



# Byron Shire Council



## Agenda Ordinary Meeting Thursday, 28 May 2020

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.

Mark Arnold  
General Manager

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## CONFLICT OF INTERESTS

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

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

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

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

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

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

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

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

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

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

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

### Disclosure and participation in meetings

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

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

**Non-pecuniary Interests** - Must be disclosed in meetings.

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

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

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## RECORDING OF VOTING ON PLANNING MATTERS

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

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

# BYRON SHIRE COUNCIL

## ORDINARY MEETING

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#### **2. APOLOGIES**

#### **3. REQUESTS FOR LEAVE OF ABSENCE**

#### **4. DECLARATIONS OF INTEREST – PECUNIARY AND NON-PECUNIARY**

#### **5. TABLING OF PECUNIARY INTEREST RETURNS (CL 4.9 CODE OF CONDUCT FOR COUNCILLORS)**

#### **6. ADOPTION OF MINUTES FROM PREVIOUS MEETINGS**

6.1 Ordinary Meeting held on 23 April 2020

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#### **8. MAYORAL MINUTE**

#### **9. NOTICES OF MOTION**

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# BYRON SHIRE COUNCIL

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## 15. QUESTIONS WITH NOTICE

*Questions with Notice: A response to Questions with Notice will be provided at the meeting if possible, that response will be included in the meeting minutes. If a response is unable to be provided the question will be taken on notice, with an answer to be provided to the person/organisation prior to the next Ordinary Meeting and placed on Councils website [www.byron.nsw.gov.au/Council/Council-meetings/Questions-on-Notice](http://www.byron.nsw.gov.au/Council/Council-meetings/Questions-on-Notice)*

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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 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.***

**SUBMISSIONS AND GRANTS****Report No. 11.1 Grants and Submissions Report for April 2020****Directorate:** Corporate and Community Services**Report Author:** Alexandra Keen, Grants Coordinator**File No:** I2020/647**Summary:**

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

**RECOMMENDATION:**

**That Council notes the report and Attachment 1 (E2020/31982) for Byron Shire Council's Submissions and Grants as at 4 May 2020.**

**Attachments:**

1 Grants Submissions and Proposals Attachment, E2020/31982 

**REPORT**

This report provides an update on grant submissions since the last report.

5 Successful applications

Council noted out of session in mid-April 2020 that it was successful in obtaining \$1,894,708 of grant funding from Fixing Country Roads 2019 – Tranche 1 for an upgrade to Myocum Road.

10 Unsuccessful applications

Council noted out of session in mid-April 2020 that it was unsuccessful in three grant applications under Fixing Country Roads 2019 – Tranche 1: Upgrade of Bayshore Drive; Upgrade to Booyong Road; and Renewal of Byron Creek Bridge.

15 One further application was withdrawn, being the Flagship Fish Habitat Grant, as in the course of the Expression of Interest proceeding to the next stage the funder requested a change in scope which, upon further exploration, proved unviable. The four projects included in the initial application are proposed to be applied for individually in future funding rounds.

20 Applications submitted

25 One grant application was submitted by Council in April 2020, being the upgrade to Brunswick Heads Memorial Hall to the NSW Government's Clubsgrant - Infrastructure Grant Program Round 3. A further expression of interest application was submitted to the Department of Planning, Infrastructure and Environment for the Flying Fox Grant Program to draft two vegetation management plans (Mullumbimby and Paddy's Creek).

30 Upcoming grant opportunities

There are a number of upcoming grant opportunities for which Council proposes to submit a funding application, including:

- 35 • Bridges Renewal Program Round 5 – the upgrade of Main Arm Causeway (causeway number 2);
- Showground Stimulus Funding – Phase 2;
- Safer Roads Program;
- Flying Fox Program; and
- 40 • Fixing Country Roads 2020 – the resubmission of two previous applications and potentially three new applications.

**STRATEGIC CONSIDERATIONS*****Community Strategic Plan and Operational Plan .***

CSP Objective	L2	CSP Strategy	L3	DP Action	L4	OP Activity
<b>Community Objective 5: We have community led decision making which is open and inclusive</b>	5.6	Manage Council's resources sustainably	5.6.12	Implement strategic grants management systems to deliver priority projects for Byron's community (SP)	5.6.12.4	Provide governance for grants management

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**Legal/Statutory/Policy Considerations**

Under Section 409 3(c) of the *Local Government Act 1993* Council is required 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.

**Financial Considerations**

If Council is successful in obtaining the identified grants, more than \$8 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:

Requested funds from funding bodies	\$8,328,994
Council cash contribution	\$3,175,767
Council in-kind contribution	\$241,759
Other contributions	\$13,860
<b>Funding applications submitted and awaiting notification (total project value)</b>	<b>\$11,760,380</b>

**Consultation and Engagement**

Cross-organisational consultation has occurred in relation to the submission of relevant grants, and the communication of proposed grant applications.



**STAFF REPORTS - GENERAL MANAGER**

**Report No. 13.1      Council sale to Catholic Healthcare Site part former Mullumbimby Hospital site.**

**Directorate:**            General Manager  
**Report Author:**        Ralph James, Legal Counsel  
**File No:**                  I2020/564

**Summary:**

On 11 December 2018 Council completed its purchase from Health Administration Corporation of the former Mullumbimby hospital site.

Clause 4.4 of the contract for sale and purchase binds Council to a Deed regarding that part of the land presently occupied by Catholic Healthcare Ltd. The Deed provides that upon acquisition of the land Council will promptly arrange for the land to be subdivided to create a separate Lot for the part of the land subject to the leases.


On 23 August 2018 Council resolved in respect of borrowings to fund demolition and other associated costs and considered that Council ought be free to sell or lease some of the property.

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**RECOMMENDATION:**

1.    **That Council dispose of operational land known as part Lot 188 DP 728535 (proposed Lot 50 in the subdivision of that land) being the land presently occupied by Catholic Healthcare Limited and located at Azalea Street Mullumbimby, by way of sale to Catholic Healthcare Limited for the sum of \$1,350,000 plus GST.**
2.    **That Council establish a new internally restricted reserve titled ‘Former Mullumbimby Hospital Reserve’, transfer the sale proceeds to this reserve, invest the sale proceeds until the outstanding loan borrowing is to be repaid and apply interest as progressively earned to this reserve.**
3.    **That Council authorise the General Manager to execute the contract of sale and any other associated document associated with the sale.**
4.    **That Council, in accordance with Regulation 400 of the Local Government (General) Regulation 2005, authorise the affixing of the Council seal to any document required by this resolution that requires it.**

**Attachments:**

- 1      Confidential - Valuation of Catholic Healthcare Site at former Mullumbimby Hospital, E2020/889
- 2      Confidential - Letter from General Manager to Catholic Healthcare, E2020/3492
- 3      Confidential - Letter from General Manager to Catholic Healthcare 20/2/20, E2020/12127
- 4      Catholic Healthcare letter to Council containing an offer to purchase., E2020/35054 



## REPORT



## 5 History of Catholic Healthcare occupation of part of the former Mullumbimby Hospital site

Catholic Healthcare Ltd (CHL) occupy that part of the site outlined in red above (not survey accurate).

On 13 December 1982, the Trustees of the Mullumbimby Reserve Trust number 31705 ("Mullumbimby Trustees") leased part of the Land to the Trustees of the Society of St Vincent De Paul (NSW) ("SVDP"). The lease was for a term of 40 years expiring on the 14 November 2022.

On 22 April 1987, the 1982 Lease was varied.

On 23 October 1990, a subsequent lease was granted by the Mullumbimby Trustees to SVDP of another part of the Land, also with an expiry date of 14 November 2022.

Pursuant to a Deed of Transfer dated 1 May 2007, SVDP agreed to transfer its interest in the 1982 Lease and 1990 Lease to CHL.

In approximately 2009, SVDP, CHL and the Mullumbimby Trustees entered into Deeds of Consent to Assignment of Lease which effected the transfer of SVDP's interest in the Leases to CHL.

Subsequently, the ownership of the Land was transferred from the Mullumbimby Trustees to Health Administration Corporation (Health).

## 20 Council's purchase from Health

Following a community campaign over several years the Minister for Health wrote to Council on 10 May 2017 supporting the acquisition of the former Mullumbimby Hospital site by Council for \$1.

On 23 August 2018 Council resolved to purchase the Mullumbimby War Memorial Hospital site from Health Administration Corporation on the terms and conditions set out in the contract

submitted by the Health Administration Corporation but subject to amendments being made to the contract.

- 5 Council authorised the General Manager to take all steps necessary to enter into the contract, as amended, and to sign and counter-sign all documents associated with the purchase of the site, including the affixing of the Council seal to all documents that may require it.

The sale was completed on 11 December 2018.

- 10 Clause 4.4 of the contract bound Council to a Deed with CHL regarding CHL's continued occupation of part of the site.

**Deed between Council and CHL**

- 15 Among other things, the Deed binds Council to:

- Honour CHL's existing lease (which expires in 2022);
- Subdivide the land and register the CHL lease at Council's cost; and
- Negotiate in good faith with CHL for a lease extension over a wider area of the site.

- 20 Clause 4.1 (a) of the Deed requires Council, upon acquisition of the land, to properly arrange for the land to be subdivided to create a separate lot for the part of the land which is subject to the leases to Catholic Healthcare Limited. Once subdivision is complete Council will register the current leases to Catholic Healthcare Limited.

- 25 Clause 5.1 of the Deed requires Council and Catholic Healthcare to continue to meet regularly to negotiate in good faith proposals to extend the term of the leases to Catholic Healthcare or otherwise secure Catholic Healthcare's occupancy of the land which is the subject of the leases.

- 30 Relevant clauses of the Deed are:

**1. Recognition of CHL Leases**

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- 1.1 HAC and BSC acknowledge that CHL has possession of part of the Land as the tenant under the Leases being the part specified as the premises in the Leases.
- 35 1.2 BSC agrees that if it acquires the Land from HAC (or any other registered proprietor of the Land):
- (a) its acquisition will be subject to the Leases; and
  - (b) its covenants with CHL from the date of acquisition to observe and be bound by the terms of the Leases as landlord including without limitation clauses 1.K and 1.P.1.

**2. CHL Covenant**

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- 40 2.1 CHL covenants with BSC, from the date BSC acquires the Land, to continue to observe and be bound by the terms of the Leases as tenant.

**3. BSC Undertakings regarding Subdivision and Registration**

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- 3.1 BSC covenants with CHL that:
- (a) upon acquisition of the Land it will, at its cost, promptly arrange for the Land to be subdivided to create a separate Lot for the part of the Land subject to the Leases ("Subdivision")
  - (b) following the Subdivision it will promptly arrange for registration of the Leases to BSC
- 45 3.2 BSC covenants with CHL that it will not transfer, mortgage, encumber or otherwise deal with the Land subject to the Leases until such time as the Leases have been registered.

**4. Negotiations as to Future Arrangements**

4.1 Without in any way limiting the obligations of BSC under clauses 2 and 4, the parties agree to meet within 2 months of the date of this Deed to negotiate in good faith proposals to extend the term of the Leases and to increase the area being leased under the Leases.

5 4.2 This clause 5 does not impose any obligation on either party (other than to act in good faith) to agree to any matters raised in the negotiations required under clause 5.1.

**Council's Land Acquisition and Disposal Policy**

Council is bound by the provisions of its Policy *Land Acquisition and Disposal*.

10 The Policy allows for disposal of land by direct negotiation under circumstances where Council is bound by a contractual obligation. The terms of the Deed would justify direct negotiation with Catholic Healthcare.

15 The Policy sets out a procedure required to be followed for the sale of land. It includes that:

i. The sale of Council land cannot be delegated and, as required by the *Local Government Act*, all sales must be pursuant to a resolution of Council.

20 ii. Where land is being sold by direct negotiation, a probity plan be developed to cover matters which includes the obtaining best value for money and which demonstrates accountability and transparency.

25 iii. Where Council proposes to sell land by direct negotiation and the value of the land is greater than \$1m, Council must obtain a valuation undertaken jointly by two consultant valuers or a consultant valuer and land economist, quantity surveyor or retail specialist.

30 iv. Where the negotiated outcome results in a sale price more than 10% less than the assessed market value, it shall be acknowledged in the report to Council giving reason why that variation shall be adopted.

Council commissioned three valuations of the site occupied by CHL. Council has also been provided with a valuation undertaken by a consultant instructed by CHL. A summary of each valuation is set out in a Memorandum to the General Manager which is confidential attachment 1.

**Land classification**

On 20 September 2018 Council resolved in the following terms:

40 that Council, having resolved to acquire Lots 188 DP 728535, Lot 1 DP 1159861 and Lot 138 DP 755722, (the former Mullumbimby Hospital site), by purchase from Health Administration Corporation, classify the land comprising Lots 188 DP 728535, Lot 1 DP 1159861 and Lot 138 DP 755722 as "operational land" under the Byron Local Environmental Plan.

45 Operational land can be sold.

In the staff report on the matter Council was advised as to Catholic Healthcare as follows:

50 In addition, the land ought to be classified as operational land given that the Catholic Healthcare Ltd facility is commercially operated on the land. The facility has the benefit of a lease for operation on the land until the end of 2022. As such the sale to Council is subject to Council agreeing to allow Catholic Healthcare Ltd to continue occupation of the property under the same terms as the existing leases – until they expire.

Clause 4.4 of the contract for sale and purchase binds Council to a Deed regarding that part of the land presently occupied by Catholic Healthcare Ltd. The Deed provides that upon acquisition of the land Council will promptly arrange for the land to be subdivided to create a separate Lot for the part of the land subject to the leases.

5

### **Negotiations with Catholic healthcare**

In accordance with the provisions of the Deed and in compliance with Councils Policy, a valuation were obtained and correspondence issued to Catholic Healthcare.

10

In addition there was a face-to-face meeting with Catholic Healthcare which the General Manager and Legal Counsel attended. Thereafter there were telephone meetings.

15

In those meetings the parties agreed and acknowledged that the Contract for Sale of Land would be for land only and would not include any improvements (buildings) erected thereon.

Council acknowledged that any improvements were erected on the land by Catholic Healthcare (or its predecessors in name).

20

On 16 January 2020 Council made an offer to Catholic Healthcare in respect of the purchase of that part of the site which Catholic Healthcare occupied. That offer is contained in the General Manager's letter which is Confidential attachment 2.

25

Catholic Healthcare raised some questions in respect of Councils offer. Those questions were answered by the General Manager by letter dated 20 February 2020 which is Confidential attachment 3.

30

On 12 May 2020 Council received a response from Catholic Healthcare indicating that it accepted Councils offer. The Catholic Healthcare offer is in attachment 4.

The Catholic Healthcare offer is conditional on removal of the positive covenants and restrictions to lot post subdivision.

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The positive covenants and restrictions presently provide that the whole site must be used for the following approved purposes:

- affordable housing
- centre-based child care facilities
- commercial premises
- community facilities
- early education and care facilities
- educational establishments
- environmental facilities
- function centres
- group homes
- information and education facilities
- markets
- mixed use development
- public land
- recreation areas
- recreation facilities
- residential care facilities
- respite day care centres
- schools
- school-based child care

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- seniors housing; and/or
- any other use which, in the purchaser's reasonable opinion, has similar characteristics to the above uses.

5 Although Catholic Healthcare's use of its part of the site may fall within "residential care facilities" the request to remove the positive covenants and restrictions from the lot post subdivision is not unreasonable. Nor is it difficult to achieve.

## STRATEGIC CONSIDERATIONS

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### *Community Strategic Plan and Operational Plan*

CSP Objective	L2	CSP Strategy	L3	DP Action	L4	OP Activity
<b>Community Objective 1: We have infrastructure, transport and services which meet our expectations</b>	1.2	Provide essential services and reliable infrastructure which meet an acceptable community standard	1.2.6	Optimise Council's property portfolio (SP)		Not applicable.

### *Legal/Statutory/Policy Considerations*

15 On 23 August 2018 Council resolved to authorise borrowings through an Expression of Interest (EOI) process prior to 30 June 2019 to fund demolition and other associated costs.

Council also resolved that Council should endeavour to recover its costs of demolition and any other associated costs as soon as possible to retire the loan borrowings and mitigate the financial risk of the project.

20

Council, in resolving as it did on 23 August 2018, considered that Council ought be free to:

- (a) Earn income from the property to pay for the property's remediation;
- (b) Earn any other income from the property, provided this income is reinvested into the property; or
- (c) Sell or lease some or all of the property.

25

Any additional Legal/Statutory/Policy Considerations are as are set out in the body of this report.

30

### *Financial Considerations*

Council on 27 June 2019 borrowed \$3,334,000 on an interest only repayment basis from NSW Treasury Corporation to undertake the demolition and remediation of the former Mullumbimby Hospital. This loan borrowing was for a 5 year period expiring on 27 June 2024 where Council will be required to repay the \$3,334,000 borrowed in full. Council has taken the view that any funds invested in the former Mullumbimby Hospital project are to be recovered upon completion of the project.

35

It is therefore recommended that any sale proceeds from the proposed land sale to Catholic Healthcare be reserved and held by Council to assist with making the required loan repayment on 27 June 2024. To facilitate this, it is recommended that Council establish a new internally restricted reserve titled 'Former Mullumbimby Hospital Reserve', separately invest the sale proceeds until 27 June 2024 and apply interest earned on the investment to this reserve as progressively earned.

45

If Council takes an alternate view to use the sale proceeds for other purposes, then it will still need to fund the \$3,334,000 loan repayment on 27 June 2024.

**Report No. 13.2**  
**Directorate:**  
**Report Author:**  
**File No:**

**Expiry of lease to Fishheads**  
General Manager  
Ralph James, Legal Counsel  
Matt Meir, Solicitor  
I2020/715

**Summary:**

This report has been prepared to enable Councillors to consider a resolution for an offer to extend, for a period of 5 years, the current agreement between Council and Fishheads regarding the latter's lease of the Byron Bay Swimming Pool Complex.

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**RECOMMENDATION:**

1. That Council, subject to Crown consent, offer to extend the lease over:
  - a) Council operational land (lot 1 in DP 1246229);
  - b) Part Council operational land (lot 4 in DP 827049); and
  - c) Part Crown reserve (lot 10 in DP 1049827)known as the Byron Bay Swimming Pool Complex, to Fishheads@ Byron Pty Ltd for 5 years (1 July 2020 to 30 June 2025).
2. That the extension be offered on the same terms and conditions contained in the current lease/management agreement, but include provisions that account for:
  - a) Council needing access to the pool portion of the complex for the purpose of making improvements consistent with its long term upgrade plans for the site; and
  - b) Council registering the subdivision that will accurately align the complex between Council and Crown during the lease term; and
  - c) Updating the rent clause to reflect current market values.



**REPORT**

This report is about extending, for a period of 5 years, the current agreement between Council and Fishheads regarding the latter's lease of the Byron Bay Swimming Pool Complex (Complex). The complex is currently leased by Fishheads@Byron Bay Pty Ltd (Fishheads). The current lease ends on 30 June 2020.

Planning workshop

At the 7 May 2020 strategic planning workshop, Councillors in attendance received a presentation on this matter, and requested that a report be brought to this meeting, that would enable Councillors to consider the terms of an offer to extend the current arrangements with Fishheads, for the operation of the Complex.

This expressed intention having two elements:

- 1) to provide Fishheads with more tenancy certainty over the medium term; and
- 2) beyond this, to directly negotiate with Fishheads regarding a long term lease – that is, not via a competitive process – if it is possible to do so.

Long term lease not currently possible

Council cannot currently commit to the second element of the above desire. This is because property legislation in NSW prevents part of a lot being leased for greater than five years without a plan of subdivision being prepared for the lease (further detail in this report's next section).

There are two relevant 'parts of a lot' in this context. The first is that portion of the Byron Bay pool which currently sits within the boundary of the much larger Crown reserve 82000. The second is that portion of the pool which encroaches onto Council operational land (lot 4 in DP 827049) on the site's southern boundary.

Subdividing this part of the Crown reserve and the Council land for the purpose of allowing a registrable lease of the land for more than five years requires development consent under the planning law (further detail in this report's next section). Council does not have development consent for this lease subdivision. (Note: this is different to current subdivision plans underway regarding the site, mentioned later in this report.)

Medium term certainty for Fishheads

Although a long term lease over the Complex is not currently possible, this report gives effect to Councillors' desire to give Fishheads more medium term certainty regarding its tenure.

It does this by recommending that Council offer Fishheads a lease extension of five years.

This proposed extension is substantially longer than Council's original offer to Fishheads of a two year extension (which Fishheads rejected). Council's revised offer is short of Fishheads' request for a three year extension with a three year option. But this is because Council cannot meet the various legal requirements needed for a lease greater than five years (explained below).

There are multiple pieces of legislation that provide for – but also constrain – Council's ability to offer any lease extension to Fishheads: the *Conveyancing Act 1919*, the *Environmental Planning and Assessment Act 1979*, the *Local Government Act 1993*, the *Crown Lands Management Act 2016* and the *Retail Leases Act 1994*.



The relevant parts of these laws are explained below.

*Conveyancing Act 1919* (Conv Act) and *Environmental Planning and Assessment Act 1979* (EP&A Act)

5 Under the Conv Act, a plan of subdivision includes a plan of subdivision for lease purposes. Under the Conv Act, NSW Land Registry Services will not register a lease subdivision plan unless the lease applies to an entire legal lot. As noted in the previous section, the pool complex and restaurant currently do not sit neatly within whole legal lots.

10 Under the EP&A Act, the subdivision definition includes procuring a plan of subdivision under the relevant section of the Conv Act that applies to a lease plan of subdivision. In other words, a lease subdivision requires development consent.

15 However, the Conv Act provides an exception to the prohibition on registering a lease over part of a lot. Leases of a part lot for less than five years (including any option to renew) do not require a plan of subdivision prior to registration, and therefore, do not require development consent under the EP&A Act.

20 To enable Council to register the proposed, five year lease extension, Council will need surveyor advice about whether the lease area can be identified via a compiled plan or a plan of survey. This is additional work that will not assist with Council's long term plans for the pool complex. This issue would not arise for a lease of less than three years.

25 *Local Government Act 1993* (LG Act)

30 Under the LG Act, leases of Council community land (much of the site is Council operational land, but some of the Crown reserve containing the restaurant and the pool is currently deemed community land under the *Crown Lands Management Act 2016*; more on that below) for a term of more than five years to a for-profit entity must go to tender.

The proposed five year lease extension to Fishheads will not trigger the LG Act tender provisions.

35 In the normal course of events, any lease of community land – no matter its duration – would require public exhibition under the LG Act. However, the *Crown Lands Management Act 2016* will spare Council needing to publicly exhibit the proposed lease (explained below).

