consultation required regarding potential relocation within the park.



DRAFT



4 Design



Example play tower



A play circuit



Elements ramping over trunks

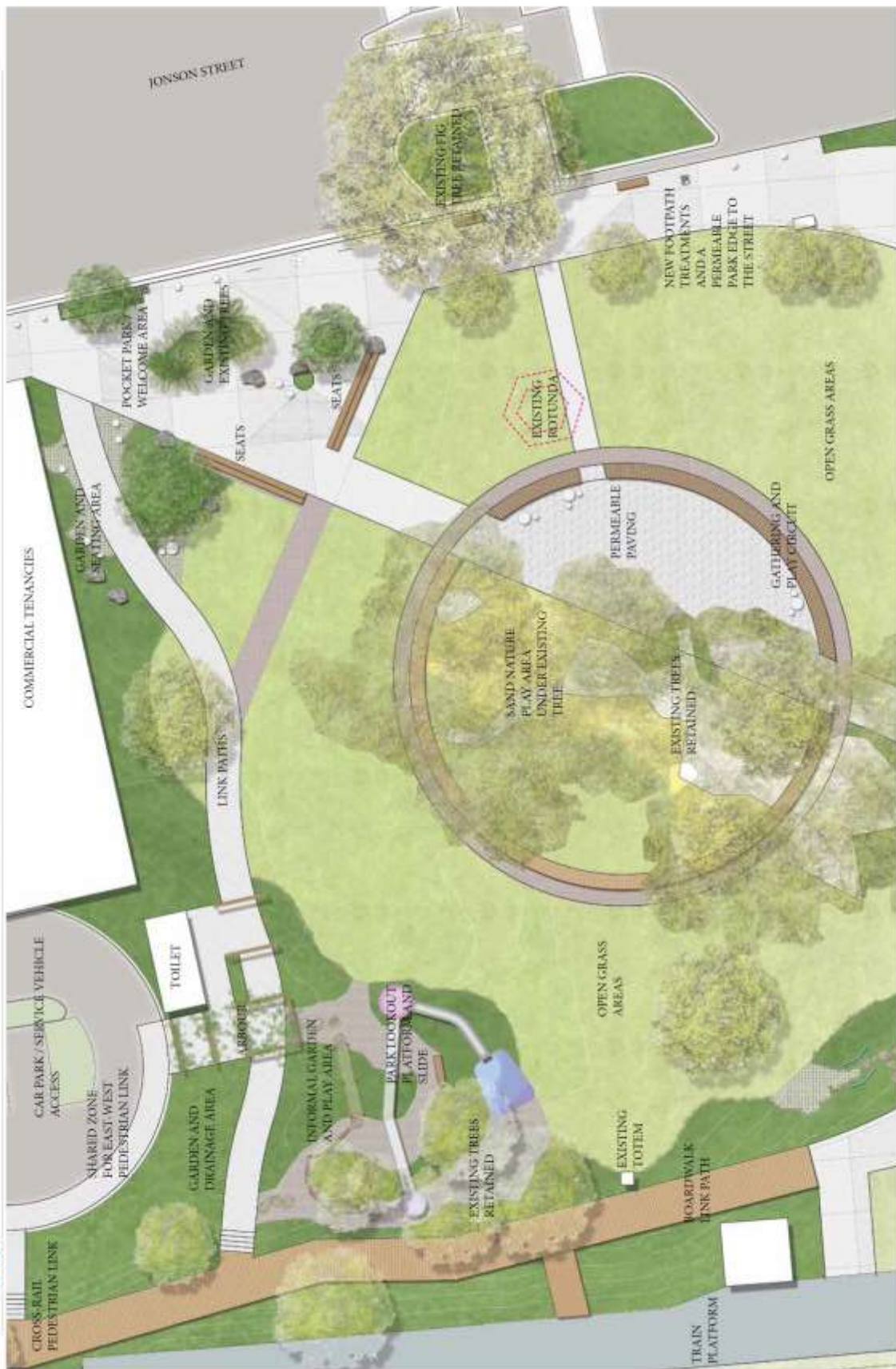


Shaded hardstand areas

RAILWAY SQUARE LANDSCAPE CONCEPT

23

4 Design



DRAFT

RAILWAY SQUARE LANDSCAPE CONCEPT

24

4 Design



RAILWAY SQUARE LANDSCAPE CONCEPT

26

4 Design

Indicative Perspectives



BIRDS EYE VIEW- looking across the park from the south east

RAILWAY SQUARE LANDSCAPE CONCEPT

DRAFT

PLANNING DEPT

4 Design

Indicative Perspectives

Existing vegetation and new pedestrian links

Water feature

Central Feature and Cottonwood

Link path and central gathering space

Planting, shade and seats in plaza area. Trees clear trunked to allow for visual connection across space

Toilet block

Flexible Use In the Park and on the Street

Small picnic setting and gathering spaces are proposed in various areas of the park. These provide space for resting with a view of the park, spaces for social interaction.

Meeting places.



PERSPECTIVE- looking across the park from the south west end of the public plaza



DRAFT

4 Design

Indicative Perspectives



PERSPECTIVE - entering the park from the north west corner

RAILWAY SQUARE LANDSCAPE CONCEPT

DRAFT

PEARCE & PARTNERS

4 Design

Indicative Perspectives



PERSPECTIVE- looking along the Jonson Street edge from under the existing fig tree- park forecourt space

DRAFT

RAILWAY SQUARE LANDSCAPE CONCEPT

PLANNING & DESIGN

NOTICES OF MOTION

Notice of Motion No. 9.1 Car Free Sundays in Byron Bay

File No: I2017/1902

5

I move that:

1. Council commence a trial of 'Car Free Sundays' in Byron Bay in 2018;
2. Staff and the Traffic Advisory Committee work together to plan and progress this trial; and
3. The Car Free Sundays commence by April 2018.

10

Signed: Cr Cate Coorey

Councillor's supporting information:

15

Nil

Staff comments by Tony Nash, Manager Works, Infrastructure Services Directorate.:
(Management Comments must not include formatted recommendations – resolution 11-979)

20

There are many issues around this proposal that need to be investigated including but not limited to:

- Who is the ultimate approval authority?
- The roads into Byron Bay are Regional Roads and approval or concurrence from RMS would be required.
- Where are vehicles stopped from entering Byron Bay
 - From the east
 - Pacific Motorway
 - Somewhere else along Ewingsdale Road
 - From the south
 - Broken Head Road at Clifford Street
 - Bangalow Road at Browning Street
 - elsewhere
- Consultation with all stakeholders (Development of a Communications Plan)
 - RMS
 - Police
 - Emergency service providers, Ambulance, SES, Fire & Rescue, Rural Fire Service, Volunteer Rescue Association
 - Transport for NSW
 - Department of Transport for bus services
 - NSW & QLD Tourism organisations
 - Businesses
 - Residents
 - Property owners
 - others

45

- Traffic control plans.
 - Alternative transport arrangements in lieu of motor vehicles.
 - Council budget
 - Loss of trade for businesses
- 5
- Loss of paid parking income for Council, resulting in less funds for infrastructure renewal and capital projects in Byron Bay and elsewhere in the Shire.
 - Approval by Local Traffic Committee of the planned road closures.
 - The positive and negative aspects of such a trial to the reputation of Byron Bay.
- 10
- If Council resolves to proceed with this trial then a discussion at a Strategic Planning Workshop in early 2018 may be appropriate.

15

It is not within the domain of the LTC to work with staff to plan and organise such a trial or a permanent arrangement. LTS are a technical committee that makes recommendations on regulatory traffic control facilities.

If the proposal is resolved by Council then an option for investigation and implementation would be a Council staff working group that liaises with all stakeholders.

20 Financial/Resource/Legal Implications:

A budget is required for this investigation work as Infrastructure Planning staff are project based and must cost their time to funded projects.

25

A budget will also be required to implement the trial initially and then an ongoing budget will be required to implement if it happens regularly or is made permanent.

Is the proposal consistent with any Delivery Program tasks?

30

No

PETITIONS

Petition No. 10.1 **No Paid Parking in Bangalow**
Directorate: Infrastructure Services
5 **Report Author:** Joshua Winter, Civil Engineer
File No: I2017/1909
Theme: Community Infrastructure
 Roads and Maritime Services

10 At Council’s Extraordinary meeting held on 28 November 2017 the Mayor tabled a petition containing 2055 signatures which states:

“We the undersigned, petition the Mayor and Councillors of Byron Shire Council to:

- 15 1. *Rescind the motion to implement paid parking in Bangalow.*
2. *Reduce the current time limits for parking and increase enforcement (as recommended by the TPS Parking Management Strategy)”*

20 **Comments from Infrastructure Services:**

At its Ordinary Meeting on 23 February 2017, Council resolved as follows regarding the Bangalow Parking Management Strategy:

25 **Council Resolution 17-055:**

1. *That Council support the Bangalow Town Centre Parking Management Strategy (E2016/80882) prepared by Traffic and Parking Systems Group (TPS) as a basis for community engagement.*
- 30 2. *That Council endorse investigation and community consultation with the Bangalow community regarding the possible implementation of a revised parking layout and pay parking scheme in the town centre in conjunction with traffic and movement issues identified in the master plan process.*
- 35 3. *That a budget of \$15,000 is allocated from the Pay Parking Reserve to perform the investigation and community consultation with the Bangalow community regarding the possible implementation of a revised parking layout and pay parking scheme in the town centre.*
- 40 4. *That Council consider the results of the investigation and community consultation, along with the recommendation from the Local Traffic Committee at the 22 June 2017 meeting in determining its adoption of a possible revised parking management strategy/pay parking scheme.*

45 Following the investigation and community consultation, as noted in point 2 of Council Resolution 17-055, Council received a subsequent report at its 24 August 2017 Ordinary Meeting on the Bangalow Parking Management Strategy.

50 At this meeting, Council resolved as follows:

Council Resolution 17-356:

- 55 1. *That Council endorse the implementation of the changes to the parking time limits in the Bangalow town centre, as depicted in the proposed parking times in Figure 1, being 1P throughout Byron Street and part of Station Street, with 2P in the remainder of Station Street.*

2. That Council endorse the introduction of a Bangalow Town Centre Pay Parking Scheme, which is in line with the existing Byron Bay town centre parking scheme.
- 5 3. That the Bangalow Town Centre Pay Parking Scheme:
- applies a unilateral parking charge of \$4 per hour; and
 - incorporates annual exemptions in accordance with Council's approved fees and charges.
- 10 4. That a pay parking area be endorsed as depicted in Figure 2, which covers:
- a) Byron Street, from the roundabout crossing Granuaille Road to Market Street; and
 - b) Station Street, excluding the all day car park to the south.
- 15 5. That Roads and Maritime Services (RMS) concurrence be sought prior to the implementation of the Bangalow Town Centre Pay Parking Scheme.
6. That Council approve a budget of \$75,000 to implement the paid parking scheme and revised parking time limits, from the Pay Parking Reserve.
- 20 7. That Council receive a report after twelve (12) months of the Bangalow Pay Parking Scheme being in operation, to review:
- operational costs;
 - revenue;
 - effect on the Bangalow Village and locality; and
 - projects funded by the scheme.
- 25 8. That Council dedicate all net revenue received from pay parking in Bangalow to infrastructure projects identified by the Bangalow Village Plan Guidance Group and in Council's asset management plan and that those projects be incorporated into the annual Council budgetary process.
- 30 9. That the paid parking scheme commence 1 January 2018 and prior to this commencement Council work alongside Bangalow Guidance Group to identify:
- a) projects to be funded from revenues raised, including pedestrian, cycling and mobility improvements as priorities identified in the consultation.
 - b) impacts and implications of paid parking on the overall Masterplan of Bangalow including parking outside the town centre.
 - c) design and locations of pay stations that acknowledge the heritage nature of the main street.
- 35 40

In accordance with Council Resolution 17-356, works have commenced in Bangalow to implement the introduction of the Bangalow Town Centre Pay Parking Scheme, which is in line with the existing Byron Bay Town Centre Parking Scheme. These works include:

45

- Consultation at community markets commenced.
- Walk around town centre and speaking to businesses.
- Ordering of paid parking meters.
- System set up for additional meters and additional paid parking area.
- 50 • Site survey.
- Design drawings in progress for signs and other works to rationalise existing parking.
- Orders placed for manufacture and delivery of signs.
- Installation of sign posts has commenced.
- Variable Message Signs ordered.
- 55 • Line marking works scheduled with contractor.
- Preliminary locations of meters scoped onsite.

- Concrete footings for meters scheduled with operational staff.

5

RECOMMENDATION:

That the petition regarding no paid parking in Bangalow be noted.

Petition No. 10.2 **Brunswick Parking Management Strategy**
Directorate: Infrastructure Services
Report Author: Joshua Winter, Civil Engineer
File No: I2017/1910
Theme: Community Infrastructure
 Roads and Maritime Services

At Council’s Extraordinary meeting held on 28 November 2017, the Mayor tabled a petition containing 1,828 signatures which states:

PETITION TO THE BYRON SHIRE COUNCIL

NO PAID PARKING in Brunswick Heads.

We, the undersigned, petition the Mayor and Councillors of Byron Shire Council to:

1. *Resolve Brunswick Heads’ parking issues by **reducing the time limits** and **increasing enforcement** (as recommended by the TPS Parking Management Strategy), along with **changes to the layout** as suggested by the key community groups and community members in the consultation period.*
2. ***DEFER any consideration of paid parking in Brunswick Heads** until these recommended changes are implemented and **fully trialled** (as recommended by the TPS Parking Management Strategy) **AND** until appropriate impact studies are done to ascertain the possible negative impacts of paid parking in the Brunswick Heads CBD area to the well-being of the Brunswick Heads village.*

NAME (Please print)	ADDRESS (Please print)	SIGNATURE
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Comments from Infrastructure Services:

All of the issues regarding paid parking in Brunswick Heads were included in the report to Council’s Ordinary Meeting on 23 November 2017 titled “Brunswick Heads parking Strategy”.

Council Resolved at this meeting as follows:

Council Resolution 17-587:

1. *That Council endorse the implementation steps recommended in the Brunswick Heads Parking Management Strategy as modified to:*
 - a) *Implement revised time limits in the town centre immediately (as per point 2 below);*
 - b) *Closely monitor parking demands, durations and infringements in the Town Centre Area in particular with the objective to continuously quantify the appropriateness of duration limits and to ‘track’ trends in the level of infringement; and*
 - c) *Assess the compliance with the revised time limits and associated infringements in the management of parking turnover, following the implementation of the revised time limits, in conjunction with any future consideration by Council of the implementation of a pay parking scheme in Brunswick Heads.*
2. *That Council endorse the implementation of the changes to the parking time limits in Brunswick Heads, using the layout provided by the Brunswick Heads Chamber of Commerce shown at Figure 2, incorporating the amendments identified in Table 2.*

3. *That Council seek Local Traffic Committee (LTC) endorsement of the parking time limit changes.*
- 5 4. *That Council negotiate any necessary agreement with Crown Lands to implement parking schemes.*
- 10 5. *That prior to the consideration of any Pay Parking Scheme for Brunswick Heads, staff undertake further investigations and consultation and report to Council in mid 2018 on revised parking arrangements and the cost of infrastructure upgrade requirements in the following areas;*
- 15 a) *Booyun Street, east of Park Street, in order to implement a Kiss and Ride School drop off zone in this area;*
- b) *Park Street, between Fingal Street and Slessor Lane, to formalise parking whilst maintaining the existing bus zone;*
- 20 c) *Parking arrangements on South Beach Road, including dedicated parking for up to four (4) Horse floats at the end of South Beach Road; and*
- d) *Parking arrangements in South Beach Lane*
- 25 6. *That Council approve:*
- a) *an allocation of \$115,000 to be funded from Section 94 Car Parking Brunswick Heads to undertake the investigation works in items 5a) to 5d), inclusive; and*
- b) *the allocation of \$25,000 for the implementation or revised time limits (including line marking) be funded from the existing signage program.*

30 At an Extraordinary Meeting of Council on 28 November, Council debated an urgency motion in relation to the Brunswick Heads Parking Management Strategy. Council Resolved at this meeting as follow:

Council Resolution 17-636:

35 *That in relation to the implementation of the Brunswick Heads Parking Management Strategy, that Council endorse the following time limits subject to Local Traffic Committee approval:*

1. *General time limits to apply Mon to Sun 9.00am - 5.00pm*
2. *Time Limits at South Beach Road and South Beach Lane be retained as all-day parking.*

40 A report on the proposed time limit changes has been prepared for the extra ordinary Local Traffic Committee meeting for 13 December 2017.

RECOMMENDATION:

45 **That the petition objecting to Paid Parking in Brunswick Heads be noted.**

SUBMISSIONS AND GRANTS

Report No. 11.1 **Byron Shire Council Submissions and Grants as at 22 November 2017**

Directorate: Corporate and Community Services

5 **Report Author:** Jodi Frawley, Grants Co-ordinator

File No: I2017/1787

Theme: Corporate Management
Governance Services

10

Summary:

Council have submitted applications for a number of grant programs which, if successful, would provide significant funding to enable the delivery of identified projects. This report provides an update on these grant submissions.

15

RECOMMENDATION:

That Council note the report.

Attachments:

20

1 November 2017 Grants Report, E2017/106964 [⇨](#)

Report

This report provides an update on grant submissions including funding applications submitted and new potential funding opportunities.

5

Funding Applications – Successful

- 3D Mapping Tool, Smart Cities and Suburbs, (Australian Government) - \$143,125
- Shark Smart Alert and Advice System, Shark Management Strategy Program (NSW Government) - \$52,218

10

Additionally, NSW Department of Education Strong Start Fund awarded \$350,000 to Byron Bay Preschool Centre for the creation of 20 new preschool places through an upgrade of the Council buildings at Suffolk Park.

15

New funding opportunities identified for consideration by staff

- Implementation of projects from the Byron Bay Town Centre Masterplan, Building Better Regions Fund Round 2, (Australian Government)

20

Funding applications submitted in November

- Consolidation of Myocum landfill, Landfill Consolidation and Environmental Improvements (NSW Environmental Protection Authority)

25

Additional information on the grant submissions made and/or pending is provided in Attachment 1 – Grants report as at 22 November 2017

Financial Implications

30

If Council is successful in obtaining the identified grants more than \$14 million would be achieved which would provide significant funding for Council projects. Some of the grants require a contribution from Council (either cash or in-kind) and others do not. Council’s contribution is funded. The potential funding and allocation is noted below:

35

Requested funds from funding bodies	14,794,817
Council cash contribution	9,149,932
Council in-kind Contribution	145,530
Other contributions	10,575,562
Funding applications submitted and awaiting notification (total project value)	34,664,841

Statutory and Policy Compliance Implications

Council is required under Section 409 3(c) of the *Local Government Act 1993* to ensure that ‘money that has been received from the Government or from a public authority by way of a specific purpose advance or grant, may not, except with the consent of the Government or public authority, be used otherwise than for that specific purpose’. This legislative requirement governs Council’s administration of grants.

40

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

Report No. 13.1 Council Investments 1 November to 24 November 2017

Directorate: Corporate and Community Services

5 **Report Author:** James Brickley, Manager Finance

File No: I2017/1848

Theme: Corporate Management
Financial Services

10

Summary:

This report includes a list of investments and identifies Council's overall cash position for the period 1 – 24 November 2017 for Council's information.

15

This report is prepared to comply with Regulation 212 of the Local Government (General) Regulation 2005.

RECOMMENDATION:

That the report listing Council's investments and overall cash position as at 24 November 2017 be noted.

20

Report

In relation to the investment portfolio for the period 1 – 24 November 2017, Council has continued to maintain a diversified portfolio of investments. At 24 November 2017, the average 90 day bank bill rate (BBSW) for the month of November was unknown. Based on prior months and there being no events that may have drastically changed the rates, it is estimated the BBSW for the period 1 – 24 November will remain approximately 1.60%. Council's performance to 24 November 2017 is 2.50%. Council's performance is again higher than the benchmark. This is largely due to the active ongoing management of the investment portfolio, maximising investment returns through secure term deposits and purchasing floating rate notes with attractive interest rates.

The table below identifies the investments held by Council as at 24 November 2017:

Schedule of Investments held as at 24 November 2017

Purch Date	Principal (\$)	Description	CP*	Rating	Maturity Date	No Fossil Fuel ADI	Type	Interest Rate Per Annum	Current Value
24/03/17	1,000,000	NAB Social Bond (Gender Equality)	N	AA-	24/03/22	N	B	3.44%	1,011,100.17
28/10/16	650,000	Teachers Mutual Bank	P	BBB+	28/10/19	Y	FRN	3.17%	653,642.89
31/03/17	1,000,000	CBA Climate Bond	N	AA-	31/03/22	N	FRN	3.25%	1,000,000.00
16/11/17	750,000	Bank of Queensland	N	BBB+	16/11/21	Y	FRN	2.63%	750,000.00
23/11/17	2,000,000	NAB	P	AA-	23/02/18	N	TD	2.49%	2,000,000.00
06/11/17	2,000,000	NAB	N	AA-	05/02/18	N	TD	2.49%	2,000,000.00
09/10/17	1,000,000	NAB	N	AA-	09/01/18	N	TD	2.51%	1,000,000.00
30/08/17	2,000,000	NAB	N	AA-	30/11/17	N	TD	2.23%	2,000,000.00
08/08/17	2,000,000	Bank of Queensland	P	BBB+	05/02/18	Y	TD	2.60%	2,000,000.00
02/11/17	2,000,000	Police Credit Union	P	NR	02/05/18	U	TD	2.73%	2,000,000.00
08/11/17	2,000,000	ME Bank	P	BBB	02/02/18	Y	TD	2.42%	2,000,000.00
04/07/17	1,000,000	Bananacoast Credit Union	P	NR	04/01/18	Y	TD	2.70%	1,000,000.00
18/09/17	2,000,000	AMP Bank	P	A	18/12/17	N	TD	2.40%	2,000,000.00
08/09/17	2,000,000	NAB	N	AA-	08/12/17	N	TD	2.52%	2,000,000.00
30/08/17	2,000,000	ME Bank	N	BBB	30/11/17	Y	TD	2.45%	2,000,000.00
27/09/17	1,000,000	Bank of Queensland	N	BBB+	27/03/18	Y	TD	2.50%	1,000,000.00
04/10/17	2,000,000	Beyond Bank	P	BBB	21/12/17	Y	TD	2.40%	2,000,000.00
13/10/17	1,000,000	Auswide Bank Ltd	P	BBB-	15/01/18	Y	TD	2.50%	1,000,000.00
05/10/17	1,000,000	Police Credit Union	N	NR	05/04/18	U	TD	2.56%	1,000,000.00
15/08/17	1,000,000	Bank of Queensland	N	BBB+	12/01/18	Y	TD	2.55%	1,000,000.00
06/09/17	1,000,000	Bananacoast Credit Union	N	NR	07/03/18	Y	TD	2.60%	1,000,000.00
23/11/17	1,000,000	The Capricornian Credit Union	P	NR	23/05/18	Y	TD	2.55%	1,000,000.00
30/10/17	2,000,000	Beyond Bank	N	BBB	07/02/18	Y	TD	2.42%	2,000,000.00
04/10/17	2,000,000	Police Credit Union	N	NR	04/04/18	U	TD	2.70%	2,000,000.00

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Purch Date	Principal (\$)	Description	CP*	Rating	Maturity Date	No Fossil Fuel ADI	Type	Interest Rate Per Annum	Current Value
08/11/17	1,500,000	Auswide Bank Ltd	N	BBB-	02/02/18	Y	TD	2.35%	1,500,000.00
02/06/17	1,500,000	ME Bank	N	BBB	04/12/17	Y	TD	2.67%	1,500,000.00
05/06/17	1,000,000	Intech Bank Ltd	P	NR	05/12/17	Y	TD	2.80%	1,000,000.00
08/06/17	2,000,000	ME Bank	N	BBB	08/12/17	Y	TD	2.65%	2,000,000.00
17/10/17	1,000,000	Police Credit Union	N	NR	17/04/18	U	TD	2.55%	1,000,000.00
17/11/17	1,000,000	Police Credit Union	N	NR	17/05/18	U	TD	2.75%	1,000,000.00
30/10/17	2,000,000	ME Bank	N	BBB	30/01/18	Y	TD	2.42%	2,000,000.00
03/11/17	1,000,000	Maitland Mutual Building society	P	NR	02/05/18	Y	TD	2.55%	1,000,000.00
17/11/17	1,000,000	ME Bank	N	BBB	16/02/18	Y	TD	2.50%	1,000,000.00
17/08/17	1,000,000	Bank of Queensland	N	BBB+	19/02/18	Y	TD	2.55%	1,000,000.00
23/11/17	1,000,000	ME Bank	N	BBB	23/02/18	Y	TD	2.40%	1,000,000.00
24/11/17	1,000,000	ME Bank	N	BBB	24/05/18	Y	TD	2.55%	1,000,000.00
30/08/17	1,000,000	ME Bank	N	BBB	28/11/17	Y	TD	2.45%	1,000,000.00
31/08/17	2,000,000	NAB	N	AA-	12/12/17	N	TD	2.50%	2,000,000.00
31/08/17	2,000,000	NAB	N	AA-	18/12/17	N	TD	2.50%	2,000,000.00
01/09/17	1,000,000	NAB	N	AA-	02/01/18	N	TD	2.52%	1,000,000.00
05/09/17	1,000,000	Bananacoast Credit Union	N	NR	06/03/18	Y	TD	2.60%	1,000,000.00
15/09/17	1,000,000	Auswide Bank Ltd	N	BBB-	15/12/17	Y	TD	2.40%	1,000,000.00
15/09/17	1,000,000	Peoples Choice Credit Union	P	NR	15/03/18	Y	TD	2.55%	1,000,000.00
28/09/17	2,000,000	Rural Bank	P	BBB+	29/01/18	Y	TD	2.50%	2,000,000.00
28/09/17	1,000,000	NAB	N	AA-	29/12/17	N	TD	2.51%	1,000,000.00
04/10/17	1,000,000	NAB	N	AA-	05/03/18	N	TD	2.55%	1,000,000.00
04/10/17	1,000,000	NAB	N	AA-	04/01/18	N	TD	2.50%	1,000,000.00
04/10/17	1,000,000	NAB	N	AA-	05/02/18	N	TD	2.52%	1,000,000.00
11/10/17	1,000,000	Auswide Bank Ltd	N	BBB-	11/01/18	Y	TD	2.50%	1,000,000.00
20/10/17	1,000,000	NAB	N	AA-	20/01/18	N	TD	2.48%	1,000,000.00
23/10/17	1,000,000	Bank of Queensland	N	BBB+	23/04/18	Y	TD	2.55%	1,000,000.00
26/10/17	1,000,000	ME Bank	N	BBB	24/01/18	Y	TD	2.42%	1,000,000.00
10/11/17	2,000,000	ME Bank	N	BBB	13/3/18	Y	TD	2.42%	2,000,000.00
15/11/17	1,000,000	The Capricornian Credit Union	P	NR	16/04/18	Y	TD	2.55%	1,000,000.00
15/11/17	1,000,000	The Capricornian Credit Union	N	NR	15/03/18	Y	TD	2.50%	1,000,000.00
17/11/17	1,000,000	Hunter United Employees Credit Union	P	NR	16/02/18	U	TD	2.50%	1,000,000.00
17/11/17	1,000,000	Bank of Queensland	N	BBB+	19/03/18	Y	TD	2.45%	1,000,000.00

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Purch Date	Principal (\$)	Description	CP*	Rating	Maturity Date	No Fossil Fuel ADI	Type	Interest Rate Per Annum	Current Value
N/A	1,567,714	CBA Business Online Saver	N	A	N/A	N	CALL	1.40%	1,567,714.21
Total	76,967,714						AVG	2.50%	76,982,457.27

Note 1. CP = Capital protection on maturity
 N = No Capital Protection
 Y = Fully covered by Government Guarantee
 P = Partial Government Guarantee of \$250,000 (Financial Claims Scheme)

Note 2. No Fossil Fuel ADI
 Y = No investment in Fossil Fuels
 N = Investment in Fossil Fuels
 U = Unknown Status

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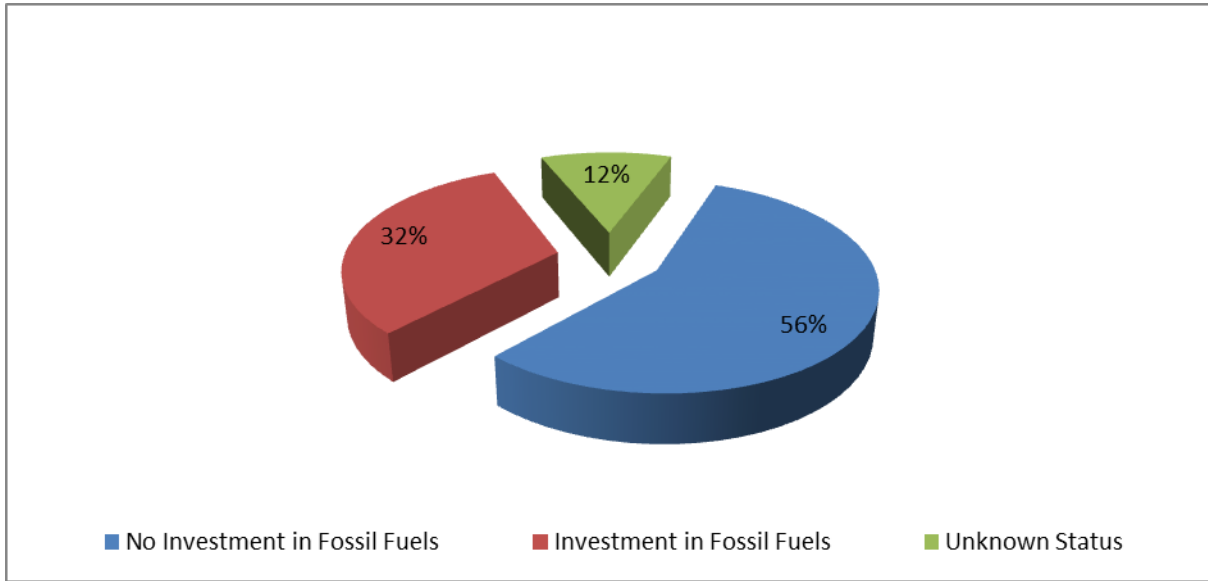
Note 3.

Type	Description	
B	Bonds	Principal can vary based on valuation, interest payable via a fixed interest, payable usually each quarter.
FRN	Floating Rate Note	Principal can vary based on valuation, interest payable via a floating interest rate that varies each quarter.
TD	Term Deposit	Principal does not vary during investment term. Interest payable is fixed at the rate invested for the investment term.
CALL	Call Account	Principal varies due to cash flow demands from deposits/withdrawals, interest is payable on the daily balance.

Environmental and Socially Responsible Investing

10 An additional column has been added to the schedule of Investments above, to identify if the financial institution holding the Council investment, has been assessed as a 'No Fossil Fuel' investing institution. This information has been sourced through www.marketforces.org.au and identifies financial institutions that either invest in fossil fuel related industries or do not. The graph below highlights the percentage of each classification across Councils total investment portfolio in respect of fossil fuels only.

15



The notion of Environmental and Socially Responsible Investing is much broader than whether a financial institution as rated by 'marketforces.org.au' invests in fossil fuels or not. Council's current Investment Policy defines Environmental and Socially Responsible Investing at Section 4.1 of the Policy. Council's Investment Policy can be found at the following link:

http://www.byron.nsw.gov.au/files/publications/council_investments_policy_2017.pdf

In this regard Council has an additional two investments that are with financial institutions that invest in fossil fuels but the purposes of the investments are in accord with the broader definition of Environmental and Socially Responsible investments as indicated below:

1. \$1,000,000 investment with the National Australia Bank maturing on 24 March 2022 known as a Social Bond that promotes Gender Equity.
2. \$1,000,000 investment with Commonwealth Bank maturing on 31 March 2022 known as a Climate Bond.

For the period 1 – 24 November 2017, as indicated in the table below, there is a dissection of the investment portfolio by investment type:

Dissection of Council Investment Portfolio as at 24 November 2017

Principal Value (\$)	Investment Linked to:-	Current Market Value (\$)	Cumulative Unrealised Gain/(Loss) (\$)
72,000,000.00	Term Deposits	72,000,000.00	0.00
2,400,000.00	Floating Rate Note	2,403,642.89	3,642.89
1,567,714.21	Business On-Line Saver (At Call)	1,567,714.21	0.00
1,000,000.00	Bonds	1,011,100.17	11,100.17
76,967,714.21		76,982,457.27	14,743.06

The current value of an investment compared to the principal value (face value or original purchase price) provides an indication of the performance of the investment without reference to the coupon (interest) rate. The current value represents the value received if an investment was sold or traded in the current market, in addition to the interest received.

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The table below provides a reconciliation of investment purchases and maturities for the period 1 – 24 November 2017 on a current market value basis.

Movement in Investment Portfolio – 1 to 24 November 2017

5

Item	Current Market Value (at end of month) \$
Opening Balance at 31 October 2017	76,732,457.27
Add: New Investments Purchased	22,250,000.00
Add: Call Account Additions	0.00
Add: Interest from Call Account	0.00
Less: Investments Matured	22,000,000.00
Less: Call Account Redemption	0.00
Less: Fair Value Movement for period	0.00
Closing Balance at 24 November 2017	76,982,457.27

Investments Maturities and Returns – 1 to 24 November 2017

Principal Value (\$)	Description	Type	Maturity Date	Number of Days Invested	Interest Rate Per Annum	Interest Paid on Maturity \$
2,000,000.00	Police Credit Union	TD	02/11/17	92	2.55%	12,854.79
1,000,000.00	Maitland Mutual Building Society	TD	03/11/17	92	2.50%	6,301.37
1,500,000.00	Hunter United Employees Credit Union	TD	06/11/17	124	2.85%	14,523.29
2,000,000.00	NAB	TD	06/11/17	90	2.45%	12,082.20
2,000,000.00	ME Bank	TD	08/11/17	92	2.45%	12,350.68
1,500,000.00	Auswide Bank Ltd	TD	08/11/17	189	2.68%	20,815.89
1,000,000.00	Auswide Bank Ltd	TD	15/11/17	189	2.70%	13,980.82
1,000,000.00	ME Bank	TD	15/11/17	92	2.45%	6,175.34
2,000,000.00	ME Bank	TD	15/11/17	92	2.45%	12,350.68
1,000,000.00	AMP Bank	TD	17/11/17	92	2.45%	6,175.34
1,000,000.00	ME Bank	TD	17/11/17	92	2.45%	6,175.34
1,000,000.00	Police Credit Union	TD	17/11/17	123	2.65%	8,930.14
1,000,000.00	The Capricornian Ltd	TD	23/11/17	92	2.50%	6,301.37
2,000,000.00	NAB	TD	23/11/17	92	2.47%	12,451.51
1,000,000.00	ME Bank	TD	23/11/17	92	2.45%	6,175.34
1,000,000.00	ME Bank	TD	24/11/17	92	2.45%	6,175.34
22,000,000.00						163,819.44

10 The overall 'cash position' of Council is not only measured by what funds Council has invested but also by what funds Council has retained in its consolidated fund or bank account as well for operational purposes. In this regard, for the period 1 – 24 November 2017 the table below identifies the overall cash position of Council as follows:

Dissection of Council Cash Position as at 24 November 2017

Item	Principal Value (\$)	Current Market Value (\$)	Cumulative Unrealised Gain/(Loss) (\$)
Investments Portfolio			
Term Deposits	72,000,000.00	72,000,000.00	0.00
Floating Rate Note	2,400,000.00	2,403,642.89	3,642.89
Business On-Line Saver (At Call)	1,567,714.21	1,567,714.21	0.00
Bonds	1,000,000.00	1,011,100.17	11,100.17
Total Investment Portfolio	76,967,714.21	76,982,457.27	14,743.06
Cash at Bank			
Consolidated Fund	2,980,448.64	2,980,448.64	0.00
Total Cash at Bank	2,980,448.64	2,980,448.64	0.00
Total Cash Position	79,948,162.85	79,962,905.91	14,743.06

5 Financial Implications

Council uses a diversified mix of investments to achieve short, medium and long-term results.

Statutory and Policy Compliance Implications

- 10 In accordance with Regulation 212 of the Local Government (General) Regulation 2005, the Responsible Accounting Officer of Council must provide Council with a monthly report detailing all monies Council has invested under section 625 of the Local Government Act 1993.
- 15 The Report must be presented at the next Ordinary Meeting of Council after the end of the month being reported. In this regard, the current Council Meeting cycle does not always allow this to occur, especially when investment valuations required for the preparation of the report, are often received after the deadline for the submission of reports for the meeting. Endeavours will be made to ensure the required report will be provided to Council and this will for some months require
- 20 reporting for one or more months.
- Council's investments are carried out in accordance with section 625(2) of the Local Government Act 1993 and Council's Investment Policy. The Local Government Act 1993 allows Council to invest money as per the Ministers Order – Forms of Investment, last published in the Government
- 25 Gazette on 11 February 2011.
- Council's Investment Policy includes the objective of maximising earnings from authorised investments and ensuring the security of Council Funds.
- 30 Council at its Ordinary Meeting held 8 October 2015 resolved through resolution **15-515** to insert a new objective into its adopted Investment Policy, which gives a third tier consideration by Council to Environmental and Socially Responsible Investments, when making investment decisions.

STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY**Report No. 13.2 Byron Shire Council's Emissions Reporting 2015/16 and 2016/17****Directorate:** Sustainable Environment and Economy5 **Report Author:** Kim Mallee, Sustainability Officer**File No:** I2017/1544**Theme:** Ecology
Planning Policy and Natural Environment

10

Summary:

15 In March 2017 Byron Shire Council adopted a zero net emissions target for its operations which increased its ambition from the previous reduction target of 30%. Council has been actively implementing emission reduction strategies and reporting on emissions since 2004. This report details a new emissions baseline for the 2015/16 financial year and reports on the emissions profile of Council for the 2016/17 financial year.