40 Meanwhile, contracts for the provision of services to the Council worth more than \$250,000 need to be put to tender under the LG Act.

45 The management fee for Fishheads to run the Byron pool would ordinarily engage the tender provisions. However, because the lease of the restaurant and the management of the pool are currently offered together (because of the land tenure issues at the site), the management fee is offset by the restaurant rent payable by Fishheads to Council. This brings the contract amount below the \$250,000 tender threshold.

*Crown Lands Management Act 2016* (CLM Act)

50 Since the previous lease between Council and Fishheads was executed in mid-2017, substantial changes have been made to the CLM Act.

The relevant changes to the CLM Act for this report are:

55 1) The abolition of the reserve trust system and the appointment of Council as the Crown land manager for a large amount of the Crown land in the Byron Shire;

2) Where Council is appointed Crown land manager – and this includes the Crown land that part of Fishheads restaurant and the Byron Bay pool are located on – Council is required to manage the land as if it were community land under the LG Act; and

3) The need for native title manager advice for certain dealings (including the grant of a lease) over relevant Crown land.

Because of the scale of the changes, the CLM Act provides for transition arrangements regarding the management of Crown land as community land under the LG Act. These arrangements last until 30 June 2021.

Under the transition arrangements:

1) Council is exempt from the requirement to manage Crown land as community land until the earlier of either a plan of management being adopted for the site, or the relevant land being declared operational land by the Minister (the triggers); and

2) Prior to either of the triggers occurring, Council is able to, among other things, renew an existing lease, provided there are no additional permitted uses of the land.

On element one, Council and the Crown are working toward the Crown land relevant to Fishheads being declared operational land (further detail is provided in the next section). This is due to the commercial nature of the site. However, staff stress that the future classification of the Fishheads part of the Crown reserve has not been determined. Whatever the classification, it needs to be made prior to 30 June 2021 (when the relevant transitional provisions end).

On element two, there are no additional uses of the Crown land pertaining to the pool complex and restaurant included under the proposed lease extension.

Meanwhile, Council does not need native title manager advice under the CLM Act for the proposed lease. This is because Crown reserve 82000 is 'surrendered land' under the relevant, registered Indigenous Land Use Agreement (ILUA). This type of land is excluded from the CLM Act provisions dealing with Council-managed Crown land that needs native title manager advice.

*Retail Leases Act 1994 (RL Act)*

The RL Act regulates the relationship between landlord and tenant regarding 'retail shops'. Restaurants are a retail shop.

Since the previous lease between Council and Fishheads was executed, substantial changes have also been made to the RL Act.

Chief among these changes for present purposes is that leases for longer than three years now need to be registered. It is this requirement under the RL Act about lease registration which engages the above provisions under the Conv Act and EP&A Act.

Assuming the parties agree on a lease extension, Council will have three months from that date to register the lease. Failure to register the lease risks a maximum penalty of \$5,500.

Crown consent for proposed lease

The need for the lease extension to be registered arguably also requires the Crown's consent for the proposed lease. This is because Council, although it is the Crown land manager for the site, is not the legal owner on title of the Crown reserve.

Crown previously consented to Council offering Fishheads a two year lease extension. It is unclear at this stage whether Crown would consent to the five year proposal (at the time of writing this report enquiries of Crown are being made). The staff recommendation providing for the lease extension is thus subject to Crown consent.

#### Form of proposed lease

In an effort to reduce the complexity of this matter where possible, the proposed lease should be via a variation to Fishheads' current lease that will extend its term.

This is because if Council does not offer the proposed term by an extension, it would raise further administrative hurdles for Council, including compliance with the RL Act, Part 2. This part deals with the information that a lessor must provide to a lessee at the start of a new tenancy. Not extending the lease via a variation will also require far more complex drafting than varying the current agreement.

#### Long term plans for pool site

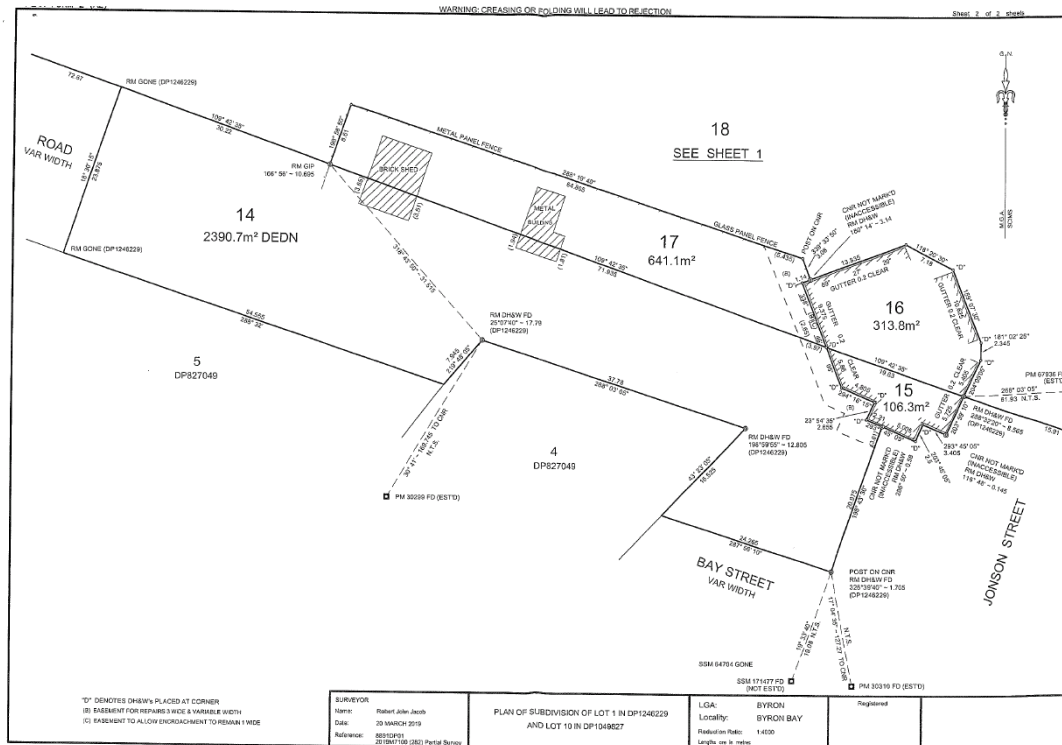
As Councillors are aware, the proposed lease extension to Fishheads sits within a wider context. Council and the Crown are currently undertaking the work required to rationalise the land ownership at the pool site.

This rationalisation will allow Council to ultimately upgrade the Byron pool on behalf of the public.

Resolution of the land tenure problems at the pool is nearing completion. For instance, Council (with Crown's agreement) obtained development consent in early March to subdivide the site to realign its boundaries. This will match the land parcels with the right owners. Council is currently complying with the consent conditions to obtain a subdivision certificate. The certificate is required before the subdivision can be registered at NSW Land Registry Services.

As per the below graphic, the subdivision will result in:

- Part of the pool (proposed lot 17) being transferred to Council by Crown; and
- Part of the restaurant (proposed lot 15) being surrendered to Crown by Council.



The subdivision will not be completed prior to the end of Fishheads' current lease on 30 June 2020.

- 5 However, once the subdivision is completed, Council and the Crown will be much closer to improving the site for the Byron Shire community and its visitors.

In this context, the lease extension will need to provide for Council access to pool during the next five years to carry out necessary works.

10

### Occupation history

- 15 In 2000 Council tendered the occupation and management of the Pool site, and the contract was awarded to Mark Sims and Ralph Mamone for a 4 1/2 year term. Upon acceptance of their tender offer (Tender Agreement), Council advised Messrs Sims and Mamone they could take possession of the site from 1 December 2000. However, vacant possession was delayed by 5 to 6 weeks as the then incumbent contractor did not vacate the site as required.
- 20 Messrs Sims and Mamone took vacant possession of the site on or around 8 January 2001 and operated the facility in accordance with the Tender Agreement. At the end of that agreement Council indicated an intent to again tender for the services at which time the land tenure issues were raised as a barrier to being able to call another tender.
- 25 Thereafter, Council sought and received permission from Crown Lands, and in consultation with the Office of Local Government, to directly negotiate several short-term (generally 2-year terms) arrangements with Fishheads over a number of years whilst Council and Crown Lands worked to resolve the complex land tenure arrangements at the site.
- 30 The tenure arrangements with Fishheads have been conducted in accordance with the ICAC Guidelines for managing risks in direct negotiations and would never have been permissible, supported, or defensible if not for the constraints of the public land management options available to Council because of the land tenure complexities.

These circumstances have resulted in Messrs Sims and Mamone (and later Fishheads) occupying the site continuously, but under several separately negotiated Deeds of Agreement, since January 2001.

- 5 Council, in consultation Office of Local Government and with authorisation from with Crown Lands has directly negotiated several Deeds of Agreement with Fishheads on substantially the same terms and conditions, as set below:

- 2- year Deed of Agreement from 1 July 2009 to 30 June 2011
- 10 • 2-year Deed of Agreement (1 year from 1 July 2011 to 30 June 2012 + 1 year option exercised for 1 July 2012 to 30 June 2013)
- 2 year Deed of Agreement from 1 July 2013 to 30 June 2015
- 2 year Deed of Agreement from 1 July 2015 to 30 June 2017
- 3 year Deed of Agreement from 1 July 2017 to 30 June 2020

15

## **STRATEGIC CONSIDERATIONS**

### ***Community Strategic Plan and Operational Plan***

<b>CSP Objective</b>	<b>L2</b>	<b>CSP Strategy</b>	<b>L3</b>	<b>DP Action</b>	<b>L4</b>	<b>OP Activity</b>
<b>Community Objective 1: We have infrastructure, transport and services which meet our expectations</b>	1.2	Provide essential services and reliable infrastructure which meet an acceptable community standard	1.2.6	Optimise Council's property portfolio (SP)		Not applicable

### 20 ***Legal/Statutory/Policy Considerations***

As set out in the body of this report

### ***Consultation and Engagement***

25

Councillors  
Crown  
Fishheads

30

**STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES****Report No. 13.3      Draft Policy - Managing Unreasonable Customer Conduct****Directorate:** Corporate and Community Services**Report Author:** Donna Tucker, Customer Service Coordinator**File No:** I2020/594**Summary:**

Unreasonable customer conduct can significantly affect staff and service efficiency. This Policy has been developed to provide guidance on how to manage unreasonable customer conduct and applies to all situations involving interactions between people working on behalf of Council and individual customers engaging in unreasonable conduct as defined.

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**RECOMMENDATION:**

1. That the Draft Managing Unreasonable Customer Conduct Policy (#E2019/70383) be placed on public exhibition for a period of 28 days; and
  - a) should no submissions be received, the Policy be adopted;
  - b) should submissions be received that all submissions be reported to Council at its August meeting.
2. That staff prepare and implement guidelines and staff training to support this Policy, when adopted.

**Attachments:**

- 1 Policy - Draft Managing Unreasonable Customer Conduct, E2019/70383 

**REPORT**

Council is committed to being accessible, inclusive and responsive to all customers who contact Council for assistance and/or with a complaint. At the same time, the ability for staff to effectively resolve issues and respond to requests depends on:

- staff being able to perform their role in the most effective and efficient ways possible
- their health, safety, wellbeing and security
- the ability to allocate Council resources fairly across all requests and complaints received

When customers behave unreasonably in their dealings with Council, their conduct can significantly affect staff and efficiency. As a result, Council will take proactive action to manage any customer conduct that negatively and unreasonably affects staff and/or other customers, in accordance with this Policy.

This Policy has been developed to provide guidance for Council staff to manage unreasonable customer conduct. Its aim is to provide a framework for staff to:

- feel confident and supported in taking action to manage unreasonable customer conduct
- act fairly, consistently, honestly and appropriately when responding to unreasonable customer conduct
- assess, identify and manage unreasonable customer conduct including applying restrictions where appropriate

Applying to all situations involving interactions between people working on behalf of Council and individual customers engaging in unreasonable conduct as defined, this Policy is based on and consistent with the NSW Ombudsman's *Managing Unreasonable Complainant Conduct Practice Manual*.

Note: Disorderly conduct at Council meetings by a member of the public is not included in this Policy, as it is considered a separate issue which is covered by the Code of Meeting Practice.

Once adopted, staff will prepare and implement guidelines and staff training to support this policy.

**STRATEGIC CONSIDERATIONS*****Community Strategic Plan and Operational Plan***

Byron Shire Council's *Community Strategic Plan 2028 – our Byron, our Future*, mandates a strong focus on community engagement that is genuine, open and transparent, with decisions that are explained and communicated. There is a clear community expectation that Council provides a high level of customer service and that concerns and suggestions are acknowledged and addressed in a timely manner. Implementing measures concerning unreasonable customer conduct ensures fair and equitable resource allocation for all customers and supports these community expectations.

CSP Objective	L2	CSP Strategy	L3	DP Action	L4	OP Activity
<b>Community Objective 5: We have community led decision making which is open and inclusive</b>	5.3	Deliver a high level of customer service	5.3.2	Further develop a proactive customer service culture	5.3.2.2	Provide customer enquiry statistics/business intelligence data to inform strategic decision-making



***Legal/Statutory/Policy Considerations***

5 The draft Managing Unreasonable Customer Conduct Policy has been prepared having regard to the statutory requirements of the Local Government Act and Regulations, as well as The Government Information (Public Access) Act 2009, and the Disability Inclusion Act 2014.

This Policy and the procedures within are based on the 'Unreasonable Complainant Conduct Model Policy' published in February 2013 by the NSW Ombudsman.

10 Furthermore, this Policy has been developed to be consistent with and support the following related Policies:

- Code of Conduct for Council Staff 2019
- Managing Unreasonable Online Conduct Practice Guide 2019
- 15 • Code of Meeting Practice 2019
- Enforcement Policy 2016
- Communications Policy 2013
- Complaints Management Policy 2011
- Social Media Policy 2013
- 20 • Work Health Safety Policy 2015

***Consultation and Engagement***

25 To assist with the development of this Policy, preliminary consultation occurred with the Workplace Health and Safety Committee at a meeting on 8 October 2019 and via email with Managers in October 2019.

The final draft was presented to the Executive Team and endorsed in December 2019.

30 The formal consultation period for all staff and Unions commenced on 13 December 2019 and concluded on 31 January 2020. Various staff made supportive submissions. Nil requests made to change processes or definitions contained in this Policy.

**Report No. 13.4**      **Draft Arts and Culture Policy**  
**Directorate:**      Corporate and Community Services  
**Report Author:**      Joanne McMurtry, Community Project Officer  
**File No:**      I2020/595

5

**Summary:**

10      A new Arts and Culture Policy has been drafted. The process for developing the draft included a literature review, Arts and Cultural sector consultation and broader community consultation.

15      This report requests that Council reviews the draft Arts and Culture Policy and endorses the draft policy for public exhibition.

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**RECOMMENDATION:**

1.      **That Council adopts the Draft Arts and Culture Policy for the purpose of public exhibition.**
2.      **That following the period of public exhibition, if there are no submissions, the draft Policy be adopted. If any public submissions are received a report to Council will be provided for adoption of the final version of the policy.**
3.      **That on the adoption of the Arts and Culture Policy, the Cultural Policy 2008 (Policy 3.42), (DM801769) be repealed.**
4.      **That Council notes the proposed inclusion of an Arts and Cultural Officer in the organisation's structure subject to funding becoming available during the 20/21 financial year.**

**Attachments:**

20      1      Draft Arts and Culture Policy, E2020/16373 

**REPORT**

Council's current Cultural Policy (Policy 3.42) was developed alongside the Cultural Plan (2008-2013) and last reviewed in April 2008.

The following steps were undertaken to develop the attached Draft Arts and Culture Policy:

- A literature review including:
  - Relevant regional, state, federal and industry plans
  - Best practice resources including case studies from other Councils
  - Community consultation from pre-existing sources
- Sector consultation in partnership with Arts Northern Rivers
  - Survey of industry and the community arts sector
  - Forums to explore themes identified through survey
- A community survey focused on key policy themes
- Policy drafting

**Consultation outcomes**

The arts and cultural sector told us key areas for support include:

- Cultural infrastructure – this related to both large and small cultural infrastructure from affordable workspaces to an aspirational multipurpose arts centre.
- Sector support – this included facilitating networking and connections within and between sectors, having a touchpoint at Council, and direct support.
- Resourcing – this included things like education, staffing, marketing, promotion, and facilitating access to funding opportunities such as donations, philanthropy, grants, crowd funding campaigns etc.

Previously, the community told us key areas of focus include:

- Supporting activity that aligns with community values such as:
  - protecting and enhancing the natural environment, sustainability, the sense of community and the lifestyle,
  - low impact community events and celebrations.
- Celebrating arts and the artistic community
- Supporting activities that celebrate diversity and enhance the sense of belonging/ improve social cohesion
- Maintaining the village and town atmospheres and identities
- Supporting connection with and celebration of local Aboriginal culture
- Telling the stories of the Shire, including historical stories.

Due to the timing of the recent community survey on draft key policy themes, concerns were raised by the community about the effect the COVID-19 pandemic on the arts and culture sector in the Shire. Consultation results supported minimising constraints on the arts and cultural sector.

Results also emphasised that Council has limited resources with many assets to maintain and that financial investment in arts and culture should be viewed in light of this.

Consultation with staff has confirmed that there are many areas across Council that the new Policy will inform. The sixteen relevant Council policies and plans are listed at the front of the draft policy document and range from the Busking Policy to Waste Disposal Fees for NFP Groups.

**Policy – key points**

The policy objectives are provided below, with the full draft policy provided in the attachment.

5 **Objectives:**

To cultivate Byron Shire's valued and vibrant arts and culture by:

1. Recognising and enabling continued development of arts and culture;
- 10 2. Recognising Council's key role in supporting arts and culture through the provision of infrastructure and spaces;
3. Supporting arts and cultural initiatives that are engaging, inclusive, accessible, diverse and responsive to local community identities;
- 15 4. Enabling meaningful arts and cultural development activities by supporting connections, collaborations and partnerships; and
5. Ensuring a coordinated, coherent and integrated approach to arts and culture across Council areas to achieve creative outcomes.

20 **Arts and Cultural Officer**

A key factor arising from the consultation is the view that Council could better provide a range of supports to the sector and the community through the establishment of a specialist Arts and Cultural Officer. This would enable Council to provide a touch point for the arts and cultural sector and support arts and cultural activity in the Shire.

25 ***Next steps***

It is recommended that Council place the draft Arts and Culture Policy on public exhibition inviting submissions.

30 Following the period of public exhibition, if there are no submissions, it is recommended the draft Policy be adopted. If any public submissions are received a report to Council will be provided for adoption of the final version of the policy.

35 On the adoption of the Arts and Culture Policy, it is recommended the Cultural Policy 2008 (Policy 3.42), (DM801769) be repealed.

**STRATEGIC CONSIDERATIONS**40 ***Community Strategic Plan and Operational Plan***

CSP Objective	L2	CSP Strategy	L3	DP Action	L4	OP Activity
Community Objective 2: We cultivate and celebrate our diverse cultures, lifestyle and sense of community	2.1	Support and encourage our vibrant culture and creativity	2.1.3	Enhance opportunities for interaction with art in public spaces	2.1.3.2	Develop Arts and Cultural Policy

***Legal/Statutory/Policy Considerations***

A number of Council policies intersect with the draft Arts and Culture Policy, as outlined in the draft Policy document.

5

***Financial Considerations***

A full time arts and cultural officer position would cost approximately \$97,650 to \$113,142. Given Council's current financial constraints resulting from the pandemic it is recommended, if Council is minded to support the establishment of a role, that recruitment be deferred and that funding be a consideration for the 20/21 QBR process.

10

***Consultation and Engagement***

As outlined in the report.

15

**Report No. 13.5**                      **Budget Review - 1 January to 31 March 2020**  
**Directorate:**                      Corporate and Community Services  
**Report Author:**                  James Brickley, Manager Finance  
**File No:**                              I2020/645

5

**Summary:**

10      This report is prepared to comply with Regulation 203 of the *Local Government (General) Regulation 2005* and to inform Council and the Community of Council's estimated financial position for the 2019/2020 financial year, reviewed as at 31 March 2020.




15      This report contains an overview of the proposed budget variations for the General Fund, Water Fund and Sewerage Fund. The specific details of these proposed variations are included in Attachments 1 and 2 for Council's consideration and authorisation.

20      Attachment 3 contains the Integrated Planning and Reporting Framework (IP&R) Quarterly Budget Review Statement (QBRs) as outlined by the Office of Local Government in circular 10-32.

**RECOMMENDATION:**

1.      **That Council authorises the itemised budget variations as shown in Attachment 2 (#E2020/30522) which include the following results in the 31 March 2020 Quarterly Review of the 2019/2020 Budget:**
  - a)      **General Fund – \$826,300 decrease to the Estimated Unrestricted Cash Result**
  - b)      **General Fund - \$3,981,300 increase in reserves**
  - c)      **Water Fund - \$444,400 increase in reserves**
  - d)      **Sewerage Fund - \$3,681,100 increase in reserves**
  
2.      **That Council adopts the revised General Fund Estimated Unrestricted Cash Result of \$23,700 for the 2019/2020 financial year as at 31 March 2020.**

**Attachments:**

- 25      1      Budget Variations for General, Water and Sewerage Funds, E2020/30521 
- 2      Itemised listing of Budget Variations for General, Water and Sewerage Funds, E2020/30522 
- 3      Integrated Planning and Reporting Framework (IP&R) required Quarterly Review Statements, E2020/30629 

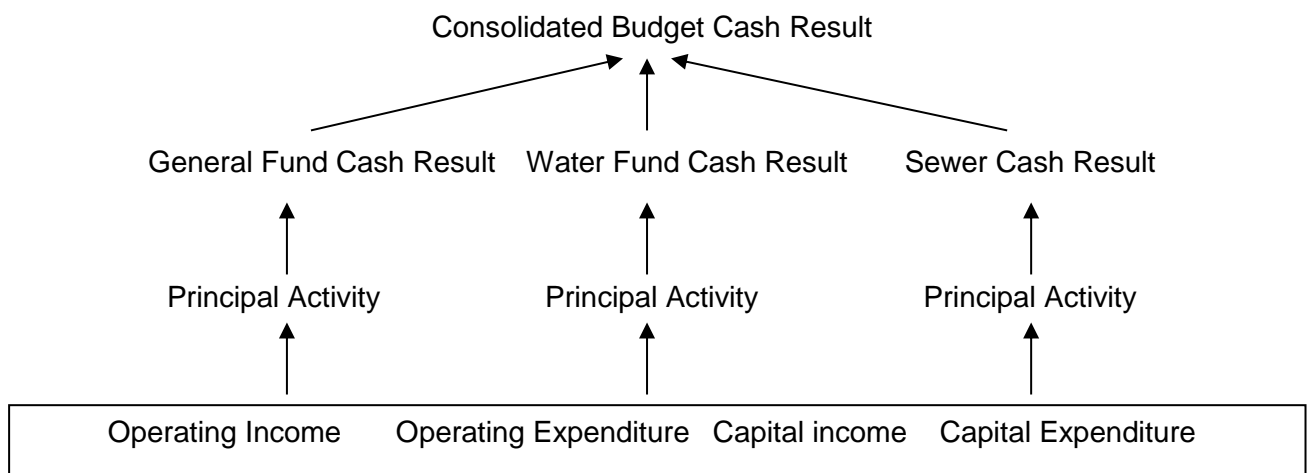
30

**REPORT**

Council adopted the 2019/2020 budget on 27 June 2019 via Resolution **19-325**. It also considered and adopted the budget carryovers from the 2018/2019 financial year, to be incorporated into the 2019/2020 budget at its Ordinary Meeting held on 22 August 2019 via Resolution **19-390**. Since that date, Council has reviewed the budget taking into consideration the 2018/2019 Financial Statement results and progress through three quarters of the 2019/2020 financial year. This report considers the March 2020 Quarter Budget Review.