20 Using the National Greenhouse and Energy Reporting (NGER) methodology emissions were calculated across Council's six sectors for scope 1 (eg. direct emissions such as burning diesel or unleaded fuels) and scope 2 emissions (eg. indirect emissions that come from using electricity produced by the burning of coal at another facility). From 2015/16 to 2016/17 Council experienced a net increase of emissions moving from 25,500 tonnes to 26,300 tonnes of equivalent carbon dioxide (t CO₂e).

25 The development of an Emissions Reduction Strategy, which will replace the existing Low Carbon Strategy has commenced and is the subject of another report titled 'Emissions Reduction Strategy' to this Council meeting.

30

RECOMMENDATION:

1. **That Council note this report.**
2. **That the calculation of sewage treatment plant fugitive emissions be outsourced using Water and Sewer funds to create an excel model using the NGER methodology that can be used for future reporting years.**

35

Background

Byron Shire Council adopted the Low Carbon Strategy in 2014 which had the target of reducing Council emissions by 30% from the 2003-2004 levels by 2020. The Low Carbon Strategy identified ways for Council to pursue opportunities for a low carbon, less oil-reliant future. It contained 87 project actions that covered the following areas of carbon, energy efficiency, transport, staff and community engagement, waste, peak oil and water. 100% of the 35 Year 1 priority actions in the Low Carbon Strategy were completed or in progress. The remaining actions will be considered in the preparation of a new Emissions Reduction Strategy.

This report quantifies Council's emissions profile in order to create a new base line for the 2015/16 financial year to suit the Zero Emissions Target as well as report on the 2016/17 financial year emissions.

Zero Net Emissions Target

In March 2017 Council resolved (**Res. 17-086** relevant parts):

3. *That Council commits to achieving a 100% Net Zero Emissions Target by 2025 in collaboration with Zero Emissions Byron (ZEB).*
5. *That Council commit itself to source 100% of its energy through renewable energy within 10 years.*
6. *That Council supports the goals of Zero Emission Byron for a Net Zero Emissions Shire in the areas of building, energy, land use, transport and waste.*

Adoption of baseline and National Greenhouse and Energy Reporting (NGER) methodology

To align with the Zero Emission Byron (ZEB) ambition, a base line of 2015/16 and a target year of 2025/26 were assigned for Council's emissions profile. To align with a national methodology for monitoring and reporting emissions that provides all relevant calculations and processes for a local government, the "National Greenhouse and Energy Reporting" (NGER) methodology was implemented. Zero Emissions Byron has advised that the NGER methodology will be compatible with their emissions profiling of the Byron Shire community.

Scope of Monitoring and Reporting

In line with the NGER methodology Council will be monitoring and reporting on Scope 1 and 2 emissions:

- **Scope 1** greenhouse gas emissions are the emissions released to the atmosphere as a direct result of an activity at a facility level. Scope 1 emissions are sometimes referred to as direct emissions. Examples are:
 - a) emissions from the burning of diesel or unleaded fuel in vehicles
 - b) fugitive emissions, such as methane emissions from landfills or sewage treatment plants
- **Scope 2** greenhouse gas emissions are the emissions released to the atmosphere from the indirect consumption of an energy commodity. For example, 'indirect emissions' come from the use of electricity produced by the burning of coal in another facility.

Apart from scope 1 and 2 emissions, there also exist scope 3 emissions in the running of any business. Scope 3 emissions come from indirect sources other than electricity. Some examples include contracted services and flying on a commercial airline by a person from another business. Scope 3 emissions will not be reported as part of Council's emissions profile due to the significant

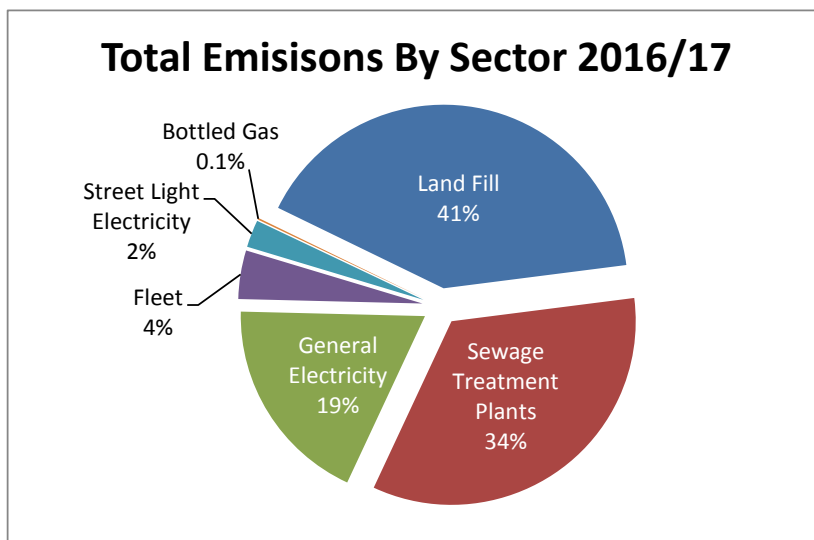
staff resourcing cost involved in trying to procure the data, and in some instances the lack of data available to report.

5 When Council made its first commitment to reducing greenhouse gas emissions in 2004 the *NGER Act 2007* did not exist. Hence emission sectors such as landfill and sewage treatment plant fugitive emissions were not included. Fugitive emissions are emissions of gases or vapours from pressurised equipment due to unintended or irregular releases of gases. Now with greater understanding of how emissions are created, Council has been able to calculate and include fugitive emissions in its profile to more holistically describe its emissions impact. The scope of Council's emission sectors will be categorised as follows:

- 10 a) General Electricity
- b) Streetlights
- c) Fleet
- 15 d) LPG Bottled Gas
- e) Landfill Fugitive Emissions
- f) Sewage Treatment Plant Fugitive Emissions.

20 **Emissions Sectors of Byron Shire Council**

Figures 1 and 2 below show percentage make up of each sector and the total emissions in tonnes for the two reporting years respectively. Together they show the significant contribution to Council's emissions profile from fugitive emissions escaping from the landfill and sewage treatment plants.



25 **Figure 1 – Total Emissions by Sector 2016/17**

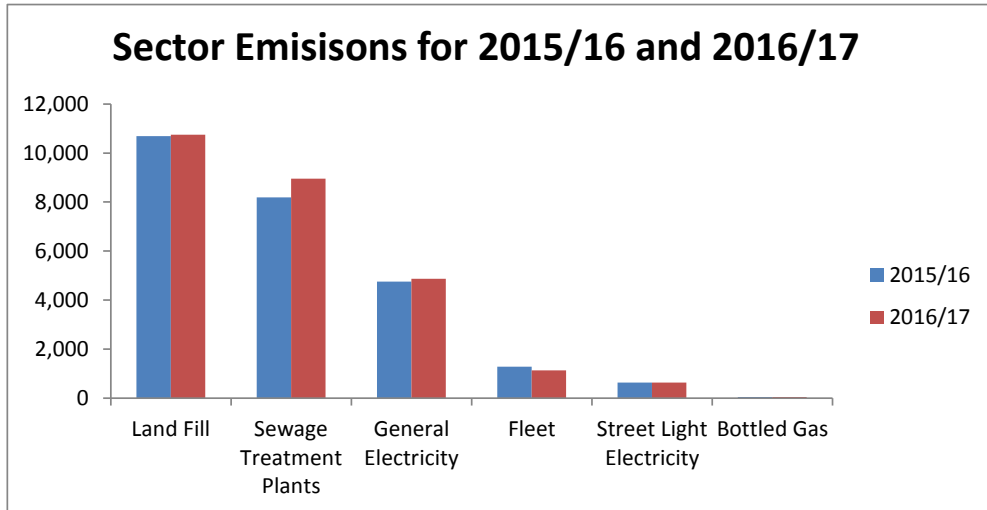


Figure 2 – Byron Shire Council Emissions by Sector

5 From the 2015/16 baseline to 2016/17 Byron Shire Council has experienced a net increase in emissions moving from approximately 25,500 tonnes to 26,300 tonnes of equivalent carbon dioxide (t CO2e).

10 Figure 3 below displays the increase in context to the zero net emissions target. In all instances throughout this report the projections towards the zero net target has been displayed as linear. This is not to say that Council’s journey towards the target will in fact be linear. At this stage it is impossible to accurately project the reduction path without the Emissions Reduction Strategy being written and key major projects defined and time lined. This report does not seek to outline in depth how the target will be reached but will provide the inventory of emissions for the baseline and current emissions profile so that such planning can occur meaningfully.

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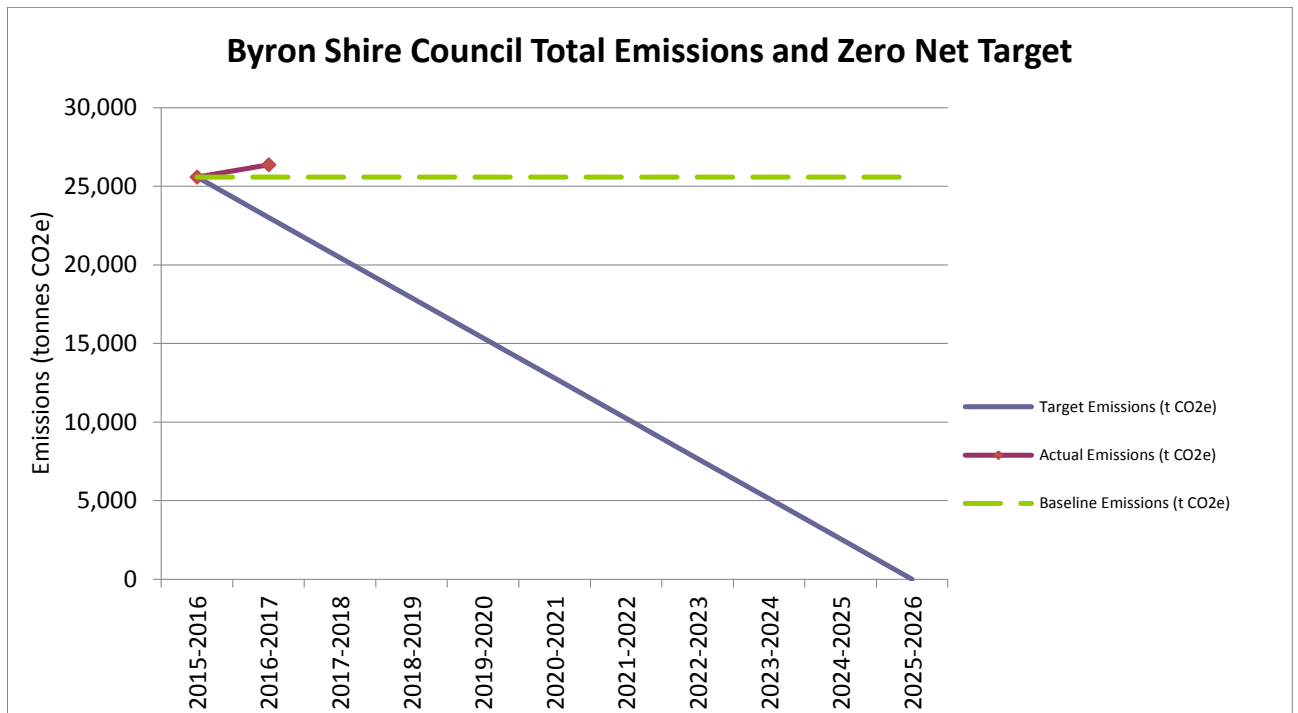


Figure 3 – Byron Shire Council total emissions and zero net target

a) General Electricity

The general electricity sector increased by approximately 137,000 kWh from 2015/16 to 2016/17. This 115 tonne increase has resulted in being 590 tonnes above the projected target of 4,275 tonnes for 2016/17. See Figure 4 and Table 1.

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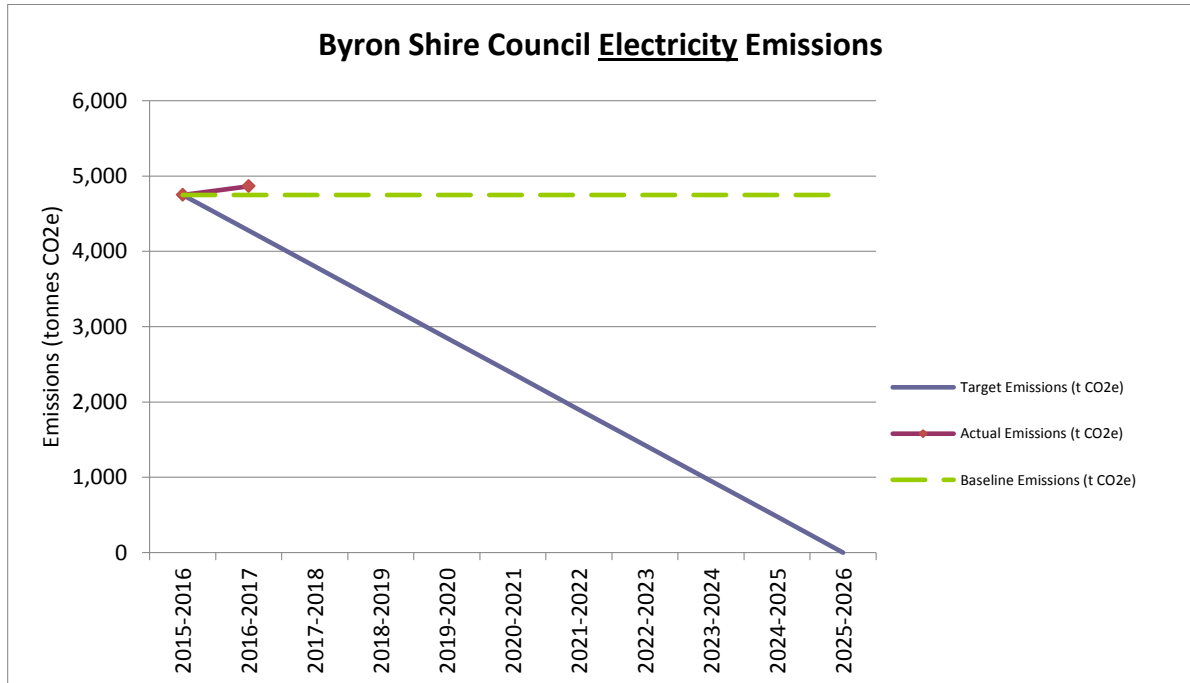


Figure 4 - Byron Shire Council Electricity Emissions

10

Table 1: Electricity Emissions

	2015-2016	2016-2017
Consumption (kWh)	5,654,481	5,791,542
Cost (\$)	\$1,155,601	\$1,205,135
Base Line Emissions (t CO2e)	4,750	4,750
Target Emissions (t CO2e)	4,750	4,275
Actual Emissions (t CO2e)	4,750	4,865
Trending (t CO2e)		+590

Table 2 below shows the cost of electricity used across each Council asset type to put into perspective the cost of the emissions.

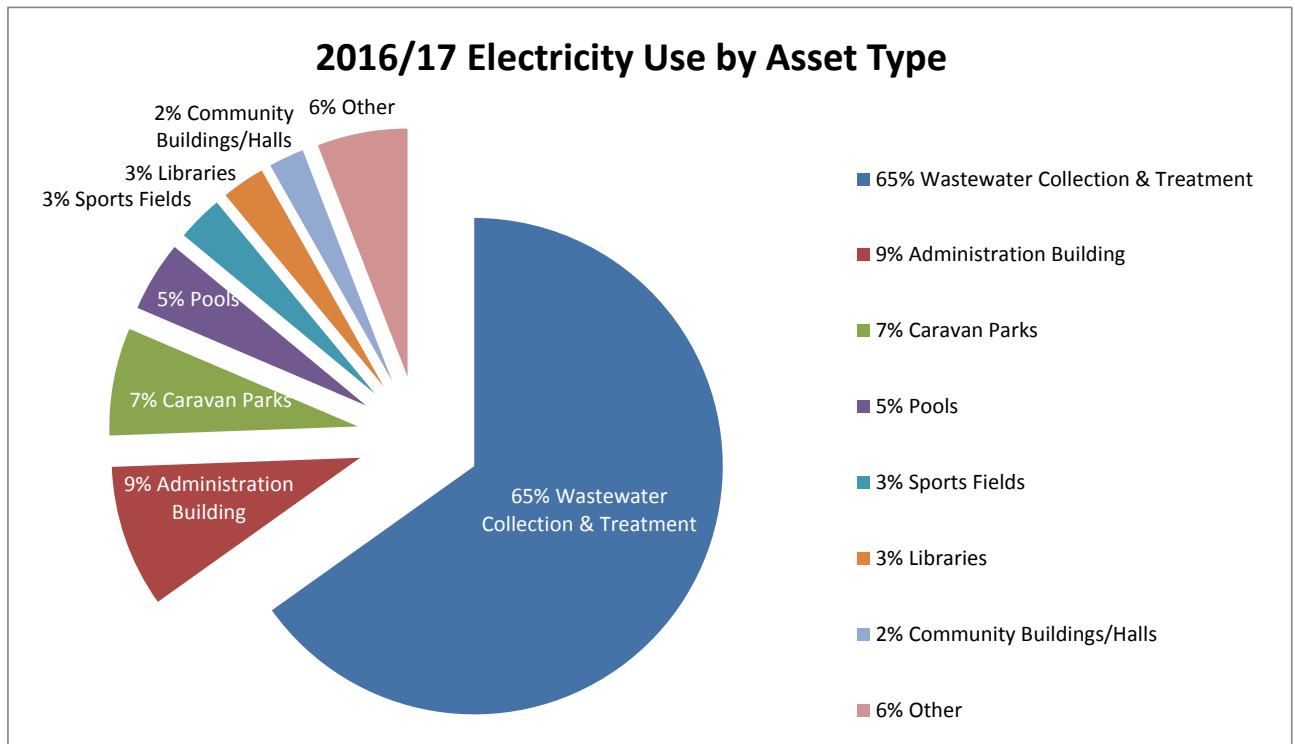
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Table 2: Cost of Electricity by Asset Type

Asset Type	2016/17 Cost (\$)	% of Total
Wastewater Collection & Treatment	\$723,211	60
Administration Building	\$108,485	9
Caravan Parks	\$76,410	6
Pools	\$48,536	4
Sports Fields	\$48,444	4
Water Supply	\$43,656	4
Libraries	\$41,182	3
Community Buildings/Halls	\$37,439	3
Other	\$77,772	6

***NB Costs and consumption are not directly related due to the impact of demand charges and fees. (eg The water pumping infrastructure makes up 4% of Council's costs but not 4% of its electricity use).*

5 Figure 5 below shows the proportion of electricity used from each asset type with the waste water collection and treatment sector using 65% of the total. The significance of the waste waster sector dominates the energy story for Council and increases in this area can engulf savings in other areas rapidly. For example the West Byron Sewage Treatment Plant had a 128,947kWh increase between 2015/16 and 2016/17 from a combination of increased pumping of re-used water to Byron Bay, extra flows and the addition of treating landfill leachate. This increase hides the significant
 10 7,445 kWh savings from the LED lighting retrofit program at the depot.



15 **Figure 5 – 2016/2017 Electricity Use by Asset Type**

Energy efficiency measures continued to be implemented across Council but it is apparent that savings created in the waste water collection and treatment sector are of high priority. There will always be a need for large energy consumption in this sector and a move to renewable energy sources will be a necessity to meet the zero net emissions target.
 20

A detailed analysis of Council's available feedstocks for Bio Energy was undertaken in early 2017 which showed there are enough resources to warrant a facility in the Shire. A pre-feasibility study has been commissioned into the type of technology appropriate for Council's feedstocks and the projected cost benefit of such a project. The results of the pre-feasibility study are due in early
 25 2018 and will be a critical part of the waste water collection and treatment sectors transition towards zero net emissions.

b) Streetlights

30 The streetlight sector is a significant user of electricity and is highly regulated via a service agreement with Essential Energy. The 8,200 kWh increase is attributed to a number of streetlights being installed in new subdivisions in Mullumbimby and Bangalow. As urban areas expand it will be important to ensure the most energy efficient option is chosen wherever possible.

Planned reduction measures in this sector include the commitment to a recent offer by Essential Energy to conduct a bulk replacement of streetlights to LED technology for Category P (low traffic residential) areas. Works are scheduled for November 2018 and will create a substantial energy saving but will not show a decrease in energy use until 2019.

5 Figure 6 and Table 3 show the emissions profile of the streetlight sector. Council is trending at 63 tonnes above the target emission of 572 tonnes CO₂e for the 2016/17 financial year. The slight 1 tonne reduction in actual emissions, despite the increased consumption of kWh, is due to the lowering of the national emissions factor for grid purchased electricity due to more renewable energy being on the national network generally.

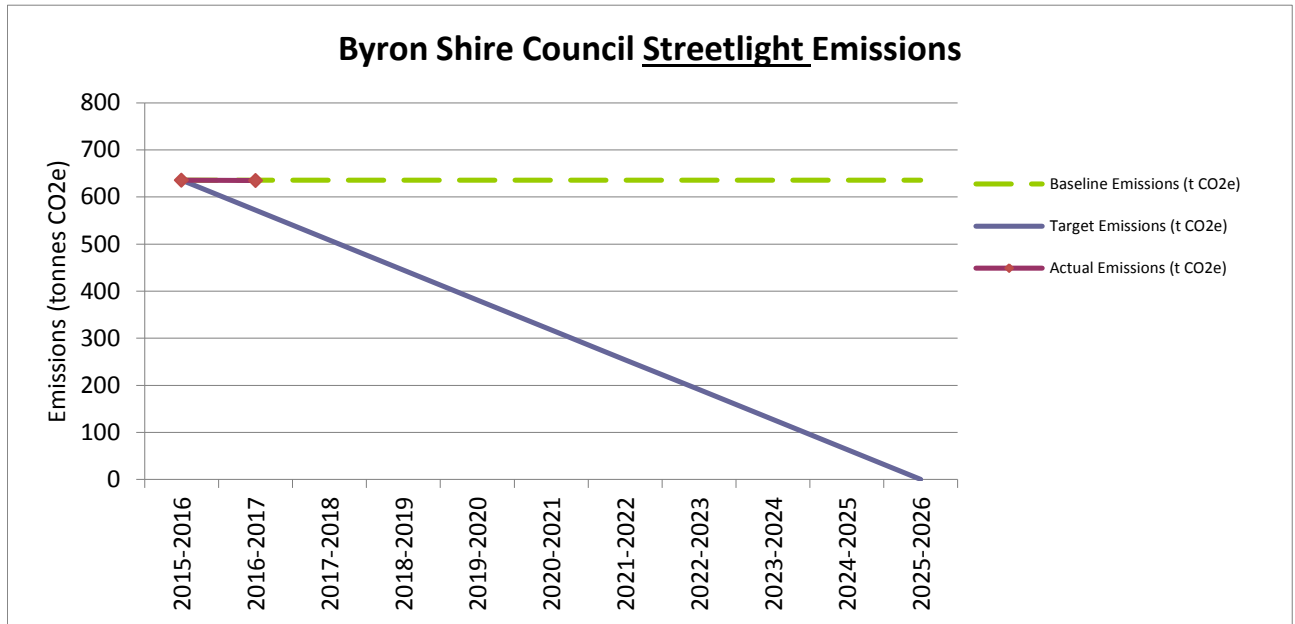


Figure 6 – 2016/2017 Byron Shire Council Streetlight Emissions

Table 3: Streetlight Emissions

	2015-2016	2016-2017
Consumption (kWh)	756,699	764,912
Cost (\$)	\$314,425	\$336,809
Base Line Emissions (t CO ₂ e)	636	636
Target Emissions (t CO ₂ e)	636	572
Actual Emissions (t CO ₂ e)	636	635
Trending (t CO ₂ e)		+63

c) Fleet

Emissions from Council’s fleet sector includes all diesel and unleaded petrol consumed from both the bulk fuel stores at the depot, quarry and landfill and the fuel used in the passenger vehicles issued via star cards at commercial fuel stations.

The emissions attributed to Council’s fleet reduced from 1,279 tonnes to 1,128 tonnes. This 151 tonne decrease places this sector 23 tonnes ahead of the target projection for the 2016/17 financial year, refer to Figure 7 and Table 4.

When preparing this year’s emissions inventory for the fleet sector, a major flaw in the Authority data capture function was identified for bulk fuel use, which removed the ability to attribute fuel issued to individual plant numbers. As such, the emissions for the bulk fuel had to be calculated from “delivery purchases” as opposed to “fuel stock issues”. Unfortunately this has meant that it is

impossible to drill down further to ascertain the reason for the reduction in fuel usage. Avenues are being investigated to rectify this situation and move to a more digital way of issuing fuel at the depot. This will enable more detailed analysis and tracking of Council's bulk fuel use in the next reporting year.

5

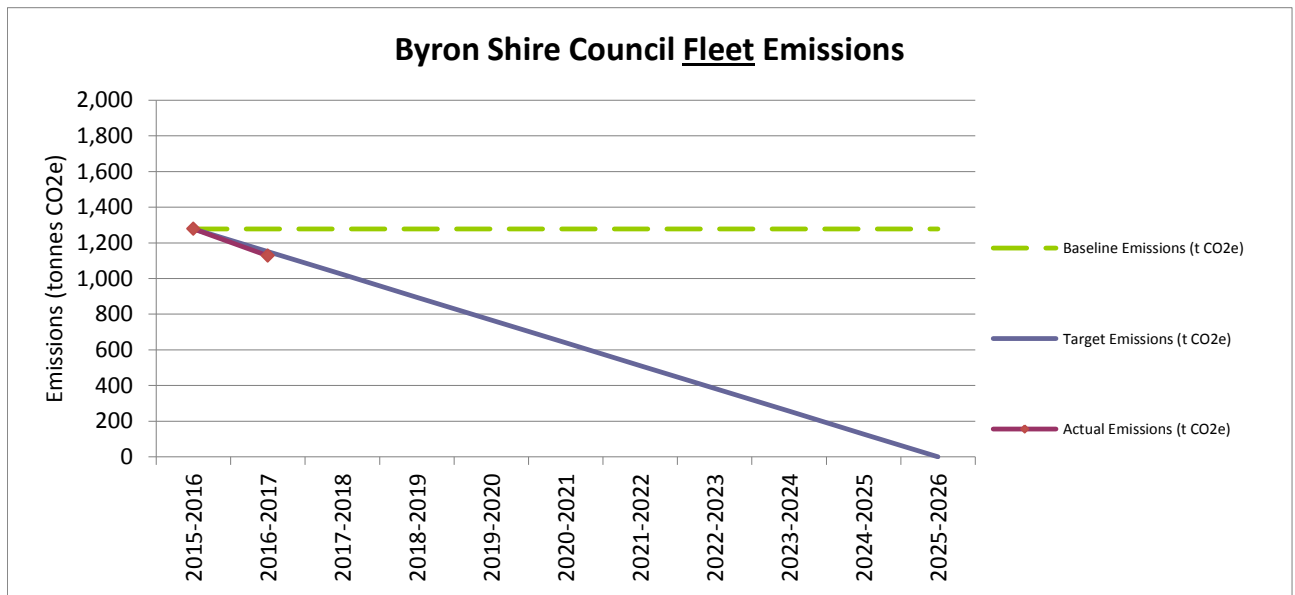


Figure 7 – 2016/2017 Byron Shire Council Fleet Emissions

10

Table 4: Fleet Emissions

	2015-2016	2016-2017
Consumption (kL)	482	427
Cost (\$)	\$482,922	\$438,480
Base Line Emissions (t CO2e)	1,279	1,279
Target Emissions (t CO2e)	1,279	1,151
Actual Emissions (t CO2e)	1,279	1,128
Trending (t CO2e)		-23

d) LPG Bottled Gas

Byron Shire Council uses LPG bottled gas in both its holiday parks and at Sandhill's Child Care Centre. The emissions impact of bottled gas was 41 tonnes in the 2015/16 financial year reducing to 39 tonnes in 2016/17 shown in Figure 8 below. Despite the reduction it was not quite enough to meet the projected target of 37 tonnes for the 2016/17 financial year. The primary user of bottled gas is the First Sun Holiday Park which accounts for 75% of the total. Bottled gas is used for boosting the solar hot water system at the amenities block (installed 2014) and as instantaneous gas hot water heating in all the cabins. Water saving shower heads have already been installed and there is minimal other efficiencies to be gained.

25

For the minimal cost to Council for the gas and the minimal emissions impact of this sector, it is recommend that this sector be offset by the other renewable energy projects Council is pursuing.

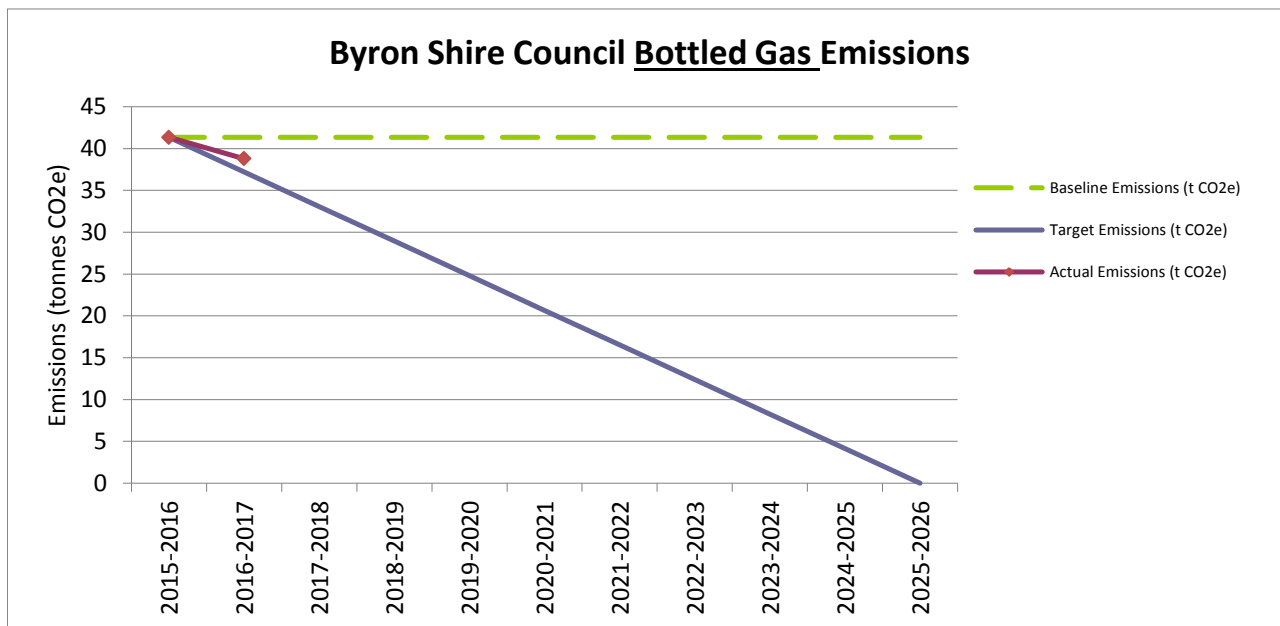


Figure 8 – 2016/2017 Byron Shire Council Bottled Gas Emissions

5 **Table 5: Bottled Gas Emissions**

	2015-2016	2016-2017
Consumption (L)	26,541	24,905
Cost (\$)	\$17,913	\$14,931
Base Line Emissions (t CO2e)	41	41
Target Emissions (t CO2e)	41	37
Actual Emissions (t CO2e)	41	39
Trending (t CO2e)		+2

e) **Landfill Fugitive Emissions and Flare**

10 Emissions from Council’s landfill are now being included in Council’s emissions inventory. The fugitive emissions from the landfill are only the emissions released by the landfill itself. Emissions from running the landfill such as fuel in the heavy plant, or electricity to run pumps and lighting have been attributed to other sectors of the emissions inventory. The landfill fugitive emissions are significant at over 10,000 tonnes per annum which is greater than the electricity, streetlight, fleet and bottled gas sectors combined.

15 Council’s landfill is not currently operational and has an interim cap applied to the most recently operated Southern Expansion cell (the remainder of the older landfill has had a final cap applied). Municipal residual waste is currently disposed of outside the Shire by a third party and therefore was not considered inside the definition of “operational control” of Council. The emissions from this waste are not monitored or reported on by Council. The NGER methodology was used to calculate the landfill’s fugitive emissions out to the target year of 2025/26 because the landfill is closed. This is shown by the orange line in Figure 9.

25 Council operates a landfill gas capture and flare system at the Myocum landfill to minimise odour and reduce emissions. In 2015 Council entered into a Carbon Abatement Contract with the Australian Federal Government through the Carbon Farming Initiative to supply accredited carbon offsets from landfill gas flaring operations. This was part of the Australian Government’s “direct action” plan to meet the national emission reduction targets of the Paris Climate Agreement. Council entered into a reverse auction contract to supply carbon offsets until 2022. Council can count the emission reduction made by the flare for the Myocum landfill for its own emissions target so long as it is clearly understood that this reduction is also being attributed to meeting the national

target. That is to say, the flare related emission reduction is not additional to the national emissions reduction target, it is part of it.

The primary way of reducing the fugitive emissions is by way of methane capture and flaring. With the flare already installed and no plans to expand the capture system the amount of emissions able to be flared will reduce inline with the reducing fugitive emissions naturally occurring as the landfill ages. Large scale projects either through carbon sequestering tree planting or renewable energy projects will be necessary to offset the emissions from the landfill to achieve a zero net emissions target by 2025/26.

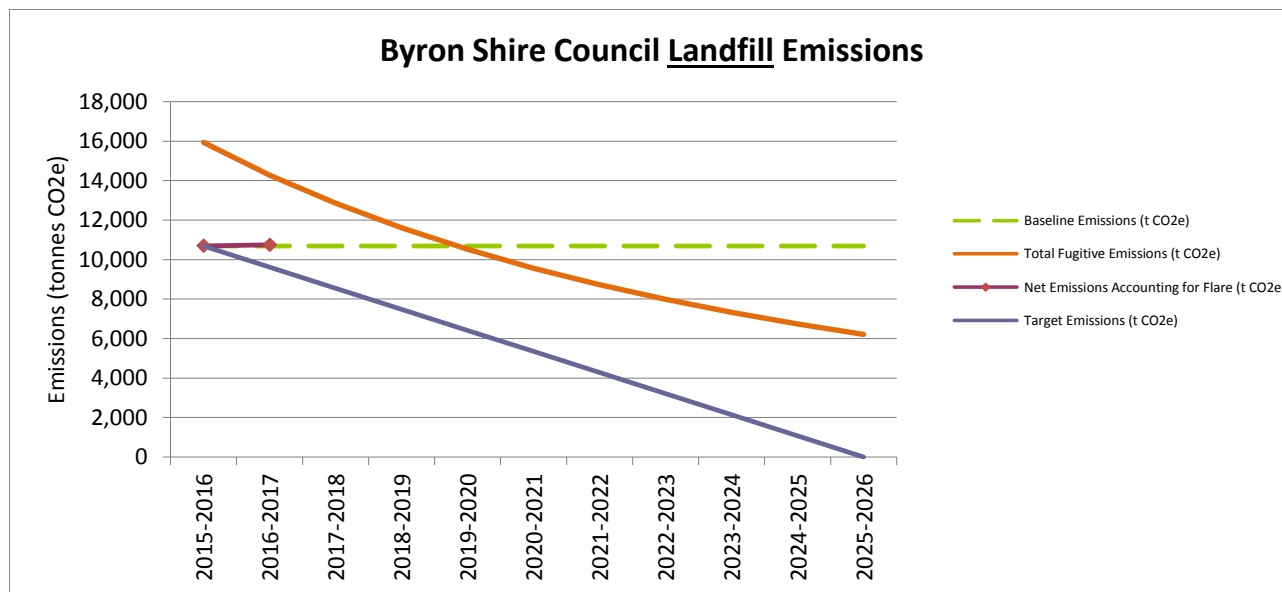


Figure 9 – 2016/2017 Byron Shire Council Landfill Emissions

Table 6: Landfill Fugitive Emissions

	2015-2016	2016-2017
Total fugitive emissions from landfill (t CO2e)	15,931	14,283
Emissions abated from flaring (t CO2e)	5,241	3,539
Base Line Emissions (t CO2e)	10,690	10,690
Target Emissions (t CO2e)	10,690	9,621
Net Emissions (t CO2e)	10,690	10,744
Trending (t CO2e)		+1,123

f) Sewage Treatment Plants – Fugitive emissions

Byron Shire Council owns and operates four sewage treatment plants. The treating of waste water is energy intensive as outlined previously in the electricity section of this report. In addition to the energy needed to run the facility, other emissions known as ‘fugitive emissions’ also occur. These fugitive emissions occur as a result of the organic matter in the waste water decomposing in the ponds as it is being treated.

The fugitive emissions of a facility are highly dependent on the volume of flow treated and the treatment methods used. Table 7 below shows that the fugitive emissions from the sewage treatment plants are almost as significant as the landfill fugitive emissions at over 8,000 tonnes per annum. As outlined earlier, the pre-feasibility study into bio energy potential at Council’s sewage treatment plants will be critical in reducing and offsetting emissions from this sector by 2025/26. Additionally the next planned upgrade of the West Byron Sewage Treatment Plant is in 2025 where it will be upgraded to a covered anaerobic treatment system to capture biogas directly from the plant itself. By capturing the emissions directly from the ponds significant savings can be made.

Table 7: Sewage Treatment Fugitive Emissions

	2015-2016	2016-2017
Total Annual Flow Processed (kL)	3,254,852	3,541,529
Greenhouse Gas Emissions (t CO2e)	8,190	8,955
Base Line Emissions (t CO2e)	8,190	8,190
Target Emissions (t CO2e)	8,190	7,371
Trending (t CO2e)		+819

5 Due to resourcing issues, Council’s Utilities Team were unable to complete the emissions calculations using the NGER methodology. An alternative methodology using IPCC Emissions Factors was used to prepare an indicative estimate of emissions from this sector. Moving forward it will be necessary to outsource the calculation of Council’s Sewage Treatment Plant fugitive emissions to align with the NGER methodology and accurately set a meaningful baseline for this sector.

10

Financial Implications

15 Emissions reduction can both cost Council and save Council depending on the project and as such will need to be assessed on a case by case basis as part of the development of Council’s Emissions Reduction Strategy.

Statutory and Policy Compliance Implications

Council has no statutory obligations to report its emissions inventory.

Report No. 13.3 **Update Resolution 17-386 Byron Energy Action Tank**
Directorate: Sustainable Environment and Economy
Report Author: Shannon Burt, Director Sustainable Environment and Economy
File No: I2017/1838
5 **Theme:** Ecology
 Planning Policy and Natural Environment

Summary:

10 Council considered Report 13.18 Byron Energy Action Tank at the Ordinary Meeting 21 September 2017 and resolved as follows:

15 **17-386 Resolved:**

1. *That Council note the report.*
2. *That Council receive a further report once the Council owned land has been assessed for potential to support renewables, and of the implications of this in terms of process, probity and finance, should this land be sought by others for this purpose.*
- 20 3. *That prior to the consideration of a Council report on these issues, that a Strategic Planning Workshop be conducted to enable more detailed discussion of the propositions articulated in the report.*

25 This report presents an update on actions undertaken following that resolution.

RECOMMENDATION:

That Council:

1. **Note the report.**
2. **Enter into further discussions about the BE19 accreditation scheme with Zero Emissions Byron with a mind to developing a Memorandum of Understanding to define how this scheme could apply to Council led projects and the cost and resourcing implications of this scheme to each project.**
3. **Receive a further report early 2018 once item 2 occurs and a draft Memorandum of Understanding is developed with Zero Emissions Byron on the BE19 accreditation scheme.**

Report

Council considered Report 13.18 Byron Energy Action Tank at the Ordinary Meeting 21 September 2017. This report presents an update on actions undertaken following that resolution, as discussed below:

1. That Council note the report.

Report noted.

2. That Council receive a further report once the Council owned land has been assessed for potential to support renewables, and of the implications of this in terms of process, probity and finance, should this land be sought by others for this purpose.

Throughout 2017 a number of significant energy projects have gained momentum building on years of research and smaller projects strategically undertaken in the Byron Shire. Below is a snapshot of the current leading projects. These and other projects, to be identified in the Emissions Reduction Strategy (report I2017/1824 on this agenda), support Council’s commitment to the two targets of **Resolution 17-086**:

Target 1 – 100% Net Zero Emissions by 2025 in collaboration with Zero Emissions Byron and Target 2 – to source 100% of Council’s energy through renewable energy within 10 years.

Project	Description
Bio Energy Pre-Feasibility Study – (Potential locations)	<p>Bio solids from Council’s Sewage Treatment Plants and organic waste from the curb side green bin collection has been identified as significant enough to run a bio energy facility in the Byron Shire.</p> <p>A pre-feasibility study is currently investigating the possibility of two small facilities at Brunswick Valley STP and West Byron STP, with Bangalow STP has been identified as a feed stock location.</p>
Brunswick Valley – Sustainability Centre (Valances Road)	<p>A comprehensive management plan has been prepared for the entire Council owned land parcel which includes ground mounted solar and potential for a bio energy facility.</p> <p>Resolution 17-459:</p> <ol style="list-style-type: none"> 1. <i>That the Draft Vallances Road Plan of Management be adopted subject to:</i> <ol style="list-style-type: none"> a) <i>Being renamed “Brunswick Valley Sustainability Centre Management Plan”;</i> and b) <i>References in the document referring to “POM” or “Plan of Management” be modified to “MP” or “Management Plan” respectively.</i> 2. <i>That Council approve the initiation of a Community consultation programme for the area identified for possible Affordable Housing / Community Gardens / Eco tourism / Educational.</i> 3. <i>That Council endorse the commencement of the procurement process for the designated solar farms on the site.</i> <p>A first phase expression of interest is currently under preparation to seek responses from industry on what technology is available that would suit the outcomes sought for this site in terms of sustainability and renewable energy outcomes. This is likely to go out to market early 2018.</p>

Project	Description
Dingo Lane – Large Scale Solar	A site feasibility assessment is underway for a 5 MW ground mounted solar farm on Council owned land in Dingo Lane, Myocum.
Mullumbimby EV Charge Station and Solar Covered Car Park	A preliminary cost benefit analysis is underway to construct a solar covered car park adjacent to the administration centre to power the administration centre and two EV charge stations.
Mullumbimby Mini Hydro	COREM in partnership with Council is investigating recommissioning the Mullumbimby micro hydro power station.
Local Electricity Trading	Council is currently running a procurement process for renewing its electricity contract in collaboration with Lismore City Council. Included as one element of this process is a request for the prospective retailer to provide Local Electricity Trading between Council assets. This will be a first for local government in Australia if successful. The Cavanbah Centre and West Byron STP have been identified as a potential pilot site for LET to occur.

Each project above is being progressed by staff having regard to various legislative requirements applicable, resourcing and priority in the capital works program, and Council’s Partnerships Policy.

5 In time further updates on these projects will be reported to Council.

3. That prior to the consideration of a Council report on these issues, that a Strategic Planning Workshop be conducted to enable more detailed discussion of the propositions articulated in the report.

10 At the Strategic Planning Workshop (SPW) 9 November 2017, the Mayor briefed Councillors on the genesis of the Byron Energy Action Tank, and the work by Zero Emissions Byron (ZEB) and other community groups and individuals subsequent to that meeting to establish Byron Energy 19 (BE19).

15 The SPW session included a discussion about a number of community led projects and also the establishment of a governance structure, and a set of Guiding Principles for a local renewable project accreditation scheme - BE19. The various Council led projects in 2 above were also discussed.

20 At this time it is understood that ZEB is likely to launch the BE19 accreditation scheme in December 2017. ZEB would be the default accreditor and would also monitor annually any BE19 certified projects for ongoing compliance with the standards of the scheme.

25 A draft set of guiding principles for this scheme is provided below – and are being finalised in consultation with Council and other interested parties.

30 A fee for each assessment by ZEB is also proposed in the order of around \$1000 per Kw of energy produced for projects seeking accreditation. This however requires further consideration and formalisation by the ZEB group.

To obtain accreditation as a BE19 proponent, local renewable energy projects shall commit themselves to the following DRAFT Guiding Principles:

Positive Impacts

Ensuring any renewable energy projects provide and enhance, long term social, environmental and economic benefits for the Byron Shire:

- 5
- Local community social benefits must be at the forefront of proposals
 - Projects shall have a strategy for ongoing social, cultural and environmental benefits, to be implemented locally and shared globally
 - Projects shall respect the ecological systems in which they are located with ecological benefits to proposals encouraged and identified
 - Projects shall minimise their footprint, and protect the sacred
 - Some profits to be used to ensure equitable access to renewable energy and associated benefits
- 10

15 Local Energy for Local People

Developing significant, long term economic assets through a thriving renewable energy and regenerative business sector:

- 20
- Energy shall be generated within the Byron Shire
 - Projects shall support local employment and demonstrate preference for local suppliers and installers
 - Projects must provide opportunities and strategies for local investment
 - Though initial local investment is preferred, if initial investment is external to the Shire, a clear strategy to transfer it to local investment opportunities shall be outlined
- 25

Integrity

Investment groups/individuals shall satisfy an appropriate ethical investment criteria

30

Transparency

Together we are better when we share, learn and evolve together:

- 35
- Projects shall establish thorough community engagement and social licence development, demonstrated by the commitments to the social and environmental criteria*

Project shall illustrate how stakeholders are to be integrated, open and transparent

40 Urgency

Projects shall have obtained approvals and established a clear construction and operation timeframe prior to Sept 1, 2019

45 Accountability

Projects shall agree to providing yearly measurements of impacts and emission reduction, conducted and verified by 3rd party bodies and reported publicly to Zero Emissions Byron to ensure monitoring of emission reduction

50

The principles agreed to shall be for the life of the renewable energy generation infrastructure

The purpose for the BE19 accreditation scheme is to push for a social and local focus on projects. The BE19 certification as it is understood would not be a de facto approval by Council or other

regulatory authority for any project, but merely a means to establish its environmental credentials for consideration during the assessment process.

5 Discussions have also commenced on pathways for development applications received for BE19 and or other renewables projects as at present the approvals pathways can be complex and lengthy.

Given Council's commitment to **Resolution 17-086:**

10 Target 1 – 100% Net Zero Emissions by 2025 in collaboration with Zero Emissions Byron and Target 2 – to source 100% of Council's energy through renewable energy within 10 years.

15 It seems appropriate for Council to consider its support for and participation in the BE19 accreditation scheme for those projects listed above. A further report to Council on this will occur early next year.

Financial Implications

20 A fee for each project assessment by ZEB under the BE19 accreditation scheme is proposed in the order of around \$1000 per Kw of energy produced. This would need to be considered at the project planning stage and is likely to cost on average between \$1000 to \$5000 per Council project for the initial certification and each year after.

Statutory and Policy Compliance Implications

25 Relevant Planning, Environment and Local Government legislation
Council's Partnerships Policy

Report No. 13.4 Update on the CZMP for the Eastern Precincts of the Byron Bay Embayment and other coastal projects

Directorate: Sustainable Environment and Economy
Report Author: Chloe Dowsett, Coastal and Biodiversity Coordinator
File No: I2017/1675
Theme: Ecology
 Planning Policy and Natural Environment

5

10 **Summary:**

Council at the 26 October 2017 meeting resolved (**Res 17-521**) to develop a new CZMP for the Eastern Precincts, being Cape Byron to Main Beach. This resolution is based on the Minister’s recommendation to effectively exclude the Belongil spit area from the plan by “splitting” the plan into two precincts, Eastern and Western.

15

The development of the new plan called the *Coastal Zone Management Plan for the Eastern Precincts of the Byron Bay Embayment* (CZMP Eastern Precincts BBE) has commenced and will be presented to a Strategic Planning Workshop early in 2018.

20

The Ministerial Direction requiring Council to prepare a CZMP for the Byron Bay Embayment still stands as Belongil is still a designated ‘hotspot’. The Minister’s Office has urged Council to begin working on a Coastal Management Program (CMP) for the Belongil precinct under the new *CM Act* (soon to be enacted). The CMP would effectively cover the western precincts of the BBE which are: Cavvanbah; Belongil Beach; and North Beach.

25

This report provides an update on the progress and timeframes for the new CZMP Eastern Precincts BBE, proposes that Council commence development of a CMP for the Western Precincts of the BBE and provides an update of other coastal projects, including Jonson Street Protection Works and the CMP for the Northern Precincts (New Brighton & South Golden Beach) and their work priority in relation to the two Byron Bay Embayment projects.

30

RECOMMENDATION:

1. That Council note the report.
2. That Council acknowledge that the preparation of the CZMP Eastern Precincts BBE is the highest priority project.
3. That Council applies to OEH for a grant to fund 50% of the project costs for the Jonson Street Protection Works pre-construction stage.
4. That Council consider an allocation of \$150,000 (50% of the project costs) for the Jonson Street Protection Works pre-construction stage over the 2018/19 and 2019/20 financial years.
5. That a report to Council be prepared in the New Year outlining a project plan to develop a CMP for the Western Precincts of the BBE.
6. That the first stages of the CMP Western Precincts BBE and the CMP Northern Precincts (New Brighton & South Golden Beach) are developed in parallel.

35 **Attachments:**

- 1 Email to Council from the Ministers Office on the CZMP BBE clarifying letter E2017/93290, E2017/102464 [⇒](#)

5

Report

5 This report provides an update on the development of the newly formed *Coastal Zone Management Plan for the Eastern Precincts of the Byron Bay Embayment* (as per **Res 17-521**), and other coastal projects being delivered or proposed.

10 In correspondence to Council dated 27 October 2017 (Attachment 1) the Minister confirmed her invitation to re-submit the CZMP for the Bryon Bay Embayment excluding the Belongil Spit Precinct, after addressing relevant comments of the NSW Coastal Panel.

This correspondence also outlined that as the plan does not meet the requirements of the Act and the Ministerial Directions requiring Council to prepare a CZMP for the Byron Bay Embayment still stand.

15 ***Coastal Zone Management Plan for the Eastern Precincts of the Byron Bay Embayment***

At the 26 October 2017 meeting Council resolved (**Res 17-521**) to develop a new CZMP for the Eastern Precincts, being Cape Byron to Main Beach. This resolution is based on the Minister's recommendation to exclude the Belongil Spit precinct from the plan by effectively "splitting" the plan into two precincts, Eastern and Western.

20 Staff have commenced development of this new plan termed the CZMP for the Eastern Precincts of the Byron Bay Embayment (CZMP Eastern Precincts BBE), which will be presented to a Strategic Planning Workshop early in the New Year.

25 The planning area of the CZMP Eastern Precincts BBE will address four precincts:

- 1. Wategos/Little Wategos;
- 2. The Pass;
- 3. Clarkes Beach; and
- 30 4. Main Beach (including Jonson Street protection works).

35 Below is a proposed timetable for the development and submission of the CZMP Eastern Precincts BBE to the Minister within the timeframe for certification under the existing legislation. It is imperative that the CZMP Eastern Precincts BBE is signed within the general savings and transitional period of 6 months post-repeal date of the legislation. Based on the expectation that the current legislation will be repealed prior to the end of the year, staff are working towards having the plan signed and certified prior to 30 June 2018.

Table 1: Draft timetable for delivery of CZMP Eastern Precincts BBE

Month	Task/s
December 2017:	Development of the draft plan; meetings with Public Agencies; report to Council (14 Dec) on status of draft plan and other coastal projects
January 2018:	Finalise the draft plan; continue meetings with Public Agencies
February 2018:	Strategic Planning Workshop for Councillors; presentation of draft plan; report to Council to go to Public Exhibition
Feb/March 2018:	Public Exhibition (4-5 wks)
April 2018:	Review submissions and feedback; report to Council on Submissions and Feedback
May 2018:	Finalise plan; submit to Minister for certification

40

Upgrade of the Jonson Street Protection Works

The upgrade of the Jonson Street protection works (JSPW) is Management Action # 1 in the newly formed CZMP Eastern Precincts BBE currently being drafted. The primary reason for attempting to achieve certification of this plan is to allow Council to move forward with the planning, design and approvals for upgrade of this structure. As outlined in the comments from the Coastal Panel, this project is a high priority for implementation.

Staff are presently developing a grant application for the NSW Coastal and Estuary Grants Program for the pre-construction stage of works required, being detailed design of the structure, modelling (to clarify engineering parameters required), funding model and distributional analysis (confirmation of funding available for capital works), planning and approvals. This first stage of the project links into the present Master Plan process being delivered for the Byron Bay Town Centre. The design phase will explore options and opportunities for upgrade of the erosion protection structures in line with the Council-endorsed re-design of the works.

It is intended that the grant application will be tabled at the Strategic Planning Workshop in early 2018.

Coastal Management Program for the Western Precincts of the Byron Bay Embayment

Resolving the issues at Belongil for certification of the plan under the existing legislation and within the pending timeframe is considered to be unachievable due to the numerous and complex issues that need to be addressed.

The Ministerial Directions requiring Council to prepare a CZMP for the Byron Bay Embayment still stand as Belongil is still a designated 'hotspot'. A report will be brought to Council in the New Year outlining a project plan to develop a CMP for the Western Precincts of the BBE for Council's consideration.

Coastal Management Program for the Northern Precincts (New Brighton and South Golden Beach)

Council resolved (**Res 13-347**) to prepare a CMP for the Shire's northern coastal precincts (New Brighton and South Golden Beach). This action has been included in Council's 2017/18 Operational Plan with a target to commence the plan.

An application for funding to develop a CMP for the North Byron Shire coastline was lodged through the Coastal and Estuary Grants Program on 27 June 2017. Council has been approved \$75,000 (50%) funding for the project through the Grants Program (Office of Environment and Heritage, conditional on a Work Plan being developed by 28 February 2018.

Due to the new coastal legislation yet to be enacted, staff are unable to prepare a final Scope of Work for the project, as the project tasks need to be aligned with the final NSW Coastal Manual. For this reason, a consultant is yet to be engaged and a final Work Plan is yet to be developed.

Other Coastal Projects

New Brighton Beach Scraping Project
Beach scraping works are now complete and revegetation of the dune is presently being implemented. Discussions are being held with the Department of Crown Land and Water regarding fencing of the dune along the heavily used dune area between Strand Ave and the Pacific St beach accessways. A large dune buffer has been created to help combat the effects of storm events and coastal erosion, however, pedestrian and dog access is limiting the ability of vegetation to re-establish on the crest of the dune. Further dune revegetation works and re-building of the beach accessways may be undertaken in the near future.

Coastal Zone Management Plan for Brunswick Estuary

On the 4 July 2017 the newly revised Coastal Zone Management Plan for the Brunswick Estuary was sent to the Minister for certification, pending public agency agreement. To date a response from the Minister has not yet been received. Staff have made contact with other public agencies who have made minor feedback and comments.

5

Due to the new coastal legislation yet to be enacted certification of this CZMP is considered to be achievable. However, this is dependent on comments provided by the Minister which are yet to be received.

10 **Coastal Work Program**

Given the number of significant projects, delays to some due to pending legislation, and available resources, the following work plan is proposed for the delivery of these coastal projects.

Table 2: Proposed Coastal Work Program

Project	Comment	Funds	Staff Recommendation
CZMP Eastern Precincts BBE	It is critical to have the new CZMP completed and with the Minister for certification prior to the lapsing of the legislations transitional arrangements. It is expected that the legislation will come into effect by the end of this year therefore the new CZMP must be with the Minister by June 2018. This is the highest priority project. Refer to Table 1 (above) Draft timetable for delivery of CZMP Eastern Precincts BBE.	Funds for exhibition and finalising this plan are available in the existing budget.	That the preparation of the CZMP Eastern Precincts BBE is the highest priority project.
Jonson St Protection Works	This is a high priority project for action due to existing risk. It is proposed that a grant application be lodged with OEH for matching funds for the pre-construction stage.	Apply to OEH for 50% grant. Seek matching funds in Council's 2018/19 budget.	That Council applies to OEH for a grant to fund 50% of the project costs for the Jonson Street Protection Works pre-construction stage. That Council consider an allocation of \$150,000 (50% of the project costs) for the Jonson Street Protection Works pre-construction stage over the 2018/19 and 2019/20 financial years.
CMP Western Precincts BBE	The Ministerial Directions to prepare a CZMP for the Byron Bay Embayment still stands.	Funds available through the OEH Coastal and Estuary Grants Program (50%)	Report to Council in the New Year on a project plan to develop a CMP for the Western Precincts of the BBE for Council's consideration.

Project	Comment	Funds	Staff Recommendation
CMP Northern Precincts (New Brighton and South Golden Beach)	<p>Council resolved to prepare a CZMP for the northern coastal precincts in 2013.</p> <p>Recently completed beach scraping for this beach compartment may have reduced the short term risk to the area and as such this project is considered a lower priority.</p> <p>Although a lower priority the first stage of the CMP process will proceed once a finalised Work Plan can be developed (pending enactment of the new legislation).</p>	<p>Council has been successful in receiving an OEH grant for this project. Council has matching funds in the existing 2017/18 budget.</p>	<p>That the first stage of the CMP Northern Precincts (New Brighton and South Golden Beach) and the CMP Western Precincts BBE are developed in parallel.</p>

It is recommended that Council adopt the above Coastal Work Program.

Financial Implications

5

Funds required in next years budget (2018/19) for developing the further stages of a CMP Western Precincts BBE and CMP Northern Precincts (New Brighton and South Golden Beach), are unknown at this stage until the first stage is complete but may be in the vicinity of approx. \$75,000 for each project (Council share).

10

Funds required in next years budget (2018/19) for the pre-construction stage of the Jonson Street Protection Works upgrade are approximately \$150,000 (Council share).

Statutory and Policy Compliance Implications

15

Repeal of the *Coastal Protection Act 1979* and enactment of the *Coastal management Act 2016*, along with associated finalised Coastal Manual. This is anticipated to occur prior to the end of the year (2017).

Report No. 13.5 PLANNING - S96 10.2016.551.2 S96 for Design Amendments to Dwelling House at 70 Kingsley Street Byron Bay

Directorate: Sustainable Environment and Economy

Report Author: Luke Munro , Planner

5 **File No:** I2017/1792

Theme: Ecology
Development and Approvals

10 **Proposal:**

Section 96 10.2016.551.2

Application No:

Proposed modification: S96 For Design Amendments to Dwelling House

Original Development: Dwelling House and Demolition of Existing Garage /Shed

Type of s96 sought:

Property description: LOT: 11 DP: 778429

70 Kingsley Street BYRON BAY

Parcel No/s: 39330

Applicant: Mrs D L Ehrenburg

Owner: Mrs D L Ehrenburg

Zoning: R2 Low Density Residential

S96 Date received: 11 October 2017

Original DA determination date: 10 November 2016

Integrated Development: No

Public notification or exhibition:

- Level 1 advertising under DCP 2014 Part A14 – Public Notification and Exhibition of Development Applications
- Exhibition period: 26 October 2017 to 8 November 2017
- Submissions received: Two (2)

Delegation to determination: Council

Issues:

- Located in the Kingsley Street Conservation Area;

Summary:

15 A S96 Application has been received for design amendments to the approved dwelling house which includes the modification of a number of windows, changes to the front gable end roof and to delete Condition 14 in relation to painting the dwelling in heritage colours. The modification of the windows and roof form and internal floor plan modifications will not impact on neighbouring dwellings and these changes are considered to comply with the requirements of the Byron LEP 2014 and Byron DCP 2014.

20 The applicant has also requested the deletion of Condition 14 which requires the dwelling be painted in colours which comply with the requirements of Chapter C1 Non Indigenous Heritage of the Byron DCP 2014. The house however has been painted in a bright shade of yellow which is inconsistent with heritage provision of Chapter C1 of the DCP.

- Historically, a weatherboard dwelling was located upon the property which was painted a similar yellow to the newly constructed dwelling. This dwelling was destroyed by fire and the new house has replaced this building. The proposed amendments have been assessed by Council's Heritage Advisor and it's recommended that Condition 14 remain. An alternative colour should be considered that is more sympathetic with the dwellings location within the Kingsley Street Conservation Area. However, it is open to Council to have an alternative view to this and resolve to delete Condition 14.
- 5
- 10 The remainder of the proposal is satisfactory (with the exclusion of the removal of Condition 14) having regard to relevant matters for consideration. The Section 96 Application is recommended for partial approval subject to amended conditions of consent.

NOTE TO COUNCILLORS:

- 15
- 20 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:

That pursuant to Section 96 of the Environmental Planning & Assessment Act 1979, that Application No. 10.2016.551.2, for S96 for design amendments to dwelling house, be partially approved by modifying Development Consent Number 10.2016.551.1 subject to the conditions listed in Attachment 2 (E2017/108605).

Attachments:

- 25
- 1 Proposed plans S96 10.2016.551.2 - prepared by Prestige Properties Design & Construction, E2017/108655 [⇒](#)
 - 2 proposed conditions 10.2016.551.2 - 70 Kingsley Street Byron Bay, E2017/108685 [⇒](#)
 - 3 Confidential - 10.2016.551.2 submissions received, E2017/108605

30



Assessment:

1. INTRODUCTION

5 1.1. History/Background

This application is for development on an existing residential allotment known as Lot 11 DP778429 registered on the 17.10.1998.

10 DA10.2016.551.1 Dwelling House Approved 10.11.2016

Development Consent 10.2016.551.1 (the subject of this S96 application) provided consent to construct a large home spread over 3 levels at 70 Kingsley Street, Byron Bay. The approved dwelling consists of the following:

15

Garage Floor Level (Basement)	<ul style="list-style-type: none"> • Storage Room • Double Garage • Workshop and attached bathroom
Ground Floor Level	<ul style="list-style-type: none"> • Combined Living/Dining/Kitchen with direct access onto a large verandah • Two bedrooms (Bed 2 includes en-suite) • Separate Powder, Bathroom and Laundry rooms • Conservatory • Courtyard
First Floor Level	<ul style="list-style-type: none"> • Study • Main Bedroom including attached Retreat, Walk in Robe, En-suite and Verandah.

Condition 14 requires the dwelling be painted in accordance with the Byron DCP 2014, Chapter C1 were included in the Consent. Condition 14 is replicated below:

20 14) Building materials and colours

The application for a Construction Certificate is to include plans and specifications that indicate the proposed building colours are in accordance with the colours within the provisions of Section C1.4.5 of Council's Development Control Plan 2014. Please note that colours must be non-reflective.

25

1.2. Description of the proposed development

This application seeks approval for a S96 for design amendments to Dwelling House which include the following:

- 30
- Incremental amendments to windows and doors (discussed further below);
 - Minor internal floor plan layout changes;
 - Change in Verandah roof form - gable to hip roof;
 - 500mm extension to balcony on eastern elevation; and
 - Removal of Condition 14 relating to Building Materials and Colour

35

The majority of changes are considered minor in this instance and generally in keeping with the original design of the dwelling. These include the changes to windows, roof form and balcony. The proposed changes to the windows are outlined below:

	Approved	Proposed
Windows		

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No. 2 & 3 Eastern Elevation–Sub floor	600(h) x 600(w)	1200(h) x 600(w)
No. 26 & 27 Western Elevation–Ground floor	1200(h) x 1200(w)	1200(h) x 1500(w)
Bedroom 3 – New Louvre window	Window added	1850(h) x 450(w)
No. 28 & 30 Northern Elevation–Ground floor	-	Deleted
Bathroom-First Floor	Window added	1100(h) x 1100(w)
Floor Plan changes		
Sub Floor		
Store room wall		Removed
Internal Door to spoon drain		Removed
External door-northern elevation		Removed
Ground Floor		
No Changes		
First Floor		
Amended room description – swap Bedroom 1 with Retreat		Amended room description/s
Balcony to Ensuite- 500mm wider and timber balustrade	700(w) x 2000(L)	700(w) x 2500(L)
Roof		
Glass roof to lantern roof	Metal roof	Glass roof
Skylight-first floor hall	-	Skylight added
Skylight-Stairwell	-	Skylight added
Relocation of Solar HW Panels	-	Solar HW Panels relocated
Verandah roof – change to roof design	Gable Roof	Hipped Roof

Emphasis added to new dimension/s



5 14) Building materials and colours

The application for a Construction Certificate is to include plans and specifications that indicate the proposed building colours are in accordance with the colours within the provisions of Section C1.4.5 of Council’s Development Control Plan 2014. Please note that colours must be non-reflective.

Such plans and specifications must be approved as part of the Construction Certificate.

1.3. Description of the site

5 The subject site is located at 70 Kingsley Street, Byron Bay and is further described as Lot 11
 DP778429 and has an area of 599.5m². The site is located on the south-western corner of
 Kingsley and Massinger Streets. The site is within the R2 Low Density Residential Zone under
 Byron Local Environmental Plan 2014 and with a dwelling house under construction onsite
 10 generally in accordance with 10.2016.551.1. The previous dwelling house was destroyed by fire.

2. SECTION 79C – MATTERS FOR CONSIDERATION – DISCUSSION OF ISSUES

15 Having regard for the matters for consideration detailed in Section 79C (1) of the Environmental
 Planning & Assessment Act 1979, the following is a summary of the evaluation of the issues.

2.1. State/Regional Planning Policies, Instruments, EPA Regulations 2000

ENVIRONMENTAL PLANNING AND ASSESSMENT Act 1979

20	Section 96(1A) Comment: The proposal is of minimal environmental impact
	Section 96(3) Comment: Section 79C (1) matters are considered below.
	Section 96(4) Comment: Noted.
	Section 96(6) Comment: Proposal recommended for approval (excluding the removal of Condition 14)
	Section 96(8) Comment: Noted.

ENVIRONMENTAL PLANNING AND ASSESSMENT REGULATION 2000

	Clause 115(1) Comment: Requirements for an application for modification of a development consent under section 96(1A) have been achieved.
	Clause 115(2) Comment: Original application was publically notified and 1 submission was received. The proposed modification was publically notified and 2 submissions were received.
	Clause 115(5) Comment: Not state significant development
	Clause 115(6) Comment: Amended BASIX Certificate has been provided
	Clause 115(7) Comment: Amended BASIX Certificate has been provided
	Clause 115(8) Comment: The land is not owned by a Local Aboriginal Land Council
	Clause 115(10) Comment: Not applicable
	Clause 116 Comment: Not applicable
	Clause 117(1) Comment: Proposal is of minimal environmental impact

Clause 117(2)
Comment: Original application was publically notified and 1 submission was received. The proposed modification was publically notified and 2 submissions was received.
Clause 117(3A)
Comment: Proposal not determined by JRRP
Clause 117(4)
Comment: Original application was publically notified and 1 submission was received. The proposed modification was publically notified and 2 submissions was received.
Clause 120(1)
Comment: Not applicable
Clause 120(2)
Comment: Not applicable

2.2. Byron Local Environmental Plan 2014

5 LEP 2014 is an applicable matter for consideration in the assessment of the subject development application in accordance with subsection 79C (1) of the EP&A Act because it applies to the subject land and the proposed development. The LEP 2014 clauses that are checked below are of relevance to the proposed development:

Part 1	<input type="checkbox"/> 1.1 <input checked="" type="checkbox"/> 1.1AA <input checked="" type="checkbox"/> 1.2 <input checked="" type="checkbox"/> 1.3 <input checked="" type="checkbox"/> 1.4 <input checked="" type="checkbox"/> Dictionary <input type="checkbox"/> 1.5 <input checked="" type="checkbox"/> 1.6 <input checked="" type="checkbox"/> 1.7 <input type="checkbox"/> 1.8 <input type="checkbox"/> 1.8A <input checked="" type="checkbox"/> 1.9 <input type="checkbox"/> 1.9A
Part 2	<input checked="" type="checkbox"/> 2.1 <input checked="" type="checkbox"/> 2.2 <input checked="" type="checkbox"/> 2.3 <input checked="" type="checkbox"/> Land Use Table <input type="checkbox"/> 2.4 <input type="checkbox"/> 2.5 <input type="checkbox"/> 2.6 <input type="checkbox"/> 2.7 <input type="checkbox"/> 2.8
Part 3	<input type="checkbox"/> 3.1 <input type="checkbox"/> 3.2 <input type="checkbox"/> 3.3
Part 4	<input type="checkbox"/> 4.1 <input type="checkbox"/> 4.1A <input type="checkbox"/> 4.1AA <input type="checkbox"/> 4.1B <input type="checkbox"/> 4.1C <input type="checkbox"/> 4.1D <input type="checkbox"/> 4.1E <input type="checkbox"/> 4.2 <input type="checkbox"/> 4.2A <input type="checkbox"/> 4.2B <input type="checkbox"/> 4.2C <input type="checkbox"/> 4.2 <input checked="" type="checkbox"/> 4.3 <input checked="" type="checkbox"/> 4.4 <input checked="" type="checkbox"/> 4.5 <input type="checkbox"/> 4.6
Part 5	<input type="checkbox"/> 5.1 <input type="checkbox"/> 5.2 <input type="checkbox"/> 5.3 <input type="checkbox"/> 5.4 <input type="checkbox"/> 5.5 <input checked="" type="checkbox"/> 5.6 <input type="checkbox"/> 5.7 <input type="checkbox"/> 5.8 <input checked="" type="checkbox"/> 5.9 <input type="checkbox"/> 5.9AA <input checked="" type="checkbox"/> 5.10 <input type="checkbox"/> 5.11 <input type="checkbox"/> 5.12 <input type="checkbox"/> 5.13
Part 6	<input type="checkbox"/> 6.1 <input type="checkbox"/> 6.2 <input type="checkbox"/> 6.3 <input type="checkbox"/> 6.4 <input type="checkbox"/> 6.5 <input checked="" type="checkbox"/> 6.6 <input type="checkbox"/> 6.7 <input type="checkbox"/> 6.8 <input type="checkbox"/> 6.9

10

In accordance with LEP 2014 clauses 1.4 and 2.1 – 2.3:

- (a) The proposed development is defined in the LEP 2014 Dictionary as Dwelling House;
- (b) The land is within the R2 Low Density Residential according to the Land Zoning Map;
- (c) The proposed development is permitted with consent; and
- 15 (d) Regard is had for the Zone Objectives as follows:

Zone Objective	Consideration
To provide for the housing needs of the community within a low density residential environment.	The dwelling will provide a range of housing types in the locality and maintains the existing residential character of the area.
To enable other land uses that provide facilities or services to meet the day to day needs of residents	The dwelling will provide a range of housing types in the locality. No non residential land uses are proposed.

20 The remaining underlined clauses have been taken into consideration in the assessment of the subject development application in accordance with subsection 79C(1) of the EP&A Act. The proposed development complies with all clauses of LEP 2014 (in some cases subject to conditions and/or to the satisfaction of other assessing officers).

	Agree or No
Proposed amendments raise	Agree

no issues under the LEP

2.3. Draft EPI that is or has been placed on public exhibition and details of which have been notified to the consent authority - Issues

5 Draft SEPP (Coastal Management) 2016

The draft SEPP proposes to replace SEPP 14 (Coastal Wetlands), SEPP 26 (Littoral Rainforest) and SEPP 71(Coastal Protection). It will redefine the current 'Coastal Zone', to be within four coastal management areas:

- 10
- coastal wetlands and littoral rainforests area
 - coastal environment area;
 - coastal use area; and
 - coastal vulnerability area.

15 The subject site will be mapped within the coastal use area. The proposed development is not in a wetland, littoral rainforest, coastal environment area or coastal vulnerability area. The proposed amendments to the consent do not raise any specific issues that apply to the coastal use area provisions under the draft SEPP.

20

2.4. Development Control Plans

25 DCP 2014 is an applicable matter for consideration in the assessment of the subject development application in accordance with subsection 79C(1) of the EP& A Act because it applies to the land to which LEP 2014 applies. The DCP 2014 Parts/Chapters that are checked below are of relevance to the proposed development:

Part A	
Part B Chapters:	<input type="checkbox"/> B2 <input checked="" type="checkbox"/> B3 <input checked="" type="checkbox"/> B4 <input type="checkbox"/> B5 <input type="checkbox"/> B6 <input type="checkbox"/> B7 <input checked="" type="checkbox"/> B8 <input type="checkbox"/> B9 <input type="checkbox"/> B10 <input type="checkbox"/> B11 <input type="checkbox"/> B12 <input type="checkbox"/> B13 <input checked="" type="checkbox"/> B14
Part C Chapters:	<input checked="" type="checkbox"/> C1 <input type="checkbox"/> C2 <input type="checkbox"/> C3 <input type="checkbox"/> C4
Part D Chapters	<input checked="" type="checkbox"/> D1 <input type="checkbox"/> D2 <input type="checkbox"/> D3 <input type="checkbox"/> D4 <input type="checkbox"/> D5 <input type="checkbox"/> D6 <input type="checkbox"/> D7 <input type="checkbox"/> D8
Part E Chapters	<input type="checkbox"/> E1 <input type="checkbox"/> E2 <input type="checkbox"/> E3 <input type="checkbox"/> E4 <input type="checkbox"/> E5 <input type="checkbox"/> E6 <input type="checkbox"/> E7

30 These underlined Parts/Chapters have been taken into consideration in the assessment of the subject development application in accordance with subsection 79C(1) of the EP&A Act. The proposed development complies with all sections of these Parts/Chapters (in some cases subject to conditions and/or to the satisfaction of other assessing officers), except in relation to certain prescriptive measures identified below:

	Agree or No.
Proposed amendments do not generate any additional issues that have not been previously considered.	No - see below The application has been referred to Councils Heritage Advisor who has provided comments objecting to the proposed removal of Condition 14. Refer to Doc #E2016/94462

35

Chapter C1.4.5 Colours The objectives of Chapter C1.4.5 seek to:

- 1) *To ensure that the selection of colours for heritage items and components of a Heritage Conservation Area is based on an understanding of the original finishes.*

- 2) *To ensure that colours employed in new development are compatible with the significance and character of the heritage item they adjoin or of development in the street or Heritage Conservation Area.*
- 5 3) *To avoid the use of colours that are inappropriate or incompatible with the heritage character of heritage items or Heritage Conservation Areas.*

I inspected the building and external colour on Thursday 2 November 2017 and have reviewed the comments provided by Jane Alexander. Whilst the previous dwelling may have been painted in a similar colour, direct replication is not automatic.

10 *This is a new building which has to be assessed in the same way as any other new building within the Conservation Area with regard to the adopted policies which now apply. Accordingly, Council placed a condition requesting a final sample of the colour for prior approval pursuant to its adopted DCP.*

15 *A careful reading of the objectives and performance criteria of C1.4.5 of the DCP, clarifies that traditional heritage colour schemes are not advocated for new development. Colour schemes for new development need to be compatible and harmonious in the streetscape and in the context of Heritage Items (of which there is a group of items in Massinger Street directly opposite). Clause C1.4.5 (6) also clearly states that bold primary colours, black and white must not be used on external surfaces.*

20 **Clause C1.4.5 (3) states (in full) that**

“Variations to traditional colour schemes may be appropriate for new development provided that the scheme maintains light colours for walls and roof, with dark colours for trims and remains harmonious in the heritage landscape of the locality.”

25 *The consultant quoted only the first part of this clause, removing the remainder, which includes the key issue- that it maintains light colours or walls etc. and needs to be harmonious with the locality. There are also other errors in statements as the DCP does provide clear direction for heritage colour schemes in the appendix for maintenance colours.*

30 *The yellow colour which has been applied is very vibrant and dominant compared to the surrounding buildings and streetscapes which are predominantly characterised by generally light body colours.*

35 *The DCP does not preclude the use of a yellow, however it is recommended that the current colour is modified and ‘toned down’ to be more sympathetic to the setting of the Kingsley Street Conservation Area. Given that it has also attracted objections (prior to approval) this demonstrates that it is not achieving the objectives of the DCP to be harmonious.*

2.5. The likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality

40

	Agree or No (Add comments as required)
Proposed amendments do not generate any impacts that have not been previously considered.	Agree The dwelling house is substantially the same development as previously approved under 10.2016.551.1 with the exception of the colour the house has been painted in. The colour of the

	Agree or No (Add comments as required)
	dwelling has been addressed in Section 2.4 above.