The details of the budget review for the Consolidated, General, Water and Sewer Funds are included in Attachment 1, with an itemised listing in Attachment 2. This aims to show the consolidated budget position, as well as a breakdown by Fund and Principal Activity. The document in Attachment 1 outlines the budget review and is intended to provide Councillors with more detailed information to assist with decision making regarding Council's finances.

Contained in the document at Attachment 1 is the following reporting hierarchy:



The pages in Attachment 1 are presented (from left to right) by showing the original budget as adopted by Council on 27 June 2019 plus the adopted carryover budgets from 2018/2019 followed by the resolutions between July and September, the September review, resolutions between October and December, the December review, resolutions between January and March and the revote (or adjustment for this review) and then the revised position projected for 30 June 2020 as at 31 March 2020.

On the far right of the Principal Activity, there is a column titled "Note". If this is populated by a number, it means that there has been an adjustment in the quarterly review. This number then corresponds to the notes at the end of the Attachment 1 which explains the variation.

There is also information detailing restricted assets (reserves) to show Council's estimated balances as at 30 June 2020 for all its reserves.

A summary of Capital Works is also included by Fund and Principal Activity.

**Office of Local Government Budget Review Guidelines:**

The Office of Local Government on 10 December 2010 issued the new Quarterly Budget Review Guidelines via Circular 10-32, with the reporting requirements to apply from 1 July 2011. This report is prepared in accordance with the guidelines.



The Quarterly Budget Review Guidelines set a minimum standard of disclosure, with these standards being included in the Local Government Code of Accounting Practice and Financial Reporting as mandatory requirements for Councils to address.

- 5 Since the introduction of the new planning and reporting framework for NSW Local Government, it is now a requirement for Councils to provide the following components when submitting a Quarterly Budget Review Statement (QBRs):-
- 10 • A signed statement by the Responsible Accounting Officer on Council's financial position at the end of the year based on the information in the QBRs
  - Budget review income and expenses statement in one of the following formats:
    - Consolidated
    - By fund (e.g. General, Water, Sewer)
    - 15 ○ By function, activity, program etc. to align with the management plan/operational plan
  - Budget Review Capital Budget
  - Budget Review Cash and Investments Position
  - 20 • Budget Review Key performance indicators
  - Budget Review Contracts and Other Expenses
- 25 The above components are included in Attachment 3:-

**Income and Expenditure Budget Review Statement by Type** – This shows Council's income and Expenditure by type. This has been split by Fund. Adjustments are shown, looking from left to right. These adjustments are commented on through the last 11 pages of Attachment 1.

**Capital Budget Review Statement** – This statement identifies in summary Council's capital works program on a consolidated basis and then split by Fund. It also identifies how the capital works program is funded. Note that this is a snapshot in time as at 31 March 2020.

**Cash and Investments Budget Review Statement** – This statement reconciles Council's restricted funds (reserves) against available cash and investments. Council has attempted to indicate an actual position as at 31 March 2020 of each reserve to show a total cash position of reserves with any difference between that position and total cash and investments held as available cash and investments. It should be recognised that the figure is at a point in time and may vary greatly in future quarterly reviews pending on cash flow movements.

**Key Performance Indicators (KPI's)** – At this stage, the KPI's within this report are:-

- **Debt Service Ratio** - This assesses the impact of loan principal and interest repayments on the discretionary revenue of Council.
- **Rates and Annual Charges Outstanding Ratio** – This assesses the impact of uncollected rates and annual charges on Councils liquidity and the adequacy of recovery efforts
- **Asset Renewals Ratio** – This assesses the rate at which assets are being renewed relative to the rate at which they are depreciating.

These may be expanded in future to accommodate any additional KPIs that Council may adopt to use in the Long Term Financial Plan (LTFP.)

# BYRON SHIRE COUNCIL

## STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

13.5

Contracts and Other Expenses - This report highlights any contracts Council entered into during the October to December quarter that are greater than \$50,000.

### CONSOLIDATED RESULT

5

The following table provides a summary of the overall Council budget on a consolidated basis inclusive of all Funds' budget movements for the 2019/2020 financial year projected to 30 June 2020 but revised as at 31 March 2020.

2019/2020 Budget Review Statement as at 31 March 2020	Original Estimate (Including Carryovers) 1/7/2019	Adjustments to 31 Mar 2020 including Resolutions*	Proposed 31 Mar 2020 Review Revotes	Revised Estimate 30/6/2020 at 31/03/2020
Operating Revenue	87,128,100	1,108,000	(5,045,700)	83,190,400
Operating Expenditure	93,783,700	2,342,700	(3,718,800)	92,407,600
<b>Operating Result – Surplus/Deficit</b>	<b>(6,655,600)</b>	<b>(1,234,700)</b>	<b>(1,326,900)</b>	<b>(9,217,200)</b>
Add: Capital Revenue	28,167,600	2,659,000	(6,070,600)	24,756,000
<b>Change in Net Assets</b>	<b>21,512,000</b>	<b>1,424,300</b>	<b>(7,380,500)</b>	<b>15,538,800</b>
Add: Non Cash Expenses	14,657,200	0	0	14,657,200
Add: Non-Operating Funds Employed	1,844,000	0	0	1,844,000
Subtract: Funds Deployed for Non-Operating Purposes	(56,567,300)	(7,095,000)	14,678,000	(48,984,300)
<b>Cash Surplus/(Deficit)</b>	<b>(18,554,100)</b>	<b>(5,670,700)</b>	<b>7,280,500</b>	<b>(16,944,300)</b>
Restricted Funds – Increase / (Decrease)	(18,421,700)	(5,653,100)	8,106,800	(15,968,000)
<b>Forecast Result for the Year – Surplus/(Deficit) – Unrestricted Cash Result</b>	<b>(132,400)</b>	<b>(17,600)</b>	<b>(826,300)</b>	<b>(976,300)</b>

10

### GENERAL FUND

In terms of the General Fund projected Unrestricted Cash Result the following table provides a reconciliation of the estimated position as at 31 March 2020:

15

<b>Opening Balance – 1 July 2019</b>	<b>\$1,000,000</b>
Plus original budget movement and carryovers	(132,400)
Council Resolutions July – September Quarter	0
September Budget Review	132,400
Council Resolutions October – December Quarter	0
December Budget Review	(150,000)
Council Resolutions January – March Quarter	0

Recommendations within this Review – increase/(decrease)	(826,300)
<b>Forecast Unrestricted Cash Result – Surplus/(Deficit) – 30 June 2020</b>	<b>(976,300)</b>
<b>Estimated Unrestricted Cash Result Closing Balance – 30 June 2020</b>	<b>\$23,700</b>

The General Fund financial position overall has decreased by \$826,300 as a result of this budget review, bringing the forecast unrestricted cash result for the year to \$23,700. This is well below the target of \$1,000,000. The proposed budget changes are detailed in Attachment 1 and summarised further in this report below.

### **Council Resolutions**

There were no Council resolutions that impacted the budget result in the January 2020 to March 2020 quarter.

### **Budget Adjustments**

The budget adjustments identified in Attachments 1 and 2 for the General Fund have been summarised by Council Directorate in the following table:

	<b>Revenue Increase/ (Decrease) \$</b>	<b>Expenditure Increase/ (Decrease) \$</b>	<b>Accumulated Surplus (Working Funds) Increase/ (Decrease) \$</b>
<b>Council Directorate</b>			
General Manager	11,500	11,500	0
Corporate & Community Services	(452,100)	(106,500)	(345,600)
Infrastructure Services	(15,517,400)	(15,384,600)	(132,800)
Sustainable Environment & Economy	(547,200)	(199,300)	(347,900)
<b>Total Budget Movements</b>	<b>(16,505,200)</b>	<b>(15,678,900)</b>	<b>(826,300)</b>

### **Budget Adjustment Comments**

Within each of the Budget Directorates of the General Fund, are a series of budget adjustments identified in detail at Attachment 1 and 2. More detailed notes on these are provided in Attachment 1 but in summary the major additional items included are summarised below by Directorate and are included in the overall budget adjustments table above:

As an overall summary, the now forecasted budget deficit position for 2019/2020 is due to the impact of the COVID-19 Pandemic and associated public order announcements/restrictions. Further commentary on this is contained in the Financial Considerations section of this report but separate outcomes for each Council Directorate are outlined below.

#### **General Manager's Program**

- In the General Manager's program, it is proposed to increase the budget for legal expenditure by \$11,500 to reflect actual and committed legal expenditure known by Council with a small buffer. This can be funded from legal fees recovered (\$11,500).

#### **Corporate and Community Services**

- In the Councillors' program, it is proposed to decrease expenditure by \$10,000 as the budget for committees and guidance groups is not required for the remainder of the financial year.

- In the General Purpose Revenues Program it is proposed to decrease the budget for interest earned on investments by \$60,300. Interest rates are at an all time low and it is likely Council will not earn the current estimated interest revenue.
  
- 5 • In the Information Services program it is proposed to increase operating expenditure largely due to the installation of CCTV at main beach car park in Byron Bay (\$75,500) and a decrease to the WHS software budget of \$10,400. There are various other adjustments within this program that can be seen in more detail on attachment 2 and have no impact on the budget result as they net each other off.
  
- 10 • In the Corporate Services program it is proposed to decrease operating expenditure due to the Byron Model (\$22,000), overtime for meetings (\$2,000), risk management programs (\$5,000), claims management admin fees (\$10,000), business continuity programs (\$25,000) and the strategic procurement roadmap (\$2,100) not being required this financial year.
  
- 15 • In the Community Development program it is proposed to decrease operating expenditure due to budgets not being required for the remainder of 2019/20 for schoolies approvals (\$4,300), S355 administration (\$4,600), aboriginal committee management (\$2,000), volunteers recognition (\$8,000), NAIDOC week (\$1,500), seniors week (\$5,100) and S356 administration (\$2,000). In addition to this there are various other budget line items that can be returned to or restricted in reserves and utilised in the draft 2020/21 budget. These can be seen in pages two and three of Attachment 2 under the budget program heading Community Development and are outlined under Note 8 in the Budget Variations explanations section of Attachment 1.
  
- 25 • In the Sandhills program and Other Children's Services, it is proposed to decrease income by \$239,000 and \$60,700 respectively. This is due to the Federal Government's announcement of free childcare amid the COVID-19 pandemic and is the estimated fee income due from families from the start of April to the end of June. Council will still receive subsidies from the government but will not receive direct payments from families. Whilst Council may be able to access the JobKeeper subsidy for Child Care Services via the NSW State Government, this has yet to be formalised.

**Infrastructure Services**

- 35 • In the Projects and Commercial Development program, it is proposed to decrease the following capital works projects due to them not being completed this financial year - Lot 22 Mullumbimby (\$4,000) and Lot 102 Depot relocation (\$5,000).
  
- 40 • In the Emergency Service program, it is proposed to increase expenditure by \$40,000 for the North Byron FRMS&P to fund additional tasks that were required as part of FRMS development. This was supported by the Flood Committee. It is also proposed to increase capital expenditure by \$30,000 for the Flood Warning Network. Council Resolution 19-441 resolved "That an additional \$30,000 be sourced from within the existing Infrastructure Services Budget and directed to this project at the March Quarterly Budget Review, to ensure sufficient funds are available for the contract"
  
- 45 • In the Depot and Fleet Management Program, operating revenue and operating expenditure have been both reduced by \$2,777,900. This adjustment relates to the reclassification of internal plant hire revenue in terms of financial statement reporting. In preparing Council's financial statements internal revenue and expenses are eliminated against each other as the Accounting Standards require this. Internal plant hire is recovered through maintenance and capital works budgets by charging plant items out as they are used. The plant hire generated then funds the running costs of the plant and can also provide a funding source for their eventual replacement. This change is to make Council's budgeting more consistent with its published financial statements given the plant hire revenue is not coming from an external

source but is a charge Council imposes on itself to fund its plant fleet. This reclassification has no impact on the projected budget result.

- 5      • In the Local Roads and Drainage program, a number of adjustments are outlined under Note 17 in the Budget Variations explanations section of Attachment 1. Further disclosure is included on pages four to nine of Attachment 2 under the budget program heading Local Roads and Drainage.
- 10     • In the Open Space & Recreation program, a number of adjustments are outlined under Note 19 in the Budget Variations explanations section of Attachment 1. Further disclosure is included on pages nine and ten of Attachment 2 under the budget program heading Open Space & Recreation.
- 15     • In the Waste & Recycling program a number of adjustments are outlined under Note 20 in the Budget Variations explanations section of Attachment 1. Further disclosure is included on pages ten and eleven of Attachment 2 under the budget program heading Waste & Recycling. These are funded through the Domestic Waste and Waste Management reserves.
- 20     • In the Cavanbah Centre program, it is proposed to decrease income by \$80,100 due to the Public Health Order/Council's decision to close the Cavanbah Centre indefinitely as a result of the COVID-19 pandemic. This is the estimated loss of income from April to June 2020.
- 25     • In the Holiday Parks programs, it is proposed to decrease operating income by \$650,000 and operating expenditure by \$175,400 due to the Public Health Order/Council's decision to close the holiday parks indefinitely as a result of the COVID-19 pandemic. This is the estimated loss of income and expenditure savings from April to June 2020.
- 30     • In the Facilities Management program it is proposed to decrease operating income for the Byron pool (\$31,400) and Mullumbimby pool (\$35,000). The pools have been closed due to the COVID-19 pandemic and will not open for the remainder of the swimming season. These adjustments align the budgets to actual income received. It is proposed to decrease operating expenditure due to a decrease in electricity costs at Mullumbimby pool due to the closure (\$26,000), a decrease for maintenance at the old Mullumbimby hospital (\$50,000) and the old Byron hospital (\$330,000) as they will not be expended by 30 June. It is proposed to decrease capital expenditure by \$160,600 due to the refurbishment at the Mullumbimby War Widows Cottage not being fully expended. This can be moved to the draft 2020/21 budget.

### **Sustainable Environment and Economy**

- 40     • In the Development & Certification program it is proposed to decrease operating expenditure due to the anticipation that overtime budgets will not be utilised prior to 30 June (\$83,200) and a decrease against online applications as this will not proceed this financial year (\$40,000). Operating revenue has increased \$17,000 due to reclassification of a grant for Heritage Advisor that was included in the original budget estimates as a capital grant but is an operating grant.
- 45     Capital income has been reduced by the corresponding \$17,000.
- 50     • In the Planning Policy & Natural Environment program, it is proposed to increase operating income and expenditure due to grants received for the 2019 Flying Fox Grant Program, Paddy's Creek Yr1 (\$7,000), and Habitat Actions Grants 2019 (\$15,900). It is also proposed to decrease the budget of various other line items shown in comment 26 that can be returned to reserves for use in the 2020/21 financial year.
- 55     • In the Environment & Compliance program, it is proposed to decrease operating income by \$400,000 due to the estimated shortfall in revenue due from fines.

- In the Economic Development program it is proposed to decrease operating income due to the Mullum Music (\$1,000) and Byron Writers festivals (\$5,000) as they will not take place due to COVID 19, a decrease against sector capacity building that will not be expended in 2019/20 (\$9,000) a decrease against events communications and applications (\$9,600) as the project is currently on hold due to COVID-19 and the same with festival funding support (\$12,600) and Events plan (\$9,800). It is proposed to transfer these to the economic development reserve for use in 2020/21. An increase is proposed as an additional budget is required for the sustainable visitation strategy (\$20,000), funded from the economic development reserve.

## **WATER FUND**

After completion of the 2018/2019 Financial Statements the Water Fund as at 30 June 2019 has a capital works reserve of \$8,324,600 and held \$3,117,100 in section 64 developer contributions.

The estimated Water Fund reserve balances as at 30 June 2020, and forecast in this Quarter Budget Review, are derived as follows:

### Capital Works Reserve

<b>Opening Reserve Balance at 1 July 2019</b>	<b>\$8,324,600</b>
Plus original budget reserve movement	(31,100)
Less reserve funded carryovers from 2018/2019	(375,700)
Resolutions July - September Quarter – increase / (decrease)	0
September Quarterly Review Adjustments – increase / (decrease)	(100,000)
Resolutions October - December Quarter – increase / (decrease)	0
December Quarterly Review Adjustments – increase / (decrease)	(4,600)
Resolutions January - March Quarter – increase / (decrease)	0
March Quarterly Review Adjustments – increase / (decrease)	550,200
<b>Forecast Reserve Movement for 2019/2020 – Increase / (Decrease)</b>	<b>38,800</b>
<b>Estimated Reserve Balance at 30 June 2020</b>	<b>\$8,363,400</b>

### Section 64 Developer Contributions

<b>Opening Reserve Balance at 1 July 2019</b>	<b>\$3,117,100</b>
Plus original budget reserve movement	(966,100)
Less reserve funded carryovers from 2018/2019	(503,800)
Resolutions July - September Quarter – increase / (decrease)	0
September Quarterly Review Adjustments – increase / (decrease)	322,500
Resolutions October - December Quarter – increase / (decrease)	0
December Quarterly Review Adjustments – increase / (decrease)	(665,000)
Resolutions January - March Quarter – increase / (decrease)	0
March Quarterly Review Adjustments – increase / (decrease)	(105,800)
<b>Forecast Reserve Movement for 2019/2020 – Increase / (Decrease)</b>	<b>(1,918,200)</b>
<b>Estimated Reserve Balance at 30 June 2020</b>	<b>\$1,198,900</b>

Movements for Water Fund can be seen in Attachment 1 with a proposed estimated increase to reserves (including S64 Contributions) overall of \$444,400 from the 31 March 2020 Quarter Budget Review.

## **SEWERAGE FUND**

After completion of the 2018/2019 Financial Statements the Sewer Fund as at 30 June 2019 has a capital works reserve of \$6,392,800 and plant reserve of \$773,400. It also held \$8,685,200 in section 64 developer contributions.

Capital Works Reserve

<b>Opening Reserve Balance at 1 July 2019</b>	<b>\$6,392,800</b>
Plus original budget reserve movement	(1,005,900)
Less reserve funded carryovers from 2018/2019	(1,454,800)
Resolutions July - September Quarter – increase / (decrease)	0
September Quarterly Review Adjustments – increase / (decrease)	(618,200)
Resolutions October - December Quarter – increase / (decrease)	0
December Quarterly Review Adjustments – increase / (decrease)	300,800
Resolutions January - March Quarter – increase / (decrease)	(147,000)
March Quarterly Review Adjustments – increase / (decrease)	3,012,900
<b>Forecast Reserve Movement for 2019/2020 – Increase / (Decrease)</b>	<b>87,800</b>
<b>Estimated Reserve Balance at 30 June 2020</b>	<b>\$6,480,600</b>

5 Plant Reserve

<b>Opening Reserve Balance at 1 July 2019</b>	<b>\$773,400</b>
Plus original budget reserve movement	0
Less reserve funded carryovers from 2018/2019	0
Resolutions July - September Quarter – increase / (decrease)	0
September Quarterly Review Adjustments – increase / (decrease)	0
Resolutions October - December Quarter – increase / (decrease)	0
December Quarterly Review Adjustments – increase / (decrease)	0
Resolutions January - March Quarter – increase / (decrease)	0
March Quarterly Review Adjustments – increase / (decrease)	0
<b>Forecast Reserve Movement for 2019/2020 – Increase / (Decrease)</b>	<b>0</b>
<b>Estimated Reserve Balance at 30 June 2020</b>	<b>\$773,400</b>

Section 64 Developer Contributions

<b>Opening Reserve Balance at 1 July 2019</b>	<b>\$8,685,200</b>
Plus original budget reserve movement	(816,100)
Less reserve funded carryovers from 2018/2019	(1,018,700)
Resolutions July - September Quarter – increase / (decrease)	0
September Quarterly Review Adjustments – increase / (decrease)	(20,000)
Resolutions October - December Quarter – increase / (decrease)	0
December Quarterly Review Adjustments – increase / (decrease)	(521,500)
Resolutions January - March Quarter – increase / (decrease)	0
March Quarterly Review Adjustments – increase / (decrease)	668,200
<b>Forecast Reserve Movement for 2019/2020 – Increase / (Decrease)</b>	<b>(1,708,100)</b>
<b>Estimated Reserve Balance at 30 June 2020</b>	<b>\$6,977,100</b>

10 Movements for the Sewerage Fund can be seen in Attachment 1 with a proposed estimated overall increase to reserves (including S64 Contributions) of \$3,681,100 from the 31 March 2020 Quarter Budget Review.

15 **Legal Expenses**

One of the major financial concerns for Council over previous years has been legal expenses. Not only does this item represent a large expenditure item funded by general revenue, but it can also be susceptible to large fluctuations.

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The table that follows indicates the allocated budget and actual legal expenditure on a fund basis as at 31 March 2020.

#### Total Legal Income & Expenditure as at 31 March 2020

Program	2019/2020 Budget (\$)	Actual (\$)	Percentage To Revised Budget
<b>Income</b>			
Legal Expenses Recovered	28,000	39,500	141.07%
<b>Total Income</b>	<b>28,000</b>	<b>39,500</b>	<b>141.07%</b>
<b>Expenditure</b>			
General Legal Expenses	500,000	472,818	94.56%
<b>Total Expenditure General Fund</b>	<b>500,000</b>	<b>472,818</b>	<b>94.56%</b>

Note: As the original budget has already been expended, Council is now utilising the legal reserve for additional costs incurred for the remainder of 2019/2020. Consequently the legal services reserve will be below the \$500,000 benchmark.

#### Financial Considerations

The 31 March 2020 Quarter Budget Review of the 2019/2020 Budget has increased the overall budget deficit result by \$826,300. This brings the movement against the unrestricted cash balance attributable to the General Fund to a total deficit of \$976,300 for the year, leaving the estimated unrestricted cash balance attributable to the General Fund at an estimated \$23,700 against the benchmark of \$1,000,000 at 30 June 2020. This is due to the estimated economic impact of the COVID-19 Pandemic and includes significant budget adjustments to allow for estimated revenue losses plus the revision of expenditure and capital works anticipated to be completed at 30 June 2020.

This report indicates that the short term financial position of the Council would normally be considered unsatisfactory for the 2019/2020 financial year, considering the original estimate of income and expenditure at the 31 March 2020 Quarter Budget Review. It would normally be expected that Council must implement remedial action to address the budget position but the contributing factors have been outside Council's control and not of its own doing. These are not normal times and the economic impact could not have been foreseen. Council's efforts to maintain an unrestricted cash balance during its term are now paying dividends by assisting Council to manage the 2019/2020 financial year in the current environment.

Whilst not a statutory requirement, a budget review will be prepared for the 30 June 2020 quarter to ascertain an indicative financial outcome for 2019/2020 prior to completion of the financial statements.

#### 2020/2021 Budget Implications

Council will need to be mindful in considering future decisions with financial impacts as it navigates the lasting impacts of the COVID-19 Pandemic. The unrestricted cash balance has been almost completely utilised and that there will be further revenue losses in 2020/2021. While the capital works programme will benefit from significant grant funding, Council will need to carefully manage operational expenditure.

**Community Strategic Plan and Operational Plan**

CSP Objective	L2	CSP Strategy	L3	DP Action	L4	OP Activity
<b>Community Objective 5: We have community led decision making which is open and inclusive</b>	5.5	Manage Council's finances sustainably	5.5.1	Enhance the financial capability and acumen of Council	5.5.1.1	Financial reporting as required provided to Council and Management

**Legal/Statutory/Policy Considerations**

- 5 In accordance with Regulation 203 of the Local Government (General) Regulation 2005 the Responsible Accounting Officer of a Council must:-
- 10 (1) *Not later than 2 months after the end of each quarter (except the June quarter), the responsible accounting officer of a council must prepare and submit to the council a budget review statement that shows, by reference to the estimate of income and expenditure set out in the statement of the council's revenue policy included in the operational plan for the relevant year, a revised estimate of the income and expenditure for that year.*
- 15 (2) *A budget review statement must include or be accompanied by:*
- (a) *a report as to whether or not the responsible accounting officer believes that the statement indicates that the financial position of the council is satisfactory, having regard to the original estimate of income and expenditure, and*
- (b) *if that position is unsatisfactory, recommendations for remedial action.*
- 20 (3) *A budget review statement must also include any information required by the Code to be included in such a statement.*

**Report No. 13.6**                      **Council Investments - 1 April 2020 to 30 April 2020**  
**Directorate:**                      Corporate and Community Services  
**Report Author:**                  James Brickley, Manager Finance  
**File No:**                              I2020/670

5

**Summary:**

10      This report includes a list of investments and identifies Council's overall cash position for the period 1 April 2020 to 30 April 2020 for information.

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

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**RECOMMENDATION:**

**That the report listing Council's investments and overall cash position as at 30 April 2020 be noted.**

## REPORT

Council has continued to maintain a diversified portfolio of investments. At 30 April 2020, the average 90 day bank bill rate (BBSW) for the month of April 2020 was 0.17%. Council's performance to 30 April was 1.74%. This is largely due to the active ongoing management of the investment portfolio, maximising investment returns through secure term deposits, bonds and purchasing floating rate notes with attractive interest rates. It should be noted that as investments mature, Council's % return will continue to decrease due to the lower rates available in the current market.

The table below identifies the investments held by Council as at 30 April 2020

Schedule of Investments held as at 30 April 2020

Purch Date	Principal (\$)	Description	CP*	Rating	Maturity Date	No Fossil Fuel	Type	Interest Rate Per Annum	Current Value
24/03/17	1,000,000	NAB Social Bond (Gender Equality)	Y	AA-	24/03/22	Y	B	3.25%	1,044,263.16
15/11/18	980,060	NSW Treasury Corp (Green Bond)	N	AAA	15/11/28	Y	B	3.00%	1,108,880.00
20/11/18	1,018,310	QLD Treasury Corp (Green Bond)	N	AA+	22/11/24	Y	B	3.00%	1,077,720.00
28/03/19	1,000,000	National Housing Finance & Investment Corporation	Y	AAA	28/03/31	Y	B	2.38%	1,062,980.00
21/11/19	1,000,250	NSW Treasury Corp (Sustainability Bond)	N	AAA	20/03/25	Y	B	1.25%	1,000,250.00
27/11/19	500,000	National Housing Finance & Investment Social Bond	Y	AAA	27/05/30	Y	B	1.57%	500,000.00
31/03/17	1,000,000	CBA Climate Bond	Y	AA-	31/03/22	Y	FRN	1.84%	1,008,850.00
16/11/17	750,000	Bank of Queensland	Y	BBB+	16/11/21	N	FRN	1.99%	753,667.50
30/08/18	500,000	Bank Australia Ltd (Sustainability Bond)	Y	BBB+	30/08/21	Y	FRN	2.27%	502,795.00
07/12/18	2,000,000	Credit Union Australia	Y	BBB	07/12/20	Y	TD	3.02%	2,000,000.00
03/07/19	1,000,000	Australian Military Bank	Y	NR	02/07/20	N	TD	2.12%	1,000,000.00
27/08/19	1,000,000	AMP Bank	Y	BBB	26/08/20	N	TD	1.80%	1,000,000.00
25/09/19	2,000,000	NAB	N	AA-	24/09/20	N	TD	1.60%	2,000,000.00
31/10/19	1,000,000	ME Bank	Y	BBB	28/07/20	Y	TD	1.58%	1,000,000.00
06/11/19	1,000,001	AMP Bank	N	BBB	06/05/20	N	TD	1.75%	1,000,001.00
08/11/19	2,000,000	Suncorp	Y	A+	04/08/20	N	TD	1.60%	2,000,000.00
25/11/19	1,000,000	AMP Bank	N	BBB	25/05/20	N	TD	1.90%	1,000,000.00
27/11/19	1,000,000	Coastline Credit Union	Y	NR	26/11/20	Y	TD	1.80%	1,000,000.00
02/12/19	1,000,000	The Mutual Bank	Y	NR	02/06/20	Y	TD	1.75%	1,000,000.00
03/12/19	1,000,000	AMP Bank	N	BBB	02/06/20	N	TD	1.90%	1,000,000.00
06/01/20	2,000,000	NAB	N	AA-	04/06/20	N	TD	1.58%	2,000,000.00
06/01/20	1,000,000	Judo Bank	Y	NR	05/01/21	N	TD	2.10%	1,000,000.00

# BYRON SHIRE COUNCIL

## STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

13.6

Purch Date	Principal (\$)	Description	CP*	Rating	Maturity Date	No Fossil Fuel	Type	Interest Rate Per Annum	Current Value
08/01/20	1,000,000	Suncorp	N	A+	07/05/20	N	TD	1.50%	1,000,000.00
13/01/20	1,000,000	Suncorp	N	A+	12/05/20	N	TD	1.50%	1,000,000.00
20/01/20	1,000,000	Westpac (Tailored)	Y	AA-	20/01/21	Y	TD	1.41%	1,000,000.00
20/01/20	2,000,000	NAB	N	AA-	19/05/20	N	TD	1.60%	2,000,000.00
24/01/20	2,000,000	Bank of Queensland	N	BBB+	24/07/20	N	TD	1.60%	2,000,000.00
31/01/20	1,000,000	MyState Bank Limited	Y	NR	28/05/20	N	TD	1.60%	1,000,000.00
30/01/20	1,000,000	Judo Bank	N	NR	30/07/20	N	TD	1.85%	1,000,000.00
30/01/20	1,000,000	The Mutual Bank	N	NR	01/05/20	N	TD	1.75%	1,000,000.00
03/02/20	1,000,000	NAB	N	AA-	04/05/20	N	TD	1.58%	1,000,000.00
04/02/20	1,000,000	Summerland Credit Union	Y	NR	04/05/20	Y	TD	1.70%	1,000,000.00
06/02/20	1,000,000	My State Bank	N	NR	06/08/20	Y	TD	1.70%	1,000,000.00
12/02/20	1,000,000	The Mutual Bank	N	NR	12/05/20	Y	TD	1.78%	1,000,000.00
12/02/20	1,000,000	ME Bank	N	BBB	12/05/20	Y	TD	1.52%	1,000,000.00
25/02/20	1,000,000	Macquarie Bank Ltd	Y	A	25/05/20	N	TD	1.60%	1,000,000.00
25/02/20	2,000,000	NAB	N	AA-	25/05/20	N	TD	1.60%	2,000,000.00
25/02/20	1,000,000	Macquarie Bank Ltd	N	A	26/05/20	Y	TD	1.80%	1,000,000.00
26/02/20	1,000,000	Judo Bank	N	NR	26/05/20	Y	TD	1.85%	1,000,000.00
27/02/20	2,000,000	AMP Bank	N	BBB+	27/05/20	N	TD	1.75%	2,000,000.00
02/03/20	2,000,000	Macquarie Bank Ltd	N	A	01/06/20	N	TD	1.70%	2,000,000.00
02/03/20	2,000,000	Macquarie Bank Ltd	N	A	01/06/20	N	TD	1.70%	2,000,000.00
03/03/20	2,000,000	Macquarie Bank Ltd	N	A	02/06/20	N	TD	1.70%	2,000,000.00
04/03/20	1,000,000	Auswide Bank Ltd	Y	NR	03/06/20	Y	TD	1.55%	1,000,000.00
09/03/20	2,000,000	NAB	N	AA-	09/06/20	N	TD	1.37%	2,000,000.00
12/03/20	2,000,000	Macquarie Bank Ltd	N	A	10/06/20	N	TD	1.70%	2,000,000.00
25/03/20	1,000,000	TCorp Green Deposit	N	AAA	25/09/20	N	TD	0.57%	1,000,000.00
06/04/20	1,000,000	Police Credit Union Ltd (SA)	Y	NR	06/10/20	N	TD	1.75%	1,000,000.00
23/04/20	1,000,000	Summerland Credit Union	N	NR	23/07/20	Y	TD	1.60%	1,000,000.00
28/04/20	1,000,000	The Capricornian	Y	NR	23/07/20	Y	TD	1.60%	1,000,000.00
29/04/20	2,000,000	Macquarie Bank Ltd	N	A	29/07/20	N	TD	1.25%	2,000,000.00
N/A	3,221,599.64	CBA Business Saver	N	AA-	N/A	N	CALL	1.20%	3,221,599.64
N/A	2,503,779.62	CBA Business Saver – Tourism Infrastructure Grant	N	AA-	N/A	N	CALL	1.20%	2,503,779.62
N/A	3,581,642.06	NSW Treasury Corp	N	AAA	N/A	Y	CALL	1.10%	3,581,642.06
<b>Total</b>							<b>AVG</b>	<b>1.74%</b>	<b>73,366,427.98</b>

**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

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.

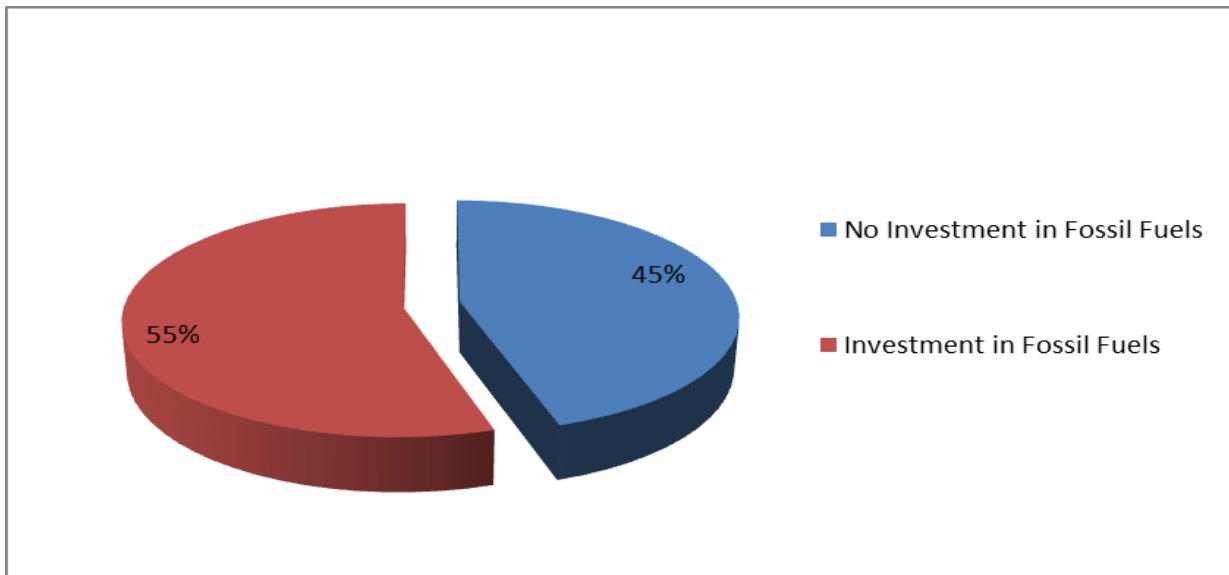
Environmental and Socially Responsible Investing (ESRI)

- 5 An additional column has been added to the schedule of Investments 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](http://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 Council's 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 which can be found on Council's [website](#).

20 Council has two investments with financial institutions that invest in fossil fuels but are nevertheless aligned with the broader definition of Environmental and Socially Responsible investments i.e.:

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.



### Investment Policy Compliance

Investment policy compliance			ACTUAL	Variance
% per institution should not exceed the following				
AAA to AA	A1+	100%	43%	Meets policy
A+ to A-	A1	60%	17%	Meets policy
BBB to NR	A2,NR	40%	40%	Meets policy

The above table identifies compliance with Council's Investment Policy by the proportion of the investment portfolio invested with financial institutions, along with their associated credit ratings compared to parameters in the Investment Policy. The parameters are designed to support prudent short and long-term management of credit risk and ensure diversification of the investment portfolio. Note that the financial institutions currently offering investments in the 'ethical' area are still mainly those with lower credit ratings (being either BBB or not rated at all i.e. credit unions).

### Associated Risk

Moving more of the investment portfolio into the 'ethical' space will lower the credit quality of the investment portfolio overall and increase the organisation's credit risk (i.e. exposure to potential default). To monitor this issue the 'Investment Policy Compliance' table is now produced for each monthly Investment Report to Council.

The investment portfolio is outlined in the table below by investment type for the period 1 April 2020 to 30 April 2020:

### Dissection of Council Investment Portfolio as at 30 April 2020

Principal Value (\$)	Investment Linked to:	Current Market Value (\$)	Cumulative Unrealised Gain/(Loss) (\$)
56,000,001.00	Term Deposits	56,000,001.00	0.00
2,250,000.00	Floating Rate Note	2,265,312.50	15,312.50
5,725,379.26	Business On-Line Saver (At Call)	5,725,379.26	0.00
3,581,642.06	NSW Treasury Corp (T Corp)	3,581,642.06	0.00

# BYRON SHIRE COUNCIL

## STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

13.6

5,498,600.00	Bonds	5,794,093.16	295,473.16
<b>73,055,622.32</b>		<b>73,366,427.98</b>	<b>310,785.66</b>

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.

The table below provides a reconciliation of investment purchases and maturities for the period of 1 April 2020 to 30 April 2020 on a current market value basis.

### Movement in Investment Portfolio – 30 April 2020

Item	Current Market Value (at end of month) \$
<b>Opening Balance at 1 March 2020</b>	<b>76,346,930.39</b>
Add: New Investments Purchased	5,000,000.00
Add: Call Account Additions	3,000,000.00
Add: Interest from Call Account	10,116.27
Less: Investments Matured	11,000,000.00
Add: T Corp Additions	0.00
Add: Interest from T Corp	9,381.32
Less: Call Account Redemption	0.00
Less: T Corp Redemption	0.00
Less: Fair Value Movement for period	0.00
<b>Closing Balance at 30 April 2020</b>	<b>73,366,427.98</b>

### Term Deposit Investments Maturities and Returns – 1 April to 30 April 2020

Principal Value (\$)	Description	Maturity Date	Number of Days Invested	Interest Rate Per Annum	Interest Paid on Maturity \$
1,000,000	NAB	27/04/2020	90	1.58%	3,895.89
1,000,000	Summerland Credit Union	14/04/2020	123	1.80%	6,065.75
2,000,000	NAB	22/04/2020	184	1.57%	15,829.04
1,000,000	NAB	06/04/2020	181	1.60%	7,934.25
2,000,000	NAB	06/04/2020	151	1.58%	13,072.88
2,000,000	Macquarie Bank	29/04/2020	182	1.60%	15,956.16
1,000,000	Police Credit Union	06/04/2020	91	1.75%	4,363.01
1,000,000	Macquarie Bank	30/04/2020	91	1.60%	3,989.04
<b>11,000,000</b>					<b>71,106.02</b>

Council's overall 'cash position' is not only measured by funds invested but also by the funds retained in its consolidated fund or bank account for operational purposes. In this regard, for the month of April 2020 the table below identifies Council's overall cash position as follows:



## Dissection of Council's Cash Position as at 30 April 2020

Item	Principal Value (\$)	Current Market Value (\$)	Cumulative Unrealised Gain/(Loss) (\$)
<b>Investments Portfolio</b>			
Term Deposits	56,000,001.00	56,000,001.00	0.00
Floating Rate Note	2,250,000.00	2,265,312.50	15,312.50
Business On-Line Saver (At Call)	5,725,379.26	5,725,379.26	0.00
NSW Treasury Corp (T Corp)	3,581,642.06	3,581,642.06	0.00
Bonds	5,498,620.00	5,794,093.16	295,473.16
<b>Total Investment Portfolio</b>	<b>73,055,642.32</b>	<b>73,366,427.98</b>	<b>310,785.66</b>
<b>Cash at Bank</b>			
Consolidated Fund	4,016,767.83	4,016,767.83	0.00
<b>Total Cash at Bank</b>	<b>4,016,767.83</b>	<b>4,016,767.83</b>	<b>0.00</b>
<b>Total Cash Position</b>	<b>77,072,410.15</b>	<b>77,383,195.81</b>	<b>310,785.66</b>

## STRATEGIC CONSIDERATIONS

CSP Objective	L2	CSP Strategy	L3	DP Action	L4	OP Activity
<b>Community Objective 5: We have community led decision making which is open and inclusive</b>	5.5	Manage Council's finances sustainably	5.5.2	Ensure the financial integrity and sustainability of Council through effective planning and reporting systems (SP)	5.5.2.5	Identification of ethical investment opportunities with environmental and social inclusion outcomes

5

**Legal/Statutory/Policy Considerations**

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 it 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. The current Council Meeting cycle does not always allow this to occur, especially as investment valuations required for the preparation of the report are often received after the deadline for the submission of reports. Endeavours are being made to achieve a better alignment and for some months this will require reporting for one or more months.

20 Council's investments are made 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 Minister's Order – Forms of Investment, last published in the Government Gazette on 11 March 2011.

25 Council's Investment Policy includes the objective of maximising earnings from authorised investments and ensuring the security of Council Funds.

***Financial Considerations***

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

**Report No. 13.7**      **Operational Plan 2019/20 - Third Quarter Report - Q3 - 1 January to 31 March 2020**

**Directorate:**      Corporate and Community Services

**Report Author:**      Heather Sills, Corporate Planning and Improvement Coordinator

**File No:**      I2020/671

**Summary:**

Council's Operational Plan outlines its projects and activities to achieve the commitments in its four-year Delivery Program. In accordance with the *Local Government Act 1993* progress reports must be provided at least every six months.



This report summarises Council's progress towards achieving the annual activities contained in the 2019/20 Operational Plan. This report is the third quarterly progress report for the period 1 January to 31 March 2020.

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**RECOMMENDATION:**

1.    **That Council notes the 2019/20 Operational Plan Third Quarter Report for the period ending 31 March 2020 (Attachment 1 #E2020/32269).**
2.    **That Council adopts the proposed amendments to the Operational Plan 2019/20 outlined in Attachment 2 (#E2020/32731).**

**Attachments:**

- 1      Operational Plan Quarterly Report - Q3 - 1 January to 31 March 2020, E2020/32269 
- 2      Quarter 3 Report - Proposed Amendments to Operational Plan, E2020/32731 

**REPORT**

*Background*

5 The Delivery Program and Operational Plan are two key corporate documents that establish Council's goals and priorities for the term of the Council and the current financial year. The Delivery Program is supported by the annual Operational Plan, which identifies the individual projects and activities that will be undertaken for the year to achieve the commitments made in the Delivery Program.

10 The General Manager is required to provide six monthly progress reports to the Council on the progress toward the delivery program, in accordance with the *Local Government Act 1993* s404 which states:

15 *"The general manager must ensure that regular progress reports are provided to the council reporting as to its **progress with respect to the principal activities detailed in its delivery program**. Progress reports must be provided at least **every 6 months**"*

20 While the requirement is six monthly reporting, the Council is provided with a Quarterly Report on the activities in the Operational Plan, to promote effective and efficient reporting and decision making.

25 This report details Council's progress towards achieving the activities in the 2019/20 Operational Plan. It includes a status update on progress and notes any highlights or exceptions where actions may be delayed or reprioritised.