2.6. The suitability of the site for the development

	Agree or No. (Add comments as required)
Proposed amendments do not affect the Sites Suitability.	Agree The site is an existing R2 Residential Low Density lot and is suitable for development of a Dwelling House.

5 3.6 Submissions made in accordance with this Act or the regulations

Two Submissions were received raising the following matters

Submission	Comment
<p>Yellow Paint Colour (Submission 1) From our perspective, it is most disturbing that this extensive expanse of conspicuous, unsightly yellow now dominates the view from our house.</p> <p>More importantly however, we believe that the unusually garish paint colour is inappropriate for this beautiful older precinct of Byron Bay. In our view, the colour is at odds with the preservation and enhancement of the heritage streetscape and this in turn may detrimentally impact community and visitors' perception and appreciation of Byron Bay's history.</p> <p>We strongly believe that a more neutral colour palette would be more appropriate for this important area of Byron Bay for the benefit of all.</p>	<p>The existing Consent 10.2016.551.1 contains a condition requiring the proposed building colours are in accordance with the heritage colour provisions of Section C1.4.5 of Council's Development Control Plan 2014.</p> <p>The bright yellow colour which the house has been painted in does not comply with the Byron DCP 2014 Section C1.4.5 and further Council approval for the colour scheme has not been granted.</p> <p>The developer has stated that the dwelling house is a like for like replacement of the existing dwelling which was destroyed by fire, and that they should be able to replicate what was there originally including the bright yellow that the previous house was painted.</p>
<p>Yellow Paint Colour (Submission 2) The new building being double storey and built very close to my boundary and being painted in bright yellow is ugly and an incredible eyesore from my property. I believe the yellow colour is non compliant with the heritage colours and degrades the beauty of this special street in the Heritage Precinct of Byron Bay.</p>	<p>It is considered that the dwelling house is significantly larger than the previous dwelling onsite and it is not a like for like replacement of the previous dwelling. The dwelling is considerably larger than the previous dwelling and appears as three (3) storeys from Kingsley Street. Given the increased bulk and scale of the dwelling and significant street presence within the Kingsley Street Conservation Area the bright yellow will have a significantly increased impact on the streetscape and Conservation area. The bright yellow does not comply with the Byron DCP 2014 Chapter C1 and it has been recommended that Condition 14 remain – and that the bright yellow is not supported in this instance.</p>
<p>Privacy The new house at 70 Kingsley Street has 2 storeys and with the proposed larger windows in</p>	<p>The proposed changes in the windows on the western elevation will result in windows 26 and 27 increasing in size from 1200(w) to 1500(w)</p>

<p>the upper storey (on the neighbours' west side of her house) this will severely encroach on my privacy.</p>	<p>and a 600mm reduction in the width of the fireplace within the lounge room.</p> <p>The applicant has provided photos from these windows which demonstrate a certain level of vegetation screening between windows 26 and 27 (in the western elevation of the dwelling house) and the adjoining dwelling at 68 Kingsley Street.</p> <p>There is a distance of approximately 8m between the windows of 68 and 70 Kingsley Street. The increased width of the lounge room windows in 70 Kingsley Street by 300mm will not increase substantially any potential overlooking of the neighbouring dwelling. The applicant has also provided photos demonstrating that existing vegetation will provide screening between the two dwellings. It appears from the photo that the lounge room windows in 70 Kingsley Street will be set lower than the adjoining bedroom window in the eastern elevation of 68 Kingsley Street.</p>
----------------------------------------------------------------------------------------------------------------	-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

3.7 Public interest

5 The approval of the bright yellow colour scheme could set a precedent and could provide an indication to residents, applicants and developers that strict compliance with heritage colours in a conservation area is no longer a priority.

Agree or No Add comments as required	
Proposed amendments are unlikely to prejudice or compromise the public interest.	Agree The dwelling house and minor amendments as requested (excluding the removal of Condition 14) are considered minor and are unlikely to compromise the public interest.

4. DEVELOPER CONTRIBUTIONS/ WATER AND SEWER CHARGES

10

Agree or No. (Add comments as required)	
There is no nexus to levy additional contributions.	Agree

5. CONCLUSION

15 The proposal is satisfactory (with the exclusion of the removal of Condition 14) having regard to relevant matters for consideration. The Section 96 application is recommended for partial approval subject to amended conditions of consent.

6. DISCLOSURE OF POLITICAL DONATIONS AND GIFTS

20

Has a Disclosure Statement been received in relation to this application	No
--------------------------------------------------------------------------	----

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STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

13.5

Have staff received a 'gift' from anyone involved in this application that needs to be disclosed. Where the answer is yes, the application is to be determined by the Director or Manager of the Planning, Development and Environment Division.	No
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Provide Disclosure Statement register details here: Nil

Report No. 13.6 Bangalow Village Plan and Our Mullumbimby Masterplan - summary of process outcomes to date

Directorate: Sustainable Environment and Economy
Report Author: Tara McGready, Place Planning Coordinator
File No: I2017/1794
Theme: Ecology
Planning Policy and Natural Environment

5

10 Summary:

The Bangalow Village Plan and Our Mullumbimby Masterplan Guidance Groups have been working with Council staff through a series of thematic workshops since April 2017. We are now reaching the end of the workshop process with both Guidance Groups.

15

Ideas and actions for both place plans identified through the workshop process thus far are summarised in Attachments 1 and 2 to this report. An updated indicative project plan for each of the place plans is also provided in this report.

20

RECOMMENDATION:**1. That Council note:**

- a) the summary of ideas and actions identified through the Bangalow Village Plan and the Our Mullumbimby Masterplan Guidance Group workshop process to date contained in Attachments 1 (E2017/106824) and 2 (E2017/107156) to this report.**
- b) the updated indicative project plans for Bangalow Village Plan and Our Mullumbimby Masterplan tabled in this report.**

2. That Council thank and acknowledge both Bangalow Village Plan and Our Mullumbimby Masterplan Guidance Group members for the time, effort and commitment they have given to the place planning process thus far.**Attachments:**

25

- 1 Summary of outcomes - Guidance Group workshop process Apr-Nov 2017 - Bangalow Village Plan, E2017/106824 [⇒](#)
- 2 Summary of outcomes - Guidance Group workshop process Apr-Nov 2017 - Our Mullumbimby Masterplan, E2017/107156 [⇒](#)

30

Report

5 Council adopted indicative project plans for the Our Mullumbimby Masterplan and the Bangalow Village Plan in August and December 2016 respectively. Since this time the Place Planning team have been working with both community Guidance Groups which were set up to work with Council staff in guiding the preparation of the respective plans.

10 A series of workshops to upskill the Guidance Groups' knowledge on a range of themes have been held for each town since April 2017. The purpose of these workshops is to consider and share information relating to the different planning and urban design thematic components which contribute to the makeup of a place, from the perspectives of a range of community and Council stakeholders. The place planning workshop process for each plan is drawing to an end with only a couple of workshops left before reporting the draft plans to Council for exhibition approval. The most recent workshop for each place plan was held in September and October 2017 and focused on drawing together ideas for different precincts within each of the towns on a spatially based level.

15 The values, issues, future directions and actions for both Place Plans identified through the workshop process thus far are presented in Attachments 1 and 2 to this report. The attachments have been structured to first give a summary of actions and ideas that apply broadly to the towns, before breaking into maps and summary tables of actions and ideas for spatially based precincts within the towns. Note that actions within the table have not yet been prioritised and in fact some actions presented could be in direct conflict with one another. Part of the next stage of the process for both place plans is to finalise and prioritise actions that have been identified so far.

20 An updated indicative project plan for each of the place plans is provided below in Tables 1 and 2. The drafting of the Bangalow Village Plan is proposed as a priority over the Our Mullumbimby Masterplan as it is critical to a number of other concurrent Bangalow based Council projects, and is planned for reporting to Council in February 2018, with exhibition to commence in March 2018.

25 The draft Mullumbimby Masterplan is proposed for reporting at the August 2018 Council meeting with exhibition in September 2018. The staging of the plans and their exhibition accords with available resource capacity.

Table 1: Updated indicative timeline for preparation of 'Bangalow Village Plan'

- 35
- Stages already complete
 - Future stage

Stage	2017									2018				
	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May
Guidance Group theme based workshops														
Guidance Group Precincts workshop – full day spatially based workshop for both Bangalow and Mullumbimby Place Plans														
Bangalow Village Plan - collation of information and preparation of plan									We are here					

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STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

13.6

Stage	2017										2018				
	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	
Report to Council – update of project status, workshop outcomes both plans.															
Bangalow Guidance Group workshop – Governance and implementation															
Bangalow Guidance Group workshop – review of draft Village Plan															
Report to Council seeking public exhibition of Bangalow Village Plan															
Public exhibition of Bangalow Village Plan															
Submissions collation and plan modification															
Final workshop of Guidance Group to review draft plan															
Report to Council seeking adoption of Bangalow Village Plan															

Table 2: Updated indicative timeline for preparation of ‘Our Mullumbimby Masterplan’

Stages already complete

5

Future stage

Stage	2017	2018						
		May	Jun	July	Aug	Sep	Oct	Nov
Guidance Group theme based workshops and Precincts workshop – generally full day workshops every 2 weeks for each Bangalow Village Plan and Our Mullumbimby Masterplan.	Workshops complete. GG are aware of revised schedule to recommence in 2018.							
Our Mullumbimby Masterplan - collation of information and preparation of plan								

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Stage	2017	2018						
		May	Jun	July	Aug	Sep	Oct	Nov
Mullumbimby Guidance Group workshop – Governance and implementation								
Report to Council seeking public exhibition of Our Mullumbimby Masterplan								
Public exhibition of Our Mullumbimby Masterplan								
Submissions collation and plan modification								
Final workshop of Guidance Group to review draft plan								
Report to Council seeking adoption of Our Mullumbimby Masterplan								

Financial Implications

NIL

5

Statutory and Policy Compliance Implications

NIL

Report No. 13.7 PLANNING - 26.2016.6.1 - Planning Proposal - The Farm - Additional Permitted Uses

Directorate: Sustainable Environment and Economy

Report Author: Rob Van Iersel, Major Projects Planner

File No: I2017/1823

Theme: Ecology
Planning Policy and Natural Environment

Summary:

This report presents a planning proposal for The Farm – Lot 1 DP 780234 & Lot 5 DP 848222, which seeks to amend the Byron LEP 2014 by way of an ‘additional permitted uses’ clause within Schedule 1 of that LEP.

The planning proposal follows consideration of the matter at the meeting of 26 October, where Council resolved (**17-514**):

1. *That Council support the application for a Planning Proposal and authorise the Director SEE to negotiate with the applicant to facilitate the preparation of a Planning Proposal at the applicant’s cost.*
2. *That Council’s support of the Planning Proposal is withdrawn in the event that a costs agreement for the processing of the Planning Proposal not be executed within 28 days of the date of this resolution i.e. close of business 23 November 2017.*
3. *That the Planning Proposal deal only with the following uses on the site:*
 - Wholesale Bakery
 - Agricultural training/education facilities
 - Administration offices
 - Small-scale information centre*and that it be reported back to Council at the meeting of December 2017 for further deliberation prior to it being forwarded to the NSW Dept of Planning and Environment for a Gateway Determination.*
4. *That in the event that Council becomes aware of uses of the property beyond those set out in 3 above those unauthorised uses be investigated and actioned in accordance with Council’s Enforcement Policy.*

A cost agreement was executed on 23 November 2017, in accordance with the requirements in point 2 above.

The purpose of this report is to commence the planning proposal process, by resolving to support the draft planning proposal and forward it to the Department of Planning and Environment for a Gateway Determination.

Subject to a successful Gateway Determination, the proponents will be required to provide supporting information addressing a number of issues identified in this report, prior to the public exhibition of the proposal and further consideration by Councillors.

NOTE TO COUNCILLORS:

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:

That Council:

1. **Agree to initiate the planning proposal to amend Byron LEP 2014 (Attachment 1 #E2017/103796) for the reasons outlined in this report.**
2. **Forward the planning proposal to the NSW Department of Planning and Environment for a Gateway determination.**
3. **Agree that staff can proceed to public exhibition of the planning proposal and government agency consultation based on the Gateway determination issued by the NSW Department of Planning and Environment, and report back to Council as part of post-exhibition reporting.**

Attachments:

5

- 1 Draft Planning Proposal The Farm, Pre Gateway Version #1, E2017/103796 [↔](#)

Report*The Planning Proposal*

5 This planning proposal relates to The Farm at Ewingsdale Road, Ewingsdale, and is prepared in accordance with the previous resolution of Council, (**17-514**), outlined in the summary to this report.

The resolution of Council followed ongoing planning and compliance issues at The Farm.

10 The intention of the planning proposal is to provide a mechanism for the approval of nominated land uses at The Farm. It proposes an 'additional permitted uses' amendment to the LEP to address existing uses, which have commenced and/or expanded without authorisation.

15 While some of the individual uses included in the draft clause may be permissible with consent in the RU1 zone, the provisions of cl. 6.8 of the LEP operate to restrict rural tourism development to a scale which can be managed by the owner of the land.

20 The scale of the existing uses at The Farm currently exceeds that threshold, preventing development consent.

The planning proposal, however, does not seek to alter the existing RU1 Primary Production zoning of the site.

25 The primary production use of the land remains the primary focus of activities at the site, and the planning proposal aims to reinforce that by ensuring that any approved use has an essential association with existing agricultural/ primary production activities, or enables or enhances agricultural production at the site.

30 The additional permitted uses clause, therefore, is the best mechanism to provide for continuation of a number of rural tourism uses of the land, conducted in association with agricultural production at the site, in a manner that maintains the primary production objectives of the zone.

35 The draft planning proposal seeks to amend Byron LEP 2014 by including the following new clause within Schedule 1 Additional Permitted Uses. The new clause will be supported by a Map, which will identify the site, and identify two land use precincts within the site:

1. A **Farming Precinct** – covering the majority of the property, identifying the location of existing and potential future primary production; and
2. A **Rural Activity Precinct** – covering the existing cluster of buildings in the south-west of the site.

40 A key aim of the draft additional permitted use clause is to ensure that land uses within the Rural Activity Precinct have, and always maintain, an essential association with existing agricultural/ primary production activities undertaken within the Farming Precinct.

45 The suggested wording of the draft clause is:

9. Use of certain land at Ewingsdale Road, Ewingsdale

- 50 (1) *This clause applies to land at Ewingsdale Road, Ewingsdale (known as The Farm) being Lot 1, DP 780234 and Lot 5, DP 848222, and identified as "Area E" on the Additional Permitted Uses Map.*
- (2) *The purpose of the **Rural Activity Precinct** shown on the Additional Permitted Uses Map is to provide commercial outlets for farming products grown on site and opportunities for the community to learn about and appreciate farming.*

It applies to a cluster of existing buildings in the south-west corner of the property (see Map).

- (3) *Within the **Rural Activity Precinct** shown on the Additional Permitted Uses Map, development for the following purposes is permitted with consent (in addition to uses permitted with consent in the RU1 zone):*

- (a) *Wholesale Bakery;*
- (b) *Agricultural training/ education facilities;*
- (c) *Administration offices;*
- (d) *Small-scale information centre.*

In this clause:

wholesale bakery means an area within an existing building used for the preparation of bread and other bakery goods, provided that a minimum of 70% of the products produced contain ingredients sourced directly from the property.

agricultural training / education facilities means areas within existing buildings utilised for the provision of small group training, where that training is directly related to agriculture or rural industry, excluding training relating to marketing and/ or administration aspects of agriculture.

administration offices means areas within an existing building utilised for the management of agricultural or ancillary business that are conducted on the property.

small scale information centre means a building used for the display of information relating to the property and its uses, or as a gathering point for individuals and groups undertaking training, education or recreational activities at the site.

- (4) *Development consent must not be granted for any use within the **Rural Activity Precinct** unless the consent authority is satisfied that:*

- (a) *the use has an essential association with existing agricultural/ primary production activities undertaken within the **Farming Precinct** at the site, or enables or enhances agricultural production on the site;*
- (b) *the use will not limit the operation and/ or expansion of adjoining and nearby agricultural uses;*
- (c) *wastewater generated by the proposed use will be within the treatment and disposal capacity of the approved on-site wastewater management system;*
- (d) *there are no new or additional buildings proposed within the precinct;*
- (e) *traffic generated by the proposed use will not result in total peak hour trips (i.e. from the site as a whole), exceeding 200 trips outside of school holiday periods or 350 trips during holiday periods;*
- (f) *individual events undertaken within agricultural training/ education facilities involve a maximum of 30 people, with the exception of school groups, which can have a maximum of 50 students; and*
- (g) *there will be no more than 1 training/ education event per week within the agricultural training/ education facilities;*

- (5) *The purpose of the **Farming Precinct** shown on the Additional Permitted Uses Map is to preserve the bulk of the property for primary production and facilitate innovative community farming models.*

- (6) *The secondary purpose of the **Farming Precinct** is to provide opportunities for agricultural education/ appreciation and low-scale recreational activities that are directly related to primary production.*

- (7) *Within the **Farming Precinct** shown on the Additional Permitted Uses Map, development for the following purposes is permitted with consent:*

- (a) *Farm field days and exhibitions;*

(b) Farm tours for educational purposes, including individuals, school groups, and other groups of up to 30 people at a time, or 50 students in the case of a school group;

(8) Development consent must not be granted for a farm field day or exhibition within the **Farming Precinct** unless the consent authority is satisfied that:

- 5 (a) there are a maximum of 4 such events in any calendar year;
- (b) there are no more than 100 people attending any individual event;
- (c) events are scheduled such that event traffic avoids morning and afternoon peak hour periods;
- 10 (d) events will not occur concurrently with any use of the agricultural training / education facilities within the Rural Activities Precinct;
- (e) a Noise Management and Monitoring Plan has been prepared for each event, including:
- 15
- details to ensure adequate measures, roles and responsibilities are in place to ensure that event noise remains inaudible above background levels at nearby dwellings;
 - assessment of expected noise impacts;
 - detailed examination of all feasible and reasonable management practices that will be implemented to minimise noise impacts

20

 - strategies to promptly deal with and address noise complaints. This should include any records that should be kept in receiving and responding to any noise complaints;
 - details of performance evaluating procedures (for example, sound checks on amplified music or public address systems);

25

 - procedures for notifying nearby residents living within 1 kilometre of the property of forthcoming events, times that they are likely to notice noise emanating from the site and the contact details for the onsite manager for complaints and queries to be made, and responded to;
 - operational details about the use of any noise monitoring equipment to record sound pressure levels around the property;

30

 - name and qualifications of person who prepared the report; and
 - protocols for the monitoring of the event, including a requirement that a report be provided to Council following the event.

(9) Within the **Farming Precinct** shown on the Additional Permitted Uses Map, development for the following purposes is permitted without consent:

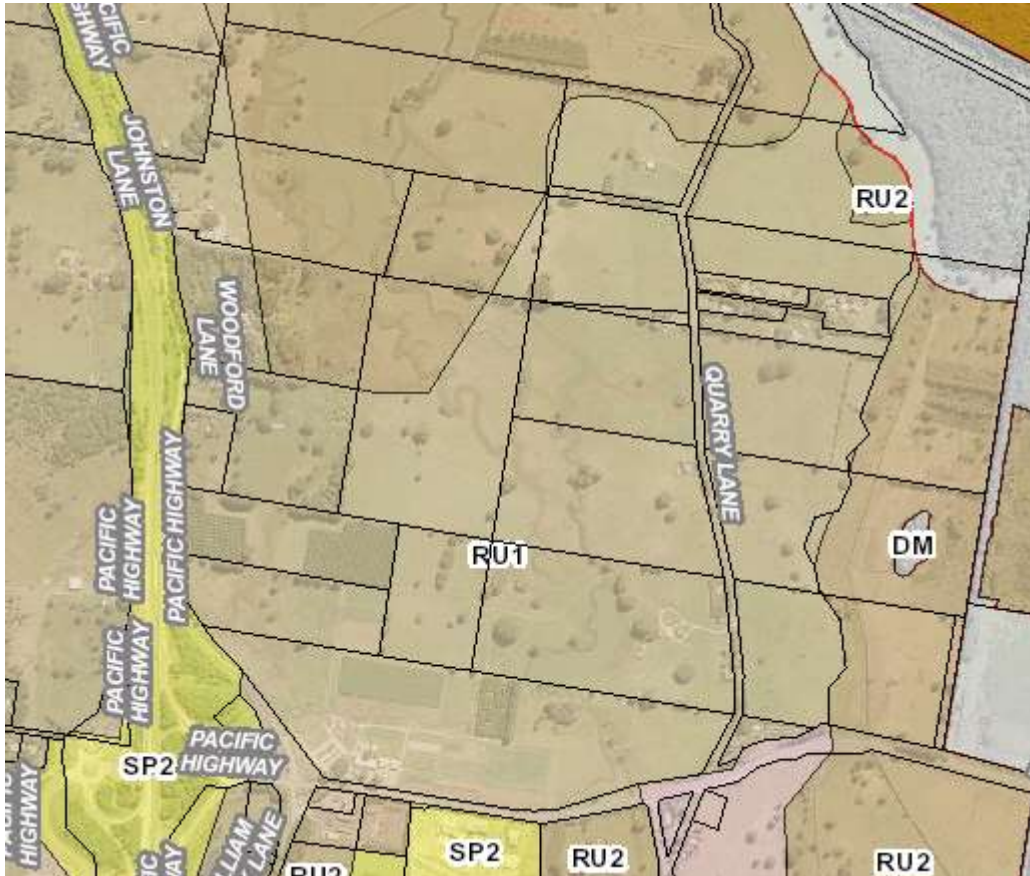
- 35 (a) Family picnics;
- (b) Individual / small group (up to 10 people) unaccompanied meanders.

Key Issues

- 40
- Consistency with RU1 zone objectives;
 - Potential land use conflict
 - Scale of rural activity land use
 - Consistency with relevant strategic plans

RU1 Zone Objectives

45 The site is located at the southern end of an extensive area zoned RU1 Primary Production, which covers land mapped as Regionally Significant Farmland.



The objectives of the RU1 zone are:

- 5 *To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.*
- To encourage diversity in primary industry enterprises and systems appropriate for the area.*
- To minimise the fragmentation and alienation of resource lands.*
- To minimise conflict between land uses within this zone and land uses within adjoining zones.*
- 10 *To encourage consolidation of lots for the purposes of primary industry production.*
- To enable the provision of tourist accommodation, facilities and other small-scale rural tourism uses associated with primary production and environmental conservation consistent with the rural character of the locality.*
- 15 *To protect significant scenic landscapes and to minimise impacts on the scenic quality of the locality.*

The production activities currently being undertaken within the farming precinct of the site are consistent with these zone objectives. The nature of that use specifically adds to the diversity in primary industry, and provides ‘incubator’ opportunities for a number of small-scale farmers.

The key to the rural activity precinct uses is to ensure that they have, and maintain, an essential association with existing agricultural/ primary production activities undertaken within the Farming Precinct. In that way, those uses will remain consistent with the zone objectives.

25 Land Use Conflict Potential

Land adjoining to the north is actively farmed primarily for macadamias and cattle. The farmers have expressed concerns that the high levels of visitation at The Farm impact on their ability to continue farming the land, associated with:

- Noise, particularly from events;
- Potential for complaints associated with ordinary farming activities, such as spray drift;
- Potential for run-off from the wastewater disposal fields into their land;
- Potential to impact on the farmers' ability to continue to successfully implement their biosecurity management plans actions; and
- Trespass and unwanted interactions with visitors to The Farm.

The potential for conflict arises partly from the scale of the land uses at The Farm and partly because the boundary between the two properties is currently very 'open'.

The proponents at The Farm are preparing a Land Use Conflict Risk Assessment (LUCRA) examining these issues. The LUCRA is likely to recommend that appropriately planted buffers be established within The Farm property. These buffers will assist to mitigate many of the current concerns, for example, providing a 'barrier' to prevent spray drift crossing into The Farm active areas and minimising wind-borne weed seeds and the like from passing from The Farm site.

During the planning proposal process the potential conflict issues will be examined in more detail, to identify practical measures that can be implemented to further protect the adjoining land owners.

Scale of Rural Activity Uses

There are existing conditions of approval relating to the restaurant use, which was approved with 90 seats, to limit scale. The suggested draft additional permitted uses clause (above) contains further provisions aimed at restricting scale. The primary aim is to ensure that the rural activity uses remain subordinate to the farming uses.

Options to Move Forward

There are a number of options open to Council on this matter:

1. Proceed to a Gateway determination with the attached planning proposal (Attachment 1).
2. Amend the planning proposal and proceed to a Gateway determination.
3. Not proceed with the planning proposal.

Conclusion

The planning proposal attached to this report is consistent with State policies and directions and the North Coast Regional Plan. It has sufficient merit to be supported.

Supporting the planning proposal at this stage will start the process of detailed assessment and consideration. As outlined below, that process will include further consultation, including continuation of direct dialogue with neighbours and land owners in the Ewingsdale locality and wider community engagement.

Further information and specialist reports will be required and considered prior to exhibition, building on the material previously submitted. This will include:

- Economic assessment;
- Social assessment;
- Land Use Conflict assessment;
- Traffic analysis; and
- Wastewater assessment.

Financial Implications

5 In accordance with the previous resolution of Council, the planning proposal is being prepared at the applicants' expense. A Cost and Expenses Agreement has been executed and payment has been received for the first stage of this work, which leads up to receipt of the gateway determination.

10 If Council chooses not to proceed, a refund will be provided to the applicants for the costs not spent to date.

Statutory and Policy Compliance Implications

The relevant policy considerations are addressed above and in the attached planning proposal.

15 Community consultation and engagement Implications

As highlighted above, land owner and community engagement will continue to be an important component of this planning proposal process. Engagement activities to date have included:

- 20 • Site meetings and discussions with The Farm management, with both Councillors and staff;
- On-site meetings with the adjoining farmers / land owners;
- Discussions with local Ewingsdale residents.

In addition to any consultation requirements that may come with a gateway determination, staff also proposes:

- 25 • Dialogue and meetings with The Farm management and their representatives to ensure that Council's objectives continue to be clearly communicated and understood;
- Provision of supporting reports etc. to adjoining farmers and meetings with those land owners (at their farm) to ensure Council continues to understand and respond to their issues of concern;
- 30 • Attendance at meetings of the Ewingsdale Progress Association to keep members informed throughout the process and ensure that Council staff and Councillors remain aware of local issues and concerns; and
- Wider consultation with the Byron community.

Report No. 13.8 **Emissions Reduction Strategy**
Directorate: Sustainable Environment and Economy
Report Author: Sharyn French, Manager Environmental and Economic Planning
File No: I2017/1824
5 **Theme:** Ecology
 Planning Policy and Natural Environment

Summary:

10 Council resolved (**Res. 17-086**) to commit to achieving a 100% net Zero Emissions Target by 2025 in collaboration with Zero Emissions Byron and to source 100% of its energy through renewable energy within 10 years.

15 To provide a framework to achieve this target an Emissions Reduction Strategy (Strategy) is being developed. The Strategy will replace the existing Low Carbon Strategy, report on emission reductions actions undertaken in the last year and outline the necessary actions needed to achieve the zero net emissions target by 2025/26.

20 To align with Zero Emission Byron, a base line of 2015/16 and a target year of 2025/26 were assigned for Council's emissions profile. The National Greenhouse and Energy Reporting (NGER) methodology has been used to monitor and report on Council's emissions. Zero Emissions Byron has advised that the NGER methodology will be compatible with their emissions profiling of the Byron Shire community. This is the subject of another report titled 'Byron Shire Council's
25 Emissions Reporting 2015/16 and 2016/17' to this Council meeting.

This report provides an update on the project scope, milestones and dates for the preparation of Council's Emissions Reduction Strategy.

30

RECOMMENDATION:

That Council note this report.

35

Report

Council considered a report at the Ordinary Meeting 23 March 2017 on Council's Low Carbon Target. This report provided:

- 5
- An update on the existing 2014 Low Carbon Strategy actions with their implementation status; and,
 - The Greenhouse Gas Emissions Status Report for 2014-15 and 2015-16.

10 The report also acknowledged the need for a further report to Council with regard to a 'Zero Emissions' Strategy including a revised target and baseline aspiration aligned with Zero Emissions Byron for Council, with options for community consultation.

Council resolved (**Res. 17-086**) at the 23 March 2017 meeting:

- 15
1. *That Council note the 2014/15 and 2015/16 greenhouse gas emission status;*
 2. *That Council note the progress of completed actions from the Low Carbon Strategy.*
 - 20 3. *That Council commits to achieving a 100% net Zero Emissions Target by 2025 in collaboration with Zero Emissions Byron (ZEB).*
 4. *That, as such, Council congratulates the community for its efforts thus far to realise the employment, national leadership and sustainability benefits that come from the commitment to a*
25 *zero emissions future*
 5. *That Council commit itself to source 100% of its energy through renewable energy within 10 years.*
 - 30 6. *That Council supports the goals of Zero Emission Byron for a net zero emissions Shire in the areas of building, energy, land use, transport and waste.*
 7. *That, to support the Sustainability Team, a two day a week Emissions Reduction role be established to lead the project and liaise with ZEB.*
 - 35 8. *That to support the realisation of this goal in these sectors, Council provide for both Council and the community:*
 - 40 *i. Within Council's upcoming Waste Strategy, a waste emissions reduction plan provided*
 - ii. Within Council's upcoming Transport Strategy, a transport emission reduction modelling report be provided*
 - iii. Within Council's upcoming Rural Land Use Strategy, a land use emission reduction modelling report be provided*
 - 45 *iv. a more detailed 100% Renewable Energy Plan be commissioned and provided*
 - v. a Building Emissions Reduction Plan be commissioned and provided*

Resolution **17-086** includes two specific targets:

Target 1 – 100% Net Zero Emissions by 2025 in collaboration with Zero Emissions Byron.

50 **Target 2** – Council commit itself to source 100% of its energy through renewable energy within 10 years.

Both these targets are ambitious and will require a considerable effort by Council to deliver the target by the due date.

In recognition of the above, the Sustainability Team structure and resourcing, has now been reviewed and the Sustainability Emissions Reduction Officer (item 7 of Res. 17-086), which commenced on the 27 November 2017 has been expanded to 5 days a week.

- 5 Further to Resolution 17-086, a report was presented to the Executive Team at the 2 August 2017 meeting which considered the delivery of the 100% Emissions Reduction Strategy. The Executive Team endorsed the following:
- 10 1. *NGER is to be used as the methodology for Council's carbon accounting for achieving the zero emission reduction target.*
 2. *Emissions are capped and that a new reporting method be developed to disclose emissions impact.*
 - 15 3. *The Staff Working Group to further consider the issues and actions raised in this report including consideration of resourcing and workload related issues in delivering the preferred outcomes.*
 - 20 4. *The Staff Working Group to report progress back to next SIWG meeting.*
 5. *DSEE to be the lead in pursuing and reporting on ZEB initiatives on behalf of Council.*

National Greenhouse and Energy Reporting (NGER) methodology and capping emissions

25 In relation to items 1 and 2 above , a separate report to this Council meeting titled 'Byron Shire Council's Emissions Reporting 2015/16 and 2016/17' details the NGER methodology and to align with the Zero Emission Byron (ZEB) ambition, a base line of 2015/16 and a target year of 2025/26 has been adopted.

30 ***Change to reporting to include Emissions Impact***

In relation to item 2 above, to prepare for the implementation of a zero net target Council's Executive Team endorsed a change of format to both internal and Council reports to include an "Emissions Impact" statement. This will enable Council and the Executive Team to understand the positive or negative emissions impact of each decision and design efficiencies or offsets into the outcome and essentially "cap" emissions from growth or expansion of Council services. Format changes to reports are expected to be implemented in early 2018.

40 ***Emissions Reduction Strategy***

To prepare the Emissions Reduction Strategy as envisaged by Resolution 17-086 a staged project plan has been scoped.

45 The Emissions Reduction Strategy will detail the actions and targets that Council will be committing to in order to reduce the emissions from its operations. It will have a new target which extends the current Low Carbon Strategy from a 30% target to a net zero target by 2025. To do this it will establish a new 2015/16 baseline as detailed in the separate report to this Council meeting.

50 Further the strategy will also acknowledge the need for Council to source 100% of its electricity from renewable energy by 2027. There are a number of project milestones necessary to achieve this, refer to Table 1.

Table 1: Emission Reduction Strategy project delivery milestones

Project Stage	Milestone	Status	Project Milestone dates	Next Steps
Stage 1 Recalculation of Baseline Emissions	Update Baseline to include Landfill, STP Fugitive Emissions and Bottled Gas	Planning - Complete	October - December 2017	Sewage treatment plant fugitive emission calculations required using the NGER methodology. This is proposed to be outsourced for use in subsequent reporting years.
		Finalisation	14 December 2017 Council Meeting – report titled ' <i>Byron Shire Council's Emissions Reporting 2015/16 and 2016/17</i> '	
Stage 2 Capping Emissions and New Reporting	Cap emissions	Initiation	December 2017	Internal working group SEE and CCS staff to meet.
	Develop a new reporting tool that considers emissions impact on each project	Planning	January 2018	Reporting template for carbon calculations and staff user guide to be developed
		Finalisation	March 2018	Reporting method roll out and staff training.
Stage 3 Shire Wide Emissions Reduction Strategy		Initiation	December 2017	Once the new baseline is established it will be possible to calculate what is needed to meet the Net Zero Emissions target by 2025.
		Planning	November 2017 – June 2018	New Sustainability Emissions Reduction Officer to progress work on the Strategy - Council actions, projects in consultation with council staff, councillors, ZEB and the community. **
		Finalisation	June 2018	Strategy adopted by Council.

**Council's new Sustainability Emissions Reduction Officer commenced on 27 November 2017. A more detailed project plan will be developed then and include details of stakeholder engagement.

Significant Energy Projects Already Underway (BE19 & SIWG)

5 Council has been implementing a range of emission saving actions for over a decade. Throughout
 10 2017 a number of significant energy projects have gained momentum building on years of research
 and smaller projects strategically undertaken in the Byron Shire. Below is a snapshot of the current
 leading projects. These and other projects, to be identified in the Emissions Reduction Strategy,
 support Council’s commitment to the two targets: Target 1 – 100% Net Zero Emissions by 2025 in
 collaboration with Zero Emissions Byron and Target 2 – to source 100% of Council’s energy
 through renewable energy within 10 years.

Table 2: Current Leading Significant Energy Projects

Project	Description
Bio Energy Pre-Feasibility Study (Potential locations)	<p>Bio solids from Council’s STP’s and organic waste from the curb side green bin collection has been identified as significant enough to run a bio energy facility in the Byron Shire.</p> <p>A pre-feasibility study is currently investigating the possibility of two small facilities at Brunswick Valley STP and West Byron STP, with Bangalow STP has been identified as a feed stock location.</p>
Brunswick Valley – Sustainability Centre (Valances Road)	<p>A comprehensive management plan has been prepared for the entire Council owned land parcel which includes ground mounted solar and potential for a bio energy facility.</p> <p>Resolution 17-459:</p> <ol style="list-style-type: none"> 1. That the Draft Vallances Road Plan of Management be adopted subject to: <ol style="list-style-type: none"> a) Being renamed “Brunswick Valley Sustainability Centre Management Plan”; and b) References in the document referring to “POM” or “Plan of Management” be modified to “MP” or “Management Plan” respectively. 2. That Council approve the initiation of a Community consultation programme for the area identified for possible Affordable Housing / Community Gardens / Eco tourism / Educational. 3. That Council endorse the commencement of the procurement process for the designated solar farms on the site. <p>A first phase expression of interest is currently under preparation to seek responses from industry on what technology is available that would suit the outcomes sought for this site in terms of sustainability and renewable energy outcomes. This is likely to go out to market early 2018.</p>
Dingo Lane – Large Scale Solar	A site feasibility assessment is underway for a 5 MW ground mounted solar farm on Council owned land in Dingo Lane, Myocum.
Mullumbimby EV Charge Station and Solar Covered Car Park	A preliminary cost benefit analysis is underway to construct a solar covered car park adjacent to the administration centre to power the administration centre and two EV charge stations.
Mullumbimby Mini Hydro	COREM in partnership with Council is investigating recommissioning the Mullumbimby micro hydro power station.

Project	Description
Local Electricity Trading	Council is currently running a procurement process for renewing its electricity contract in collaboration with Lismore City Council. Included as one element of this process is a request for the prospective retailer to provide Local Electricity Trading between Council assets. This will be a first for local government in Australia if successful. The Cavanbah Centre and West Byron STP have been identified as a potential pilot site for LET to occur.

Offsets

5 Council will need to consider the various options for emissions offsetting to reach the zero emissions target by 2025/26. This can be done either via a third party (eg. Carbon Neutral Australia) in Australia or overseas or by Council’s own projects in the Byron Shire. Typical offset projects could be tree planting to sequester carbon or renewable energy projects to offset coal fired energy used from the grid. If carbon sequestering tree plantings are done well they can also have added biodiversity outcomes and renewable energy projects can become an additional source of income.

10 Current costs of gold standard certified carbon credits from a biodiversity focused project in WA that “Carbon Neutral” offer is approximately \$14/tonne. This is a many thousand hectare project in WA in a semi arid climate. The cost of delivering a similar project in Byron Shire’s subtropical environment with high land values and higher rainfall is unknown. The cost of carbon offset varies greatly for renewable energy projects depending on the technology. An indicative cost of purchasing certified Greenpower from the grid is an extra \$0.08/kWh on top of the normal charges. At this rate cost of emissions offset is equal to \$96/tonne. These are two examples at either end of the spectrum of offset options and costs. Council’s options in this regard will be further detailed in the Emissions Reduction Strategy.