The report (Attachment 1 #E2020/32269) is structured by the five 'Our Byron, Our Future' Community Strategic Plan 2028 objectives:

- 30 • Community Objective 1: We have infrastructure, transport and services which meet our expectations
- Community Objective 2: We cultivate and celebrate our diverse cultures, lifestyle and sense of community
- Community Objective 3: We protect and enhance our natural environment
- Community Objective 4: We manage growth and change responsibly
- 35 • Community Objective 5: We have community led decision making which is open and inclusive

Each section notes the progress against the activities including:

- 40 • Activity
- Responsible directorate
- Measure
- Timeframe
- Comments
- Status
- 45 ○ On track – Indicates that an activity is currently on track, taking into account the timeframe, measures, and budget
- Needs attention – Indicates that the scope of the activity may need to be reviewed in line with constraints such as timeframe/budget
- Not commenced – The activity is not due to have commenced or has not commenced
- 50 ○ Critical – The activity will not be delivered on time and/or on budget
- Completed – The activity has been completed in accordance with the prescribed measures

## STRATEGIC CONSIDERATIONS

*Community Strategic Plan and Operational Plan*

CSP Objective	L2	CSP Strategy	L3	DP Action	L4	OP Activity
<b>Community Objective 5: We have community led decision making which is open and inclusive</b>	5.2	Create a culture of trust with the community by being open, genuine and transparent	5.2.1	Provide timely, accessible and accurate information to the community	5.2.1.3	Continuous improvements of reporting on progress of Delivery Program actions

5 ***Legal/Statutory/Policy Considerations***

10 The General Manager is required under Section 404 (5) of the *Local Government Act 1993* to provide regular progress reports as to the Council's progress with respect to the principal activities detailed in the Delivery Program/Operational Plan. Progress reports must be provided at least every six months.

***Financial issues***

15 Council's financial performance for the reporting period is addressed in the Quarterly Budget Review, which is subject to a separate report included in this business paper.

***Consultation and Engagement***

20 The development of the Delivery Program was informed by extensive engagement around the Community Strategic Plan and specifically a Community Solutions Panel on infrastructure priorities.

The progress reports on the Delivery Plan will be published on Council's website as a way of ensuring transparency around how Council is progressing activities and actions.

**Report No. 13.8 Council Resolutions Quarterly Review - Q3 - 1 January to 31 March 2020****Directorate:** Corporate and Community Services**Report Author:** Heather Sills, Corporate Planning and Improvement Coordinator**File No:** I2020/681**Theme:** Corporate Management  
Governance Services**Summary:**

This report provides an update on the status of Council resolutions.

85 resolutions were completed during the period 1 January to 31 March 2020.



As at 31 March, there were 116 active resolutions. Resolutions could be active or overdue as a result of budget constraints, staff resourcing, extended negotiations with stakeholders, or other reasons.

---

**RECOMMENDATION:**

1. That Council notes the information provided in this report on active Council Resolutions in Attachment 1 (#E2020/31731).
2. That Council notes the completed Resolutions in Attachment 2 (#E2020/31732).

**Attachments:**

- 1 Active Resolutions as at 31 March 2020, E2020/31731 
- 2 Completed Resolutions - 1 January to 31 March 2020, E2020/31732 

**Report**

This report provides a quarterly update on the status of Council Resolutions to 31 March 2020. Detailed in the attached reports are:

5

- 85 resolutions were completed between 1 January to 31 March 2020
- 116 resolutions remained active
- 85 of the active resolutions were overdue

10 The active Council resolutions per Council terms are provided below:

- 115 active Council Resolutions from current Council (2016-2020)
- 1 active Council Resolution from previous Council (2012-2016)

15 Details of completed resolutions for the period are provided at Attachment 2 (E2020/31732).

**STRATEGIC CONSIDERATIONS*****Community Strategic Plan and Operational Plan***

CSP Objective	L2	CSP Strategy	L3	DP Action	L4	OP Activity
<b>Community Objective 5: We have community led decision making which is open and inclusive</b>	5.6	Manage Council's resources sustainably	5.6.10	Use business insights and strategic business planning to continuously improve (SP)	5.6.10.2	Support development of performance measures for council services

20

***Legal / Statutory / Policy Considerations***

- Council requires a quarterly report be prepared to allow it to consider the quarterly Operational Plan and Quarterly Budget reviews along with a review of Council Resolutions.
- Implementation of Council Resolutions in accordance with the *Local Government Act 1993*.
- This report has been prepared in accordance with Part 3c) of Resolution 14-417.

25

***Financial issues***

30 A number of resolutions note that resource constraints limit completion of action required.

## STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

**Report No. 13.9      Tallow Creek Management - update on Council Resolution 19 - 352 and changes to entrance management**

**Directorate:** Sustainable Environment and Economy  
**Report Author:** Chloe Dowsett, Coastal and Biodiversity Coordinator  
 James Flockton, Drain and Flood Engineer  
**File No:** I2019/2058

**Summary:**

On the morning of Saturday 14 June 2019 Council artificially opened Tallow Creek after the entrance had been closed for 8 months, which resulted in a substantial fish kill event.

Subsequent to the event Council resolved at the 27 June Council meeting (**Res 19-352**):

1. *That Council affirm its commitment to respecting Arakwal people and their connection to Country, in particular their homelands, Tallow Creek, promoting biodiversity, healthy waterways and safeguarding and improving habitat for aquatic life;*
2. *That Council writes to Department of Primary Industry (Fisheries) requesting that they fully investigate the fish kill incident at Tallow Creek on 14 June, and NPWS to fully investigate Council's compliance with licence conditions and that the report of their findings be brought to Council;*
3. *That Council's preference is that no further openings of the Tallow Creek ICOLL be undertaken unless it is determined by Council that there is agreement of Arakwal Corporation, NPWS, and Cape Byron Marine Park, and that there is a low probability of a fish kill at the proposed opening time;*
4. *That Council staff undertake consultation with the following parties as soon as practicably possible to develop a protocol for managing the Tallow Creek ICOLL to actively avoid fish kills and enhance fish breeding:*
  - *residents of the Tallow Creek estuarine area (including Friends of Tallow Creek),*
  - *agency stakeholders as mentioned in (3)*
  - *landowners affected by upstream flooding*
  - *Department of Primary Industry (Fisheries)*
  - *Arakwal Corporation*
5. *That Council supports the development of the first stage of the Coastal Management Program for Tallow catchment to be commenced in the next financial year.*

In response to the fish kill event and Res 19-352 staff, key agencies and stakeholders initiated discussions and participated in meetings to better understand the complex nature of this diverse and dynamic system (Intermittently Closed and Open Lake/Lagoon or ICOLL) to better improve entrance management activities.

In conclusion to these discussion, operational changes have been made to the entrance opening strategy and management of Tallow Creek.



This report to Council provides an update on the actioning of items of resolution 19-352, the discussions held, partnerships formed and the changes to entrance management activities as a result of the June 2019 fish kill event.




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**RECOMMENDATION:**

**That Council note the report and changes to entrance management activities at Tallow Creek.**

**Attachments:**

- 10
- 1 Attachment 1 - Tallow Creek Fish Kill Agency De-Brief meeting Minutes-26 June 2019.RevAgenciesFinal, E2019/52602 
  - 2 Attachment 2 - Letter from NPWS - Breach of Licence for Access & Works - Tallow Creek \_ Arakwal National Park, E2020/28641 
  - 3 Attachment 3 - DPI Fisheries - Fish Kill Form Part B Tallow Creek, E2020/28642 

15

**REPORT****Background****5 Tallow Creek Mechanical Opening:**

In June 2019, Tallow Creek had been closed to the ocean since October 2018 (~eight months) leading to an absence of tidal flushing, vertical stratification and poor water quality. Prior to the artificial opening on 14 June 2019 water levels had been above 1.8 m AHD for approximately 15 weeks resulting in considerable community complaints (inundation of backyards and infrastructure/footpaths). Berm scraping (lowering of the beach berm/sand bar) was undertaken the week prior to the mechanical opening when there was predicted rainfall, however the rainfall did not eventuate and the mouth did not open naturally. The mechanical opening method was then chosen because of the failed berm scrape and water levels being above the trigger of 2.2m AHD.

**Fish Kill:**

The artificial opening resulted in a substantial fish kill event on the morning of Saturday 15th June.

A total of 12.4 tonnes of deceased fish were removed from the banks of Tallow Creek with the prevalent species being Mullet (~70%), Bream, Whiting, Flathead, and Eels (~ 30% total - visual estimate only).

**De-brief/Consultation:**

An Inter-agency De-Brief was held by Council on Wednesday 26 June 2019 and attended by representatives of:

- Council (Mayor and staff)
- NPWS
- DPI Fisheries
- DPI Fisheries – Marine Parks (Cape Byron Marine Park)
- Office of Environment and Heritage (now Department of Planning, Industry and Environment/ DPIE)
- Arakwal Corporation

The round table discussion covered the following key items:

1. Background to Opening Event
2. Round-table review of the fish kill event
  - a. Tallow mechanical opening background
  - b. Causes and possible mechanisms of the fish kill
  - c. Consequences
3. Community engagement and consultation
4. Cultural values
5. Licence conditions
6. Agency resources
7. Possibilities of improvements to the EMP and opening strategy for Tallow Creek
8. Possible options to reduce the risk of a fish kill
9. Learnings and improvements

The discussion was productive and great value, however due to the complex nature of managing the site with competing interests and values, there was not enough time to cover all items in detail. The meeting initiated ideas and created discussion on internal and external changes to entrance activities which are detailed later in this report.

The minutes of the meeting are provided in Attachment 1.

### Urgency Motion:

- 5 Subsequent to the 14 June 2019 fish kill event at Tallow Creek at the 27 June Council meeting, an Urgency Motion was put forward by Cr. Coorey.

### Resolved (19-352):

- 10 1. *That Council affirm its commitment to respecting Arakwal people and their connection to Country, in particular their homelands, Tallow Creek, promoting biodiversity, healthy waterways and safeguarding and improving habitat for aquatic life;*
- 15 2. *That Council writes to Department of Primary Industry (Fisheries) requesting that they fully investigate the fish kill incident at Tallow Creek on 14 June, and NPWS to fully investigate Council's compliance with licence conditions and that the report of their findings be brought to Council;*
- 20 3. *That Council's preference is that no further openings of the Tallow Creek ICOLL be undertaken unless it is determined by Council that there is agreement of Arakwal Corporation, NPWS, and Cape Byron Marine Park, and that there is a low probability of a fish kill at the proposed opening time;*
- 25 4. *That Council staff undertake consultation with the following parties as soon as practicably possible to develop a protocol for managing the Tallow Creek ICOLL to actively avoid fish kills and enhance fish breeding:*
- *residents of the Tallow Creek estuarine area (including Friends of Tallow Creek),*
  - *agency stakeholders as mentioned in (3)*
  - *landowners affected by upstream flooding*
  - *Department of Primary Industry (Fisheries)*
  - *Arakwal Corporation*
- 30 5. *That Council supports the development of the first stage of the Coastal Management Program for Tallow catchment to be commenced in the next financial year.*

In response to the fish kill event and Res 19-352, changes have been made to the entrance opening strategy and management of Tallow Creek.

This report provides an update on management of Tallow Creek since June 2019.

### 35 Implementation of Res 19-352:

#### Entrance Management

The most significant change to the management of Tallow Creek in response to the 14 June 2019 fish kill event is the 'Interim Position' under the National Park and Wildlife Service (NPWS) Licence. This position reflects the sentiment of item #3 of the Council resolution in that:

- 40 1. Mechanical opening of the creek is **not supported**.

2. Beach scraping is only supported once the Tallow Creek entrance berm (sand bar) height reaches 2.2 m AHD and a rainfall event (+40mm) has commenced (*or of forecast to commence if staff have WHS concerns*).

5 In essence this means that Council no longer has the ability to perform a mechanical opening of the creek once water levels reach the allocated trigger height of 2.2 m AHD. Berm scraping involves scraping with an excavator the sand level of the beach berm down to a certain height and is to be completed only during a rainfall (*or forecasted rainfall*) event. This method has been used previously by Council (and in some circumstances, successfully) to encourage a more natural opening/breakout of the creek. Assisting a creek to open more naturally during a rainfall event is 10 being undertaken elsewhere in NSW and is presently considered 'best practice' for entrance management of ICOLLs by various NSW agencies and key stakeholders.

NPWS has clarified that the Tallow Creek Entrance Management Licence, issued in November 2016, remains operative and that the Interim Position is intended to detail the circumstances under which Council can undertake entrance management activities, i.e. beach scraping with the support 15 of all relevant parties (NPWS, DPIE Science, Coast and Estuaries, DPI – Fisheries, Cape Byron Marine Park and the BOBBAC – Arakwal Board).

Staff are supportive of this new position and regularly monitor the following:-

- water levels (weekly);
- weather/rainfall (weekly);
- 20 • beach berm/sand bar (monthly survey).

#### Investigations

Three investigations were undertaken:

1. Incident Cause Analysis Method (ICAM) Investigation
2. NPWS Investigation
- 25 3. DPI – Fisheries Investigation

#### 1. Incident Cause Analysis Method (ICAM) Investigation

30 A short-term recommendation from the agency de-brief meeting (26/6/19) was that Council conduct a Detailed Investigation and Review of the event and associated documents related to management of Tallow Creek (Environmental Management Plan and the Review of Environmental Factors). Council engaged an external consultant (Alluvium Consulting) to conduct a detailed investigation and review using the Incident Cause Analysis Method (ICAM). The review analysed the event looking at all documents, actions and how the incident unfolded. It attempted to try to 35 understand the root cause and contributing factors/mechanisms that caused the fish kill and also identify any gaps in the procedure and steps that Council took.

An overview of the outcomes of the ICAM is provided below.

40 The primary causes of the fish kill incident are outlined in Table 4 (page 16) of the ICAM report and briefly outlined below.

#### *Physical-chemical responses*

The most likely physical-chemical primary cause of the fish kill incident was the influx of water with low dissolved oxygen from shallow areas to deeper areas as the water level in the lagoon area of Tallow Creek dropped.

#### 5 *Considerations for mitigating physical-chemical responses*

There is little that can be done to manage the physical-chemical responses following an entrance opening, whether natural or not. The REF and the Floodplain Risk Management Study & Plan (FRMS&P) both propose further investigation to understand the cause of fish kills. More intensive work can be done in the short and long term to better address these knowledge gaps. This could include revising water quality monitoring with a focus on specifically understanding physical-chemical responses during opening events, instead of ambient monitoring throughout the system. The rapid influx of more saline ocean water also creates a fish kill risk (Lugg, 2000) and has not been considered to date, and should be considered in future assessments.

#### *Shortfalls in risk planning and management with regards to minimising likelihood of fish kills*

The FRMS&P and the REF both indicate that there is a risk of fish kills from i) natural openings; ii) inducing an opening via berm scraping; or iii) mechanical openings. The mitigation measures for managing fish kills outlined in these documents essentially involve timing openings around high tide events to minimise rapid draining. This mitigation measure alone was ineffective in this case in avoiding fish kills and needs to be combined with other measures like timing with rainfall. In addition, the rapid influx of more saline ocean water also creates a fish kill risk (Lugg, 2000) which has not been considered to date.

Moreover, the management of the system has revolved around flood risk and flood planning. Consequently, this has made it challenging to consider multiple risks in the catchment simultaneously under one plan.

#### 30 *Considerations for mitigating shortfalls in risk management and planning*

There appears to have been a considerable amount of work performed on flood risk in the catchment, with the exception of studies that improve the understanding of the role local groundwater plays in high water levels. Moreover, the FRMS&P provides a sound means of managing flood risk.

In order to inform a revised Environmental Management Plan (EMP), an improved risk assessment and management plan could be developed which considers a range of risks associated with all social, economic, cultural and environmental values of the catchment. This requires all stakeholders to identify respective values.

The ICAM makes a number of recommendations for improving management of Tallow Creek.

#	ICAM Recommendation	Staff Comment
R1	Revise the EMP and Opening Strategy, preferably under a broader Coastal Management Program (CMP).	Council has resolved to embark on the first stage of preparing a CMP for the Southern Byron Shire Coastline (Cape Byron to Broken Head) which includes Tallow Creek. The EMP and management of Tallow Creek into the future will be best guided by this process which includes input from all relevant parties, and agencies. An application has been submitted to the Coastal and Estuary Grants Program which is pending approval.

# BYRON SHIRE COUNCIL

## STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

13.9

#	ICAM Recommendation	Staff Comment
<b>R2</b>	Council, NPWS, DPI (Fisheries and Cape Byron Marine Park) and Arakwal form an interim Steering Committee to collectively negotiate management actions at Tallow Creek, until a revised entrance management plan is finalised and agreed.	<p>The formation of a Steering committee was discussed with agencies. NPWS being the land manager and regulator (Licensor) for works proposed by Council in the Arakwal National Park does not support establishing a Steering Committee to make joint decisions on entrance management. However, NPWS is available to provide technical advice, respond to emails and meet with Council as required.</p> <p>Regular stakeholder consultation was supported with the preference of email updates on a monthly basis as survey and water quality monitoring data is received. Should Council wish to initiate berm scraping a 'Request to Scrape' will be sent to relevant parties for support, prior to conducting the works.</p>
<b>R3</b>	Council, NPWS and DPI (Fisheries and Cape Byron Marine Park) obtain legal advice to understand any organisational responsibilities associated with entrance management and flood risk.	<p>Each agency to gain their own legal advice if they choose.</p> <p>NPWS has clarified that their legal/statutory responsibilities are to manage Arakwal National Park in accordance with the principles outlined in legislation and the Arakwal National Park plan of Management. These responsibilities guided NPWS in their involvement in the community committee convened by Council for the FRMS&amp;P. NPWS are the determining authority under Part 5 of the EP&amp;A Act for Council's REF for entrance activities.</p>
<b>R4</b>	BSC, NPWS, DPI (Fisheries and Cape Byron Marine Park) and Arakwal jointly develop a MoU that outlines each agencies agreed roles and responsibilities for managing Tallow Creek both in the interim, and revised and updated following completion of R1. This should include agreed responsibilities for performing operational works, and should be signed and agreed by senior or executive representatives.	<p>Feedback from agencies on this recommendation is that entrance management is primarily Council's responsibility. The development of a MoU is not supported by NPWS as the Licence, REF and EMP already outline roles/responsibilities and operational works for entrance management activities are to be performed by Council.</p> <p>The future CMP and revised EMP should further clarify agencies role and/or responsibility.</p>
<b>R5</b>	Future licences and permits be revised to: remove any management or monitoring conditions, and instead, simply refer to the approved EMPOS and associated MoU as the sole condition (with the exception of standard conditions); and confirm the licensee or permittee as	The present Licence is a standard format with REF determinations attached. Council's Licence will expire in November 2021 and should a revised EMP be approved, there may be opportunity to refer to the EMP. However, the standard NPWS Licence format will have a list of standard conditions.

#	ICAM Recommendation	Staff Comment
	an organisation, not an individual.	NPWS have clarified that the Licensee can be Council instead of an individual and this change will be made when Council applies for new Licence.

The ICAM also notes that *given that fish kills occur naturally in Tallow Creek, it is reasonable to conclude that the cessation of fish kills in Tallow Creek is an impossible outcome, regardless of any risk mitigation measures taken. The FRMS&P refers to the potential risk of fish kills with respect to the increase in the frequency of entrance openings associated with entrance management actions and the likelihood of increases of fish kills due to management actions. This is a reasonable approach.*

## 2. NPWS Investigation

NPWS investigated compliance with the NPWS Access & Works Licence issued to Council on 1 November 2016 for Tallow Creek Entrance Management in Arakwal National Park. Based on the outcomes of the investigation Council was fined \$1,000.00 for two breaches of the Licence, being size of the channel (5m wide instead of 2m) and timing of the mechanical opening (1 hour 20 minutes after the 2 hour window following the low tide).

The outcome of the NPWS investigation is presented in Attachment 2.

## 3. DPI – Fisheries Investigation

DPI – Fisheries attended Tallow Creek on the morning of 15 June for the purpose of investigating and reporting on the subject fish kill. An on-site investigation report was undertaken in accordance with the DPI Fisheries Fish Kill Protocol and was submitted to the departments Fish Kills database and provided to staff in an email dated 4 July 2019. The findings indicate that the fish kill was most likely caused by critically low dissolved oxygen levels in the system resulting from the artificial opening of the creek mouth the previous day.

The outcome of the DPI-Fisheries Investigation is presented in Attachment 3.

## Consultation with Agencies and Key Stakeholders

Two key stakeholder meetings have been held at Council post the fish kill event of June 2019.

1. An interagency and key stakeholder de-brief was held by Council on 26 June 2019 in the Conference Room *(as outlined above in this report)*.
2. An interagency and key stakeholder discussion/workshop on the Future Management of Tallow Creek was held by Council on Wednesday 5 February 2020 in the Conference Room. This discussion focussed on:
  - a. outcomes and recommendations of investigations completed post the fish kill event;
  - b. present and future operational management of the creek;
  - c. collaboration and research projects that have commenced;
  - d. scientific discussions on water quality and sediment biogeochemistry.

The interagency discussion was very valuable to discuss in detail the current knowledge and data gaps particularly on water quality. Presentations were given by students/lecturers on two research projects undertaken recently on Tallow Creek. A key outcome of this interagency discussion has

been establishment of key relationships/partnerships with agencies/universities and progression of future projects on Tallow Creek (*refer 'Research and Knowledge' later in this report*).

3. 2 day Workshop 'Progressing evidence-based ICOLL entrance managements for healthy fish habitats' organised by DPI – Fisheries and DPIE on 4 and 5 March 2020. The aim of the workshop was to develop a research program to fill key knowledge gaps for ICOLL entrance management in NSW. The workshop was for agency/Council staff who manage/work on ICOLL entrances in NSW along with key scientific/academic personnel from Southern Cross University.

The workshop was highly successful with the following outcomes:

- List of existing knowledge
- List of knowledge gaps
- List of base essential knowledge required to develop an entrance management strategy that will maximise community and ecological outcomes.
- Three preliminary research proposals for priority knowledge gaps with identified leads to progress.
- Commitment to establish a NSW ICOLL network or community of practice to support ongoing collaboration.

In a first step towards developing best-practice guidelines for ICOLL entrance management in NSW, workshop participants wished to record the following workshop resolution:

*The workshop (participants) unanimously agree that it is not best-practice to artificially open ICOLL entrances to manage the following issues or conditions:*

- low water levels
- in dry weather
- water quality
- odour, or
- public amenity and access

#### Best Practice in ICOLL Entrance Management

The workshop resolution outlined above reflects what is considered best-practice for entrance management of ICOLLs in NSW and is in line with Council's 'Interim Position' for Tallow Creek. Council will now exclusively manage the entrance of Tallow Creek by attempting to encourage 'natural breakout' events of the creek. Council will encourage this breakout by lowering the beach berm (using an excavator) to allow overtopping during a rainfall event. This mimics natural estuary opening events and aims to decrease the potential for a fish kill.

As such this 'best practice' position does not consider mechanically opening the creek due to degrading recreational water quality (i.e. E. coli levels). This current best-practice has added more robustness to the current link of thinking for Council staff in relation to entrance management and waiting for significant rainfall to open our creeks. It is useful to provide clarity to the community and consistent state-wide messaging regarding what is best-practice, and when we will and won't open entrances.

#### Research, Knowledge and Partnerships

During 2019 a Southern Cross University (SCU) student completed an Honours project focussing on water quality pre and post natural and artificial opening for four NSW ICOLLs including Tallow Creek and Belongil Creek. The outcomes of this study were presented to agencies at the 2 day Workshop organised by DPI – Fisheries in March 2020. Subsequent to this research, key



partnerships have been created between Council and SCU to progress knowledge and understanding of ICOLL functioning (at present focussing on Tallow Creek only).

Another SCU Honours student this year will focus on water quality and sediment chemistry in the creek to better understand chemical reactions in the creek during different water levels. Results from this project will be incorporated with a PhD project to create a hydrodynamic model of Tallow Creek incorporating real time water quality data. The outcome of this project will aid decision making for entrance opening/management activities. The model will assess the likely water quality outcomes if we trigger an opening on a given day.

Council, the DPIE- Sciences and SCU have partnered and combined resources to deploy a water quality instrument in the creek that gather data from the surface and bottom of the water column to better understand the quality of water at depth (stratification).

Also in 2019 the University of Technology Sydney (UTS) held a Landscape Architecture 4th year Honours summer elective investigating Tallow Creek, estuarine evolution, water quality and coastal processes. A student from UTS presented an excellent research project to staff and agencies at Council's interagency and key stakeholder discussion/workshop in February 2020. This student has now progressed to a Masters Research project focussing on the complex processes of Tallow Creek and the significance and importance of understanding and acknowledging various cultural values/connection with particular landscapes. Science, policy and society tend to be the dominating factors that govern management of ICOLLS, and this students work is uncovering a new way of thinking, aiming to develop approaches to nurture a capacity of collaboration that allow for collective understanding of this complex system.

Staff are liaising with this student and it is hoped that a community presentation of their work may go ahead at the end of 2020.

#### Community Messaging

The Communications Team have been working on a new ICOLL webpage which aims to provide key information on Byron Shire's unique ICOLLS. This will be the main information source for the community.

Now that the 'Interim Position' for management of Tallow Creek is confirmed, the webpage will be updated accordingly and published in the near future. Noting that, presently more priority work for the Communications Team has recently been required due to COVID19 and the ICOLL webpage has been re-prioritised.

It is proposed that a letter is sent to all residents within the vicinity of the Tallow creek to inform them of the new management arrangements and how it may affect them.

Council is presently designing a new visual and informative sign for the Tallow Creek footbridge with the aim to inform and educate the community about 4 main themes:

- the creek as an ICOLL system
- its ecological significance
- the creek's cultural significance; and
- entrance management activities.

The take home sentiment we hope to achieve from the sign is that ***Tallow is a highly valued environmental and cultural asset and needs to be protected now and into the future.***

Staff are presently liaising with Arakwal and will be presenting a draft design to the Arakwal Management Committee and Board at the next meeting for their endorsement.

**STRATEGIC CONSIDERATIONS*****Community Strategic Plan and Operational Plan***

- 5 There is no specific DP action for the management of Tallow Creek. The most related OP activities are outlined below.

CSP Objective	L2	CSP Strategy	L3	DP Action	L4	OP Activity
<b>Community Objective 3: We protect and enhance our natural environment</b>	3.3	Partner to protect and enhance the health of the Shire's coastlines, estuaries, waterways and catchments	3.3.1	Implement Coastal Management Program	3.3.1.1	Continue preparing a Coastal Management Program (CMP) in accordance with the staged process
<b>Community Objective 1: We have infrastructure, transport and services which meet our expectations</b>	1.1	Provide a road network which is safe, accessible and maintained to an acceptable level of service	1.1.6	Provide stormwater infrastructure to manage flood mitigation, social and environmental outcomes	1.1.6.10	Development of Belongil Creek Catchment Management Plan

***Legal/Statutory/Policy Considerations***

- 10 Coastal Management Act 2016 and associated documents/policies  
 NSW Floodplain Development Manual 2005  
 Tallow Creek Floodplain Risk Management Study and Plan (SKM, 2009)  
 Review of Environmental Factors: Tallow Creek Entrance Opening (Vol 1 and 2) (BMT WBM,  
 15 2015)  
 Environmental Management Plan and Opening Strategy for Tallow Creek (BMT WBM, 2015)

***Financial Considerations***

- 20 A budget allocation of \$110,000 has been placed in the FY2020/21 budget to commence development of a Coastal Management program (CMP) for the Southern Shire Coastline (including Tallow Creek).

***Consultation and Engagement***

- 25 Allison Rogers – Research Officer (Communications Team)  
 Sharon Sloane – Arakwal Corporation

**Report No. 13.10**      **Wildlife Road Signage Trial**  
**Directorate:**       Sustainable Environment and Economy  
**Report Author:**     Elizabeth Caddick, Biodiversity Officer  
**File No:**                I2020/528

5

**Summary:**

10 Council frequently receives expressions of concern from residents and volunteer wildlife groups regarding death/injury of native animals on our roads due to vehicle strike, accompanied with requests for more signage alerting road users to the presence of wildlife. Recently staff have been exploring a number of signage options, and liaising with other local governments regarding different approaches to managing wildlife road strike. The NSW Roads and Maritime Services have  
15 also recently undertaken some GIS modelling to identify key road strike hotspots in Byron Shire.

Council has been invited to participate in a trial of some signs developed by Rewilding Australia, which differ from the standard signs seen on roads throughout Australia, and use an eye-catching image to help attract attention. This trial is already being run in Shoalhaven and Wingecarribee  
20 Councils, and has been developed in collaboration with Standards Australia, who are considering opportunities to update the Australian Standards for wildlife road signs (AS 1742.2), subject to data indicating that other types of signs are more effective.

A trial of these signs would be a relatively cost effective way for Council to assess the value of  
25 static signs compared with other (more expensive) signage options, as well as contributing to a nation-wide trial and providing greater local awareness of the wildlife in our area.

The cost to implement the trial at 3 locations would be approximately \$2,445, including \$1,620 for  
30 signs and installation and \$825 for monitoring.

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**RECOMMENDATION:**

1. **That Council participate in the Rewilding Australia trial of static photographic wildlife signs at three identified road strike hot spots in the Shire.**
2. **That Council further investigate costs and grant funding opportunities to trial alternative road signage options, including vehicle activated signs and road surface treatments at selected locations in the Shire.**

35

**REPORT**

Council frequently receives expressions of concern from residents and volunteer wildlife groups regarding death/injury of native animals on our roads due to vehicle strike, accompanied with requests for more signage alerting road users to the presence of wildlife. Motor-vehicle collision is identified by Friends of the Koala as the second most common cause of koala mortality (after Chlamydia), for koalas coming in to their care. While installing more signs alerting drivers to wildlife appears to be an obvious solution, this needs to be balanced with concerns re overuse of signs in the shire (signage pollution) and the effectiveness of signs in the medium to long term (signage habituation/fatigue).

Recently staff have been exploring a number of signage options, and liaising with other local governments regarding different approaches to managing wildlife road strike. Table 1 summarises some of the road strike mitigation options available, and indicative costs. Review of these data, and discussions with other local councils indicate that the effectiveness of different mitigation measures is frequently site and species specific. i.e. what works at one site for one species, may not be effective at a different site. There are also very limited data available on the effectiveness of some approaches, particularly newer technologies. Notably, it is very difficult to rigorously monitor the number of species impacted by road strike over time, due to the confounding variables that make it very difficult to determine whether roadkill counts are influenced by improved signage or other factors (climate variables, random chance etc.). However, monitoring driver behaviour (e.g. change in speed following a sign), appears to be a good surrogate for measuring effectiveness of mitigation measures.

Given the available information, and the costs of different mitigation measures, it is recommended that Council pursue an approach of trialling different signage methods on roads throughout the shire, for example static signs, vehicle activated signs and pavement marking. There is currently an opportunity for Council to begin this process as we have been invited to participate in a trial of static wildlife signs developed by Rewilding Australia, on a small number of local roads.

In September 2018, Rewilding Australia installed photographic image road signs for quolls within a National Park in the Jervis Bay area. Anecdotal evidence and feedback from park users was that they took more notice of these signs, hence Rewilding Australia have expanded the trial to Shoalhaven Shire (for wombats), and Wingecarribee Shire (for koalas). Vehicle speed counters have been installed to measure vehicle speeds prior to and following installation. Roadkill will also be counted, however the primary focus will be on whether speed is reduced between dusk and dawn. Feedback from the community is that they are exceedingly happy to see councils trying novel methods to improve protection for wildlife.

The Rewilding Australia signs (Figure 1) differ from the standard signs seen on roads throughout Australia (Figure 2), and have been designed with the intention of investigating whether more engaging imagery has a greater impact on road users than the current standard wildlife road signs used throughout Australia. The signs have been developed in consultation with Standards Australia, who are considering opportunities to update the Australian Standards for wildlife road signs (AS 1742.2), subject to data indicating that other types of signs are more effective.



Figure 1. Rewilding Australia Sign



5 Figure 2. Standard Koala Road Sign

Participating in this existing trial would be a relatively cost effective way for Council to assess the value of static signs, as all of the artwork has already been done. In addition to contributing to a nation-wide trial looking at improving wildlife signage, the signs will, at least in the short term, provide greater local awareness of wildlife on our roads.

10

***Previous reports***

**Report No. 4.2                      Wildlife Road Strike**  
**File No:                                I2019/1757**

**Committee Recommendation:**

**That the Biodiversity Advisory Committee notes this report.**

(Coorey/Westheimer)

*The recommendation was put to the vote and declared carried.*

5

**MEETING:** Council Meeting of 2 August 2018

**RESOLUTION NUMBER:** 18-476

- 10            1.        That Council allocate a budget of \$5,000 in the 2018/2019 financial year for the purchase and installation of native animal awareness' signs funded from the Environment and Enforcement Levy Reserve subject to approval of the Transport and Infrastructure Advisory Committee resolution 18-500.

15            ***Key issues***

*Signage standards requirements*

20            Local Councils tend to defer to Australian Standards for road signs, in order to best manage their risk, but they are not obliged to do so. Rewilding Australia have received support from Standards Australia to trial their new wildlife signs for effectiveness, with a view to possibly updating Australian Standard AS 1742.2 for Wildlife Signs, subject to the effectiveness of the trials. The size and layout of the Rewilding Australia signs has been reviewed by Standards Australia, and the signs also incorporate a reflective strip on the sign pole to further improve visibility.

25            Additionally, recent advice (2 April 2020) from Transport NSW Network and Safety Officer Ian Shanahan is that:

30                        'Provided the signs are not displayed on 'state roads' TFNSW has no issues with council allowing/installing various signs for wildlife, happy to provide any feedback for designs if required'

35            Tweed Shire Council have also successfully installed photographic image signs along the Tweed Coast Road – using a unique and engaging image to help promote behaviour change (Figure 3). Similar signs are also in use in Queensland (Figure 4).



Figure 3. Sign on Tweed Coast Road



Figure 4. Queensland sign

### Site selection

NSW DPIE and RMS have recently developed some emerging hotspot maps for the region, which identify sporadic and consecutive koala road strike hot spots, based on Bionet Atlas records from 1975 to 2017. The GIS modelling looked at significance of clusters of road strike records across the landscape, plus a temporal analysis that shows trends at identified hotspots over time.

These maps would be used as a starting point to identify key sites for a signage trial. However it is important to note the limitations of the maps – they are a computational analysis and based only on koala records submitted to Bionet Atlas (all licensed wildlife carers should be submitting data to bionet, but there is generally a 2 year time lag). Some records were not included due to risk of duplication. RMS advise that all sites require ground truthing, and that input from local wildlife carers regarding priority sites will also be required.

In the first instance, sites selected for signs would avoid state controlled roads, as per advice from Transport NSW (above).

### Options

Several alternative methods to mitigate wildlife road strike are available. These options vary significantly in cost and, particularly for newer technologies; data regarding effectiveness are limited, particularly with regards to species in Northern NSW.

Table 1 summarises different mitigation options available, based on a recent literature review by Sandpiper Ecological (2019 - *Wildlife Roadkill Mitigation Report for Lismore Local Government Area*).

Table 1. Wildlife Roadstrike Mitigation Options

Mitigation method	Pros	Cons	Costs
Static sign	<ul style="list-style-type: none"> <li>• Low cost</li> <li>• Low maintenance</li> <li>• Relatively easily relocated</li> </ul>	<ul style="list-style-type: none"> <li>• Short term Effectiveness due to habituation.</li> <li>• Vandalism</li> </ul>	\$103 + delivery + installation
Vehicle Activated Sign	<ul style="list-style-type: none"> <li>• Moderate cost</li> <li>• Relatively low maintenance</li> <li>• May reduce likelihood of</li> </ul>	<ul style="list-style-type: none"> <li>• Vandalism.</li> <li>• People may become habituated if not moved regularly.</li> </ul>	\$44-63,000 for supply, installation and data from 2 x solar powered



# BYRON SHIRE COUNCIL

## STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

13.10

Mitigation method	Pros	Cons	Costs
	<ul style="list-style-type: none"> <li>• habituation.</li> <li>• Can record speed which assists in determining effectiveness</li> </ul>	<ul style="list-style-type: none"> <li>• Ease of relocation?</li> </ul>	VAS. Price varies subject to road speed & location. ( <a href="http://www.hivis.com">www.hivis.com</a> )
Variable Message Sign	<ul style="list-style-type: none"> <li>• Relatively low cost</li> <li>• Relatively low maintenance</li> <li>• Easy to relocate</li> <li>• May reduce likelihood of habituation.</li> </ul>	<ul style="list-style-type: none"> <li>• Vandalism.</li> <li>• People may become habituated if not moved regularly.</li> </ul>	\$15,000 + installation ( <a href="http://www.hivis.com">www.hivis.com</a> )
Rumble Strips	<ul style="list-style-type: none"> <li>• Demonstrated reduced instances of road kills in Tasmania</li> <li>• Low cost</li> <li>• Low maintenance</li> </ul>	<ul style="list-style-type: none"> <li>• Noise may disturb nearby residents</li> </ul>	\$15.40/500mm strip ( <a href="http://www.barriergroup.com.au">www.barriergroup.com.au</a> ) + installation
Pavement marking	<ul style="list-style-type: none"> <li>• Relatively low cost</li> <li>• Consistent branding of black spots</li> <li>• Reinforce other treatments (signs, rumble strips)</li> </ul>	<ul style="list-style-type: none"> <li>• Requires periodic reapplication – every 5-6 yrs. Ensure to consider routine road resurfacing during planning.</li> </ul>	\$1,800-\$2,250/treatment (\$45/m <sup>2</sup> ) + traffic control. Tweed Coast Clothiers Ck cost ~\$4,000/treatment each including traffic control; 2 x locations @ Koala beach: \$14,000.
Fauna fencing and road crossings	<ul style="list-style-type: none"> <li>• Very effective when well designed and maintained.</li> <li>• Maintains habitat connectivity.</li> <li>• Low risk of theft/damage.</li> <li>• Short sections of fence tie-ins to existing culverts relatively cheap.</li> <li>• Retrofitting dry ledges into existing culvers also relatively cheap.</li> </ul>	<ul style="list-style-type: none"> <li>• Without crossing structures fences are a barrier to connectivity.</li> <li>• Crossing structures v. expensive to retrofit.</li> <li>• Much less effective if fence breached.</li> <li>• Ongoing maintenance.</li> <li>• Public resistance to fences along property boundaries.</li> </ul>	Highly variable and site specific.
Virtual fencing (audio)	<ul style="list-style-type: none"> <li>• Effective for small and large macropods.</li> <li>• Low maintenance.</li> <li>• Less expensive than fencing.</li> <li>• Maintains habitat connectivity.</li> </ul>	<ul style="list-style-type: none"> <li>• Limited trials – new technology</li> <li>• Theft</li> <li>• Possible habituation</li> <li>• Only effective at speeds below 90 km/hr.</li> <li>• Unlikely to be effective for animals like koalas.</li> </ul>	\$7,800/km + installation + posts.  Sunshine coast Council: \$205/post or \$8,400/km including supply & install
Wireless ear tag activated system	<ul style="list-style-type: none"> <li>• Highly targeted to koalas.</li> <li>• Reduced likelihood of</li> </ul>	<ul style="list-style-type: none"> <li>• Requires capture and recapture (to replace batteries – 0.5-2.8 yrs).</li> </ul>	\$40,000-\$100,000/km + installation + koala



Mitigation method	Pros	Cons	Costs
	driver habituation. • Field trials demonstrate effectiveness.	• Only effective for tagged individuals. • Koalas resting nearby can activate signs • Theft of data loggers • Expensive	capture/recapture.
Break the beam system – animal detecting sensors that activate LED driver warning lights	• May be appropriate for koalas. • No capture required	• Generally requires fencing. • Requires vegetation maintenance. • No trials in Australia so effectiveness unknown. • Theft. • Expensive	\$90,000/km – probably more on uneven or winding roads.
Roadside reflectors – deflect light from oncoming vehicles	• Relatively low cost • Relatively low maintenance	• No robust evidence of effectiveness. • Theft	\$7,600/km (Swareflex)

**Next steps**

With regard to installation of wildlife signage within Byron Shire, it is recommended that Council progress the trial of different signage types as follows:

1. Participate in **Rewilding Australia trial of photographic wildlife signs** at 3x locations within Byron Shire.
2. Report trial results to Council via the Biodiversity Advisory Committee.
3. Seek grant funding for a trial of vehicle activated signs at two locations in Byron Shire.
4. Continue to liaise with Bangalow Koalas regarding signs they have installed and support monitoring effectiveness of these signs.
5. Continue to liaise with Friends of the Koala and other local councils via the Regional Koala Communications Group regarding effectiveness of different approaches to road strike mitigation and funding opportunities.

**STRATEGIC CONSIDERATIONS**

**Community Strategic Plan and Operational Plan**

CSP Objective	L2	CSP Strategy	L3	DP Action	L4	OP Activity
<b>Community Objective 3: We protect and enhance our natural environment</b>	3.1	Partner to protect and enhance our biodiversity, ecosystems and ecology	3.1.1	Protect and enhance our natural environment and biodiversity	3.1.1.3	Implement priority actions from the Biodiversity Conservation Strategy
<b>Community Objective 3: We protect and enhance our natural environment</b>	3.1	Partner to protect and enhance our biodiversity, ecosystems and ecology	3.1.1	Protect and enhance our natural environment and biodiversity	3.1.1.8	Implement the Koala Plan of Management

<b>Community Objective 2: We cultivate and celebrate our diverse cultures, lifestyle and sense of community</b>	2.4 Enhance community safety and amenity while respecting our shared values	2.4.3 Enhance public safety, health and liveability through the use of council's regulatory controls and services	2.4.3.11 Install native animal awareness signs
CSP Objective	L2	CSP Strategy	
<b>Community Objective 1: We have infrastructure, transport and services which meet our expectations</b>	1.1	Provide a road network which is safe, accessible and maintained to an acceptable level of service	

### Legal/Statutory/Policy Considerations

- 5 AS1742.2 provides recommendations regarding static wildlife signs that meet RMS requirements. Images of recommended signs included below. None of these signs are considered regulatory and they do not require Council approval via the Local Traffic Committee. As previously noted above, Councils are not obliged to use the standard signs, and Transport for New South Wales have advised that:

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‘Provided the signs are not displayed on ‘state roads’ TfNSW has no issues with council allowing/installing various signs for wildlife, happy to provide any feedback for designs if required’



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FIGURE H1 WILDLIFE AWARENESS SIGNS

### Financial Considerations

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Costs are based on a trial at three road locations, with signs installed at either end of a road section (total six signs). Traffic counters (3 sets) would be placed around the mid point of the road section (i.e. midway between the two signs), to assess whether drivers were maintaining their speed some time after passing a sign. Two cost options are provided (Tables 2 and 3) – with and without hire of traffic counters. Council owns some traffic counters, so costs are significantly lower if these are available for use at the time of the trial.

**Table 2. Trial cost without traffic counter hire**

Item	Unit Cost	Total cost for 3 locations (6 signs)
Rewilding Australia sign	\$170	\$1,020
Sign post and footings plus installation (labour)	\$100	\$600
Use of Council Traffic Counters	\$0	\$0
Traffic Counters installation and removal	\$275 (5 hrs @ \$55/hr)	\$825
<b>TOTAL COST</b>		<b>\$2,445</b>

**Table 3. Trial cost with traffic counter hire**

Item	Unit Cost	Total cost for 3 locations (6 signs)
Rewilding Australia sign	\$170	\$1,020
Sign post and footings plus installation (labour)	\$100	\$600
Hire & installation of additional Traffic Counters for 3 months (includes traffic control, fortnightly checks, data)	\$2,000	\$6,000
<b>TOTAL COST</b>		<b>\$7,620</b>

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A budget of \$5,000 is available from 2785.31, as per budget allocation required from:

**MEETING:** Council Meeting of 2 August 2018

**RESOLUTION NUMBER:** 18-476

10

1. That Council allocate a budget of \$5,000 in the 2018/2019 financial year for the purchase and installation of native animal awareness' signs funded from the Environment and Enforcement Levy Reserve subject to approval of the Transport and Infrastructure Advisory Committee resolution 18-500.

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***Consultation and Engagement***

Council staff consulted:

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- Andrew Pearce
- Phil Holloway

External staff consulted:

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- Rob Brewster, Rewilding Australia
- Ian Shanahan, Network and Safety Officer, Customer Services / Northern Region, Transport for NSW
- Kris le Mottee, Environment Officer (Biodiversity), NSW Roads and Maritime Services.
- Billie Roberts, Senior Project Officer, Biodiversity Conservation Division, Department of Planning, Industry and Environment

**Report No. 13.11      Funding request from 'Northern Rivers Together' for the implementation of the Northern Rivers NSW Brand**

**Directorate:** Sustainable Environment and Economy  
**Report Author:** Lisa Richards, Business Enterprise Officer  
**File No:** I2020/704

**Summary:**

Comprising of representatives from regional businesses, local industry bodies and government authorities, the 'Northern Rivers Together' steering group has developed a Northern Rivers NSW Brand. The brand's strategy is based on four key pillars: Visitation, Provenance, Liveability and Investment.

Funding is being sought by contributions from Industry leaders (Founding Partners), councils, State and Federal Governments, enabling 'free access' to the brand for business across the region for a minimum of 2 years.

Council has recently received a request for a cash contribution of \$50,000 toward the implementation of the Northern Rivers NSW Brand. This contribution is \$50,000 and is for the two year period. It is understood that the payment can be paid in full in the first year, deferred and paid in full in the second year or paid in instalments over the two years.