Financial Implications

25 Council has allocated funds in the 2017/18 budget to prepare the Emissions Reduction Strategy.

Statutory and Policy Compliance Implications

Nil

Report No. 13.9 Broken Head Reserve and Seven Mile Beach Road Management Issues

Directorate: Sustainable Environment and Economy
Report Author: Shannon Burt, Director Sustainable Environment and Economy
Phillip Holloway, Director Infrastructure Services
File No: I2017/1839
Theme: Ecology
Development and Approvals

5

10

Summary:

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The purpose of this report is to advise Council of the current amenity, environment and anti social behaviours like fires and littering impacting the residents and environs of the Broken Head Reserve area and its beaches; and status of a current Action Plan developed by Council, State agencies, Police and resident to address these issues.

RECOMMENDATION:

- 1. That Council note the report and the Actions that are currently being implemented by staff, State agencies, Police and residents to address the management issues in the Broken Head Reserve area and its beaches.**
- 2. That Council endorse the Action Plan for wider community consultation.**
- 3. That the provision of a budget of \$20,000 for concept infrastructure planning investigations and surveys for road upgrades and investigation of traffic calming options be considered as part of the December 2017 Infrastructure Services Financial Quarterly Review.**
- 4. That a further report is presented to Council early 2018 on this consultation and any other management issues that arise over the summer holiday period.**

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Attachments:

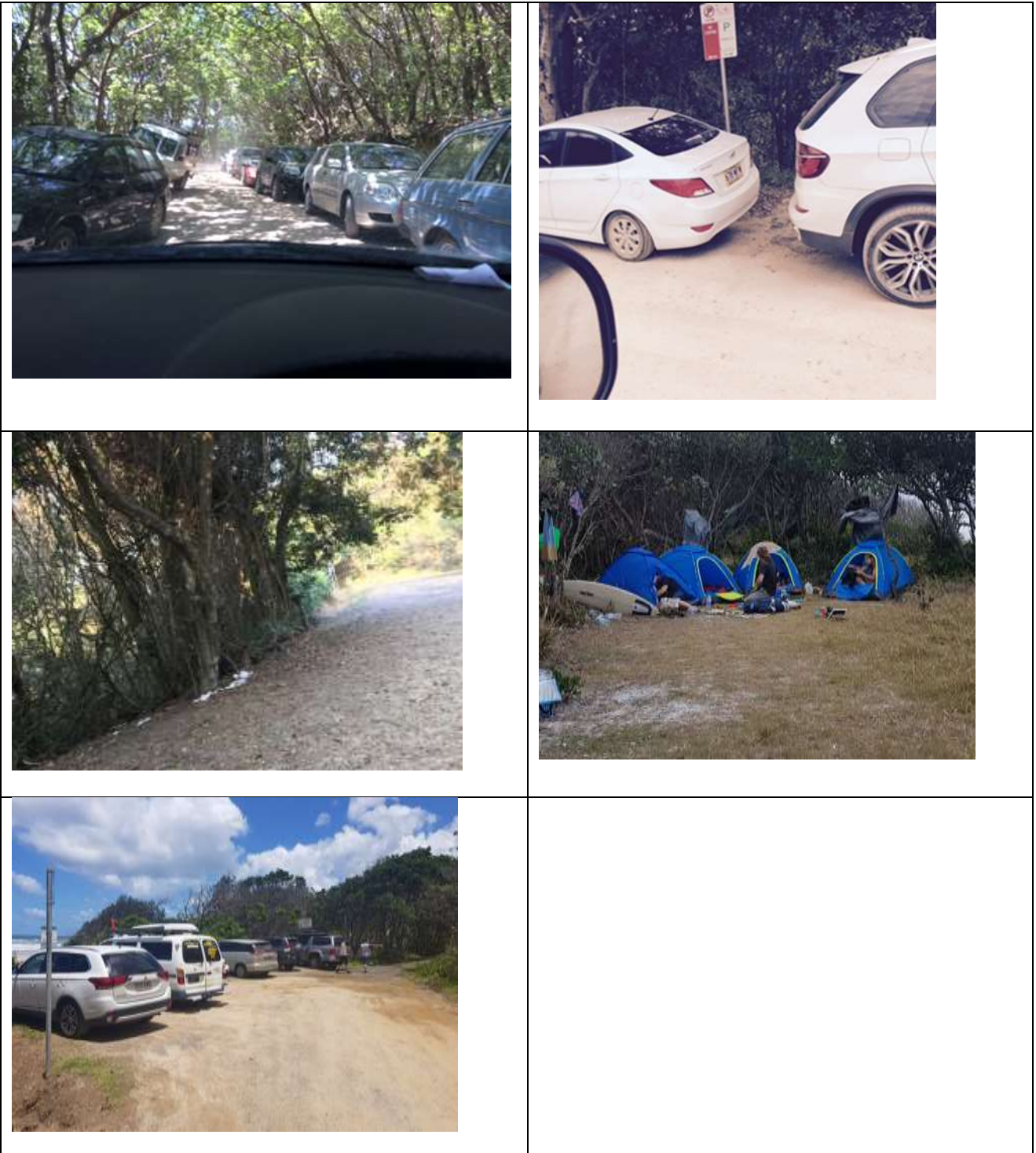
- 1 Various Letters of Support, E2017/109798 [⇒](#)

25

Report

5 Active discussions have been occurring since 2016 between the Mayor with Council staff, representatives from the Police, National Parks and Wildlife Service, Rural Fire Service and local residents of Seven Mile Beach about the ongoing traffic congestion, speed and dust nuisance, illegal parking, illegal camping and other anti social behaviours like littering and fires occurring in the Broken Head Reserve area, its beaches and environs. This weekly occurrence is having an ongoing adverse impact on the amenity of residents.

10 Photos below show typical weekly occurrences -



Council staff have been proactively attending to these issues for some time. However, there appears to have been a steady increase in incidents reported over the last year particularly weekends and during school holidays. This can be related to the tourism posts on social media and other online platforms recommending this area as an unspoilt tourist destination.

5

In recent weeks following discussions with some of the local residents of Seven Mile Beach, Council installed a number of parking sign restrictions along the road and also placed large rocks at the end of Seven Mile Beach Road to deter and disrupt current behaviours of those visitors that park and camp in areas that they should not. Patrols by Council's Enforcement staff have also been increased resulting in many infringements being issued. These actions have received mixed responses from residents and community alike; and proven to be only somewhat successful for short periods of time.

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<https://www.northernstar.com.au/news/132-no-stopping-signs-wipe-out-beachfront-parking/3231807/>

15

Staff are finding however, that the undesirable behaviours return not long after a blitz, signs are vandalised or removed, and visitors park and camp illegally irrespective of fines. As such the ongoing need to respond to complaints received from residents is becoming resource intensive for both the Enforcement and Infrastructure Planning teams of Council, exacerbated further by the current state of play with other State agencies and Police resourcing, leaving Council often as the only response available during the busy times.

20

As such, the need for a more strategic approach to how this area is managed to protect resident's amenity and this highly sensitive biodiverse environment is needed now.

25

As stated earlier an Action Plan was recently agreed to by a working group of Council staff, State agency and Police representatives and local residents to address these issues.

30

The details of the Action Plan are provided below. The status of each of the items in the Action Plan is also recorded.

ISSUE – CAR PARKING

35

Map out relevant jurisdictions of Seven Mile Beach Road car parks. Investigate options for future management of the car parks.

Action 1: Identify by way of a detailed survey the location of Brays Beach and Whites Beach car parks.

40

Response: Council has engaged the services of a registered surveyor to carry out a survey and provide Council with a detailed survey plan.

Action 2: Investigate various management options for both car parks including closure, limited access or pay parking.

45

Response: Car park management plan to be drafted after detailed survey plan is received by Council. As of the date of this report Council was yet to receive the plan.

Action 3: Seek community and agency feedback on the car park management plan.

50

Response: Car park management plan to be drafted after detailed survey plan is received by Council. As of the date of this report Council was yet to receive the plan.

ISSUE - DELEGATIONS AND FUNCTIONS OF COUNCIL OFFICERS

Delegations and functions of Council officers.

55

Action 4: Council to write to NPWS and request delegations for Council officers as honorary rangers under Section 17 of the National Parks and Wildlife Act.

Response: Letter to NPWS was sent on 6 November 2017 as of the date of drafting this report Council had not received a response.

5 **Action 5:** Council to write to NSW Police and request delegations for Council staff to give move on directions under Section 680A of the Local Government Act.

Response: Letter to NSW Police was sent on 6 November 2017 as of the date of drafting this report Council had not received a response.

10 ISSUE – UNAUTHORISED ACTIVITIES

Unauthorised activities at the end of Seven Mile Beach Road including camping, vandalism and lighting of fires.

15 **Action 6:** Explore the option to install a gate and turning circle about 130 metres north of the existing turning circle at the southern end of Seven Mile Beach Road. This section of Seven Mile Beach Road is located on a Council Managed Crown Reserve. Consider the ability to install and cost of the gate and creating a new turning circle.

20 **Response:** The installation of a closed gate across a public road is dealt with under the Roads Act 1993 Division 1 General Powers, clauses 114 and 115 and Division 2 clauses 116, 117, 118 and 119. It appears that Council does not have delegation to install a gate and only the RMS has the delegation. There is a process to be undertaken, detailing the reason why Council is proposing the installation, advertisement of the proposal and invitation of submissions to the RMS, who are the ultimate decision makers for the application by Council's. This request needs to be further investigated by staff in conjunction with our legal staff, RMS and Crown Lands, who have the Crown reserve / road nearby.

30 More investigation and liaison with RMS and Crown Lands is required and more details will be provided in the report to Council in early 2018.

Further a review of signage is also to be undertaken to ensure that a clear and consistent message is provided to the visitors about permitted activities and acceptable standards of use of this area.

35 **Action 7:** Carry out community and agency consultation in relation to the proposal.

Response: This will be subject to a resolution of Council to endorse the approach.

ISSUE - SEVEN MILE BEACH ROAD TRAFFIC

40 Seven Mile Beach Road traffic management to reduce immediate traffic risks and control traffic.

Action 8: Investigate and prepare a plan for traffic calming along Seven Mile Beach Road, including the installation of pinch points to regulate traffic. Work carried out in accordance with Section 115(2)(d) of the Roads Act, including pinch points and new signage.

45 **Response:** Subject to a resolution from Council, staff will prepare options for traffic calming including recommendation that can be considered by the Local Traffic Committee (LTC). A budget is required for this investigation work as Infrastructure Planning staff are project based and must cost their time to funded projects.

50 Seven Mile Beach Road is approximately 5.22km long and is unsealed for 4.8km and there is a small sealed section of 0.42km near house 248. A very approximate cost to upgrade the unsealed 4.8km section would range from \$2.4M to \$3.1M. This needs to be investigated further by a concept design and cost estimate. If this is something Council could do in stages then detailed design, environmental assessment and site testing would need to be undertaken before construction could commence.

55

A request for speed humps along Seven Mile Rad was considered but not endorsed by the LTC at their meeting on 25 November 2015 and this recommendation was resolved by Council at its meeting on 10 December 2015

5 Council at the meeting on 10 December 2015 did however resolve to install No Stopping signs along the length of Seven Mile Beach Road, from the end of current signage to near entrance #142 where appropriate (eg limited road width and restricted sight lines), ask the Local Traffic Committee to endorse that signage prior to implementation and install advisory signage on Seven
10 Mile Beach Road as appropriate. This effectively restricts no stopping along the full length of this road.

Action 9: Draft a road sharing plan of Seven Mile Beach Road in accordance with relevant engineering standards.

15 **Response:** The issue of a shared zone had been considered by the Local Traffic Committee at its meeting on 19 September 2017 and was not recommended. The LTC recommendations were resolved by Council at its meeting on 2 November 2017. The key issue for a shared zone is compliance with the warrants/guidelines and this is problematic in this location.

20 Traffic counts were undertaken between 4 and 14 March 2017, which is outside NSW and QLD school holidays and Easter 2017. A total of 2,673 vehicles travelled along the road in this period with an average of 410 vehicles each Saturday and Sunday and an average of 165 vehicles each day between Monday to Friday.

25 Further traffic counts are planned from 30 November 2017 to 2 February 2018 to assist in determining an appropriate solution/recommendation.

Action 10: Carry out community and agency consultation in relation to the above proposals.

Response: This will be subject to a resolution of Council to endorse the approach.

30 ISSUE – KINGS BEACH CAR PARK (NPWS)

35 **Action 11:** Plan of management in draft since 2012. Residents and Council to write to the Minister requesting closure of Kings Beach car park and imposing time restrictions in Kings Beach Car Park to be explored in interim.

Response: NPWS has installed new signs at Kings Beach and is following up on the Broken Head Nature Reserve draft plan of management.

40 ISSUE – COMMUNICATIONS STRATEGY

Action 12: Creation of a neighbourhood watch program.

Response: Residents to implement this task with Council support for signage.

45 **Action 13:** Creation of an online process for residents to report unauthorised activities on Seven Mile Beach Road.

Response: The mail box has been created and Council has notified residents accordingly.

ISSUE: VANDALISM AND UNAUTHORISED ACTIVITIES ON SEVEN MILE BEACH ROAD

50 **Action 14:** Installation of covert surveillance cameras to address vandalism of signage and unauthorised activities.

Response: Covert surveillance cameras have been purchased and are being trialled at Seven Mile Beach Road. Council is currently preparing a prosecution case for alleged unauthorised access to the beach by a 4wd vehicle on 22 November 2017.

55

Following on from the most recent working group meeting a number of letters have been received from local residents about the need to be proactive to address the impacts that visitors to the reserve and beaches are having on amenity and environment. These are attached.

- 5 The need now exists for this Action Plan to be formally endorsed by Council for wider community and agency consultation.

Financial Implications

- 10 Specific items in the Action Plan need to be costed and if necessary a budget allocation made.

To undertake concept infrastructure planning investigations and surveys for road upgrades and investigation of traffic calming options a budget of say \$20,000 will be required as Infrastructure Planning staff are project based and must cost their time to funded projects. There are no obvious sources of funds for this budget and its provision should be considered as part of the December 2017 Infrastructure Services Financial Quarterly Review.

Residents have made a request for additional Council resources in the form of a full time 'enforcement officer' dedicated to patrolling Seven Mile Beach Road only.

20 Wages for a Community Enforcement Officer (not including on costs) are as follows.

Full time grade 6/8: \$67,953 to \$78,734 (not including penalty rates)

- 25 Part time grade 6/8 (weekends only): \$61,157 to \$70,861 (including penalty rates).

On costs for the above positions are calculated at 32.12% of the overall salary and are not included in the calculations.

- 30 Penalty rates have not been calculated in the full time position estimate, because this position would need to be incorporated into the existing roster.

In addition to the above estimates Council would require an additional 4wd vehicle, infringement device, body worn camera and communications.

35 If Council were to consider deployment of additional resources at Seven Mile Beach Road it would be more cost effective to employ a full time position to be added to the normal roster and carry out patrols in accordance with a customer service agreement between Council and local residents.

- 40 Notwithstanding the above, the enforcement team roster is being proactively managed for the summer period to deal with the many hot spots and issues across the Shire as a whole including the best ways to ensure coverage at the right times and right numbers (WHS) in this locality.

Statutory and Policy Compliance Implications

45 On the 7 November 2017 Council wrote to the Police requesting delegations to give move-on directions under Section 680A of the Local Government Act.

50 On 7 November 2017 Council also wrote to the Office of Environment and Heritage requesting delegations to issue penalty infringement notices under the National Parks and Wildlife Act. Council is yet to receive a response from both authorities.

55 Between 28 November 2015 and 28 November 2016 Council issued 328 penalty infringement notices at Seven Mile Beach Road.

Between 28 November 2016 and 28 November 2017 Council issued 747 penalty infringement notices at Seven Mile Beach Road. The statistics for that period are shown in the table below.

OFFENCE	NUMBER OF FINES	TOTAL VALUE
Disobey No Stopping Sign	406	\$23,142
Not Parallel Park In Direction of Travel	177	\$19,470
Park So As To Obstruct Vehicle/Pedestrians	135	\$14,850
Camping Related Fines (including littering)	29	\$3190
Total Fines Issued	747	\$60,652

5 In response to complaints from local residents in 2017 there has been a 227% increase in penalty infringement notices issued by Council in comparison with the number of fines issued in the previous 12 month period (28 November 2015 to 28 November 2016).

10 The installation of a closed gate across a public road is dealt with under the Roads Act 1993 Division 1 General Powers, clauses 114 and 115 and Division 2 clauses 116, 117,118 and 119. The process to undertake this needs to be investigated further as the ultimate decision is with the RMS not Council and there may be nearby Crown reserve / road impacted by any proposal.

Report No. 13.10 **Approval to Operate a Caravan and Camping Ground application under section 68 of the Local Government Act 1993 and Regulations 2005 for Ferry Reserve Holiday Park**

Directorate: Sustainable Environment and Economy

5 **Report Author:** Shannon Burt, Director Sustainable Environment and Economy
Stephen McCarthy, Building Certifier

File No: I2017/1889

10 **Theme:** Ecology
Development and Approvals

Summary:

15 Council considered Notice of Motion 9.1 at the Ordinary meeting of 25 May 2017, and resolved to receive Approval to Operate (ATO) a Caravan and Camping Ground applications under section 68 of the Local Government Act 1993 and Regulations 2005 for Ferry Reserve and Massy Greene Holiday Parks subject to the conditions contained in **Resolution 17-184**.

20 ATO applications were lodged on 6 November 2017 for each Park respectively and have now been assessed by staff.

The ATO application for Ferry Reserve Holiday Park is recommended for approval subject to conditions.

25

RECOMMENDATION:

That Council grant approval under Chapter 7 of the Local Government Act, 1993 and the Local Government (Caravan Parks, Camping Grounds and Moveable Dwellings) Regulations 1995 to operate a caravan park or camping ground on the property known as the Ferry Reserve Holiday park subject to the conditions in the Staff Compliance Assessment Report (Attachment 4 E2017/108747).

Attachments:

- 30 1 Site particulars - Approval to Operate a Caravan & Camping Ground, E2017/110977 [⇒](#)
2 Community Plan, E2017/110730 [⇒](#)
3 Proposed Concept Plan - Ferry Reserve Holiday Park, E2017/110692 [⇒](#)
4 Staff Compliance Assessment Report, E2017/108747 [⇒](#)
5 Schedule of Compliance Works and Activities, E2017/110961 [⇒](#)

35

Report

Council considered Notice of Motion 9.1 at the Ordinary meeting of 25 May 2017, and resolved as follows:

5

17-184

Resolved that Council:

- 10 1. *Notes the following Concept Plans for the purposes of the public exhibition of the Crown Reserve Plans of Management;*
- a) *Revised Concept Plan for Ferry Reserve Holiday Park as shown at Attachment 1.*
 b) *Revised Concept Plan for Massy Greene Holiday Parks as shown at Attachment 2.*
- 15 2. a) *Supports NSWCHPT in seeking Ministerial approval to exhibit the proposed changes to the PoM for Ferry Reserve as per 1a hereof and it notes that it shows proposed road layout, formalised public access to the Boat Ramp and 10 meter setback from the Brunswick River.*
- 20 b) *Supports NSWCHPT in seeking Ministerial approval to exhibit the proposed changes to the PoM for Massy Green as per 1b hereof and notes that it shows proposed road layout, formalised public car parking, open public space in lot 7005 including a children's play area and public access to light craft ramp and 10 meter setback from the Brunswick River.*
- 25 3. a) *Impose a condition on any Approval to Operate issued by Council in respect of the applications in 1a and 1b that the operation of the caravan park/camping ground and any building or work associated with its operation must comply with all applicable standards imposed by the Local Government (Manufacture Home Estates, Caravan Parks, Camping Grounds and Movable Dwellings) Regulation 2005, and;*
- 30 b) *where there is any non-compliance with the Local Government (Manufacture Home Estates, Caravan Parks, Camping Grounds and Movable Dwellings) Regulation 2005 NSWCHPT commit to doing all acts and things necessary to resolve the non-compliance issues as part of the development and works programme of the relevant Holiday Park in accordance with the timing schedule and staging plan known as SCHEDULE OF COMPLIANCE WORKS AND ACTIVITIES which will form part of the Approval to Operate.*
- 35 4. *In order to enable the development and works program set out in the SCHEDULE OF COMPLIANCE WORKS AND ACTIVITIES as per 3b and included as a condition in any Approval to Operate, the Approval to Operate be issued for a period of three (3) years.*
- 40 5. *Defer consideration of the Revised Concept Plan for Terrace Reserve Holiday Park until the June Ordinary meeting and schedule in early June a further workshop with representatives from the NSWCHP Trust, Council, Long Term Park Residents and the Community to consider the two (2) Revised Concept Plan options presented to the Councillor Strategic Planning Workshop on 11 May 2017 and working together to negotiate a suitable park design that:-*
- 45 a) *achieves compliance with the Local Government (Manufacture Home Estates, Caravan Parks, Camping Grounds and Movable Dwellings) Regulation 2005, and*
 b) *recognises the historical public significance of cypress pines area*
- 50

- 5 b) *provides a suitable setback of 10 meters from the Brunswick River to allow public access (includes the Trust continuing to negotiate with park residents to achieve the 10 meter setbacks adhered to in other areas of the Brunswick foreshore), and*
- d) *provides a design which includes a vegetation plan of management which will protect the foreshore and Cyprus Pines.*

10 Approval to Operate applications under section 68 of the Local Government Act 1993 and Regulations 2005 for Ferry Reserve and Massy Greene Holiday Parks were lodged on 6 November 2017 for each Park respectively, including site particulars, a community map, fire certificate, revised concept plan and compliance schedule.

15 Attachment 4 is the staff compliance assessment report for the Ferry Reserve Holiday Park. This report ensures that the ATO application satisfies the requirements of the resolution and the relevant Act and Regulations for the operation of a caravan park, and where this is not the case proposes suitable conditions of approval for this to occur within a specified time period.

The ATO application for Ferry Reserve Holiday Park is recommended for approval subject to conditions.

20 The conditions imposed are those of a standard nature and or those discussed with the NSWHP.

Financial Implications

25 N/A

Statutory and Policy Compliance Implications

30 The operation of caravan parks and camping grounds require Approval to Operate (ATO) under Section 68 (Part F2) of the Local Government Act 1993. Applications are lodged by the land owner to continue the operation of caravan park and camping ground activities and application fees are paid in accordance with Councils' adopted fees and charges.

35 The process of assessing and determining ATO applications is regulated under Chapter 7 Part 1 of the Local Government Act 1993. Part of the consideration of such applications involves the auditing of compliance with the Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005 ("the Regulation").

40 Once it had been determined that the application represented the actual site activities, and satisfies the requirements of the Regulation, then an ATO approval is granted. Once an approval has been issued council may determine to extend or renew an approval (but without changing the terms of the approval) if satisfied there is good cause for doing so.

The relevant sections of the Local Government Act have been reproduced below:

45 **LOCAL GOVERNMENT ACT 1993**

72 Determination of applications by the Crown

- 50 (1) A council, in respect of an application for approval made by the Crown or a person prescribed by the regulations, must not:
- (a) refuse to grant approval, except with the written consent of the Minister, or
 - (b) impose a condition of an approval, except with the written consent of the Minister **or the applicant.**

- (2) If the council proposes to refuse to grant approval or to impose a condition of approval, it must immediately notify the applicant.
- (3) After the applicant is so notified, the council must submit to the Minister:
- 5 (a) a copy of the application for approval, and
(b) details of its proposed determination of the application, and
(c) the reasons for the proposed determination, and
(d) any relevant reports of another public authority.
- 10 (4) The applicant may refer the application to the Minister whether or not the council complies with subsection (3).
- (5) After receiving the application from the council or the applicant, the Minister must notify the council and the applicant of:
- 15 (a) the Minister's consent to the refusal of approval, or
(b) the Minister's consent to the imposition of the council's proposed conditions, or
(c) the Minister's intention not to agree with the council's proposed refusal and the period within which the council may submit any conditions it wishes to impose as conditions of approval, or
- 20 (d) the Minister's refusal to agree with the council's proposed conditions and any conditions to which the Minister's consent may be assumed.
- (6) At the end of the period specified in subsection (5) (c), the Minister must notify the council and the applicant:
- 25 (a) whether the Minister consents to the imposition of any of the conditions submitted by the council during that period and, if so, which conditions, or
(b) of the conditions to which the Minister's consent may be assumed.
- (7) The Minister must notify the council and the applicant of the reasons for a decision under subsection (5) or (6).
- 30 (8) If the council does not determine the application within the period notified by the Minister for the purpose, the council is taken, on the expiration of that period, to have determined the application in accordance with the Minister's consent.
- 35

73 Effect of council's failure to determine Crown application

- (1) If the council does not determine an application to which section 72 applies within the relevant period specified in section 105, the council is taken, on the expiration of that period, to have refused the application.
- 40 (2) If the application is taken to have been refused, the applicant may refer the application to the Minister for determination.
- 45 (3) The Minister may determine an application so referred to the Minister.
- (4) The Minister's determination has effect as if it were a determination of the council.

74 Prohibition on appeals concerning Crown applications

- 50 No review or appeal lies against a determination that the council is taken to have made under section 72 (8) or a decision or determination of the Minister under section 72 or 73.

105 Circumstances in which approval is taken to have been refused

- 5 (1) If the council has not determined an application:
(a) within the period of 40 days after the application is lodged with it, except as provided by paragraph (b), or
- 10 (b) within the period of 80 days after the application is lodged with it in the case of an application for which the concurrence of a person or authority is required by or under this Act, the council is, for the purposes only of section 176, taken to have determined the application by refusing approval on the date on which that period expires.
- 15 (2) Nothing in subsection (1) prevents the council from determining an application after the expiration of the 40-day or 80-day period, whether on a review under section 100 or otherwise.
- (3) A determination under subsection (2) does not prejudice or affect the continuance or determination of an appeal made under section 176 in respect of a determination that is taken under subsection (1) to have been made, subject to subsection (4).
- 20 (4) Where a determination under subsection (2) is made by granting approval, the council is entitled, with the consent of the applicant and without prejudice to costs, to have an appeal made under section 176 in respect of a determination that is taken by subsection (1) to have been made, withdrawn at any time before the appeal is determined.

Report No. 13.11 **Update on affordable housing partnership models**
Directorate: Corporate and Community Services
Report Author: Anna Vinfield, Manager Corporate Services
 Christopher Soulsby, Development Planning Officer S94 & S64
5 **File No:** I2017/1896
Theme: Society and Culture
 Community Development

10 **Summary:**

At its extraordinary meeting of 2 November, Council resolved for a report to be tabled at its December meeting providing a framework to support partnerships based on providing affordable housing outcomes (RES 17-535).

15 This report provides an update on potential models being explored to address affordable housing noting that a workshop will be held with councillors in early 2018 on the principles and business analysis.

20

RECOMMENDATION:

That Council:

1. **Note the potential frameworks being developed to support affordable housing partnerships.**
2. **Request a workshop be held in early 2018 to develop key principles for affordable housing models.**

25

Report

At its extraordinary meeting of 2 November, Council received a notice of motion from Cr Ndiaye on affordable housing. Council resolved for a report to be tabled at its December meeting providing a framework to support partnerships based on providing affordable housing outcomes (RES 17-535):

17-535 Resolved that Council:

1. *Tables an affordable housing addendum to its Supporting Partnerships Policy, focused on providing a clear framework to support partnerships based on providing affordable housing outcomes.*
2. *Provides a report to Council's December Ordinary meeting that:*
 - i. identifies preferred coordinating entities, structures and delivery arrangements which can deliver on Council's intent in a coordinated way, that is flexible enough to adapt to the varying affordability needs of our community.*
 - ii. identifies ways to harness a range of community, private and Government resources and ensuring that benefits are retained for the community and that the principles of public accountability, community partnership, affordability in perpetuity and sustainability are embedded in the arrangement*

This report provides an update on potential models being explored to address affordable housing noting that a workshop will be held with councillors in early 2018 on the principles and business analysis.

From the February 2017 housing summit, officers are working through how to address a number of issues such as:

- homelessness
- key worker housing
- land availability
- housing types and designers

Models & Approaches to Affordable Housing

The UK and America are leading the way with affordable housing models utilising Community Land Trusts and sophisticated laws that enable the separation of land and buildings and thus provide more affordable housing solutions.

Across NSW there are various examples of models being used by local governments to address their specific affordable housing needs. These include:

- **City of Port Phillip** – Inkerman Oasis is an award-winning example of 'Council as developer', utilising a partnership (or PPP model). However, more recently the City of Port Phillip has moved away from the Council as developer model and has moved into a 'partnership' model with Port Phillip Housing Association, as trustee of the Port Phillip Housing Trust. This is underpinned by a 10 year affordable housing strategy, *In Our Backyard - Growing Affordable Housing in Port Phillip 2015 – 2025*. The strategy includes facilitating new community housing projects through property and cash contributions to local housing organisations, and advocating for an affordable housing planning mechanism that will incentivise private sector delivery of new affordable housing.

- **Waverley City Council** - Waverley Affordable Housing Program (WAHP) provides good quality rental apartments at reduced rents. It targets low to moderate income households who are in full or part time work. Waverley City Council owns the buildings that it rents out – these were predominantly purchased decades ago via S94 contributions.

5 There are a number of models and approaches that Council can consider when it comes to achieving more affordable housing for residents in the Byron Shire.

10 Officers are currently reviewing Council’s affordable housing policy and this will seek to provide a long-term strategy that sets out what affordable housing is and what Byron Shire Council’s role is in providing affordable housing, and to which vulnerable groups of people. This will seek to be outcomes focussed.

It will also acknowledge the market forces that are impacting on Byron Shire’s housing issues, such as growing rates of tourism and the share economy (including AirBnB).

The following affordable housing models/approaches are based on Council’s commitment to retain strategically important Council-owned land.

- 15 **1. Council as housing developer on Council-owned land**
This model involves Council fully financing the development itself via grant funding, loans and/or impact investment. Under this model, properties may be sold or rented at market-value to return recurrent revenue and recoup costs over long-term.
- 20 **2. Council entering into a partnership or PPP to build affordable housing**
Under this model, Council provides the land, a developer provides the buildings. A deal is arranged regarding ownership and transfer of the properties to Council. This could be a mixed-use development, enabling Council to rent or sell some properties at market rates. Under this model, a range of other partnerships with community housing providers could be established. Example: City of Port Phillip created the award-winning Inkerman Oasis development in St Kilda East with a mix of private and integrated affordable housing.
- 25 **3. Council setting up and leading a Community Land Trust (CLT)** in order to control the outcomes of housing built on council-owned or privately owned (or donated) land. Council relies on the CLT to source finance or funding to either build affordable housing or work with community housing partners to source existing properties that can be purchased.
- 30 **4. Council being part of a CLT – but at arms length.**
Council as a ‘golden shareholder’ of the CLT. Council allowing a partner or intermediary to run a housing or development project and deliver agreed affordable housing outcomes with an overseeing role provided to Council (from a risk management perspective).
- 35 **5. Council as both developer (either self-funded or via PPP) and then as manager** of housing projects, **without a CLT or intermediary**, retaining full control of the management of affordable housing arrangements.
- 40 **6. Council offering a Modified Shared-Equity scheme** on Council-owned land (either by developing housing itself or through a partnership).
Shared equity is where different parties share the ownership of the property and any house erected on the land. In the case of shared equity offered by a private owner, for example a Council, one co-owner is the Council and the other co-owner is the resident. Another option is that a CLT offers modified shared equity, where one co-owner is the CLT and the other co-owner is the Resident. The CLT might sell a specified portion of the value of the property to the Resident for an agreed price. For example, a CLT may sell 50 percent of the equity and keep

50 percent. Or the Resident’s proportion could be higher, or lower. Each co-owner has the right to dispose of their interest by sale; however, an agreement can restrict terms of the sale so that the CLT has first option to buy, and the extent of capital gain on this.

7. Long-term leases

5 Council provides existing or new Council-owned housing stock and develops an affordable housing program by providing a long-term lease to a partner (such as a Community Housing partner). Providing longer term leases on Council-owned land enables a CLT to provide affordable long-term rental accommodation (because they are essentially renting out the building and not paying for the cost of the land). An affordable rental model could target key workers, for example. It could also provide community/social housing.

8. A combination of any of the above.

15 While the above models involve retaining strategically important Council-owned land, opportunities may arise whereby the sale of land provides superior funding mechanism that returns a higher cost benefit ratio. This may allow for increased spending on affordable housing projects and/or infrastructure over a longer time period.

Mechanisms

20 There will be a number of mechanisms needed to facilitate the implementation of the models described above. These mechanisms will either secure land for affordable housing or defer some the up front capital costs of development. Some of the mechanisms to be explored are:

1. Value capture of increase in land value from rezoning.

25 When land is up zoned, for example from rural to residential there is an unearned windfall gain to the land owner. There are two ways in which this part of this gain could be captured to provide opportunities for affordable housing projects.

- 30 i. A proportion of the total area of land is to be rezoned is to be dedicated to Council for the purposes of provision of affordable housing. This would be set out in Planning Agreement entered into prior to the rezoning proceeding; or
- ii. A cash contribution to the provision of affordable housing, expressed as a percentage of the increase in land value due to the rezoning. This would also required a Planning Agreement to be entered into prior to the rezoning proceeding.

35 **2. Deferral of the payment of developer contributions** (section 94 and section 64) would be a mechanism to reduce the up front capital cost of setting up affordable housing. It is not acceptable to simply waive these charges as the demands on the infrastructure created by the new population will still exist. The current deferral mechanisms are not appropriate as they only allow deferral for a short time period to enable the release of a construction certificate and require security. A new deferral option to allow for the deferred payment to be amortized over a 40 20 year time period with the payments made by the governing body of the affordable housing body. A proportion of the rent or payments to the affordable housing provider by the occupiers are used to pay off the developer contributions.

Supporting partnership guidelines

45 Draft guidelines are under development to provide a framework for Council to administer both unsolicited and solicited proposals. The guidelines will seek to ensure that transparency and accountability is achieved, provide consistency and certainty for proponents, and outline the information that will be made public. As per Council’s policy, partnerships can only arise through 50 an open market-based process. It is intended that all proposals will be initially assessed against

Council's community strategic plan objectives. Detailed objectives and principles will be workshopped with Councillors at a future workshop.

Next steps

5

A workshop will be held with councillors in early 2018 on:

- the principles for affordable housing
- business analysis of different models – including cost benefit and potential risks
- 10 • specifications for the financial data to be presented to enable Council to model the proposal

Financial Implications

15 There are a number of financial considerations to take into account when developing suitable models. Officers have developed a business analysis tool which will be workshopped with Councillors at a future strategic planning workshop.

Statutory and Policy Compliance Implications

20 Council's 2016-2020 Delivery Plan includes an action to 'establish planning for and provision of inclusive and accessible housing that can meet the needs of our community.

Council's 2016/17 Financial Sustainability Plan references the need for collaboration and partnerships and includes a section on development options for key land sites.

25

Council's Affordable housing on Council Owned Land Policy (2009) is being reviewed. The 2009 version includes the policy statement 'When considering the best use of lands owned by Council, as a first option, consideration is given to affordable housing'.

Report No. 13.12 **Approval to Operate application under section 68 of the Local Government Act 1993 and Regulations 2005 for Massy Greene Holiday Park**

5 **Directorate:** Sustainable Environment and Economy
Report Author: Shannon Burt, Director Sustainable Environment and Economy
Stephen McCarthy, Building Certifier

File No: I2017/1897

10 **Theme:** Ecology
Development and Approvals

Summary:

15 Council considered Notice of Motion 9.1 at the Ordinary meeting of 25 May 2017, and resolved to receive Approval to Operate (ATO) a Caravan and Camping Ground applications under section 68 of the Local Government Act 1993 and Regulations 2005 for Ferry Reserve and Massy Greene Holiday Parks subject to the conditions contained in **Resolution 17-184**.

20 ATO applications were lodged on 6 November 2017 for each Park respectively and have now been assessed by staff.

The ATO application for Massy Greene Holiday Park is recommended for approval subject to conditions.

RECOMMENDATION:

That Council grant approval under Chapter 7 of the Local Government Act, 1993 and the Local Government (Caravan Parks, Camping Grounds and Moveable Dwellings) Regulations 1995 to operate a caravan park or camping ground on the property known as the Massy Greene Holiday park subject to the conditions in the Staff Compliance Assessment Report (Attachment 4 E2017/108745).

Attachments:

- 30 1 Site particulars - Approval to Operate a Caravan & Camping Ground, E2017/110975 [⇒](#)
2 Community Plan, E2017/110722 [⇒](#)
3 Proposed Concept - Plan Massy Green Holiday Park, E2017/110695 [⇒](#)
4 Staff Compliance Assessment Report, E2017/108745 [⇒](#)
5 Schedule of Compliance Works and Activities, E2017/110918 [⇒](#)

Report

Council considered Notice of Motion 9.1 at the Ordinary meeting of 25 May 2017, and resolved as follows:

5 Council considered Notice of Motion 9.1 at the Ordinary meeting of 25 May 2017, and resolved as follows:

17-184

10 *Resolved that Council:*

1. *Notes the following Concept Plans for the purposes of the public exhibition of the Crown Reserve Plans of Management;*
 - 15 a) *Revised Concept Plan for Ferry Reserve Holiday Park as shown at Attachment 1.*
 - b) *Revised Concept Plan for Massy Greene Holiday Parks as shown at Attachment 2.*
2. a) *Supports NSWCHPT in seeking Ministerial approval to exhibit the proposed changes to the PoM for Ferry Reserve as per 1a hereof and it notes that it shows proposed road layout, formalised public access to the Boat Ramp and 10 meter setback from the Brunswick River.*

20

- b) *Supports NSWCHPT in seeking Ministerial approval to exhibit the proposed changes to the PoM for Massy Green as per 1b hereof and notes that it shows proposed road layout, formalised public car parking, open public space in lot 7005 including a children's play area and public access to light craft ramp and 10 meter setback from the Brunswick River.*

25
- 3. a) *Impose a condition on any Approval to Operate issued by Council in respect of the applications in 1a and 1b that the operation of the caravan park/camping ground and any building or work associated with its operation must comply with all applicable standards imposed by the Local Government (Manufacture Home Estates, Caravan Parks, Camping Grounds and Movable Dwellings) Regulation 2005, and;*

30

- b) *Where there is any non-compliance with the Local Government (Manufacture Home Estates, Caravan Parks, Camping Grounds and Movable Dwellings) Regulation 2005 NSWCHPT commit to doing all acts and things necessary to resolve the non-compliance issues as part of the development and works programme of the relevant Holiday Park in accordance with the timing schedule and staging plan known as SCHEDULE OF COMPLIANCE WORKS AND ACTIVITIES which will form part of the Approval to Operate.*

35

40
- 4. *In order to enable the development and works program set out in the SCHEDULE OF COMPLIANCE WORKS AND ACTIVITIES as per 3b and included as a condition in any Approval to Operate, the Approval to Operate be issued for a period of three (3) years.*

45
- 5. *Defer consideration of the Revised Concept Plan for Terrace Reserve Holiday Park until the June Ordinary meeting and schedule in early June a further workshop with representatives from the NSWCHP Trust, Council, Long Term Park Residents and the Community to consider the two (2) Revised Concept Plan options presented to the Councillor Strategic Planning Workshop on 11 May 2017 and working together to negotiate a suitable park design that :-*

50

 - a) *achieves compliance with the Local Government (Manufacture Home Estates, Caravan Parks, Camping Grounds and Movable Dwellings) Regulation 2005, and*

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- b) *recognises the historical public significance of cypress pines area*
- b) *provides a suitable setback of 10 meters from the Brunswick River to allow public access (includes the Trust continuing to negotiate with park residents to achieve the 10 meter setbacks adhered to in other areas of the Brunswick foreshore), and*
- 5 d) *provides a design which includes a vegetation plan of management which will protect the foreshore foreshore and Cyprus Pines.*

10 Approval to Operate applications under section 68 of the Local Government Act 1993 and Regulations 2005 for Ferry Reserve and Massy Greene Holiday Parks were lodged on 6 November 2017 for each Park respectively, including site particulars, a community map, fire certificate, revised concept plan and compliance schedule.

15 Attachment 4 is the staff compliance assessment report for the Ferry Reserve Holiday Park. This report ensures that the ATO application satisfies the requirements of the resolution and the relevant Act and Regulations for the operation of a caravan park, and where this is not the case proposes suitable conditions of approval for this to occur within a specified time period.

20 The ATO application for Massy Greene Holiday Park is recommended for approval subject to conditions.

The conditions imposed are those of a standard nature and or those discussed with the NSWHPPT.

Financial Implications

25 N/A

Statutory and Policy Compliance Implications

30 The operation of caravan parks and camping grounds require Approval to Operate (ATO) under Section 68 (Part F2) of the Local Government Act 1993. Applications are lodged by the land owner to continue the operation of caravan park and camping ground activities and application fees are paid in accordance with Councils' adopted fees and charges.

35 The process of assessing and determining ATO applications is regulated under Chapter 7 Part 1 of the Local Government Act 1993. Part of the consideration of such applications involves the auditing of compliance with the Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005 ("the Regulation").

40 Once it had been determined that the application represented the actual site activities, and satisfies the requirements of the Regulation, then an ATO approval is granted. Once an approval has been issued council may determine to extend or renew an approval (but without changing the terms of the approval) if satisfied there is good cause for doing so.

45 The relevant sections of the Local Government Act have been reproduced below:

LOCAL GOVERNMENT ACT 1993

72 Determination of applications by the Crown

- 50 (1) A council, in respect of an application for approval made by the Crown or a person prescribed by the regulations, must not:
 - (a) refuse to grant approval, except with the written consent of the Minister, or
 - (b) impose a condition of an approval, except with the written consent of the Minister **or the applicant.**

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- (2) If the council proposes to refuse to grant approval or to impose a condition of approval, it must immediately notify the applicant.
- (3) After the applicant is so notified, the council must submit to the Minister:
- 5 (a) a copy of the application for approval, and
(b) details of its proposed determination of the application, and
(c) the reasons for the proposed determination, and
(d) any relevant reports of another public authority.
- 10 (4) The applicant may refer the application to the Minister whether or not the council complies with subsection (3).
- (5) After receiving the application from the council or the applicant, the Minister must notify the council and the applicant of:
- 15 (a) the Minister's consent to the refusal of approval, or
(b) the Minister's consent to the imposition of the council's proposed conditions, or
(c) the Minister's intention not to agree with the council's proposed refusal and the period within which the council may submit any conditions it wishes to impose as conditions of approval, or
- 20 (d) the Minister's refusal to agree with the council's proposed conditions and any conditions to which the Minister's consent may be assumed.
- (6) At the end of the period specified in subsection (5) (c), the Minister must notify the council and the applicant:
- 25 (a) whether the Minister consents to the imposition of any of the conditions submitted by the council during that period and, if so, which conditions, or
(b) of the conditions to which the Minister's consent may be assumed.
- (7) The Minister must notify the council and the applicant of the reasons for a decision under subsection (5) or (6).
- 30 (8) If the council does not determine the application within the period notified by the Minister for the purpose, the council is taken, on the expiration of that period, to have determined the application in accordance with the Minister's consent.
- 35

73 Effect of council's failure to determine Crown application

- (1) If the council does not determine an application to which section 72 applies within the relevant period specified in section 105, the council is taken, on the expiration of that period, to have refused the application.
- 40 (2) If the application is taken to have been refused, the applicant may refer the application to the Minister for determination.
- 45 (3) The Minister may determine an application so referred to the Minister.
- (4) The Minister's determination has effect as if it were a determination of the council.

74 Prohibition on appeals concerning Crown applications

- 50 No review or appeal lies against a determination that the council is taken to have made under section 72 (8) or a decision or determination of the Minister under section 72 or 73.

105 Circumstances in which approval is taken to have been refused

- (1) If the council has not determined an application:
- (a) within the period of 40 days after the application is lodged with it, except as provided by paragraph (b), or
- 5 (b) within the period of 80 days after the application is lodged with it in the case of an application for which the concurrence of a person or authority is required by or under this Act, the council is, for the purposes only of section 176, taken to have determined the application by refusing approval on the date on which that period expires.
- 10 (2) Nothing in subsection (1) prevents the council from determining an application after the expiration of the 40-day or 80-day period, whether on a review under section 100 or otherwise.
- 15 (3) A determination under subsection (2) does not prejudice or affect the continuance or determination of an appeal made under section 176 in respect of a determination that is taken under subsection (1) to have been made, subject to subsection (4).
- 20 (4) Where a determination under subsection (2) is made by granting approval, the council is entitled, with the consent of the applicant and without prejudice to costs, to have an appeal made under section 176 in respect of a determination that is taken by subsection (1) to have been made, withdrawn at any time before the appeal is determined.

Report No. 13.13 PLANNING - S96 10.2013.577.3 Minor Alterations and Additions to Men's Shed at 26 Station Street Bangalow

Directorate: Sustainable Environment and Economy

Report Author: Rob Van Iersel, Major Projects Planner

5 **File No:** I2017/1908

Theme: Ecology
Development and Approvals

10 **Proposal:**

Section 96 10.2013.577.3

Application No:

Proposed modification: S96 for Minor Alterations and Additions to Men's Shed

Original Development: Recreation establishment (Men's Shed), car park (26 spaces) and tree removal (9 trees)

Type of s96 sought:

Property description: LOT: 1 DP: 927856
26 Station Street BANGALOW

Parcel No/s: 140990

Applicant: Bangalow Lions Club

Owner: Catholic Church Trustees

Zoning: RU2 Rural Landscape / PART DM Deferred Matter

S96 Date received: 31 October 2017

Original DA determination date: 29/01/2014

Integrated Development: No

Public notification or exhibition: Level 0 advertising under DCP 2014 Part A14 – Public Notification and Exhibition of Development Applications

Delegation to determination: Council

Issues:

- Boom gates proposed to be erected at car park entry to prevent parking by general public

Summary:

15 An application has been received to S96 for Minor Alterations and Additions to Men's Shed. The main alteration is the addition of a 7m x 7m masonry block extension to the north of the existing shed to increase the internal usable area. The addition also includes a roof-top area proposed to be used for gardening activities and a plant nursery, accessed via an external staircase on the northern side.

20 Boom-gates are also proposed at either end of the car park. The proposal is satisfactory having regard to relevant matters for consideration including Byron LEP 2104 and Byron DCP 2014. The proposal is considered to be substantially the same development as approved and the Section 96 application is recommended for approval subject to amended conditions of consent.

25 NOTE TO COUNCILLORS:

5 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:

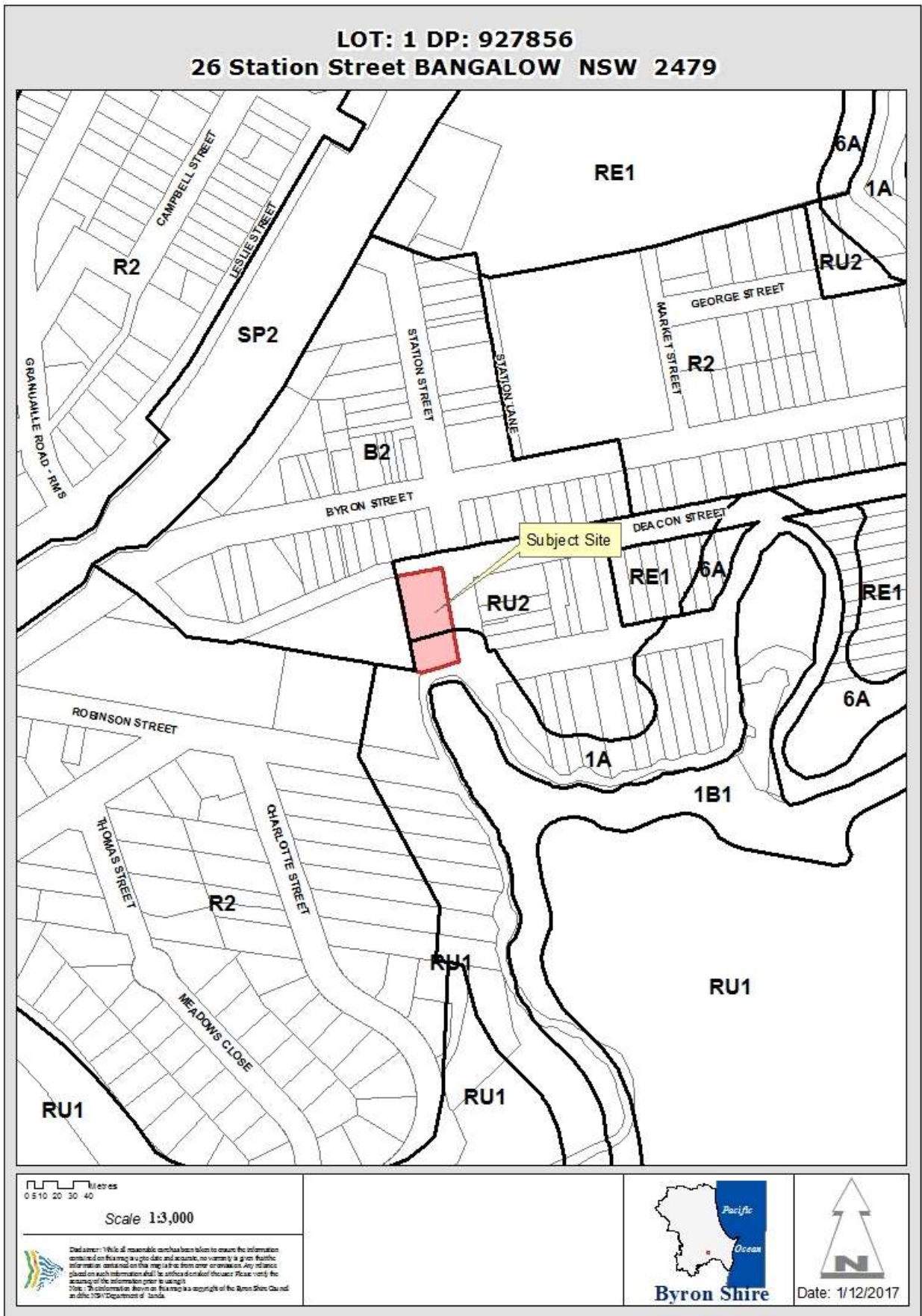
That pursuant to Section 96 of the *Environmental Planning & Assessment Act 1979*, Application No. 10.2013.577.3, for minor alterations and additions to Men's Shed, be approved by modifying Development Consent number 10.2013.577.1 as indicated in Attachment 2 (E2017/110488).

Attachments:

10

- 1 Attachment 1 Development Plans , E2017/110424 [⇒](#)
- 2 Attachment 2 Proposed Modified Conditions of Consent 10.2013.577.3, E2017/110488 [⇒](#)

15



Assessment:

1. INTRODUCTION

1.1. History/Background

DA10.2013.577.1 – Men’s Shed and Car Parking area - Approved 27/01/14

DA 10.2013.577.2 – S96 to alter car parking condition to remove requirement for car parking to remain open to the public – Approved 30/05/17.

1.2. Description of the proposed development

This application seeks approval to modify aspects of the approved Men's Shed; including:

- Widening of the verandah along the front of the shed from 1.8m to 2.8m. See photo below – verandah will cover an existing pathway that is already 2.8m wide (i.e. wider than shown in approved plan). There is a retaining wall at the edge of this pathway, with existing car parking below. Covering of verandah will not impact on parking.
- Deletion of a concrete deck at the southern end of the building and replacing it with a wider paved area – see photo below – construction works commenced.
- Construction of a 7m x 7m extension to the northern end of the shed, to include a roof-top area for gardening activities. Roof-top to include railing approx. 1.2m high around the edge, with external stairs at the northern side. Where the extension joins the existing shed, a 1.0m high parapet is proposed to prevent access onto the roof of the shed. A 1.2m high railing is proposed on top of the parapet, resulting in a maximum height of 4.9m.
- Construction of new retaining wall at the northern end of the extension; and
- Provision of boom gates at car park access points.

1.3. Description of the site

The site is owned by the Catholic Church Trustees who also own three adjoining parcels to the west and south of the site. The land is rectangular in shape and is approximately 1,800m² in area, stretching from Deacon Street down to Byron Creek, directly adjacent to a public parking area (within southern extension of Station Street).

The property has now been developed with the men’s shed and the associated car park, generally in accordance with the approved plans.



Location of proposed verandah



Deck at south end of building



Location of northern extension

2.

SECTION 79C – MATTERS FOR CONSIDERATION – DISCUSSION OF ISSUES

Having regard for the matters for consideration detailed in Section 79C(1) of the Environmental Planning & Assessment Act 1979, the following is a summary of the evaluation of the issues.

5

Section 96 of the EPA Act 1979

The proposed development has been submitted as an amendment to the approved development under Section 96(1A) of the EPA Act 1979. The proposed development will in effect add a small extension to the existing shed as approved with an area of 7mx7m. The proposal is considered to be substantially the same development with its use directly relating to the mens shed and the extension raising no additional issues for consideration. The development is satisfactory having regards to the S96 provisions.

10

15

2.1. State/Regional Planning Policies, Instruments, EPA Regulations 2000

	Agree or No (add comments as required)
Proposed amendments raise no issues under the relevant SEPPS, Policies or clauses of the EPA Regulations 2000	Agree

2.2. Byron Local Environmental Plan 2014

	Agree or No (add comments as required)
Proposed amendments raise no issues under the LEP	Agree

20

2.3. Draft EPI that is or has been placed on public exhibition and details of which have been notified to the consent authority - Issues

	Agree or No. (Add comments as required)
No draft EPIs affect the proposal.	Agree

25

2.4. Development Control Plans

	Agree or No. (Add comments as required)
Proposed amendments do not generate any additional issues that have not been previously considered.	<p>Agree</p> <p>In terms of the boom gates to the car parking area, this is a private car park as opposed to a public car park. As such the restriction to the car park is considered acceptable, however it is noted the Men’s Shed or property owner will need to ensure the car park is accessible to members and visitors to the men shed. Condition 31 of the consent already requires access to be maintained at all times as follows:</p> <p>31) Car Parking spaces are to be available for the approved use</p> <p><i>The car parking spaces are to be provided and maintained, together with all necessary access driveways and turning areas, for use by the men shed, including their members, visitors and guests, at all times to the satisfaction of Council.</i></p>

	Agree or No. (Add comments as required)
	It is considered the condition does not need amending in this instance

2.5. The likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality

	Agree or No (Add comments as required)
Proposed amendments do not generate any impacts that have not been previously considered.	Agree

5

2.6. The suitability of the site for the development

	Agree or No. (Add comments as required)
Proposed amendments do not affect the site's suitability.	Agree

3.6 Submissions made in accordance with this Act or the regulations

10

	Agree or No. (Add comments as required)
No Submissions were received.	Agree

3.7 Public interest

	Agree or No Add comments as required
Proposed amendments are unlikely to prejudice or compromise the public interest.	Agree

15

4. DEVELOPER CONTRIBUTIONS/ WATER AND SEWER CHARGES

	Agree or No. (Add comments as required)
There is no nexus to levy additional contributions.	Agree

3. CONCLUSION

20

The application proposes alterations and additions to the existing men's shed at Bangalow. The main alteration is the addition of a 7m x 7m masonry block extension to the north of the existing shed to increase the internal usable area. The addition also includes a roof-top area proposed to be used for gardening activities and a plant nursery, accessed via an external staircase on the northern side. Boom-gates are also proposed at either end of the car park.

25

The proposal is satisfactory having regard to relevant matters for consideration and is considered to be substantially the same development as approved. The section 96 application is recommended for approval.

30

4. DISCLOSURE OF POLITICAL DONATIONS AND GIFTS

BYRON SHIRE COUNCIL

STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

13.13

Has a Disclosure Statement been received in relation to this application	No
Have staff received a 'gift' from anyone involved in this application that needs to be disclosed. Where the answer is yes, the application is to be determined by the Director or Manager of the Planning, Development and Environment Division.	No
Provide Disclosure Statement register details here:	Not applicable

STAFF REPORTS - INFRASTRUCTURE SERVICES

Report No. 13.14 Byron Bay Pay Parking Time Limit Review

Directorate: Infrastructure Services

5 **Report Author:** Joshua Winter, Civil Engineer

File No: I2017/1558

Theme: Community Infrastructure
Local Roads and Drainage

10

Summary:

15 As part of the review of pay parking for Byron Bay, Council staff investigated and reviewed the appropriateness of the time limits throughout the paid parking area in Byron Bay. There were a number of areas found that may benefit from an alteration to the time limit, which would encourage longer term visitors to park outside the town centre and minimise the number of cars in town in accordance with the Byron Bay Town Centre Master Plan, as adopted by Council.

20 The recommended changes were adopted on 21 September 2017 by Council for community consultation in resolution 17-425. Staff then placed the changes on exhibition, in local newspapers and created an online survey, the results of which are attached for review.

25 Based on the small number of submissions and online survey results, it is difficult to determine the overall feel of the community. There was some concern raised in submissions regarding the reduction in time limits in Lawson Street North and South car parks and Fletcher Street, however as Byron Bay grows and the Master Plan is implemented, the centre of town should not be encouraged for long term parking and the online survey indicated that the majority of respondents would agree with all changes with the exceptions of Wordsworth and Shirley Street; however these shorter term zones were in place when the Byron Bay hospital was operational, which is no longer
30 the case.

RECOMMENDATION:

1. **That the changes to the parking time limits in the Byron Bay pay parking area as outlined below be endorsed:**
 - a) **Wordsworth Street – modify 2P zone to OP (no limit) zone.**
 - b) **Shirley Street – modify 4P zone to OP (no limit) zone.**
 - c) **Lawson Street North and South Car Parks – modify from OP (no limit) to 4P.**
 - d) **Somerset Street and Butler Street Reserve – modify to free parking zone.**
 - e) **Butler Street – modify 4P zone to OP (no limit) zone.**
 - f) **Byron Street – modify 2P zone to 1P zone.**
 - g) **Fletcher Street – modify eastern side from 4P to 2P.**
 - h) **Jonson Street – modify Carlyle to Kingsley zone from 1P to 2P.**
2. **That a budget of \$15,000 be approved from Pay Parking Operations in Byron Bay to modify the signage.**
3. **That a report be prepared for the Local Traffic Committee for concurrence prior to actioning for items 1a), 1b), 1c), 1e), 1f), 1g) and 1h).**
4. **That the modification in item 1d) for Somerset Street and Butler Street Reserve be implemented as soon as possible.**

Attachments:

- 1 Submissions to Byron Bay Time Limit Review, E2017/108012 [⇒](#)
- 2 Online Survey Results for Byron Bay Time Limit Review, E2017/108013 [⇒](#)
- 5 3 Report to Council - Byron Bay Pay Parking Time Limits Review, E2017/108014 [⇒](#)

Report

As part of the review of pay parking for Byron Bay, Council staff investigated and reviewed the appropriateness of the time limits throughout the scheme area in Byron Bay. There were a number of areas found that may benefit from an alteration to the time limit, which would encourage longer term visitors to park outside the town centre and minimise the number of cars in town in accordance with the Byron Bay Town Centre Master Plan as adopted by Council.

The recommended changes were adopted on 21 September 2017 by Council for community consultation in resolution 17-425. Staff then placed the changes on exhibition, in local newspapers and created an online survey, the results of which are attached for review.

Online Survey Results

The table below summarise the online survey results, being Yes, No or Don't Mind for each time limit change proposed, the percentages are calculated from 15 respondents.

Street	Change	Yes	No	Don't Mind
Wordsworth Street	2P → OP	40.0%	46.7%	13.3%
Shirley Street	4P → OP	46.7%	46.7%	6.6%
Lawson Street North/South Car Parks	OP → 4P	66.6%	26.7%	6.7%
Butler Street Reserve & Somerset St	FREE Parking	93.3%	6.7%	--
Butler Street (Somerset to Shirley)	4P → OP	60.0%	33.3%	6.7%
Byron Street (Jonson to Fletcher)	2P → 1P	60.0%	40.0%	--
Fletcher Street (eastern side)	4P → 2P	66.6%	26.7%	6.7%
Jonson Street (Carlylse to Kingsley)	1P → 2P	73.3%	20.0%	6.7%

Recommendation

Based on the small number of submissions and online survey results, it is difficult to determine the overall feel of the community. There was some concern about the reduction in time limits in Lawson Street North and South car parks and Fletcher Street, however as Byron Bay grows and the Master Plan is implemented, the centre of town should not be the place for long term parking. The online survey indicated that the majority of respondents would agree with all of the changes with the exceptions of Wordsworth and Shirley Streets; however these shorter term zones were in place when the Byron Bay hospital was operational, which is no longer the case.

Staff recommends that Council endorse the changes to the time limits in the areas outlined below to be implemented in January 2018:

- a) Wordsworth Street – modify 2P zone to OP (no limit) zone.
- b) Shirley Street – modify 4P zone to OP (no limit) zone.
- c) Lawson Street North and South Car Parks – modify from OP (no limit) to 4P.
- d) Somerset Street and Butler Street Reserve – modify to free parking zone.
- e) Butler Street – modify 4P zone to OP (no limit) zone.
- f) Byron Street – modify 2P zone to 1P zone.
- g) Fletcher Street – modify eastern side from 4P to 2P.
- h) Jonson Street – modify Carlyle to Kingsley zone from 1P to 2P.

Financial Implications

- 5 If endorsed, the changes are estimated to cost approximately \$15,000 to implement. This will cover the cost of procuring time limit signs as well as removal of signage at Butler Street Reserve and modification of the major signage in the Lawson Street car parks. This will also cover the cost of labour to install/modify the signage.

Statutory and Policy Compliance Implications

- 10 Council will need to obtain RMS concurrence of any car parking time limit changes by a report to a Local Traffic Committee (LTC) meeting prior to implementing any time limit changes. It is anticipated that this will be reported to the LTC on 16 January 2018 and then Council on 22 February 2017, after which the signage can then be changed.
- 15 The only change that can be implemented after the Council decision without referral to LTC is the free parking for Somerset Street and Butler Street Reserve.

Report No. 13.15 **Council's Capacity to Influence a Plastic Free Byron**
Directorate: Infrastructure Services
Report Author: Lloyd Isaacson, Team Leader Resource Recovery and Quarry
File No: I2017/1676
5 **Theme:** Community Infrastructure
 Waste and Recycling Services

Summary:

10 This report provides detail on Council's capacity to influence reductions in single use of plastic bags and packaging and proposes an integrated approach to achieving this objective with the intent of implementing a voluntary ban of single use plastic bags and packaging in the Byron Shire by Plastic Free July 2018.

RECOMMENDATION:

1. **That Council implement the following initiatives to achieve the objective of reduction in single use of plastic bags and packaging with the intent of implementing a voluntary ban of single use plastic bags and packaging in the *Byron Shire by Plastic Free July 2018*:-**
 - a) **Engage with Boomerang Alliance to implement the Communities Taking Control program of education and assistance for businesses and the community to reduce single use plastic bags and packaging;**
 - b) **Develop and implement a targeted program that creates and promotes more public water stations across the shire to reduce the need for single use water bottles; and**
 - c) **Lobby State and federal politicians via distribution of the attached letter to NSW Premier Gladys Berejiklian, NSW Environment Minister Gabrielle Upton, NSW MLC for Ballina, Tamara Smith, NSW Member for the Northern Rivers, Benjamin Franklin and the Federal Member for Richmond, Justine Elliot.**
2. **That the above program is funded via the funding streams identified within this report.**

Attachments:

- 20 1 Letter to relevant ministers lobbying for NSW state ban of single use plastic bags, E2017/108748 [↗](#)

Report

Resulting from Cr Ndiaye's NOM presented to the September 2017 Council Meeting Council resolved (**17-405**):

5

1. *That Council received a report in October 2017 on Council's capacity to influence reductions in single use of plastic bags and packaging with the intent of implementing a voluntary ban of single use plastic bags and packaging in the Byron Shire by Plastic Free July 2018.*

10

This could involve:

15

a) *creating a program of education and assistance for local businesses and the community to reduce the use of disposable plastic items including plastic bags, plastics drinking straws, bottled water, takeaway coffee cups and food containers.*

20

b) *host a number of events to raise awareness and promote alternatives for local businesses and local business groups.*

25

c) *support and promote the positive steps being taken in the community to reduce the use of single use plastic items.*

30

d) *report back the costs and benefits of phasing out single use plastics for Council if it was implemented across the shire.*

e) *the implementation of Council's existing Sustainable Events Management Policy, in particular as it relates to the use of disposable plastic items and packaging for takeaway items and single use plastic water bottles.*

f) *Work in conjunction with local groups like Plastic Free Byron, Positive Change for Marine Life, Mullum Cares and Boomerang Bags and the Chambers across the Shire to find the best ways to help implement these changes.*

35

2. *That Council look to identify potential funding streams to help support the process through grants or other means.*

3. *That included in the report is an investigation of options for incentives to reduce use of plastic in take away venues.*

40

4. *That Council investigate potential legal options for a ban or covenant to assist in this process.*

5. *That Council creates and promotes more public water stations across the shire to reduce the need for single use water bottles.*

45

6. *That Council writes to the NSW Premier Gladys Berejiklian, NSW Environment Minister Gabrielle Upton, NSW MLC for Ballina, Tamara Smith, NSW Member for the Northern Rivers, Benjamin Franklin and the Federal Member for Richmond, Justine Elliot, advocating for a ban on single use plastic bags and asking for any support they may be able to give.*

50

Staff have investigated the most productive means by which Council can influence a shire-wide reduction in the single use of plastic bags and packaging. In summary, an integrated approach that involves a targeted education, communication and assistance program combined with infrastructure development and direct lobbying of the State Government is believed to be the best approach. The following provides detail on how an integrated approach in the context of each

point of resolution **17-405** can effectively be applied to influence an outcome of reduction in the single use of plastic bags and packaging in the Byron Shire.

Point 1

5 The Boomerang Alliance have developed a new program, Communities Taking Control, which is specifically aimed at assisting businesses and communities to reduce their use of single-use plastic bags and other takeaway items. The program framework and objectives closely align with those outlined in resolution **17-405**.

10 The Program, which is currently being piloted in Noosa and Wollongong, focuses on promoting and adopting improved practices and alternative products to the use of single-use, disposable, non-biodegradable plastic items often found in litter and landfill.

Below is a summary of the proposed Communities Taking Control initiative:

- 15
- It is a whole-of-community initiative involving Council, local businesses (specifically retail and hospitality), key agencies such as Destination Byron, chambers of commerce, event holders, markets and festivals, local media and community organisations (e.g. Plastic Free Byron, Positive Change for Marine Life and Mullum Cares).
- 20
- The program targets the six most common single-use plastic items including: plastic bags, coffee cups/lids, straws, takeaway containers, utensils, water bottles.
- 25
- Once a business has signed up to the program online, they would receive following assistance and promotion:
 - information and resources including simple how-to guides, case studies and recommended alternative products.
 - access to a team who can work directly with them to help with the transition and answer
- 30
- a listing on a specifically developed website and direct promotion to community members who are interested in supporting partner businesses
 - access to promotional opportunities through partner networks.
 - signage, stickers and other material which can be displayed inside their venue to inform
- 35
- customers of the positive changes their business is making.
- The program is also based on a rating system whereby a business receives a 'star' for each single-use plastic item they eliminate, which can then be displayed in their business window.
- 40
- As part of this program the Boomerang Alliance has developed new guidelines for waste management at events which can be utilised in the development of Council's Sustainable Events Policy.
- 45
- The development and implementation of Council's event strategy will include consideration of best practice in event management, to support and enable event organisers to embed best practice models into their events e.g. waste management and reduction through the use of mobile wash-up station/s at events and festivals.

50 Staff propose that Council engage the Boomerang Alliance to implement the Communities Taking Control program in the Byron Shire, commencing in January 2018. This would involve an initial 1 year \$50,000 program to fund a standalone community organisation that is coordinated by Boomerang Alliance with Council as the prime stakeholder/supporter (with on-going associated acknowledgment of the program being an council initiative). On-going support and resource requirement would be reviewed after the initial program implementation.

55

Research indicates that a standalone community organisation has a significantly better impact, community/stakeholder buy-in and ultimate success compared to a program run from within a government organisation.

- 5 The following links provide further detailed information on the Boomerang Alliance program and also the website for the Plastic Free Noosa pilot program (a similar website would be developed if implemented in the Byron Shire).

10 http://www.boomerangalliance.org.au/communities_taking_control
<https://www.plasticfreenoosa.org/our-policy>

Point 2

15 Delivery of this proposed program is not currently budgeted for, or identified, in Council's 2017/18 waste education program or as Operational Plan. However Staff have identified a number of funding and resource sources that could be utilised to support/fund the program.

- Utilise \$50,000 of Council's 2018 Better Waste and Recycling Fund allocation of approximately \$74,000 to fund the Boomerang Alliance coordinated Communities Taking Control program.
- 20 • Container Deposit Legislation (due to commence 1 December 2017) Materials Recycling Facility (MRF) Refund.

25 Council will receive a payment for each eligible container delivered to the Lismore City Council (LCC) MRF via its kerbside collection service (domestic, commercial and public place) resulting in a revenue stream for Council. The EPA have stated they want to minimise the impact of the scheme on domestic recycling services, and thus will be promoting to the community that local Council's will utilise this share of the refund to either reduce waste charges or provide additional waste management services.

30 At this stage the State Government has not released a sufficient amount of information to enable a quantification of the refund amount, however it could potentially be allocated to this project (in line with resolution **17-490** asking for a report to Council on potential funding options for this money). Due to the current state of confusion and lack of policy direction it is unlikely that Staff will have the information to generate the abovementioned report until at least March
 35 2018.

- The North East Waste regional group is in the planning stages of developing a program of assistance for individuals and businesses to transition away from single-use plastic bags in preparation for their removal from chain supermarkets in 2018. This provides an excellent resource to complement the proposed program.

Point 3

45 Investigations into options for incentivising takeaway food venues to reduce the use of single-use plastic indicate that financial incentives such as reviewing Council's Section 64 ET contribution policy would not be an effective mechanism, for the following reasons:

- Section 64 Contributions provide a source of funding for infrastructure required for new urban development or growth and a pricing signal regarding the actual cost of urban development. Lost revenue through reducing or waiving these charges would impact the ongoing
 50 maintenance, development and augmentation of community infrastructure that they are designed to fund.
- They are related to infrastructure capacity and the physical ability to accommodate a particular development at peak times.

55

- Section 64 charges for takeaway food venues are double the rate (on a floor area basis) to the rate of a sit down restaurant.
- 5 Legally any credit for the Section 64 contribution paid would remain with the property not the business. Most businesses i.e. takeaway/restaurants are businesses operating out of leased premises.
- 10 • If a venue received an incentive based rebate or cost reduction, there would likely be a perception that businesses who have paid the full contribution or are already offering such incentives and using sustainable takeaway packaging are disadvantaged.

Staff propose that the most effective way to incentivise businesses would be to:

- 15 • Review and amend (via a simplified Change of Use process) the development consent conditions that restrict takeaway venues to serving food/beverages in reusable crockery (thus having to supply single-use packaging only) without requirement to undergo a full Development Application process to transfer to a dine-in restaurant (with full dine-in restaurant services). This would be conducted on a case-by-case basis for those businesses currently restricted by the abovementioned consent conditions.
- 20 • Promotion of local businesses that sign-up to the Communities Taking Control program and progressively reduce the use of plastic packaging items identified though the program. This would incentives businesses by way of “free” promotion/advertising via various communication channels (for example those businesses in Noosa who have achieved “6 star” champion status get free radio advertising sponsored by a local radio station).
- 25

Point 4

30 At this stage there are limited legal grounds for Council to implement a ban or covenant on single-use plastic bags. Facilitating a voluntary ban amongst local businesses would also take considerable time and resources. For these reasons, pursuing legislative change at a state and federal level (Refer to point 6) simultaneously with local education and assistance programs is recommended.

35 The following comments were provided by Council’s Legal Staff in response to a 2016 investigation exploring the legal options for a Council led covenant or ban:-

- Council cannot lawfully ban the use of plastic bags in Byron Shire;
- As a creation of Parliament, Council does not have general law-making powers. What power Council does have is limited by the Local Government Act 1993(LGA);
- 40 • The LGA doesn’t allow Council to lawfully stop plastic bags being used by businesses and their customers;
- Only the State or Commonwealth Government could (potentially) impose a ban on plastic bags; and,
- 45 • A voluntary ban or covenant faces very similar limitations as it is not compellable or legally binding.

Point 5

50 Council currently has 32 public water stations installed throughout townships the Shire. All water fountains except for the one on Burringbar Street in Mullumbimby are located in and around parks and sports ground, as identified in the table below.

Location	Number of water fountains
Suffolk Park	2

Bangalow	4
Byron Bay	15
Mullumbimby	5
Brunswick Heads	2
Ocean Shores	2
South Golden Beach	2

5 Staff propose the use the remaining \$24,000 of Council's 2018 Better Waste and Recycling Fund to develop and implement a specific program to strategically determine the most effective additional water station locations in the Shire (e.g. in areas that would reduce single-use water bottle use and near litter hotspots) and commence installation in a staged approach, subject to budget constraints.

10 An associated communication and awareness campaign (associated with the Communities Taking Control program), to promote the water stations and to discourage the use of single use plastic water bottles would be developed and implemented to compliment the new infrastructure.

Point 6

15 Staff see lobbying the NSW Government as a key approach to achieving a reduction in single-use plastics and the damaging effects the environment.

The Australian Capital Territory, Tasmanian and South Australian Governments already have plastic bag bans in place and recent announcements to follow suit have been made by the Queensland, Victorian, West Australian and Northern Territory Governments.

20 As such NSW is the only state/territory in Australia not to legislate a ban on single-use plastic bags. The attached draft letter has been drafted for Councillors to sign and Staff will distribute to requested state politicians.

Financial Implications

25 Addressed above

Statutory and Policy Compliance Implications

Addressed above (Point 3).

Report No. 13.16 **Current and Future Capacity of Bangalow STP - Response to Resolution 17-502**

Directorate: Infrastructure Services
Report Author: Dean Baulch, Principal Engineer, Systems Planning
File No: I2017/1777
Theme: Community Infrastructure
 Sewerage Services

5

10 **Summary:**

The approval of this development will not place restrictions on proposed / identified development within the catchment with regard to Capacity at Bangalow STP over a 20 year horizon including Urban Release Areas identified in:

15

- the Bangalow Settlement Strategy/ DCP; and
- the Preliminary Draft Residential Strategy

20

With regulated on-site pre-treatment to manage the quality of effluent reaching the STP, there will be no impact on the effectiveness of the treatment process at the STP and therefore the quality of the resultant discharge to the environment.

25

Installation of additional membranes filters at the STP may have to be bought forward by an estimated 3 years. However, this is dependent on actual growth rates.

RECOMMENDATION:

That Council note the report.