Taking into consideration the timing of the request, that there is no current or forward budget allocation for this project, and that the existing Byron brand position is strong in its own right; it is recommended that Council provide in kind support only for the implementation of the Northern Rivers NSW Brand at this time.

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**RECOMMENDATION:**

- 1. That Council note the request from 'Northern Rivers Together' steering group for a cash contribution of \$50,000 towards the implementation of the Northern Rivers NSW Brand.**
- 2. That Council agree to provide in kind support only through professional advice, discussion and engagement with the Northern Rivers councils, and the Northern Rivers NSW Committee to the implementation phase of the Northern Rivers NSW Brand.**
- 3. That Council notify the 'Northern Rivers Together' steering group of Council's decision.**

## REPORT

### Background

In 2019, Northern Rivers Together (NRT), a steering group to support the development of a new brand for the Northern Rivers was formed. The steering group is a collaboration of regional partners, including Destination North Coast, Regional NSW, Northern Rivers Joint Organisation, Regional Development Australia - Northern Rivers, Business NSW – Northern Rivers, Northern Rivers Food, NORCO, Southern Cross University and Northern Co-operative Meat Company.

NRT's goal has been to develop a brand that represents the whole of the Northern Rivers region, to position Northern Rivers NSW for its diversity and breadth of experiences and attributes and to create and promote opportunities for the region under its four-pillar strategy: Visitor Attraction, Investment Attraction, Provenance (food and produce) and Liveability (migration and skills).

A professional marketing company was engaged with co-contribution from NSW State Government, Northern Rivers Joint Organisation, Destination North Coast and Regional Development Australia to design and operationalise a process that extended from broad community consultation to the design elements of the new brand.

Due to current restrictions from COVID-19, a phased approach to the launch of the brand was commenced, on 16 April 2020, via various media publications.

### Request for Funding

While the above organisations seed funded the initial stage, industry contributions and other levels of government support are now sought to move into the implementation phase of the project.

Each Northern Rivers council is now being asked for a cash contribution of \$50,000 which will be matched by industry and other grant contributions when they become available. This contribution of \$50,000 and is for the two year period. It is understood that the payment can be paid in full in the first year, deferred and paid in full in the second year or paid in instalments over the two years.

### Brand Strategy and Promotion

The brand's strategy is to increase visitation with more spread of visitors across the local government areas, support strategic investment attraction activities and attract skills and people from more densely populated areas.

Domestic promotional events and national and international trade events that align with the brand values, particularly relating to food and produce will also be key activities, raising the profile of the region but also supporting the world class produce and services that are found in the region.

The branding strategy includes the following logo and descriptor:



**Key issues**

In light of the current impacts of COVID-19, the major issues with this request are timing and priority for Council.

Council does not have a current or forward budget allocation for this project. This proposal would therefore need a new funding allocation from a fully allocated budget at a time when Council is reviewing the impact of COVID 19 on its current and forward budgets having regard to existing and higher Council priorities.

Further, and more importantly, the fact that the Byron brand is known and highly recognised, is of relevance and significance to council, in determining the level of its contribution, to the implementation of the Northern Rivers NSW Brand.

The Northern Rivers NSW brand's website ([www.northernriversnsw.com.au](http://www.northernriversnsw.com.au)) already uses in its descriptors 'near Byron' as an important tag line to locate the area for promotion as part of the new brand identity.

Taking into consideration the timing of the request, that there is no current or forward budget allocation for this project, and that the existing Byron brand position is strong in its own right; it is recommended that Council provides in kind support at this time through professional advice, discussion and engagement with the Northern Rivers local councils, and the Northern Rivers NSW Committee to inform and support the implementation phase of the Northern Rivers NSW Brand.

**STRATEGIC CONSIDERATIONS****Community Strategic Plan and Operational Plan**

Whilst there is no specific 19/20 Operational Plan Activity this initiative does align with the following CSP Objective/Strategy and DP Action:

CSP Objective	L2	CSP Strategy	L3	DP Action	L4	OP Activity
<b>Community Objective 4: We manage growth and change responsibly</b>	4.3	Promote and support local business development, education and employment opportunities	4.3.1	Facilitate and support sustainable development of our business community		

**Legal/Statutory/Policy Considerations**

Nil

**Financial Considerations**

There is no current or forward budget allocation for this project. The report is recommending that Council contribute in-kind support only.

Should Council wish to make a cash contribution, it will need to identify funding amongst its other priorities when preparing and considering the draft 2020/2021 Budget. Alternatively, Council could either stage the contribution over the two year period or defer the payment of the contribution to the second year (2021/2022).

# BYRON SHIRE COUNCIL

## STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

13.11

The funding raised through the cash contributions of each council is proposed to be expended on the implementation of the brand as per the tables and graph below.

### Financial Forecast Branding Initiative:

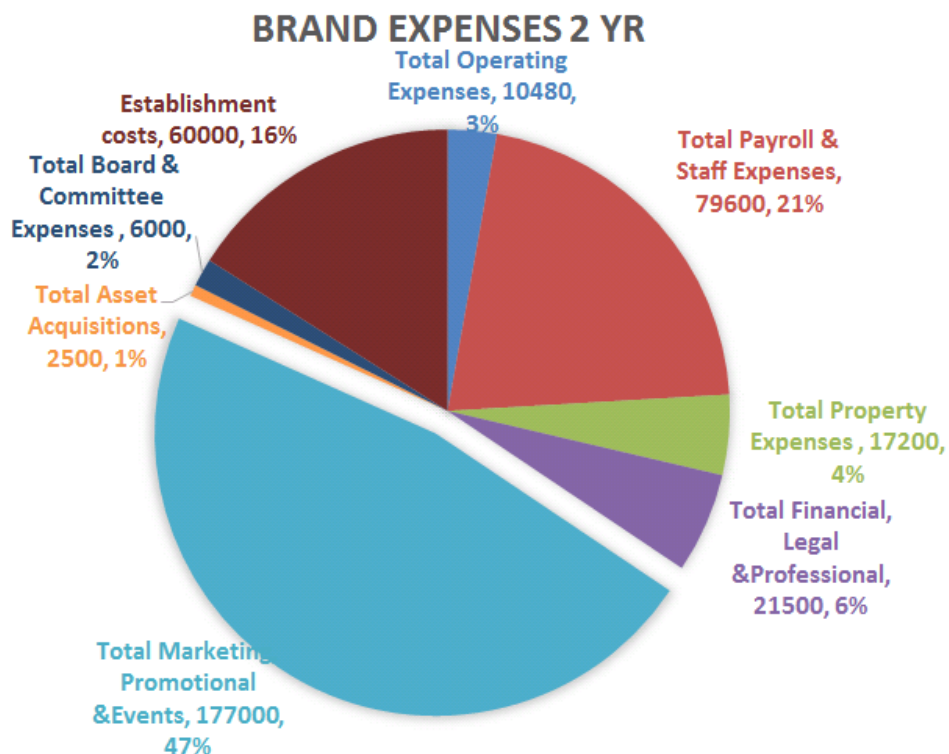
SNAPSHOT	YR 1	YR2
TOTAL INCOME	385,150	240,100
TOTAL EXPENSES	193,590	180,690
PROFIT (LOSS) inc brought forward	191,560	250,970

5

Brand Financial Overview	Yr1	Yr2
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Total Operating Income	380000	220000
Total Non-Operating Income	5150	20100
<b>Total Income</b>	<b>385,150</b>	<b>240,100</b>

Total Operating Expenses	5240	5240
Total Payroll & Staff Expenses	15650	63950
Total Property Expenses	2200	15000
Total Financial, Legal & Professional	10750	10750
Total Marketing, Promotional & Events	95500	81500
Total Asset Acquisitions	1250	1250
Total Board & Committee Expenses	63000	3000
<b>Total Expenses</b>	<b>193590</b>	<b>180690</b>





## STAFF REPORTS - INFRASTRUCTURE SERVICES

**Report No. 13.12      Byron Bay Bypass - Noise Abatement Private Works****Directorate:** Infrastructure Services**Report Author:** Joshua Winter, Civil Engineer**File No:** I2020/667**Summary:**

The Byron Bay Bypass project is required to undertake noise abatement works to private properties on Butler Street in accordance with project approvals. These works will be undertaken pursuant to Section 67(2)(b) of the Local Government Act 1993, with the proposed fee being nil.

This work is required to maintain amenity for the property owners of Butler Street, providing some relief from the additional noise associated with the Bypass. It has been described in the project Review of Environmental Factors although the final scope differs since detailed acoustic modelling has now finalised the required scope.

**RECOMMENDATION:**

1. That Council carry out private works on the following properties for the purpose of complying with the approval conditions of the Byron Bay Bypass project:-

- a) Lot 388 on DP728537 - Byron Aged Care, Butler Street, Byron Bay NSW 2482
- b) Lot 1 on DP781101 - Byron Motor Lodge, Butler Street, Byron Bay NSW 2482
- c) Parcel 236222 on SP35568 - 1/54 Butler Street, Byron Bay NSW 2482
- d) Parcel 236223 on SP35568 - 2/54 Butler Street, Byron Bay NSW 2482
- e) Parcel 236224 on SP35568 - 3/54 Butler Street, Byron Bay NSW 2482
- f) Lot 1 on DP316229 - 56 Butler Street, Byron Bay NSW 2482
- g) Lot 2 on DP316229 - 58 Butler Street, Byron Bay NSW 2482
- h) Lot 10 on DP1027557 - 60 Butler Street, Byron Bay NSW 2482
- i) Lot 11 Section 34 on DP758207 - 62 Butler Street, Byron Bay NSW 2482
- j) Lot 2 on DP232172 - 2 Burns Street, Byron Bay NSW 2482
- k) Lot 3 on DP232172 - 68 Butler Street, Byron Bay NSW 2482
- l) Lot 1 on DP38981 - 69 Butler Street, Byron Bay NSW 2482
- m) Lot 10 Section 41 on DP758207 - 70 Butler Street, Byron Bay NSW 2482
- n) Lot 2 on DP38981 - 71 Butler Street, Byron Bay NSW 2482
- o) Lot 11 Section 41 on DP758207 - 72 Butler Street, Byron Bay NSW 2482
- p) Lot 3 on DP38981 - 73 Butler Street, Byron Bay NSW 2482
- q) Lot 12 Section 41 on DP758207 - 74 Butler Street, Byron Bay NSW 2482
- r) Lot 4 on DP38981 - 75 Butler Street, Byron Bay NSW 2482
- s) Lot 13 Section 41 on DP758207 - 76 Butler Street, Byron Bay NSW 2482
- t) Lot 5 on DP38981 - 77 Butler Street, Byron Bay NSW 2482

2. That Council not charge a fee for the above work, because it is work Council must carry out as part of the Bypass project.
3. That pursuant to Section 67(4) of the *Local Government Act 1993*, staff prepare a report to Council after the works have been completed, providing details in accordance with the Section.



**REPORT**

The Byron Bay Bypass project is required to undertake noise abatement works to private properties on Butler Street in accordance with project approvals. These works will be undertaken pursuant to Section 67(2)(b) of the Local Government Act 1993, with the proposed fee being Nil.

This work is required to maintain amenity for the property owners of Butler Street, providing some relief from the additional noise associated with the Bypass.

It has been described in the project Review of Environmental Factors although the final scope differs since detailed acoustic modelling has now finalised the required scope.

The subject properties include:

- Lot 388 on DP728537 - Byron Aged Care, Butler Street, Byron Bay NSW 2482
- Lot 1 on DP781101 - Byron Motor Lodge, Butler Street, Byron Bay NSW 2482
- Parcel 236222 on SP35568 - 1/54 Butler Street, Byron Bay NSW 2482
- Parcel 236223 on SP35568 - 2/54 Butler Street, Byron Bay NSW 2482
- Parcel 236224 on SP35568 - 3/54 Butler Street, Byron Bay NSW 2482
- Lot 1 on DP316229 - 56 Butler Street, Byron Bay NSW 2482
- Lot 2 on DP316229 - 58 Butler Street, Byron Bay NSW 2482
- Lot 10 on DP1027557 - 60 Butler Street, Byron Bay NSW 2482
- Lot 11 Section 34 on DP758207 - 62 Butler Street, Byron Bay NSW 2482
- Lot 2 on DP232172 - 2 Burns Street, Byron Bay NSW 2482
- Lot 3 on DP232172 - 68 Butler Street, Byron Bay NSW 2482
- Lot 1 on DP38981 - 69 Butler Street, Byron Bay NSW 2482
- Lot 10 Section 41 on DP758207 - 70 Butler Street, Byron Bay NSW 2482
- Lot 2 on DP38981 - 71 Butler Street, Byron Bay NSW 2482
- Lot 11 Section 41 on DP758207 - 72 Butler Street, Byron Bay NSW 2482
- Lot 3 on DP38981 - 73 Butler Street, Byron Bay NSW 2482
- Lot 12 Section 41 on DP758207 - 74 Butler Street, Byron Bay NSW 2482
- Lot 4 on DP38981 - 75 Butler Street, Byron Bay NSW 2482
- Lot 13 Section 41 on DP758207 - 76 Butler Street, Byron Bay NSW 2482
- Lot 5 on DP38981 - 77 Butler Street, Byron Bay NSW 2482

The scope for each property differs slightly but generally includes:

- 1.8m acoustic fence to front and part of side boundary;
- window and/or door upgrade/replacement;
- mechanical ventilation to treated rooms;
- external wall treatment, if required (insulation);
- ceiling treatment, if required (insulation); and
- underfloor treatment, if required (closing of external gaps if house raised off ground).

Staff are currently finalising Works Deeds in order to tender the works. Once the works have been completed, a report will be provided to Council including all required information in accordance with Section 67(4) of the Local Government Act 1993.

## STRATEGIC CONSIDERATIONS

*Community Strategic Plan and Operational Plan*

CSP Objective	L2	CSP Strategy	L3	DP Action	L4	OP Activity
<b>Community Objective 1: We have infrastructure, transport and services which meet our expectations</b>	1.1	Provide a road network which is safe, accessible and maintained to an acceptable level of service	1.1.5	Deliver road network new works program	1.1.5.1	Continue construction of the Byron Bay Bypass

5 **Legal/Statutory/Policy Considerations**

Pursuant to Section 67 of the *Local Government Act 1993*, Council must not undertake Private Works unless—

- 10 (a) it proposes to charge an approved fee for carrying out the work as determined by the council in accordance with Division 2 of Part 10 of Chapter 15, or
- (b) if it proposes to charge an amount less than the approved fee, the decision to carry out the work is made, and the proposed fee to be charged is determined, by resolution of the council at an
- 15 open meeting before the work is carried out.

Council must resolve to carry out the Private Works at the proposed fee of nil.

**Financial Considerations**

- 20 The Byron Bay Bypass project has allowed for these private works, being required for the project in line with project approvals. The \$24M budget has sufficient allowance to undertake the works, which will be tendered and reported to Council in August 2020.

25 **Consultation and Engagement**

On-going consultation and engagement has been an integral component of this work.

- 30 Each affected property owner has been engaged with to ensure proposed works are discussed, described and agreed prior to Council undertaking the works.

**Report No. 13.13**      **Land Acquisition for Booyong Road dedication adjoining Lot 4 DP 707295**  
**Directorate:**      Infrastructure Services  
**Report Author:**      Deanna Savage, Roads and Property Officer  
**File No:**      I2020/526

### Summary:


This report is being presented to Council to seek support to make an application to the Minister and the Governor for approval to acquire land described as part Lot 4 DP 707295 (indicated in survey *Attachment 1 E2020/24612*) by the compulsory acquisition process under section 177(1) of the Roads Act 1993 for the purpose of road formalisation and dedication in accordance with the requirements of the *Land Acquisition (Just Terms Compensation) Act 1991*.

The formal 6 month period for negotiation by agreement expires on 4 May 2020 and whilst Council will endeavour to still negotiate by agreement with the land owner, Council will need to resolve to make application to the Minister and the Governor to proceed with compulsory acquisition should these negotiations fail to reach an agreed position.

### RECOMMENDATION:

**That Council make an application to the Minister and the Governor for approval to acquire land described as part Lot 4 DP 707295 (indicated in survey *Attachment 1 E2020/24612*) by the compulsory acquisition process under section 177(1) of the Roads Act 1993 for the purpose of road formalisation and dedication in accordance with the requirements of the *Land Acquisition (Just Terms Compensation) Act 1991*.**

### Attachments:

- 1      1st Survey Adrian Zakara Newton Deny Chapelle showing encroachments Booyong Road Lot 3 DP 707295, E2020/24612 
- 2      Confidential - Revised Valuation Rob Holden Valuers Australia VA1111.2-CA Acquisition of Land - 319 Booyong Rd, Nashua Lot 4 DP 707295, E2020/24680

### REPORT

- 5 Council was approached by the owners of Lot 3 DP 707295 336 Booyong Road Nashua to discuss encroachment issues on Council's road reserve. A survey plan was presented (*Attachment 1 E2020/24612*) which shows building encroachments and the existing formed road lying within adjoining part Lot 4 DP 707295.
- 10 A road closure of Council's road reserve has been discussed to resolve the encroachment issues and the owner of Lot 4 DP 707295 was contacted to negotiate the acquisition of part Lot 4 DP 707295 to be able to dedicate the land as road. A meeting was organised and held on 4 November 2019 at Council with Council staff and the owners, to start the negotiation process.
- 15 The owners were given an introductory letter and information about the land acquisition process explaining the process in its entirety and detailing their rights as a land owner. Council has also provided advice to the landowner in respect of Council obligations in relation to the matter.
- 20 Council's Roads and Property Officer, was introduced as their Support Manager and contact for the process. A valuation report, prepared by a registered valuer, was provided to the landowner to inform negotiations. Council has encouraged the owners of Lot 4 DP 707295 to obtain their own valuation to ensure transparency and as a consequence of the landowner rejecting the valuation obtained by Council.
- 25 To date, despite numerous unsuccessful phone calls to speak with the land owner no alternative valuation has been provided to Council and communications have consisted only of an email advice from the landowner indicating they are looking at in excess of \$10,000 above the current valuation obtained by Council.
- 30 Mindful that the compulsory acquisition process is invariably more costly.
- If an agreement cannot be negotiated to better or more reasonably reflect the value currently obtained, Council would have no option than to action the compulsory acquisition process to proceed to resolve road reserve and encroachment issues.
- 35 Accordingly, Council's support, by resolution is sought to proceed with compulsory acquisition in the event further negotiations fail to realise an acceptable result which represents best value to Council.

### STRATEGIC CONSIDERATIONS

#### *Community Strategic Plan and Operational Plan*

CSP Objective	L2	CSP Strategy	L3	DP Action	L4	OP Activity
<b>Community Objective 1: We have infrastructure, transport and services which meet our expectations</b>	1.1	Provide a road network which is safe, accessible and maintained to an acceptable level of service	1.1.2	Develop maintenance levels for road network infrastructure in line with Community Solutions Panel values (SP)	1.1.2.2	Undertake highest priority works within approved budgets

***Legal/Statutory/Policy Considerations***

***Land Acquisition (Just Terms Compensation) Act 1991 (NSW)***

**5    1 s1    Notice of intention to acquire land by compulsory process**

(1) An authority of the State may not acquire land by compulsory process unless the authority has given the owners of the land written notice of its intention to do so.

10    (2) The authority of the State is not prevented from acquiring the land by agreement after giving the proposed acquisition notice.

***Roads Act 1993***

Part 12 Division 1 Section 177

15

**177 Power to acquire land generally**

(1) The Minister, RMS or a council may acquire land for any of the purposes of this Act.

20    (2) Without limiting subsection (1), the Minister, RMS or a council may acquire—  
       (a) land that is to be made available for any public purpose for which it is reserved or zoned under an environmental planning instrument; or  
       (b) land that forms part of, or adjoins or lies in the vicinity of, other land proposed to be acquired for the purpose of opening, widening or constructing a road or road work.  
 25    (3) Without limiting subsection (1), RMS may also acquire land that it proposes to declare to be

**Policy Acquisition and Disposal 2016 – (5) Land Acquisitions**

***Financial Considerations***

30    As per revised Valuation for part Lot 4 DP 707295 319 Booyong Road (*Attachment 2 E2020/24680*) plus an additional \$10 000 for negotiation purposes.

35    Funding to be derived from the closure of part road reserve and sale to owner of Lot 3 DP 707295 to rectify encroachment issues.

***Consultation and Engagement***

As per consultation noted in main body of report.

**Report No. 13.14      Towards Zero - Byron Shire's Integrated Waste Management and Resource Recovery Strategy 2019-2029**

**Directorate:** Infrastructure Services

**Report Author:** Danielle Hanigan, Team Leader Resource Recovery and Quarry,

**File No:** I2020/688

**Summary:**

The report provides a recommendation to formally adopt the *Towards Zero – Byron Shire's Integrated Waste Management and Resource Recovery Strategy 2019 -2029*.

At the September 2019 meeting, Council resolved (**19-500**) the following:

1. *That the Draft Towards Zero - Byron Integrated Waste and Resource Recovery Strategy 2019-29 be placed on public exhibition for a period of 28 days.*
2. *That the draft Towards Zero – Byron Integrated Waste and Resource Recovery Strategy 2019-29, be reported back to Council with any submissions that are received, prior to the adoption of the Strategy.*

Consequently, the *Draft Strategy* was placed on public exhibition from 18 December 2019 until 8 February 2020 – an extended period beyond the standard 28 days due to the time of year it was exhibited.

One submission was received during the exhibition period from Lismore based company *McKeeco Engineering*. The basis of the submission was that investment in small scale infrastructure would be better and quicker to implement in comparison to regional investigations into larger scale Alternative Waste Treatments (AWT) which is one of the key aspects of the *Draft Strategy*.



Whilst the *Draft Strategy* explains that Council will be supporting regional investigations into AWT, as an alternative to landfilling residual waste, it also outlines that Council would only consider investment in technology that is appropriate for our community, supports existing diversion, recycling and organics systems and produces a positive outcome for our environment. As such, the recommendations made within this submission will be considered where appropriate.