30

Background

Resolution 17- 502

- 5 *“That Council receive as a matter of urgency a report that assesses the various capacities of the Bangalow sewerage system in the longer term and provides a basis to consider the feasibility or otherwise of connecting the proposed 'Rural Industries Food Precinct' (DA No:10.2016.283.1; 201 Lismore Rd Bangalow) as an alternative to its current proposal for on-site wastewater management. Assessments to include:*
- 10
1. *Flow and composition of sewage that could be generated as proposed in DA No:10.2016.283.1 or as expanded over the years by its tenants.*
 - 15 2. *Current loading and treatment capacity of the Bangalow STP in both dry and wet weather, and in terms of both flow and pollutant loads.*
 3. *Projected utilisation of the Bangalow STP taking into consideration the following:*
 - 20 • *Previous assessments of allocations to the Bangalow sewerage system*
 - *Byron Shire Council LEP (2014)*
 - *Byron Shire Council Preliminary Draft Residential Strategy (Aug 2016)*
 - *Bangalow Settlement Strategy (2003)*
 - 25 4. *Upgrade and augmentation works which would be required to accommodate treatment of the wastewater loads generated by both the above mentioned Development Application and other projected sewage loads through to a 20 year horizon, including but not limited to:*
 - 30 • *Sewerage network infrastructure*
 - *Dry weather flow balancing*
 - *Inlet works*
 - *Secondary treatment*
 - *Disinfection*
 - *Biosolids processing and management*
 - *Odour control works (both network and STP)*
 - 35 • *Whole-of-life costs associated with development, operation, and maintenance.*
 5. *Impact on the receiving environment (Byron Creek and Wilsons River) of additional flow and its content as would come to the system from the proposal.*
 - 40 6. *Not approve any application to connect the proposal to Bangalow's sewerage system, including any additional flow or load (sewage content) that would be sent to the receiving environment unless the report shows conclusively that the STP has the capacity to handle the extra load from this development without compromising existing standards and expectations of future use.*
 - 45 7. *That a report be presented to Council at its December meeting.”*

Report

1. Flow and Composition of Sewerage Generated by proposed DA No:10.2016.283.1

50 DA 10.2016.283.1 proposes a Rural Industries Food Precinct at LOT 1 DP 806211, 201 Lismore Road BANGALOW. The DA includes the following stages:

- Stage 1 – Development of 21,400m² (Floor Area) of Light Industrial space and 200m² of Office space.
- Stage 2 – Development of an additional 15,000 m² (Floor Area) expansion of Light Industrial units.

Wastewater Flows DA No:10.2016.283.1

The estimated flows to sewer from the Bangalow Food Hub DA 10.2016.283.1 are shown in Table 1. The flows estimated by the developer in the Engineering Design Report (Rev 3, Dec 2016) are in line with flows estimated using Council’s ET Policy (13/005) and therefore deemed reasonable for a development of this type.

It is noted that it is incumbent on the applicant to accurately establish wastewater flows. Any approved capacity (ET allowance) for the site will correlate with the approved capacity of the required dedicated pump station which will be the limiting factor. Any increase in flows / pump-station capacity would therefore have to be applied for under a separate DA.

Table 1 – Bangalow Food Hub – Estimated Wastewater Flows

Year	Wastewater Flows (kL/day)	
	Design Report (Dec 2016)	Council ET Policy
Stage 1	50.5	42
Stage 2 (Ultimate)	70.8	70

Effluent Quality

There is uncertainty about the final composition of effluent produced by operations on the site as several tenancies do not have confirmed tenants and the make-up of effluent from food processing operations can vary. It is likely that effluent produced will be high in nutrients (Nitrogen & Phosphorus) and have a high biochemical (BOD₅) load. The Engineering Design Report of the applicant (Rev 3, Dec 2016) for DA 10.2016.283.1 estimated BOD₅ loads in excess of ten times that of domestic sewerage concentrations.

Discharge of such raw effluent directly to Council’s sewerage system is not permissible. The high organic load and the risks associated with receiving such untreated effluent given the uncertainties in pollutant concentrations and associated risk to the STP treatment process is too high.

On-site pretreatment will be required to treat effluent to a standard comparable to the quality of domestic sewage before discharge to sewer. The quality of effluent would be managed via Council’s Liquid Trade Waste Policy (4.23) which requires operators to reduce pollutant loads via on-site pre-treatment systems at the applicant’s cost, to levels which do not impact the operation of the receiving STP and the sewerage system.

The proponent has not submitted detailed design information regarding pre-treatment but does propose a pre-treatment system to meet the Liquid Trade Waste quality requirements as follows:

- screening and pre-treatment in grease traps for all sheds
- primary treatment through settling and aeration tanks on site.

Approval to discharge to sewer would be predicated on the ability to comply with the Liquid Trade Waste Policy maximum pollutant concentrations and compliance will be maintained via periodic sampling and testing of effluent at the applicant’s cost.

Again, it is noted that some of the units do not have identified tenants and therefore the strength and make-up of any effluent produced is unknown. Any new operation will require approval to discharge to sewer (Trade Waste Approval) and any additional pre-treatment of management processes would be imposed at this time to manage pollutant loads to levels which do not impact the operation of the STP.

2. Current loading and treatment capacity of the Bangalow STP in both dry and wet weather, and in terms of both flow and pollutant loads.

STP Design Capacity

The Bangalow STP is a Membrane Bio-reactor Plant incorporating two treatment trains each with two (2) membrane cassettes. The treatment process is designed for an ultimate treatment capacity of Average Dry Weather Flow (ADWF) = 850 kL/day.

As current inflows are well below STP capacity, the STP is currently operating using only one (1) membrane cassette in each treatment train resulting in a current treatment of ADWF = 530 kL/day. Replacement of the existing membrane cassettes as part of the routine renewal program is currently underway.

Table 2 summarises the observed flows from 2009 to 2016 and the corresponding STP capacities described above illustrating that there is more than adequate capacity at Bangalow STP under current loads.

Table 2 – Observed Flows versus STP Capacity

	STP Capacity (Current) (kL/day)	STP Capacity (Ultimate) (kL/day)	Observed 2009-2016 (kL/day)
Average Dry Weather Flow	530 approx.	850	323
Peak Dry Weather Flow	1,590	2,550	650
Average Wet Weather Flow	3,000 approx.	5,960	412
Peak Wet Weather Flow	3,000 approx.	5,960	3,862 (max observed in 2015, no overflow to environment occurred).

Explanatory Notes

- For wet weather flow capacity; the plant has been designed to fully treat up to a maximum of three (3) times ADWF (2,550 kL/day at ultimate capacity) with any inflows exceeding this receiving only initial primary screening and grit removal. Following this the excess flow is diverted to the tertiary effluent lagoon for storage until lower flows allow the effluent to be returned to the inlet works for treatment. Using the effluent pond as flow balancing the STP is designed to manage wet weather flows of up to seven (7) times ultimate ADWF (5,950 kL/day at ultimate capacity).

Quality of Discharge to Receiving Environment

The pollutant load as reported in the Annual EPA Licence Returns (Licence 2522) from 2012 to 2017 are shown in Table 3 along with the corresponding EPA licence limits for the STP.

It can be seen that the STP is currently discharging pollutant loads well below the licence limits and, therefore, total pollutant load is not a limiting factor to development in the catchment.

Table 3 - Total Annual Assessable Pollutant Loads – Observed versus Licence Limits

Parameter	Licence Limit (Kg/annum)	Annual Pollutant Load (kg / %)				
		2012/13	2013/14	2014/15	2015/16	2016/17
Total Suspended Solids	10,864	565.5 (5.2%)	192.2 (1.8%)	65.5 (0.6%)	33.8 (0.3%)	7.0 (0.1%)
Tot-Nitrogen	7,243	396.6 (5.5%)	306.3 (4.2%)	403.9 (5.6%)	331.3 (4.6%)	434.3 (6.0%)
Tot-Phosphorus	217	8.3 (3.8%)	5.1 (2.4%)	10.2 (4.7%)	27.2 (12.5%)	19.4 (8.9%)
BOD5	7,243	243.9 (3.4%)	65.4 (0.9%)	121.2 (1.7%)	48.5 (0.7%)	0 (0%)
Grease & Oil	1,448	141.9 (9.8%)	40.3 (2.8%)	112.6 (7.8%)	74.9 (5.2%)	43.4 (3.0%)

5 The average pollutant concentrations at the Maori Creek discharge point as reported in the Annual EPA Licence Returns (Licence 2522) from 2012 to 2017 are shown in Table 4 along with the corresponding EPA licence limits.

10 It can be seen that the quality of effluent discharged by Bangalow STP is well below the licence limits, therefore, the STP is operating efficiently and well within design parameters. Additional loads from the Food Hub development should not impact Average Pollutant Concentrations this data indicates that the treatment process is not a limiting factor to development in the catchment.

Table 4 –Pollutant Concentrations at Discharge Point – Observed versus Licence Limits

Parameter	Licence Limits		Average Pollutant Concentrations				
	90 %ile	100 %ile	2012/13	2013/14	2014/15	2015/16	2016/17
BOD5 (mg/L)	10	20	1.2	0.6	0.8	0.4	0
Suspended Solids (mg/L)	15	30	2.6		0.4	0.3	0.1
Grease & Oils (mg/L)	5	10	1.1	0.4	0.8	0.7	0.3
Faecal Coliforms (cfu/100mL)	200	600	0.7	0.9	2.5	3.9	2.7
pH	-	6.5 to 8.5	7.2	7.2	7.3	7.4	7.2
Total Nitrogen (mg/L)	10	15	2.6	2.3	3.1	2.5	2.8
Ammonia-N (mg/L)	2	5	0.5	0.8	0.9	0.3	0
Total Phosphorus (mg/L)	0.3	1	0.2	0	0.1	0.2	0.1

15 **3. Projected Utilisation of the Bangalow STP**

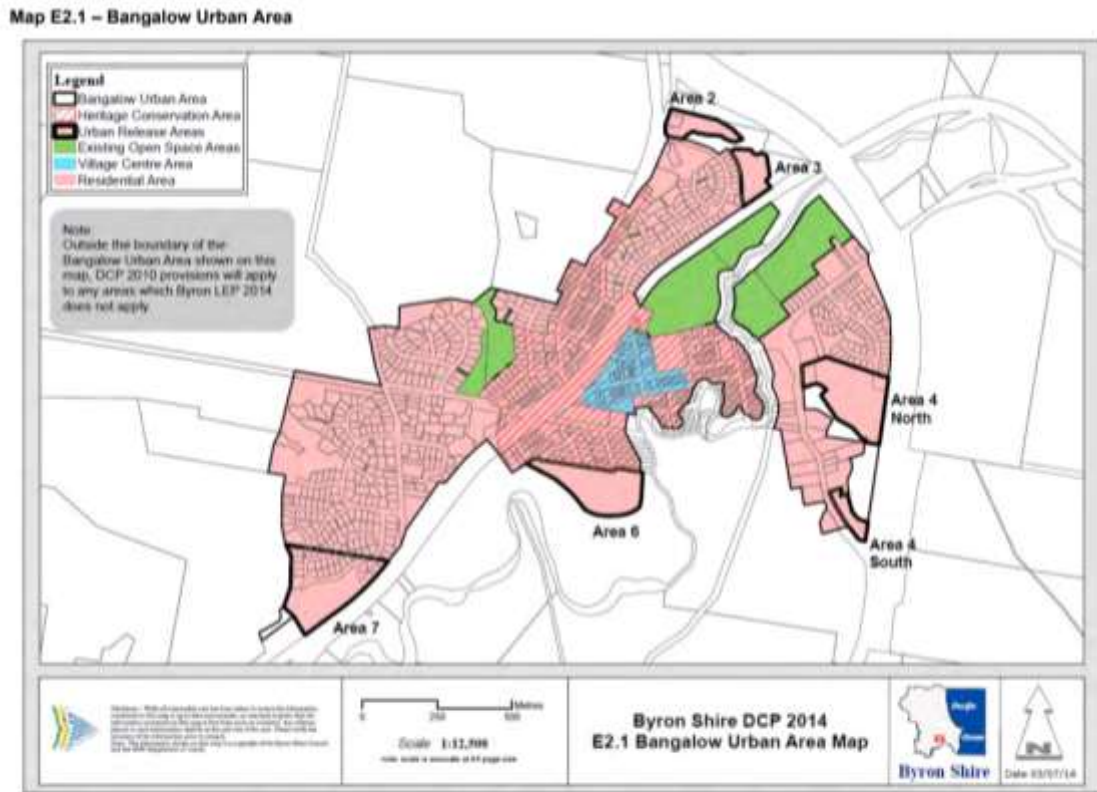
Adopted Population Growth & Urban Release Areas

The adopted population projection for Bangalow used for Capital Planning (30 Year Capital Works Plan (2016) is based on the following:

- 20 • This growth projection is based on the development strategies identified in the Byron Shire Development Control Plan (DCP) (2014) including growth for all the Urban Release Areas shown in Figure 1.
- 25 • The infill growth is based on development principles set out in the Bangalow Settlement Strategy (2003). The Urban Release Areas identified in the Settlement Strategy align with those identified in the DCP (Figure 1).¹

¹ It is noted that some areas identified in the Settlement Strategy have subsequently been assessed as not suitable for residential development and have therefore been excluded from consideration in the DCP (identified as Areas 8 & 9 and parts of Area 1).

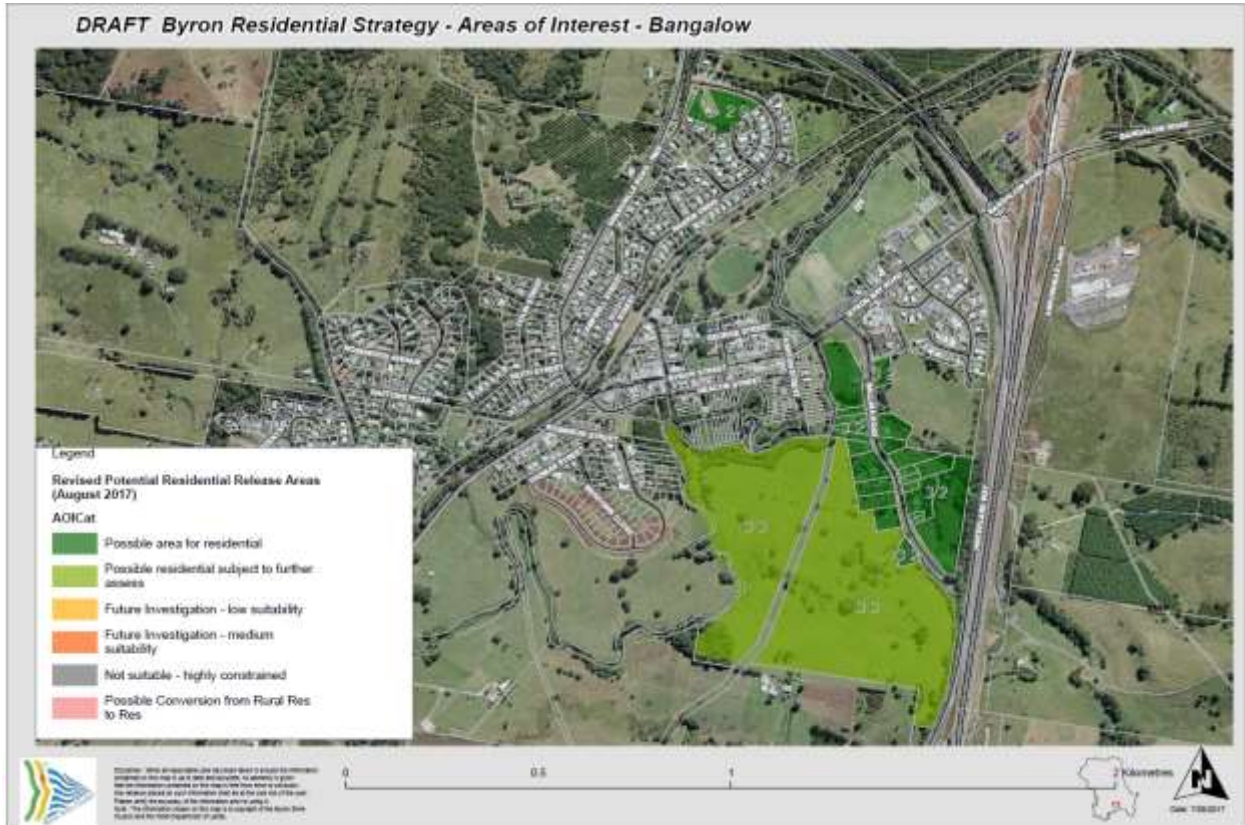
Figure 1 – Identified Urban Release Areas, Byron Shire DCP, 2014



5 Additional Areas of Interest

The DRAFT Byron Shire Council Preliminary Draft Residential Strategy (Aug 2016) identifies an additional area of interest for development area highlighted in light green in Figure 2 below. This area is not currently included in Capital Planning projections. The area has been identified as possibly suitable for residential development of approximately 180 dwellings subject to further assessment. As the identified area is only identified as an area of interest at this stage it is unlikely that it will impact on STP loads in the short-term however, it has been considered in this assessment with STP loads assumed to begin from 2026.

Figure 2 – DRAFT Byron Residential Strategy – Areas of Interest



Projected STP utilisation

5 The projected STP utilisation has been based on an Average Dry Weather Flow (ADWF) of 425 L/ET/day. This is a conservative value as illustrated by [Table 5](#) below which shows the actual ADWF observed over the last 5 years.

Table 5 – Observed Average Dry Weather Flows

Year	Equivalent Tenements (ET)	ADWF (kL/day)	ADWF L/ET/day
2012	757	322	425
2013	785	325	414
2014	813	312	384
2015	843	313	371
2016	874	310	355
Average			390

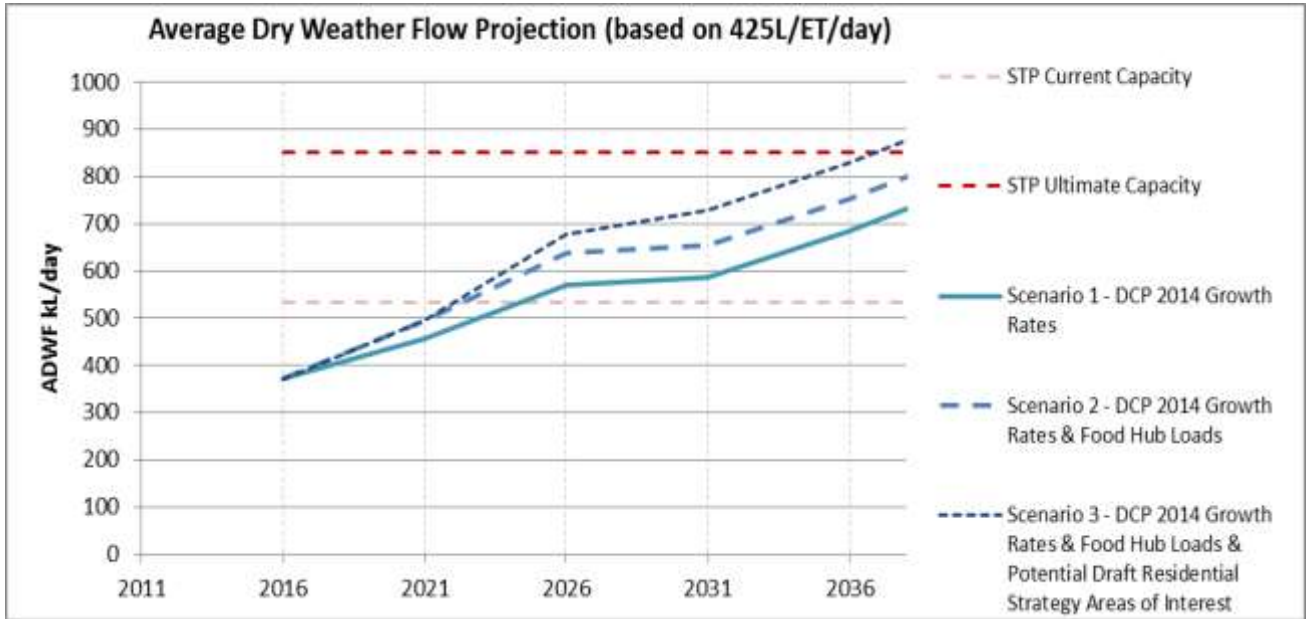
Source: Byron Shire Council Integrated Water Cycle Management Plan Review (2017)

10

Figure 3 shows projected STP loads over a 20+ year horizon under a number of possible development scenarios:

- **Scenario 1** - Currently adopted growth (DSP, 2014)
- **Scenario 2** – Currently adopted growth & the Food Hub (DA10.2016.283.1); and
- 15 • **Scenario 3** - Currently adopted growth, Food Hub (DA10.2016.283.1) & Draft Byron Residential Strategy Area of Interest (development from 2026)

Figure 3 – Average Dry Weather Flow Projections under various Growth Scenarios



5 It can be seen that development including all identified areas, infill development and the additional loads from DA10.2016.283.1 is not constrained by available capacity at Bangalow STP until approximately 2038. This is in line with currently assumed timeframes for upgrade of the STP. The works required to upgrade the STP from current to Ultimate Capacity in the shorter term are discussed in the following discussion.

10 With regard to peak dry weather flows DA10.2016.283.1 proposes the inclusion of flow balancing and discharge to the STP out of peak periods therefore the development is unlikely to have any significant contribution to peak dry weather flows and therefore any impact on the STPs capacity to manage peak dry weather flows.

15 Impact of Development on Influent Quality

Regular quality testing of the influent to the STP is not carried out, as the STP is designed based on achieving the specified effluent quality at the outlet of the STP to Maori Creek.

20 However, a testing regime was carried out during the commissioning of the current STP between 2008 and 2010 and Table 6 shows the influent characteristics tested compared with the standard Trade Waste discharge limits which would most likely be imposed on the development. It is noted that lower maximum limits can be imposed if it is considered that the treatment process at the STP would be impacted by higher effluent concentrations.

Table 6 – Influent Pollution Concentrations

Parameter	Observed Concentrations 50 th Percentile (2008-2010)	Typical Trade Waste Approval Maximum Concentrations
BOD5 (mg/L)	280-336	300
COD (mg/L)	662-758	900
NH3-N (mg/L)	42.9-44.7	50
TKN (mg/L)	56.4-60.7	50
TP in liquid (mg/L)	9.6-11.6	20
TSS (mg/L)	263.5-314	600

25

4. Upgrade and augmentation works which would be required to accommodate treatment of the wastewater loads generated by both the above mentioned Development Application and other projected sewage loads through to a 20 year horizon.

5 As previously noted, the current 30 year capital works plan for Bangalow is based on the sewerage loads including those from all applicable Urban Release Areas identified in the Bangalow Settlement Strategy as described in Section 3.

The Planned Capital Works for Capacity purposes the 20 year horizon are summarised in Table 7.

10

Table 7 – Capital Works Planned Spend to 2040 – Bangalow Catchment

Byron Shire Council Developer Servicing Plan	Scope	Year	Capital Cost
Bangalow Long Term Capacity (membranes)		2022	\$725,200
SPS1001 - Pump Upgrade (40% renewal 60% capacity)	Pumps: 21 L/s to 35 L/s	2032	\$55,115
SPS1003 - Pump Upgrade (40% renewal 60% capacity)	Pumps: 52 L/s to 90 L/s	2032	\$101,528
SPS1003 rising main	1545 m to DN300	2032	\$867,696
SPS1001 - Capacity	Emergency Storage	2032	\$55,396
SPS1003 - Capacity	Emergency Storage	2032	\$24,981
SPS1005 - Capacity	Emergency Storage	2018	\$22,229

Additional Augmentation Works Associated with DA10.2016.283.1

15

Sewerage network infrastructure

- Given the location of the Food Hub site, a dedicated pump station and dedicated rising main to the STP will be the most efficient arrangement for connecting to the sewerage system.

20

- Approval to connect to sewer would require this infrastructure to be built at the proponents cost and would therefore not result in a cost to Council or the requirement for upgrade of any downstream infrastructure.

STP

25

- Given the available capacity at the STP described above there will be no requirement for un-planned augmentation to accommodate flows from DA10.2016.283.1.
- The planned increase in STP capacity to Ultimate requires the installation of two (2) additional membrane filter cassettes at the STP (Table 7). Preliminary assessments indicate that the introduction of loads associated with DA10.2016.283.1 may require the installation to be brought forward up to 3 years to approximately 2022. It is noted that the Capital Plan currently plans for installation in 2022.
- On-site storage for flow balancing is proposed by the proponent and at the proponent's cost with discharge to sewer during low flow periods. Therefore no upgrades are required to manage peak dry weather flows at the STP.

35

Whole-of-life costs associated with development, operation, and maintenance.

- It is proposed that DA Approval would be predicated on the required dedicated sewerage pump station (SPS) to be maintained and operated as a private SPS and would therefore not burden Council with additional operation and maintenance costs.

40

- As the dedicated rising main (RM) to the STP crosses public land and a rail corridor, the RM would become a Council asset post commissioning. Therefore, Council will be responsible for ongoing whole of life costs associated with maintenance, repair and replacement of this RM.

5 **5. Impact on the receiving environment (Byron Creek and Wilsons River) of additional flow and its content as would come to the system from the proposal.**

- Assuming adherence to and regulated monitoring of the Liquid Trade Waste Approval limits the effluent reaching Bangalow STP will be similar in character to domestic sewerage. Loads would not be inconsistent with current inflow quality and therefore impact on the receiving environment should not be any different to those currently experienced.

6. **Summary of Outcomes**

- The approval of this development will not place restrictions on proposed / identified development within the catchment with regard to Capacity at Bangalow STP over a 20 year horizon including Urban Release Areas identified in:
 - the Bangalow Settlement Strategy/ DCP; and
 - the Preliminary Draft Residential Strategy
- With regulated on-site pre-treatment to manage the quality of effluent reaching the STP, there will be no impact on the effectiveness of the treatment process at the STP and therefore the quality of the resultant discharge to the environment.
- Installation of additional membranes filters at the STP may have to be bought forward by an estimated 3 years. However, this is dependent on actual growth rates.

Report No. 13.17 **Byron Properties Redevelopment Expression of Interest**
Directorate: Infrastructure Services
Report Author: Nikki Bourke, Project Officer
File No: I2017/1786
5 **Theme:** Community Infrastructure
 Projects and Commercial Opportunities

Summary:

10 The purpose of this report is to summarise the outcomes of the presentation to the Strategic
Planning Workshop (SPW) regarding the Expression of Interest (EOI) process for the
15 redevelopment of two Byron Bay properties (Lot 12 Bayshore Drive and the former South Byron
Sewage Treatment Plant (STP) Site), and to resolve the path forward for the issue of the EOIs.

RECOMMENDATION:

That Council:

1. **Progress the EOIs for the former South Byron STP and Lot 12 Bayshore Drive sites as separate EOIs.**
2. **Adopt the proposed EOI Vision, Purpose, Aims and Objectives, Council Requirement and Anticipated Development statements for the former South Byron STP site.**
3. **Defer issue of the Lot 12 Bayshore Drive EOI pending outcomes of the investigation of regional economic development initiatives and grant opportunities.**

Attachments:

- 20 1 Byron Properties EOI - Updated Section 1 Vision, purpose aims and objectives following 9 november
SPW, E2017/106527 [⇒](#)
- 2 Final Probity Management Plan_Byron Shire Council_Byron Properties Redevelopment_031117
O'Connor Marsden and Associates 3 November 2017, E2017/103511 [⇒](#)

Report

In separate meetings Council resolved to:

- 5
- Retain ownership of two Byron Bay Properties: Lot 12 Bayshore Drive, Byron Bay; and Lots 1,2,7 Broken Head Road, Byron Bay (former South Byron STP);
 - Proceed with an EOI process to partner with the non-government sector to explore beneficial future uses for the sites; and
 - Adopt the Supporting Public Partnerships Policy.
- 10

The following activities have since occurred:

- Project Team established
 - Probity Advisors (O'Connor Marsden and Associates) appointed
 - Probity plan completed
 - Specialist Property Consultant (Savills) engaged
 - Two stage EOI and Request for Tender/Proposal (RFT/RFP) process endorsed by the Executive Team
 - Draft EOI documents and draft EOI evaluation plan prepared
 - Presentation to the 9 November SPW of Council
- 15
- 20

In order to progress the EOI project, discussions at the SPW indicated that Council desires to:

- Progress the EOIs for the former South Byron STP and Lot 12 Bayshore Drive sites as separate EOI releases;
 - Confirm Council's intent for any future development of the former South Byron STP site to yield social or community benefit. An updated Vision, Purpose, Aims and Objectives, Council Requirement and Anticipated Development statement for the former South Byron STP site EOI has been prepared and is provided in Attachment 1 for Council's consideration;
 - Issue the former South Byron STP site EOI in early 2018 following the Christmas/New Year period to achieve maximum non-government/private sector response; and
 - Defer issue of the Lot 12 Bayshore Drive EOI pending outcomes of the investigation of regional economic development initiatives and grant opportunities.
- 25
- 30

35 Financial Implications

Funds are available for the EOI process and consultant engagements in the 2017/18 financial year. Funding is also allocated for the completion of remediation activities at the South Byron STP site. The possibility of Commonwealth or State Government grant funding to contribute to the Lot 12 Bayshore Drive redevelopment will be explored prior to the issue of that site's EOI.

40

Costs associated with the South Byron STP site are funding through the Sewer Fund. Costs associated with Lot 12 Bayshore Drive are funded through the General Fund. There remains an outstanding repayment to the Reserves of \$490,893.89 used to complete the remediation of Lot 12 Bayshore Drive.

45

Statutory and Policy Compliance Implications

The Byron Properties Redevelopment EOI Probity Plan (Attachment 2) details the statutory and compliance implications for the EOI process. The Probity Plan is conservative in its specification of governance and documentation requirements to ensure that, should any EOI development result in a Public-Private Partnership (as defined by the Office of Local Government), all probity requirements are met.

50

The Byron Properties Redevelopment EOIs will be the first sites considered for redevelopments following the adoption of Councils Supporting Public Partnerships Policy.

Report No. 13.18 **Byron Bay town centre bypass implementation**
Directorate: Infrastructure Services
Report Author: Phil Warner, Manager Assets and Major Projects
File No: I2017/1789
5 **Theme:** Community Infrastructure
 Projects and Commercial Opportunities

Summary:

10 The purpose of this report is a follow up to the Strategic Planning Workshop on 9 November 2017 seeking to formalize a preferred option for implementation of the Byron Bay town centre bypass in a situation where there are insufficient funds for completion of the full project design scope.

RECOMMENDATION:

1. **That work commence on implementing the Byron Bay town centre bypass based on Option 1 whilst opportunities for the funding gap to complete the full scope of the project work continue to be progressed.**
2. **That the current budget allocation in 2017/18 to be reduced to \$2.4M to reflect anticipated progress for this financial year and that the balance of funding be transferred to the 2018/19 financial year.**

Attachments:

- 1 Byron town centre bypass - implementation options, E2017/108296 [⇨](#)

Report

5 The purpose of this report is a follow up to the Strategic Planning Workshop (SPW) on 9 November seeking to formalise a preferred option for implementation of the Byron Bay town centre bypass in a situation where there are insufficient funds for completion of the full project design scope.

10 At the SPW on 9 November 2017, councillors considered information and a plan detailing two feasible options identified by the Project Leadership Group (RMS & Council representatives) that could be implemented with the remaining funding. This information and the associated plan are largely reproduced in this report. Councillors attending the SPW identified that Option 1 was better than Option 2 and subject to the resolution of Council, Option 1 should be progressed. This option would deliver a basic bypass road link.

15 It is proposed that during initial implementation, Council would continue to seek the additional required funding through grant applications (both State and Federal) and other potential opportunities. When the additional funding is provided it will be possible to complete the remaining detailed design scope items for either of the two options.

Project Status

- 20
- \$14.5 million in funding (\$10.5m State & \$4m s94 per Res 17-255) with \$12.5m remaining.
 - An additional \$8 million in funding is required to complete the full project scope.
 - REF approved.
 - Detailed Design completed.

25

 - Service/ utilities relocation tenders prepared.
 - MOU with RMS is in place.

Meeting the funding shortfall

30 The shortfall for the Byron Bay town centre bypass project can be met through grant funds. Council has identified the following grant schemes:

- 35
- Regional Jobs and Investment Packages – North Coast Region, Australian Government, Department of Infrastructure and Regional Development, application submitted 30 July 2017, decision pending;
 - Growing Local Economies, Regional Growth Fund, NSW Department of Premier and Cabinet, application to be submitted 30 November 2017;
 - Building Better Regions Fund Round 2 2017, Australian Government, Department of

40

 - Infrastructure and Regional Development, application to be submitted 19 December 2017.

The first two applications are stand alone applications for the Bypass.

45 The Building Better Regions Fund application is for implementation of projects from the Byron Bay Town Centre Master Plan. Under this umbrella, Council will include three projects: Byron Bay Bypass, completion of Railway Square Park and a boardwalk to connect Butler St and Byron Street. Rather than only submit the Bypass only, staff are looking to meet a number of community needs to improve the town amenity and economic opportunities for Byron residents.

Implementation Options

50 The Project Leadership Group (RMS & Council representatives) have identified two feasible options (see attached plan) that could be implemented with the remaining funding (refer funding details below). The two options for implementation are based on completion of common and essential elements such as services/ utilities relocations.

55

Option 1: Construct and open a basic bypass road link.

5 The proposed works with available funding would include completion of Sections 1B, 2 and 4 largely in full (with potential cost savings via some scope reductions). Noise mitigation works would be required on Section 3 and a reseal with line marking would also be considered.

10 Works that will need to be deferred until full project funding is available would include the roundabout at Jonson/Browning Streets, shared pathway in Section 2, pavement, shoulder and stormwater works in Section 3 and the proposed new Butler St culvert. There will be the option to consider the merit of traffic lights for the Jonson/Browning Streets intersection.

Option 2: Construct in full significant parts of the bypass but not open a road link.

15 The proposed works with available funding would include completion of Sections 1A, 1B and 4 in full, plus clearing and stump removal in Section 2. No work would occur in Section 3.

20 The two options for implementation are based on completion of common and essential elements such as services/ utilities relocations. Option 1 would require completion of the noise mitigation works because the road would be open to through traffic whereas in Option 2 these works could be deferred.

Options assessment

Section	Option 1	Option 2
Advantages	<ul style="list-style-type: none"> • Creates the basic Bypass link, but with reduced scope and features than the full detailed design. • Section 4 adjacent to the proposed new bus interchange would be completed to facilitate connection with the rail precinct upgrade and CBD including a proposed roundabout for the intersection at Somerset Street. • Potential cost savings in scope for Section 2 and 4 would facilitate more work in other sections to allow the basic bypass link to be created. 	<ul style="list-style-type: none"> • Allows part completion of the project whilst waiting for further funding for the remaining sections. • Noise mitigation works are not initially required because there is no through traffic. These funds could be available for road works on other sections at this stage of construction. • Complements and facilitates the new bus interchange and railway precinct projects. • The corridor in Section 2 is cleared for future completion which reduces the risk of any changes impacting future implementation.
Disadvantages	<ul style="list-style-type: none"> • Does not include: <ul style="list-style-type: none"> - RAB at Jonson/Browning intersection but opens the potential for deployment of traffic signals. - Shared path in Section 2 - Road and drainage upgrades in Section 3. - New Butler St culvert in Section 4. • Future upgrades of uncompleted works will have a subsequent impact on the traffic/community. 	<ul style="list-style-type: none"> • Creates a large cleared area for a unspecified period of time. • Does not create a Bypass link which means the current traffic congestion issues would continue. • Does not divert the traffic off Jonson St. • All bus and freight movements would still require the use of Lawson/Jonson Streets. • Does not facilitate the Town Centre Master Plan outcomes.
Risks	<ul style="list-style-type: none"> • Possible constraints at the Jonson/ Browning intersection if only give 	<ul style="list-style-type: none"> • Unforeseen delay in further funding for completion of Sections 2 and 3

	way and line marking is affordable. <ul style="list-style-type: none"> • Increased traffic volumes on Section 3 without a pavement upgrade could increase the level of required maintenance. • There is some risk that no funding source will be found for the extra works. 	could mean no operational Bypass for a further period. <ul style="list-style-type: none"> • The absence of a bypass link road increases the vulnerability of the town centre to regional factors that continue to increase the load.
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Note: Confirmation of the implementation scope and estimate for the preferred option is subject to:

- Full detailed costing of the preferred option and associated works
- Updating of the implementation program
- The recommendations contained in this report include proposed roundabout construction and it is staff view that adoption of this report is not contradictory to Res 17-589 pertaining to *Trialling Traffic Lights in Key Intersections* (23 November 2017)

10 Construction by RMS

RMS and council have a MOU that envisages construction of the work by RMS.

15 RMS is committed to continuing to work with council on the implementation of the town centre bypass.

RMS supports the implementation of either option but has indicated a preference for Option 1 in the context of creating the road bypass link and the associated benefits.

20 Details of funding

Current funding is based on the following:

- 25 a) BSC S94 contributions = \$4M
- b) TfNSW / RMS = \$10.5M
- c) Spent to date = \$2M
- d) Total Remaining = \$12.5M**

- e) Total project estimate = \$22.5M (including spent to date)
- 30 **f) Funding gap = \$8M**

35 Temporary relocation of the Community and Farmers Markets

Construction of the town centre bypass and proposed bus interchange mean temporary relocation of the community and farmers markets will be necessary.

40 Meetings have been held with representatives of both the Community and Farmers markets regarding options for relocation from the Butler St reserve. The option of the Farmers Market using the Lawson St south car park area is being investigated and the foreshore area is being pursued for the temporary relocation of the Community Market while longer term options are investigated and developed

Recommendation

5 In accordance with the feedback from Councillors at the SPW, it is recommended that work commence on implementing the Byron Bay town centre bypass based on Option 1 whilst opportunities for the funding gap to complete the full scope of the project work continue to be progressed.

10 It is also recommended that the current budget allocation in 2017/18 be reduced to \$2.4M to reflect anticipated progress and that the balance of funding be transferred to the 2018/19 year.

Should Council resolve to implement options as detailed within this report staff will commence procurement of service relocations and other preparatory works to occur in the first half of 2017.

Financial Implications

15 The purpose of this report is to progress a key infrastructure project in circumstances where Council only has funding to complete part of the full project scope.

20 RMS is continuing to work with Council and have indicated support for construction of the project with available funding.

Statutory and Policy Compliance Implications

25 Implementation of the town centre bypass will be progressed in accordance with approvals and associated conditions.

Implementation of the town centre bypass in accordance with Option 1 supports the outcomes of the adopted town centre master plan.

Report No. 13.19 **Traffic Signals in Byron Shire Council Area**
Directorate: Infrastructure Services
Report Author: James Flockton, Drain and Flood Engineer
5 Joshua Winter, Civil Engineer
 Christopher Soulsby, Development Planning Officer S94 & S64
 Tony Nash, Manager Works
 Jodi Frawley, Grants Co-ordinator
File No: I2017/1891
Theme: Community Infrastructure
10 Local Roads and Drainage

Summary:

15 Following resolution 17-589 staff have prepared a general discussion / review of roundabouts and traffic signals that looks at the reasoning why a roundabout should be used over traffic signals and vice versa and also discusses the need to choose either option through a merit based approach.

20 The report also discusses what to do in the future and how resolution 17-589 effects current works and grant funding.

RECOMMENDATION:

1. **That various traffic control solutions across the Shire be developed using a merit based approach that considers the relevant constraints for each site.**
2. **That the Austroads Guide to Traffic Management, part 6: Intersections, Interchanges and Crossings be used to guide the process to design intersection upgrades.**
3. **That an options report be presented to Council, where roundabout or traffic signals are being considered, which reviews all facets of the design process for each intersection traffic control measure, including the recommended solution for the intersection and the reasons why it should be used.**
4. **That the planned Ewingsdale Road/Bayshore Drive roundabout project proceed utilising the available grant funds.**
5. **That the Broken Head Road/Clifford Street roundabout continue to be developed.**
6. **That the modelling for the updated MR545 study include an option for traffic signals.**
7. **That the potential for trialling or installing traffic signals in Byron Shire not be referred to the Local Traffic Committee for advice.**

Attachments:

- 25
- 1 QTT17012 Desktop Review of MR545 Traffic Studies for Byron Shire Council (Final), E2017/109279 [⇒](#)
 - 2 QTT17012 - West Byron Report - Independent Review (101117), E2017/109280 [⇒](#)
 - 3 Austroads Guide TM06-13 Intersections, Interchanges and Crossings, E2017/109291 [⇒](#)
- 30

Report

Council at its meeting on 23 November 2017 resolved:-

5 **Res 17-589:**

1. *That Council receive a late report to the Ordinary Meeting of 14 December 2017 including a comparative study between roundabouts and traffic lights that considers costs, safety (for pedestrians, vehicles and cyclists) and efficiency.*
- 10 2. *That the potential for trialling or installing traffic lights in Byron Shire be referred to the Local Traffic Committee for advice.*
- 15 3. *That Council suspend any preparatory works on roundabout construction, tender and land acquisition until after the Ordinary Meeting on 14 December 2017.*

Roundabouts vs Traffic Signals

20 The decision to use a roundabout or traffic signals as a traffic control device is usually based on a merits based assessment and often utilises computer based traffic modelling. Some situations are better controlled with a roundabout while others are more suitable for traffic signals.

25 It has previously been understood that Council and community desires were to have a traffic light free shire. However, as this report discusses, there is no 'one size fits all' when it comes to intersection traffic control and therefore a merit based assessment is recommended.

30 Many people have their own opinion or preference towards roundabouts or traffic signals. However, the decision to use one or the other should not be based on feeling or desires, it should be based on robust data collection, assessment, investigation, modelling and specialist recommendations. A merits based approach is best practice.

35 Council will be receiving a presentation on this issue at a Strategic Planning Workshop on 7 December, however, the following information is provided to help guide Council in its decision making.

The following text in *italics* is taken directly from the Austroads Guide to Traffic Management, part 6: Intersections, Interchanges and Crossings. The complete guide is provided at attachment 3.

40 Austroads is the peak organisation of Australasian road transport and traffic agencies. Austroads publishes a range of Guides which cover the design, construction, maintenance and operation of the road network in Australia and New Zealand. All road agencies across Australasia use the Austroads Guides.

45 The Guides document agreed methods and processes, and provide information about new technologies and procedures related to the road and road transport industry.

50 *Selection of an appropriate intersection treatment in any given situation can be complex. The provision of the safest practicable treatment is paramount in all situations. However this requirement must be balanced against the objective of providing an acceptable level of mobility, particularly on arterial roads.*

55 *Many other factors, some of which are not related to road safety or operational performance, may influence the type of treatment adopted at a particular site. In addition to safety, the selection process of an appropriate intersection type and treatment may include consideration of:*

- capacity, delay and level of service, generally and for specific road users
- planning policy and objectives
- traffic management strategies or objectives for the road network or corridor
- compatibility with adjacent intersection treatments
- 5 • topography at the site
- the natural and built environment
- economic considerations.

10 *The overall aim is to provide a safe and cost-effective intersection treatment, within the constraints that may exist. The relative safety and needs of all road users, particularly pedestrians (including people having an impairment) and cyclists, should be considered as their needs may be a significant factor in the choice of treatment and type of traffic control adopted. For example, it may be preferable to provide a signalised intersection at locations where surrounding land uses such as schools, shopping centres and recreational facilities are expected to generate significant volumes*

15 *of pedestrians and cyclists.*

Performance objectives can dictate the best solution, such as; need to accommodate pedestrians or cyclists, public transport needs, vehicle flow priorities, visually or mobility impaired persons, etc.

20 Road user volumes and movements can be assessed using modelling to predict how different solutions will change traffic post works. Good traffic data is required for this process.

Feasibility can prevent some solutions, topography or land ownership can make roundabouts difficult for example.

25 Roundabouts

30 *A roundabout is a form of intersection channelisation in which traffic circulates clockwise around a central island (usually circular) and all entering traffic is required to give way to traffic on the circulating roadway.*

35 *When used in appropriate circumstances, a roundabout provides efficient operating conditions, often resulting in less overall delay to vehicles than would be the case if a signalised intersection was used.*

As so many factors need to be considered, it is not possible to specify that roundabouts should or should not be installed in various general situations.

40 The following are general comments around the use of roundabouts:

- Can be used at a wide range of sites and improve safety by simplifying conflicts, reducing speeds and providing clear indication of priority
- Are useful where there is a high proportion of right-turning traffic.
- Perform best when traffic flows are balanced.
- 45 • Cyclists (especially when turning right) and pedestrians find it more difficult to negotiate multi-lane roundabouts. An off-road facility may be required for cyclists in some cases.
- Cost more to implement in the short term due to construction and land acquisition costs.
- Cost less to implement in the long term as there are no electrical and signal maintenance costs.
- 50 • Promote continuous traffic flow through an intersection, particularly during lower traffic volume times of day.
- Generally much safer than traffic signals in terms of crash severity.
- Usually less delay than traffic signals during the off-peak periods, leading to less overall delay to traffic throughout the day.

- Readily caters for heavy right-turns.
- Can be used in local streets.
- Controls vehicle speeds as a traffic calming measure (e.g. at the extremities of high pedestrian activity area).
- 5 • May not be suitable where strong coordination of movement required along a route.
- May not be able to provide sufficient capacity for high-volume sites.
- May not be appropriate for high-speed divided rural roads in terms of mobility, although it can assist in providing access for important side roads.
- 10 • Dominant flows on one approach may lead to excessive delay on the subsequent approach (although metering can assist).
- Does not allow positive regulation of particular movements (e.g. access to local street from a busy road).
- Are less safe than signals for on-road cyclists, particularly at multi-lane roundabouts.
- Are less suited to public transport priority.
- 15 • Need to consider pedestrians of all types (young, aged and impaired) and cyclist movement and numbers.
- Need to consider bus and long-vehicle requirements, e.g. movement and numbers
- Reduction in speeds of traffic (limited to 50 km/h or less) passing through the intersection from all legs elimination of high angles of conflict thereby ensuring low relative speeds between
- 20 conflicting vehicles
- Reduction in the number of conflict points
- Relative simplicity of decision making at the point of entry
- Studies have consistently shown that the installation of roundabouts results in crash reductions of up to 75% in overall crashes and injury crashes. However, evidence exists to
- 25 show that roundabouts are not as safe for cyclists as for other road users, and that traffic signals are generally safer for cyclists.
- Atheistically roundabouts generally look nicer and are a softer approach, due to vegetation.
- Roundabouts offer an opportunity for art installations where a statement is required.

30 Traffic Signals

35 *Traffic signals are used when the selection process indicates that a signalised intersection would provide the most appropriate form of traffic control. Traffic signals are provided either to rectify a safety or operational problem at existing intersections, or to ensure an appropriate level of safety and mobility at new intersections. Issues related to pedestrians and cyclists may also influence a decision to signalise an intersection. Treatments may range from the installation of signals at an existing site with minimal or no change to the layout, to the provision of complex signalised arrangements in conjunction with major road projects.*

40 The following are general comments around the use of Traffic Signals:-

- Used where un-signalised intersection has a poor crash record or excessive delays for traffic using minor roads, and a roundabout is an unsuitable alternative to traffic signals.
- Are suitable for high pedestrian movements including people who have an impairment.
- 45 • Numerical warrants may apply. All traffic signals in NSW must receive RMS approval and RMS will only approve traffic signals if the option is a safe outcome.
- Cost less to implement in the short term, more in the long term, as noted above.
- Suited to high flow situations on major roads or intersections with highly variable flow and traffic, i.e T-intersections with 80km/hr main road and 50/60km/hr road.
- 50 • Signal phasing and timing is important to the success of traffic light installations.
- *Provides the most suitable treatment for very high-volume sites.*
- *Enables efficient coordination along traffic routes.*
- *Can readily accommodate priority measures for public transport.*
- *May provide controlled crossings for pedestrians and cyclists.*

- Are safer for cyclists than multi-lane roundabouts.
 - Preferred for sites with high pedestrian activity.
 - Generally preferred to roundabouts for intersections along freight routes.
 - Are not generally as safe as a roundabout.
- 5 • Are not desirable from a safety perspective in high-speed environments but, if used, speed limit reductions or electronic interactive warning devices are required.
- The following guidelines indicate those circumstances where signals could be of significant benefit. The terms 'major' and 'minor' are used respectively to indicate the roads carrying the larger and smaller traffic volume:

- 10
1. Traffic volume: Where the volume of traffic is the principal reason for providing a control device, traffic signals may be considered, subject to detailed analysis when the major road carries at least 600 vehicles/hour (two-way) and the minor road concurrently carries at least 200 vehicles/hour (highest approach volume) on one approach over any four hours of an average day(4)(5).
 - 15 2. Continuous traffic: Where traffic on the major road is sufficient to cause undue delay or hazard for traffic on a minor road, traffic signals may be considered when the major road carries at least 900 vehicles/hour (two-way) and the minor road concurrently carries at least 100 vehicles/hour (highest approach volume) on one approach, over any four hours of an average day. This warrant applies provided that the installation would not disrupt progressive traffic flow, and that no alternative and reasonably accessible signalised intersection is present on the major road.
 - 20 3. Pedestrian safety: To help pedestrians cross a road in safety, signals may be considered when over any four hours of an average day, the major road carries 600 vehicles/hour (two-way), or where there is a central pedestrian refuge at least 1.2 m wide, the major road flow exceeds
 - 25 1000 vehicles/hour, and 150 pedestrians per hour or more cross the major road.
 4. Crashes: Where the intersection has an average of three or more reported casualty crashes per year over a three-year period where the accidents could have been prevented by traffic signals, and traffic flows are at least 80% of the volume warrants given in (1) and (2).
 - 30 5. Combined factors: In exceptional cases, where no single guideline is satisfied but where two or more of the warrants given in (1), (2) and (3) are satisfied to the extent of 80% or more of the stated criteria.

A considerable amount of data collection, assessment, investigation, modelling and specialist, professional recommendations are required for traffic signals.

35 The following table is Table 2.4 from the Austroads Guide to Traffic Management, part 6: Intersections, Interchanges and Crossings and provides examples of typical suitability for different solutions for various intersections. This table clearly shows that it is important to ensure different solutions are used in differing situations.

40 The costs of roundabouts and traffic signals will vary from location to location depending on the unique circumstances for each location including but not limited to:

- Topography
- 45 • Size of traffic control facility
- One or two lanes
- Infrastructure required on approaches to the intersection
- Foundations for the infrastructure assets
- Environmental assessment and impacts
- 50 • Underground and overhead services and utilities
- Property boundaries
- Land acquisition

Table 2.3: Suitability of types of traffic control to different road types

Road type	Primary arterial	Secondary arterial	Collector and local crossing road	Local street
Traffic signals				
Primary arterial	A	A	O	X
Secondary arterial	A	A	O	X
Collector & local crossing road	O	O	X	X
Local street	X	X	X	X
Roundabouts				
Primary arterial	O	O	X	X
Secondary arterial	O	O	O	X
Collector & local crossing road	X	O	A	O
Local street	X	X	O	A
Stop signs or give way signs				
Primary arterial urban/(rural)	X/(O)	X/(O)	A	A
Secondary arterial urban/(rural)	X/(O)	X/(O)	A	A
Collector & local crossing road	A	A	A	A
Local street	A	A	A	A

A = Most likely to be an appropriate treatment
 O = May be an appropriate treatment
 X = Usually an inappropriate treatment

MR545 Study

5 The 2008 MR545 Strategic Study formed the basis of Council’s strategic road planning and intersection upgrade proposals, recommendation 2 of that study states:

10 *“Given the community preference for roundabouts as intersection controls, roundabouts are considered in this study instead of traffic signals. The cost of traffic signals may be less than roundabouts, and they may be considered as an alternative in the future during the detailed design of the treatments.”*

The MR545 Study used two levels of modelling for the study:-

- 15 a) Strategic Network modelling using the Saturn Model;
- b) Detailed Intersection modelling using SIDRA.

20 The outputs of these models were then used to identify a series of intersection upgrades and the triggers for those proposed works. For the purposes of this report as it relates to roundabouts versus traffic signals these are the roundabouts at:

- 25 1. Ewingsdale Road and McGettigans Lane;
- 2. Ewingsdale Road and Bayshore Drive;
- 3. Ewingsdale Road and Sunrise Blvd.;
- 4. Broken Head Road and Clifford Street.

30 The identified works were then incorporated into the 2012 Developer Contributions Plan. This plan enables Council to collect contributions from developers to fund a proportion of these works. This plan also places an obligation on Council to expend the funds on the purpose for which they were collected within a reasonable time frame.

In 2014 the Contributions Plan was amended to change the works at Clifford Street from a roundabout to an intersection upgrade. This was done to give Council flexibility in the options to be explored for

improving the safety and function of this intersection. The issue of signals versus a roundabout for this intersection was extensively covered in report I2016/36 at the Ordinary meeting of 25 February 2016.

- 5 In 2012 Vietch Lister, on behalf of the West Byron developers, undertook a micro simulation model of the network from Ewingsdale Road and Bayshore Drive though to Browning Street. This model used roundabouts at each of the above referenced intersections. This study modelled various options in terms of the bypass (short to Marvel Street and long to Browning Street) but showed that the network functioned adequately using roundabouts at the major intersections.
- 10 In 2015 staff engaged consultants to prepare concept plans for the dual lane upgrade of Ewingsdale Road and detailed design plan plans for dual lane roundabouts at Sunrise Boulevard, Bayshore Drive and at the Cavanbah Centre. Sunrise Blvd is nearing final completion. All of this work was based upon the MR 545 Study and the 2012 Contributions Plan.
- 15 In 2016 Bitzios, on behalf of Villa Word, undertook SIDRA modelling of the dual lane roundabout at Bayshore Drive as part of DA 10.2017.201.1. This model demonstrated that the roundabout at Bayshore Drive would function adequately out to 2028. Traffic signals were not proposed as part of the development and were not assessed. Staff sought an independent assessment of this model from traffic engineers at Cardno. A dual lane roundabout will function adequately in 2018 and 2028. A copy of the Cardo technical assessment is provided in the attachments. Neither of these assessments considered if traffic signals was a better option than a roundabout but they do conclude that a roundabout is an appropriate treatment.
- 20
- 25 In 2017 staff engaged Cardo to undertake a two stage process to update the modelling and MR545 study. The first stage was a review of all the previous studies. This stage has been completed and a copy of this review is attached. The review, whilst not undertaking a comparative analysis of traffic signals versus roundabouts does indicate that roundabouts are an appropriate solution to the intersection upgrades on MR 545. As the modelling has not yet commenced the brief can be amended to incorporate the modelling of traffic signals in the second stage of the study.

30 Bayshore Drive Roundabout Construction

Council are progressing the Bayshore Drive Roundabout project and the documentation is currently Tender ready. Council has secured a grant from the Federal Government in the sum of \$2.6M to construct the project. This project is currently on hold due to resolution 17-589 and pending the land acquisition for the southern portion, resolved by Council (Res17-426) as follows;

- 35 1. That Council acquire an area of land from Lot 6 DP 1222674 and Lot 5 DP 1222674 as shown on Option 2 in Attachment 2 (E2017/85933) for the purposes of road widening.
- 40 2. That the acquisition be done by agreement.
3. That staff commence the process of compulsory acquisition for road widening in the event that the acquisition by agreement process fails.
4. That the General Manager and Mayor be delegated to negotiate the price for the acquisition of the land.
- 45 5. That subject to the land owner's agreement Council takes an interest in Lot 5 DP 1222674 for the purposes of a drainage easement.
6. That the Public Art Panel is consulted in relation to the gateway features included on the roundabout.

50 Redesigning this project to construct a set of traffic signals at this location including implications for funding (discussed further below) would involve a 4-6 month design process including the following:-

- 55 • Developing a brief for a Request for Quote to suitable design firms (2 weeks)
- Request for Quote period (3 weeks)
- Assessment of quotes (1 week)

- Modelling and Design of traffic signals (8 weeks)
- Review of Design and making any required changes (2 weeks)
- RMS approval process (2-8 weeks)

5 In order to utilise S94 funding for construction, the development contribution plan would need to be amended which includes;

- Amendments made to Development Control Plan (2 weeks)
- Exhibition of Development Control Plan (4 weeks)
- Council Adoption of Development Control Plan (4 weeks)

10

This assumes traffic signals are supported by the consultant and RMS. If traffic signals are not supported following this process, Council may need to return to the roundabout option, without the \$2.6 million grant discussed further below.

15

There are options to retrofit roundabouts with traffic signals on various approaches that force gaps into the dominant entry stream if the roundabout does not provide sufficient opportunity for the side access streets to enter the main road.

20 Bayshore Drive Roundabout Grant Funding

Council will receive \$2.6M from the Commonwealth Government to deliver the Bayshore Drive Roundabout by 31 January 2019. On 29 September 2017, Council entered into a contract with the Department of Infrastructure and Regional Development for 50 per cent of project funds. The change of a roundabout to traffic signals could cause project delays and would require a variation to the contract with the Commonwealth.

25

Council was the recipient of one of only five road/bridges infrastructure projects funded out of 110 Building Better Regions Fund grants awarded across Australia. The economic outcomes of the project were significant enough to warrant funding of this roundabout.

30

The Commonwealth is funding less of these types of projects and more non-road projects (as a result of the High Court ruling in the Williams vs Commonwealth of Australia 2012 schools chaplains case, grant program funding must represent value with relevant money). Roads and bridges are seen as the primary responsibility of local and state government, with the Commonwealth committing more funds to other types of infrastructure since 2012. Therefore it is likely that these five projects will come under greater scrutiny than others, because of the perceived risk to Commonwealth.

35

The contract sets out terms for Council's access to the Building Better Regions Funds – including key deliverables and timeframe for project milestones. Extraordinary circumstances (natural disaster and unforeseen delays) can trigger the need for a variation. The Commonwealth contract includes the right to refuse a variation if it is deemed unacceptable.

40

45 Change of Milestones:

A delay and request for variation carries potential implications for Council as funding bodies are closely monitoring project delivery. Poor project delivery, including missing milestone dates and requests for variations are highly likely to see Council score poorly in project evaluation. These performance measures are used to assess applications to Commonwealth grant schemes in the future.

50

Change to Key Deliverables:

In principle, it is possible to change the intersection treatment at Bayshore Drive to a set of traffic signals, as this would still deliver the economic and export growth outcomes outlined in the contract. This would require a variation to be submitted for the changes to key deliverables.

Byron Shire is renowned for being one of the only Australian local government areas without traffic signals. The history of successful community resistance to the introduction of traffic signals stretches back to the 1960s. As recently as 2017, the Suffolk Park community fought the introduction of traffic signals at the Clifford St intersection. A simple Google search will provide this information to the funding body. As such, a variation that changes the design of the roundabout to traffic signals is highly likely to be an unacceptable reputational risk for the Commonwealth and could possibly lead to a breach of contract.

Colin Steele of Section 51, who provided a workshop to staff about grants to Council on 31 August 2017, emphasized how success in one project is likely to have impacts on future funding. It was advice that Councils that breach their contracts are appraised as poor investments in future grant rounds. Should Council breach the contract, or unduly delay the project delivery, it is highly likely that Council will find itself on a black list. This may have implications for funding from Commonwealth grant schemes for at least a five year period. It is also highly probable that this will flow on to the large infrastructure grants available through the NSW State funds, especially those schemes created under Restart NSW Act 2011 and Regional Growth Fund.

This is likely to have impact on applications to the following Commonwealth schemes:

- Smart Cities and Suburbs (Department of Prime Minister and Cabinet)
- Safer Communities (Attorney General's Department)
- Building Better Regions Fund (Department of Infrastructure and Regional Development)
- Bridges Renewal Programme (Department of Infrastructure and Regional Development)
- Festivals Australia (Department of Communications and Arts)
- Clean Energy Finance Corporation and Australian Renewable Energy Agency

Council projects likely to be effected:

- Byron Bay Town Centre Bypass
- Other stages of MR545
- Lot 12, Bayshore Drive
- Railway Square completion
- Rail Corridor projects
- Byron Bay Foreshore reconfiguration
- Mullumbimby Hospital redevelopment

Conclusion

There is no one solution that can fit all situations and there is no best practice for either option. The UK Guardian piece (link below) is a good example that shows the world does not agree on roundabouts or traffic signals, which again confirms there is no best practice solution.

It is recommended that Council proceed open minded toward the decision to build roundabouts or traffic signals. The decision should be made on its merits. The solution that best fits the situation and will provide the best traffic and safety outcomes and has the support of the RMS is the most appropriate for each situation.

<https://www.theguardian.com/cities/2015/oct/19/traffic-lights-roundabouts-way-out>

A further consideration is the potential delay to advertising the construction tender for Bayshore Drive roundabout and the negative impact that timing will have for Council to fulfil requirements for current grant funding arrangements.

5 Trialling of traffic Signals across the Shire

The issue of the potential for trialling or installing traffic signals in the Byron Shire has not yet been reported to the Local Traffic Committee. However, staff provided comments to Council regarding this question via Notice of Motion No. 9.5 on 23 November 2017.

10 A trial of traffic signals is not able to be done as traffic signal designs and approvals processes are fairly comprehensive in nature including assessments of the safety implications, etc.

15 Staff are unaware of traffic signal trials being done in the past which is probably due to the strict rules and requirements relating to signal lantern types, locations, numbers, conspicuity, etc. which would normally make a trial that expensive as not to be practical.

20 However, there are certainly temporary traffic signal devices available of the type used in road construction zones and at events although staff and consultants queried to date are not aware of temporary pedestrian signals being installed in those circumstances.

The installation of temporary traffic signals at the Bayshore Drive / Ewingsdale Road intersection and Jonson St / Lawson St intersection would require the following approval process.

- 25 1. An initial concept plan needs to be developed in accordance with the RMS guidelines and requires concurrence from RMS General Manager Road Network Operations, RMS Principal Manager Network Operations and RMS Network Operations' Research Officer.
- 30 2. A detailed design needs to be prepared requiring approval for its technical correctness in accordance with relevant technical manuals and guidelines by an appropriate authorised officer within the design consultancy (or appropriate authority within RMS for RMS prepared designs). During the approval procedure comment/agreement must be sought from authorised RMS officers responsible for the adaptive, electrical and delineation features of the design. The design is recommended for acceptance of its technical correctness by the
- 35 Traffic Signal Design Manager, Road Design Engineering. During this process comment/agreement must be sought from authorised RMS officers responsible for the civil, electrical and delineation features of the design.
- 40 3. The design is recommended for acceptance by an authorised officer within RMS' Network Operations section (including Regional Network Operations Officers). This recommendation takes into account the impact the design will have on overall network efficiency and compatibility with the surrounding network.
- 45 4. The design is accepted by the appropriate RMS officer responsible for implementation of the construction. This acceptance takes into account the constructability of the design and suitability for the particular site and project objectives.

50 Approval is not guaranteed and to meet these requirements involves a significant amount of time and funding. No budget has been identified to carry out a trial or engage suitably qualified consultants to design and obtain approval for traffic light installations.

Financial Implications

55 This report or recommendation does not carry any financial implications, other than those stated above in the main report.

Statutory and Policy Compliance Implications

5 Council must provide reasonable infrastructure, as resources and priorities permit. Where existing infrastructure becomes known to be inadequate for any reason within the control of Council, repair, renewal and upgrade of these assets is a fundamental component of meeting Council's obligations.

10 Provision of road infrastructure is a legitimate function of local government under the Local Government Act 1993. Council is also responsible for the provision of safe assets under the Roads Act 1993.

Resolving as recommended demonstrates that Council is carrying out its functions to the best of its ability and following best practice processes.

REPORTS OF COMMITTEES - CORPORATE AND COMMUNITY SERVICES

Report No. 14.1 Report of the Finance Advisory Committee Meeting held on 16 November 2017

5 **Directorate:** Corporate and Community Services
Report Author: James Brickley, Manager Finance
File No: I2017/1804
Theme: Corporate Management
10 Financial Services

Summary:

15 This report provides the minutes and recommendations of the Finance Advisory Committee Meeting held on 16 November 2017 for determination by Council.

RECOMMENDATION:

1. That Council note the minutes of the Finance Advisory Committee Meeting held on 16 November 2017.

2. That Council adopt the following Committee Recommendation:

Report No. 4.1 Notice of Motion - Distribution of Paid Parking Income for the Benefit of Rural Communities

File No: I2017/1737

Committee Recommendation 4.1.1

That the Finance Advisory Committee receive a report detailing expenditure on rural roads (maintenance and capital) over the last three to five years identifying funding sources to inform the 2018/19 Budget Estimates.

3. That Council adopt the following Committee Recommendation:

Report No. 4.2 Draft Financial Sustainability Plan 2017/2018

File No: I2017/1719

Committee Recommendation 4.2.1

That Council adopt the Draft Financial Sustainability Plan 2017/2018 (#E2017/104429) with the following amendments:

- 20 a) remove the entire dot point reference to Manfred Street, Belongil on page 10
b) remove the entire second row in the table on page 12 regarding '5.2 Manfred Street'.

4. That Council adopt the following Committee Recommendation:

Report No. 4.3 Unrestricted Cash and Reserves at 30 June 2017

File No: I2017/1720

Committee Recommendation 4.3.1

1. That the Reserve Balances as outlined in Attachment 1 (#E2017/103622) at 30 June 2017 be noted.
2. That the Unrestricted Cash Balance of \$1,145,200 as at 30 June 2017 be noted.
5. That Council adopt the following Committee Recommendation:

Report No. 4.4 Quarterly Update - Implementation of Special Rate Variation (SRV)
File No: I2017/1731

Committee Recommendation 4.4.1

That the Finance Advisory Committee note the quarterly update on the Special Rate Variation implementation as at 30 September 2017.

6. That Council adopt the following Committee Recommendation:

Report No. 4.5 Council Budget Review - 1 July 2017 to 30 September 2017
File No: I2017/1736

Committee Recommendation 4.5.1

1. That Council note that the itemised budget variations as shown in Attachment 2 (#E2017/104035) which includes the following results in the 30 September 2017 Quarterly Review of the 2017/2018 Budget:

- a) General Fund – \$161,900 decrease to the Estimated Unrestricted Cash Result
- b) General Fund - \$1,651,500 increase in reserves
- c) Water Fund - \$110,000 decrease in reserves
- d) Sewerage Fund - \$15,000 decrease in reserves

were adopted by Council at its Ordinary meeting held on 23 November 2017.

2. That Council noted that the revised General Fund Estimated Unrestricted Cash Result of \$940,600 for the 2017/2018 financial year as at 30 September 2017 were adopted by Council at its Ordinary meeting held on 23 November 2017.
3. That the Finance Advisory Committee receive a reconciliation in relation to projects in Byron Bay (Master Plan/Railway Precinct, etc) reconciling the drawing on Section 94 funds earmarked and the Infrastructure Renewal Reserve from the proceeds of Pay Parking revenue.

5

Attachments:

- 1 Minutes 16/11/2017 Finance Advisory Committee, I2017/1773 [⇨](#)

10

Report

5 The attachment to this report provides the minutes of the Finance Advisory Committee Meeting of 16 November 2017 for determination by Council. The agenda for this meeting can be located on Council's website at:

http://byron.infocouncil.biz/Open/2017/11/FAC_16112017_AGN_620_AT.PDF

10 The Committee Recommendations are supported by management and are provided in the attachment to this report.

15 Councillors were advised via Memorandum (#E2017/106614, dated 20 November 2017) of the Committee's recommendations in relation to Report No. 4.5 Council Budget Review 1 July 2017 to 30 September 2017.

The Committee recommendations have been amended to read as recommendations to Council, including that Council note the adoption of the Council Budget Review - 1 July 2017 to 30 September 2017, by Council at its Ordinary meeting held on 23 November 2017.

20 **Financial Implications**

As per the Reports listed within the Finance Advisory Committee Meeting of 16 November 2017.

25 **Statutory and Policy Compliance Implications**

As per the Reports listed within the Finance Advisory Committee Meeting of 16 November 2017.

REPORTS OF COMMITTEES - INFRASTRUCTURE SERVICES

Report No. 14.2 Report of the Transport and Infrastructure Advisory Committee Meeting held on 16 November 2017

5 **Directorate:** Infrastructure Services
Report Author: Dominika Tomanek, Executive Assistant Infrastructure Services
File No: I2017/1812
Theme: Community Infrastructure
10 Roads and Maritime Services

Summary:

15 The attachment to this report provides the minutes of Transport and Infrastructure Advisory Committee Meeting held on 16 November 2017 for determination by Council.

RECOMMENDATION:

1. That Council note the minutes of the Transport and Infrastructure Advisory Committee Meeting held on 16 November 2017.

2. That Council adopt the following Committee Recommendation(s):

Report No. 4.1 Presentation of draft Transport Asset Management Plan - Customer Levels of Service

File No: I2017/1763

Committee Recommendation 4.1.1

1. That the Committee notes the presentation of the Customer Levels of Service for Transport Infrastructure.
2. That the next extraordinary meeting will be held in early 2018 to consider presentation in further details and draft Communication Strategy.
3. That the Committee be provided a copy of the draft presentation and committee members will provide feedback prior to the extraordinary meeting.

3. That Council adopt the following Committee Recommendation(s):

Report No. 4.2 Update on the 2017/18 Local Roads Capital Works Program

File No: I2017/657

Committee Recommendation 4.2.1

1. That Council notes the actions taken to implement the 2017/18 Local Roads Capital Works Program.
2. The Committee notes that staff review the appropriateness of line marking the "esses" near Coorabell school.

4. That Council adopt the following Committee Recommendation(s):

Report No. 4.3 2017/18 - 2020/21 Local Roads Capital Works Program

File No: I2017/1140

Committee Recommendation 4.3.1

1. That the Committee notes the information on the Council website about the approved 2017/18 Local Roads Capital Works Program and the indicative programs for 2018/19 to 2020/21.
 2. That the further advice and comments be sought from the Committee at the first meeting in 2018.
5. That Council adopt the following Committee Recommendation(s):

Report No. 4.4 Pedestrian Crossing - Lawson Street Byron Bay

File No: I2017/1550

Committee Recommendation 4.4.1

That the Committee notes the report.

5 **Attachments:**

- 1 Minutes 16/11/2017 Transport and Infrastructure Advisory Committee, I2017/1770 [⇒](#)

10

Report

5 The attachment to this report provides the minutes of the Transport and Infrastructure Advisory Committee Meeting of 16 November 2017 for determination by Council. The agenda for this meeting can be located on Council's website at:

http://byron.infocouncil.biz/Open/2017/11/TIA_16112017_AGN_629_AT.PDF

Committee Recommendation

10 The committee recommendations are supported by management and are provided in the attachment to this report.

Financial Implications

15 As per the Reports listed within the Transport and Infrastructure Advisory Committee Meeting of 16 November 2017.

Statutory and Policy Compliance Implications

20 As per the Reports listed within the Transport and Infrastructure Advisory Committee Meeting of 16 November 2017.

CONFIDENTIAL REPORTS - CORPORATE AND COMMUNITY SERVICES

Report No. 16.1 **CONFIDENTIAL - Tender 2017-0005 Tree Works Recommendation**
Directorate: Corporate and Community Services
5 **Report Author:** Malcolm Robertson, Team Leader Open Space
File No: I2017/1785
Theme: Community Infrastructure
 Open Space and Recreation

10 **Summary:**

On 31 January 2017 the General Manager, under delegated authority, approved the use of the open tendering method to call for tenders for Contact 2017-0005 Tree Services.

15 Tenders have been assessed in accordance with the provisions of the Local Government (General) Regulation 2005. This report summarises the background and assessment of the tenders and provides a recommendation to award the tender for Contract 2017-0005.

20 **RECOMMENDATION:**

1. That pursuant to Section 10A(2)(d)i of the Local Government Act, 1993, Council resolve into Confidential Session to discuss the report Tender 2017-0005 Tree Works Recommendation.
2. That the reasons for closing the meeting to the public to consider this item be that the report contains:
 - a) commercial information of a confidential nature that would, if disclosed prejudice the commercial position of the person who supplied it
3. That on balance it is considered that receipt and discussion of the matter in open Council would be contrary to the public interest, as:

(a) disclosure of the confidential information could compromise the commercial position of the organisations involved and prejudice the process of engagement of the tenderers to carry out the required services.

40 **OR, ALTERNATIVELY WHERE THE MEETING IS NOT PROPOSED TO BE CLOSED:**

RECOMMENDATION:

1. That pursuant to Section 11(3) of the Local Government Act, 1993, resolve that the Annexures to the report, Tender 2017-0005 Tree Works Recommendation are to be treated as confidential as they relate to matters specified in s10A(2)(d)i of the Local Government Act 1993.
2. That Council adopt the recommendation set out on the final page of the Report.

50 **Attachments:**

- 1 Confidential - 2017-0005 Tree Services Evaluation Report Signed, E2017/106861

CONFIDENTIAL REPORTS - INFRASTRUCTURE SERVICES

Report No. 16.2 **CONFIDENTIAL - Contract 2017-0038 - Purchase and Removal of Scrap Metal form the Byron Resource Recovery Centre and Byron Shire Council Depot**

Directorate: Infrastructure Services
Report Author: Lloyd Isaacson, Team Leader Resource Recovery and Quarry
File No: I2017/1790
Theme: Community Infrastructure
 Waste and Recycling Services

Summary:

On 29 August 2017, the General Manager, under delegated authority, approved the use of the open tendering method to call for tenders for Contract 2017-0038 Purchase and Removal of Scrap Metal form the Byron Resource Recovery Centre and Byron Shire Council Depot.

Tenders have been assessed in accordance with the provisions of the Local Government (General) Regulation 2005.

RECOMMENDATION:

1. That pursuant to Section 10A(2)(c) and (d)i of the Local Government Act, 1993, Council resolve into Confidential Session to discuss the report Contract 2017-0038 - Purchase and Removal of Scrap Metal form the Byron Resource Recovery Centre and Byron Shire Council Depot.
2. That the reasons for closing the meeting to the public to consider this item be that the report contains:
 - a) information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business
 - b) commercial information of a confidential nature that would, if disclosed prejudice the commercial position of the person who supplied it
3. That on balance it is considered that receipt and discussion of the matter in open Council would be contrary to the public interest, as:

(a) disclosure of the confidential information could compromise the commercial position of the organisations involved and prejudice the process of engagement of a tenderer to carry out the required services.

OR, ALTERNATIVELY WHERE THE MEETING IS NOT PROPOSED TO BE CLOSED:

RECOMMENDATION:

1. That pursuant to Section 11(3) of the Local Government Act, 1993, resolve that the Annexures to the report, Contract 2017-0038 - Purchase and Removal of Scrap Metal form the Byron Resource Recovery Centre and Byron Shire Council Depot are to be treated as confidential as they relate to matters specified in s10A(2)(c) and s10A(2)(d)i of the Local Government Act 1993.
2. That Council adopt the recommendation set out on the final page of the Report.

Attachments:

- 5 1 Confidential - Confidential – 2017-0038 Final Signed Evaluation Report - Purchase and Removal of Scrap Metal, E2017/107360

Report No. 16.3 **CONFIDENTIAL - North Byron Floodplain Risk Management Study and Plan - Tender Approval**

Directorate: Infrastructure Services
Report Author: James Flockton, Drain and Flood Engineer
5 File No: I2017/1155
Theme: Community Infrastructure
Emergency Services and Floods

10 **Summary:**

Staff have completed an open tender process for the North Byron Floodplain Risk Management Study and Plan project which Council has grant funding to complete.

15 Tenders have been assessed in accordance with the provisions of the Local Government (General) Regulation 2005.

RECOMMENDATION:

- 20 1. That pursuant to Section 10A(2)(d)i of the Local Government Act, 1993, Council resolve into Confidential Session to discuss the report North Byron Floodplain Risk Management Study and Plan - Tender Approval.
- 25 2. That the reasons for closing the meeting to the public to consider this item be that the report contains:
- a) commercial information of a confidential nature that would, if disclosed prejudice the commercial position of the person who supplied it
- 30 3. That on balance it is considered that receipt and discussion of the matter in open Council would be contrary to the public interest, as:

To enter a new line, hit ctrl enter.

Example reasons only - delete/change as required (and delete these first 2 lines):

35 (a) disclosure could prejudice the Council's position in litigation; and (b) disclosure could adversely impact Council's position in the upcoming negotiations.

OR, ALTERNATIVELY WHERE THE MEETING IS NOT PROPOSED TO BE CLOSED:

- 40 **RECOMMENDATION:**
- 45 1. That pursuant to Section 11(3) of the Local Government Act, 1993, resolve that the Annexures to the report, North Byron Floodplain Risk Management Study and Plan - Tender Approval are to be treated as confidential as they relate to matters specified in s10A(2)(d)i of the Local Government Act 1993.
2. That Council adopt the recommendation set out on the final page of the Report.

Attachments:

- 50 1 Confidential - Signed copy / pdf North Byron FRMS&P Request for Tender - Evaluation Report, E2017/108512