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**RECOMMENDATION:**

1. **That Council note the submission received on the *Draft Towards Zero - Byron Shire's Integrated Waste and Resource Recovery Strategy 2019-29*; and**
2. **That Council adopt the *Towards Zero - Byron Shire's Integrated Waste and Resource Recovery Strategy 2019-29 (E2019/13791)*.**

**1. Attachments:**

- 1 Submission Draft Waste Management Strategy 2019 McKeeco, E2020/32393 
- 2 Towards Zero - Byron Shires Integrated Waste and Resource Recovery Strategy FINAL, E2019/13791 

**REPORT**

**Background:**

- 5 Council's waste management responsibilities have shifted significantly over the last five years, from the provision of a basic low cost essential service to a financially, environmentally and socially endorsed service. Waste has become a resource, which is recovered through a circular economy approach.
- 10 During 2015/2016 a number of critical factors evolved within the waste industry– strongly guided by state government direction - causing a shift from a business as usual approach to waste management to a drive for resource recovery. In response to those changes, staff engaged a specialist consultant to conduct a strategic review of Council's waste disposal options.
- 15 These options were reported to the March 2016 Water Waste and Sewer Committee, and subsequently Council resolved (**16-145**):

20 *"That Council endorse the development of a revised 'Waste Disposal Strategy', utilising the recommended short, medium and long term options presented in the [report 'Review of Council's Waste Disposal Strategy 2009'](#) As below:*

Short Term Disposal Option

- 25
  - Continue to operate the Byron Resource Recovery Centre and utilise the current transport & disposal contract to transport waste to SE QLD

Medium Term Disposal Option

- 30
  - As per Short Term Disposal Option
  - Contingency Option 1: If disposal to SE QLD becomes unviable, implement MOU utilising a neighbouring Council's landfill airspace.
  - Contingency Option 2: Utilise contingency airspace in Myocum Landfill Southern Expansion (approximately 18 months airspace to be utilised as last resort contingency)

Long Term Disposal Options

- 35
  - Option 1: Continue to implement MOU to utilise a neighbouring Council's landfill airspace.
  - Option 2: Utilise the new sub-regional waste disposal facility
  - Option 3: Continue transport waste to SE QLD

40 This formed the basis for development of the new Strategy and work commenced on initial stages of detailed research and analysis.

In 2018, following a Notice of Motion from Mayor Simon Richardson, Council resolved (**18-419**):

*That Council:*

- 45
  - *Adopts a 'Zero Waste Target' across the Shire and includes this objective in our Integrated Waste Strategies and Management Plans.*
  - *Supports a circular economy model approach to manage its resource recovery, with an expressed desire for an innovative waste management strategic focus (with zero waste to landfill aspirations).*
  - *Seeks regional support, through the Northern Rivers Joint Organisation, and other regional waste bodies, to encourage or incentivise businesses that will manufacture or create product from the recycled product in the region and to develop a region wide zero waste target.*
- 55

- Support the Northern Rivers Joint Organisation identified priority in waste management to proceed with and complete a detailed feasibility study for a regional AWT facility.

5 These principles informed the development of the *Strategy*.

Staff engaged industry leading consultants Arcadis to develop the Integrated Waste Management and Resource Recovery Strategy. It has been developed taking a structured and staged approach involving:

- Business as Usual (BAU) Report - analysis of current strategies and objectives
- Regional Alternative Waste Treatment (AWT) Analysis options
- Technical Report
- Draft Towards Zero – Byron Shire’s Integrated Waste and Resource Recovery Strategy 2019-29

**Key issues**

Each stage has involved detailed research, analysis and modelling which has culminated in the attached draft “Towards Zero – Byron Shire’s Integrated Waste Management and Resource Recovery Strategy 2019-2029”. The draft Strategy is based on industry best practice driven by local sustainability principles.

The Strategy’s Vision is to support a landfill-free, zero net carbon Shire through best practice in waste avoidance, recovery and treatment, and it has 4 key objectives, to:

1. Empower the community to increase avoidance, reuse and recycling activities
2. Maintain and enhance solutions to recover/treat/dispose of residual waste
3. Work with the business and tourism sector to reduce waste to landfill
4. Support and lobby for NSW and Federal Government action to help reduce overall waste generation and disposal

The Strategy is guided strongly by the principles of the waste hierarchy and circular economy models, both of which establish the priorities in managing waste. These guiding principles put an emphasis on avoiding, reducing, reusing, and recycling waste streams before energy recovery, treatment or disposal are considered, and this will drive implementation of the Strategy.

It should be noted that the Guiding Principles of the *Towards Zero Strategy* strongly align with the direction of the NSW Governments - *20 Year Waste Strategy* and the *North Coast Region Waste Investment Report* both of which are currently in development.

**STRATEGIC CONSIDERATIONS**

**Community Strategic Plan and Operational Plan**

CSP Objective	L2	CSP Strategy	L3	DP Action	L4	OP Activity
<b>Community Objective 1: We have infrastructure, transport and services which meet our expectations</b>	1.4	Provide a regular and acceptable waste and recycling service	1.4.1	Implement Integrated Waste Management and Resource Recovery Strategy	1.4.1.1	Implement 2019/20 action plan activities identified in the Waste Management Strategy



### Legal/Statutory/Policy Considerations

Adoption of a revised Waste Strategy will enable Council to fulfil requirements of the NSW Waste Avoidance and Resource Recovery Act.

- 5 The draft is also consistent with the broad policy framework that sets the overall direction for waste management. It cascades down from national, state and regional requirements, to inform the local waste strategy for Byron Shire.
- 10 The key policy settings are shown below.

National	National Waste Policy 2018	Primarily developed in response to challenging import restrictions introduced on mixed recyclables by China and others, it provides a high level direction to encourage the circular economy.
	2025 National Packaging Targets	<p>Also developed in response to Chinese import restrictions, key targets are:</p> <ul style="list-style-type: none"> <li>• 100% of all Australia's packaging will be reusable, recyclable or compostable by 2025 or earlier</li> <li>• 70% of Australia's plastic packaging will be recycled or composted by 2025</li> <li>• 30% average recycled content will be included across all packaging by 2025</li> <li>• Phase out single-use plastic packaging through design, innovation or introduction of alternatives.</li> </ul>
	Protection of the Environment Operations (POEO) Act 1997 – and Waste Regulation 2015	The state's principal environmental protection legislation, the POEO Act defines 'waste' for regulatory purposes, lays out management and licensing requirements for waste operations, and establishes offences. The associated Regulation includes Resource Recovery Exemptions and Orders support the reuse of permitted waste for alternative purposes.
New South Wales	Waste Avoidance and Resource Recovery Strategy 2014-21	<p>Establishes state-wide targets for 2021/22, including:</p> <ul style="list-style-type: none"> <li>• Divert 75% of total waste from landfill</li> <li>• Increase municipal waste recycling to 70%</li> <li>• Increase business waste to 70%</li> <li>• Increase building waste to 80%.</li> </ul>
	Circular Economy Policy Statement – 'Too Good to Waste' discussion paper	The first step in establishing a Circular Economy Policy to decouple economic growth from resource consumption and create local opportunities to deliver higher order outcomes.
	Container Deposit Scheme	Introduced in 2018, the Container Deposit Scheme has established sites to take back eligible containers for a redeemable deposit, in order to reduce littering.
Regional	Northern Rivers Joint Organisation	Sustainable waste management is a priority, with investigation of a regional alternative waste treatment (AWT) facility identified as key action.
	North East Waste (NEWaste) Regional Waste Management Strategy 2017	A high level strategy providing guidance on best practice for councils in the Northern Rivers region, including opportunities for collaboration.

Additionally, the *20-Year Waste Strategy for NSW* is currently under development. The recent *Issues Paper* highlighted several synergies with Councils *Strategy*, with both focussing on a circular economy model of waste management and resource recovery.

- 5 Also under development is: *Cleaning Up Our Act: Redirecting the Future of Plastic in NSW* and the *North Coast Region Waste Investment Report* which is being undertaken by Arcadis on behalf of 13 Councils from Kempsey in the South to Tweed in the North to determine the waste outputs and available infrastructure across the North Coast region.
- 10 Arcadis has been engaged by the NSW Government to expand this undertaking across the State of NSW.

***Financial Considerations***

- 15 Each Strategy action will have budget implications. The actions can both cost and save Council money depending on the project. For example a project to reduce the amount of waste to landfill can have initial capital costs but then reduce recurrent transport, disposal and waste levy costs.

- 20 Revised 10-year estimates in the strategy have been developed and will be incorporated into the long term financial plans for the Waste Fund.

There will be significant forward capital costs associated with closure and rehabilitation of the Myocum Landfill and ongoing sustainable leachate management.

- 25 However, at the time of developing each action listed in the Strategy, they will need to be assessed for financial viability and potential funding sources investigated (for example grant funding options) on a case by case basis.

***Consultation and Engagement***

- 30 The *Draft Strategy* was presented by Consultants and staff to Councillors at a workshop in March 2019 and the WWSAC in June 2019.

- 35 The *Draft Strategy* and associated documentation was presented as part of the report to the September 2019 Council meeting seeking endorsement to place the *Draft Strategy* on public exhibition.

- 40 The *Draft Strategy* was placed on public exhibition for a period of 51 days. Prior to the exhibition period a communication plan was developed, with key messages identified.

Consultation on the accompanying media release and messaging was undertaken with the 13 neighbouring Councils within our region that are participating in the North Coast Waste Investment Report Project to ensure all parties were satisfied with the messaging

- 45 The public exhibition of the *Draft Strategy* was promoted in the Byron Shire Echo, Council website and Councils social media platforms, and via media release which led to articles in several local publications.

**Report No. 13.15**      **Public Amenities Cleaning Services T2019-0063**  
**Directorate:**      Infrastructure Services  
**Report Author:**      Malcolm Robertson, Team Leader Open Space  
**File No:**      I2020/692

5

**Summary:**

10      On March 16 2020 the General Manager, under delegated authority, approved the use of the open tender method to call for tenders for Contract T2019-0063 Public Amenities Cleaning Services.

The Request for Tender was advertised from 31 March 31 to 28 April.

15      Tenders were received from the following organisations:-

- Clean Management Solutions.
- Deeper Water Cleaning
- House With No Steps

20      • Impeccable Group

• Storm International

Tenders have been assessed in accordance with the provisions of the Local Government (General) Regulations 2005. This report summarises the background and assessment of the  
25      tenders and provides a recommendation to award the tender for Contract 2019-0063.

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**RECOMMENDATION:**

1.      **That Council award Tender Public Amenities Cleaning Services to Tenderer as detailed on page 16 of the Evaluation Report (Attachment 1).**
2.      **That Council makes public its decision, including the name and amount of the successful tenderer, in accordance with Clause 179(b) of the Local Government (General) Regulation 2005.**

**Attachments:**

30

- 1      Confidential - Attachment 1 - Evaluation Report Signed, E2020/35786
- 2      Confidential - Attachment 2 - Public Amenities Budget Details, E2020/35796

35

### Report

On March 16 2020 the General Manager, under delegated authority, approved the use of the open tender method to call for tenders for Contract T2019-0063 Public Amenities Cleaning Services.

Tender is required to enable budgeted works for street and footpath litter collection, public toilet cleaning, BBQ cleaning, CCTV camera cleaning and Dog Bag dispenser replenishment services across Byron Shire using the open request for tender process as per Section 55 of the Local Government Act

The Request for Tender sought responses from proponents to provide cleaning to a standard acceptable to Council the Byron Shire Council's Public Amenities including;

- Public Toilets and related amenities
- Barbecues ('BBQs')
- Byron CBD Streetscape *and*
- Replenishment of dog waste bags

An important part of the work package is that the successful tenderer can clearly demonstrate positive social outcomes in the execution of the work defined by the tender documents.

The scope of work comprises some 25 toilet facilities, 2 change rooms, 20 BBQs and 32 Dog Bag dispensers located throughout the Byron Shire. The contract was offered under the following separable portions;

- Byron Bay and Suffolk Park
- Northern Beaches
- Western Towns and Villages

The Contract is expected to commence in July 2020 for a period of three years commencing, with an option to extend the contract for one additional period of three years at Council's sole discretion.

The Contract will be managed by Team Leader Open Space.

Tenders were advertised as follows:

- Sydney Morning Herald – 31 March 2020
- Byron Shire News – 02 April 2020 and 09 April 2020
- Tenderlink – 1 April 2020 to 28 April 2020
- Council website – 1 April 2020 to 28 April 2020

A tender briefing was planned but was cancelled due to Covid-19 restrictions. Tenderers wishing to discuss details of the tender or to arrange an individual site inspection were invited to either:

- 1) Submit questions to the Tenderlink Forum page *or*
- 2) Email request or questions *or*
- 3) Contact nominated Council staff via phone.

No request for site inspection was received. Responses to all questions were be provided via addendum through the online tender.

An Evaluation Panel comprising of two Council staff and an external consultant was formed.

Tenders closed on April 28 and tenders were received from the following proponents:

- Clean Management Solutions.
- Deeper Water Cleaning
- House With No Steps
- Impeccable Group
- 5 • Storm International

Tenders were evaluated by the Evaluation Panel in accordance with the following evaluation criteria:

10 *Mandatory criteria:*

- Tender lodged on time, in accordance with the Conditions of Tender.
- Respondent has a valid Australian Business Number.
- Respondent substantially complies with the Statement of Requirements.
- 15 • Respondent substantially complies with the Conditions of Contract.
- Respondent holds the required insurances or has the ability to obtain the insurances.
- Workers Compensation insurance for all employees
- Respondent has satisfactory work health and safety and environmental compliance practices.
- Financial capacity to undertake the contract
- 20 • Commitment to ethical business practice principles.
- Tenderer confirms no ties to Adani

*Qualitative criteria:*

Criteria	Elements
Profile and relevant experience	Tenderer profile
	Previous relevant experience
	Environmental practices
	Opportunities for disadvantaged people
	Local employment opportunities
Quality and availability of resources	Proposed key personnel
	Proposed staff
	Use of subcontractors
	Vehicles, plant and equipment
Delivery Plan	Goods/services standards and methodology
	Implementation plan
	Product sustainability
	Supporting local business, social enterprise and Indigenous business
Sustainability	Strategies to reduce impacts
	Strategies to avoid unnecessary consumption and manage demand
	Reuse or recycling of materials
	Ensuring fair and ethical sourcing practices
	Social benefit outcomes
Price	Total contract price

Following the evaluation, the Evaluation Panel conducted referee and financial checks on the preferred tenderer. The results of these checks were deemed by the Evaluation Panel to be satisfactory as detailed in the attached Evaluation Report.

5

### Financial Implications

#### *Option 1:*

The price basis for the contract is a schedule of rates.

10

Council currently spends over \$765,000 per year on public toilets cleaning, street litter collection, BBQ cleaning, CCTV Camera Cleaning and Dog Bag replenishment programs (attachment 2). Savings will be realised from this new contract.

15

There is a sufficient source of budget funding within the draft 20/21 budget for the proposed contract.

### Statutory and Policy Compliance Implications

20

The tendering process has been undertaken in accordance with Council's Purchasing and Procurement Policy, and the provisions of the Local Government (General) Regulation 2005. The Local Government (General) Regulations 2005 define the options available to Council. An extract is provided below.

25

#### Local Government (General) Regulation 2005 - Reg 178

#### *Acceptance of tenders*

#### *178 Acceptance of tenders*

30

(1) *After considering the tenders submitted for a proposed contract, the council must either:*

- (a) accept the tender that, having regard to all the circumstances, appears to it to be the most advantageous, or*
- (b) decline to accept any of the tenders.*

35

(2) *A council must ensure that every contract it enters into as a result of a tender accepted by the council is with the successful tenderer and in accordance with the tender (modified by any variation under clause 176). However, if the successful tender was made by the council (as provided for in [section 55](#) (2A) of [the Act](#)), the council is not required to enter into any contract in order to carry out the requirements of the proposed contract.*

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(3) *A council that decides not to accept any of the tenders for a proposed contract or receives no tenders for the proposed contract must, by resolution, do one of the following:*

- (a) postpone or cancel the proposal for the contract,*
- (b) invite, in accordance with clause 167, 168 or 169, fresh tenders based on the same or different details,*
- (c) invite, in accordance with clause 168, fresh applications from persons interested in tendering for the proposed contract,*
- (d) invite, in accordance with clause 169, fresh applications from persons interested in tendering for contracts of the same kind as the proposed contract, 18*
- (e) enter into negotiations with any person (whether or not the person was a tenderer) with a view to entering into a contract in relation to the subject matter of the tender,*
- (f) carry out the requirements of the proposed contract itself.*

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(4) *If a council resolves to enter into negotiations as referred to in subclause (3) (e), the resolution must state the following:*

(a) *the council's reasons for declining to invite fresh tenders or applications as referred to in subclause (3) (b)–(d),*

5 (b) *the council's reasons for determining to enter into negotiations with the person or persons referred to in subclause (3) (e).*

Council's endorsement of the recommendation to award the tender as recommended in the attached Evaluation Report is sought.

**REPORTS OF COMMITTEES - SUSTAINABLE ENVIRONMENT AND ECONOMY**

**Report No. 14.1**      **Report of the Heritage Panel Meeting held on 12 March 2020**  
**Directorate:**      Sustainable Environment and Economy  
**Report Author:**      Chris Larkin, Manager Sustainable Development  
**File No:**      I2020/579

**Summary:**

The attachment to this report provides the minutes of the Heritage Panel meeting held on 12 March 2020 for determination of Council.

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**RECOMMENDATION:**

1.      **That Council note the minutes of the Heritage Panel Meeting held on 12 March 2020.**

2.      **That Council adopt the following Panel and Management Recommendation(s):**

**Report No. 4.1    Heritage Panel Walk - Brunswick Heads**  
**File No: I2020/168**

**Committee Recommendation 4.1.1**

**That the Heritage Panel:**

1.      **Note the results from the heritage walk will be retained as a basis for any future heritage studies for Brunswick Heads.**
2.      **Note the results from the heritage walk will be provided to planning staff to inform character narratives for Brunswick Heads that may be prepared for future LEP or DCP amendments that result from the adoption of the Residential Strategy.**
3.      **Be invited to review and contribute to any future character narrative statements for Brunswick Heads.**
4.      **Recommend Council consider a heritage conservation area for Brunswick Heads to be determined by further survey, subject to funding and staff availability.**
5.      **Request staff to confirm the time frame and process for the drafting of the character narratives in item 2.**

3.      **That Council adopt the following Panel and Management Recommendation(s):**

**Report No. 4.2    Draft Byron Shire Heritage Strategy 2020-2024**  
**File No: I2020/214**

**Committee Recommendation 4.2.1**

**That the Heritage Panel:**



1. **Endorse the Byron Heritage Strategy 2020-2024 for adoption at the next available Council meeting.**
2. **Nominate the following four priorities from the Byron Heritage Strategy 2020-2024 with four key actions identified to achieve them in the 2020/21 work program.**
  - a. **Operate a Heritage Panel to provide community input to heritage matters in the Byron Shire Council area:**
    - **Action - Resourcing for heritage planning be increased where able.**
  - b. **Identify Heritage Items in the Byron Shire and list them in the Local Environmental Plan:**
    - **Action - Council to consider a heritage conservation area for Brunswick Heads as determined by further survey, subject to funding and staff availability.**
    - **Action - Council to prepare character narratives for Brunswick Heads in relation to any future DCP or LEP's amendments that result from the adoption of the Residential Strategy.**
  - c. **Appoint a Heritage Advisor to assist Council, the community and owners of listed Heritage Items, properties in Heritage Conservation Areas or potential items:**
    - **Action – Seek additional resourcing for the heritage advisor where possible.**
  - d. **Manage heritage in the Byron Shire area in a positive manner:**
    - **Action - Develop a heritage awards program to show good examples of heritage conservation resulting from repair, maintenance, or infill; and**
    - **Action – Support community initiatives that showcase local heritage in particular the development of walks and interpretation trails.**
4. **That Council adopt the following Panel and Management Recommendation(s):**

**Report No. 4.3 Heritage Panel Member Updates**



File No: I2020/235

**Committee Recommendation 4.3.1**

**That the Heritage Panel:**

1. **Note the member updates.**
2. **Request further reports from staff be provided to the Panel on the following:**
  - (i) **Development application requirements for heritage conservation areas and heritage items.**
  - (ii) **The heritage significance of the Flick Farm and associated fencing and the group of houses on the 1903 Robinsons subdivision.**

**5 Attachments:**

- 1 Minutes Heritage Panel 12 March 2020, E2020/28120 
- 2 Draft Byron Shire Heritage Strategy 2019-2024, E2020/13375 

**Report**

The attachment to this report provides the minutes of the Heritage Panel Meeting of 12 March 2020 for determination by Council. The agenda for this meeting can be located on Council's website at:

[https://byron.infocouncil.biz/Open/2020/03/HER\\_12032020\\_AGN\\_1189\\_AT.PDF](https://byron.infocouncil.biz/Open/2020/03/HER_12032020_AGN_1189_AT.PDF)

The Panel recommendations are supported by management and provided in the attachment to this report.

**Financial Implications**

As per the Reports listed within the Heritage Panel Meeting of 12 March 2020.

**Statutory and Policy Compliance Implications**

As per the Reports listed within the Heritage Panel Meeting of 12 March 2020.

**Report No. 14.2      Report of the Biodiversity Advisory Committee Meeting held on 4 May 2020**

**Directorate:** Sustainable Environment and Economy  
**Report Author:** Michelle Chapman, Project Support Officer  
**File No:** I2020/701

**Summary:**

This report provides the minutes of the Biodiversity Advisory Committee Meeting of 4 May 2020 for determination by Council.

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**RECOMMENDATION:**

1. That Council note the minutes of the Biodiversity Advisory Committee Meeting held on 4 May 2020.

2. That Council adopt the following Committee Recommendation:

**Report No. 4.2   Endorsement of the Northern Rivers Feral Deer Plan**  
File No: I2020/562

**Committee Recommendation 4.2.1**

That the Biodiversity Advisory Committee recommend to Council that the Feral Deer Management Plan (Attachment 1 E2020/15987) be endorsed.

3. That Council adopt the following Committee Recommendation:

**Report No. 4.4   Taro Removal - Salt Water Creek**  
File No: I2020/590

**Committee Recommendation 4.4.1**

That the Biodiversity Advisory Committee note the update on Taro Removal at Saltwater Creek.

That staff provide an update to Tamara Smith outlining works done and lack of funds to continue the project.

**Attachments:**

- 1 Minutes 04/05/2020 Biodiversity Advisory Committee, I2020/615 

**Report**

The attachment to this report provides the minutes of the Biodiversity Advisory Committee Meeting of 4 May 2020 for determination by Council. The agenda for this meeting can be located on Council's website at:

[https://byron.infocouncil.biz/RedirectToDoc.aspx?URL=Open/2020/05/BAC\\_04052020\\_AGN\\_1199\\_AT.PDF](https://byron.infocouncil.biz/RedirectToDoc.aspx?URL=Open/2020/05/BAC_04052020_AGN_1199_AT.PDF)

In relation to committee Report No. 4.2 Endorsement of the Northern Rivers Feral Deer Plan. A copy of the plan can be accessed via the above link to the meeting agenda.

The committee recommendations are supported by management and are provided in the attachment to this report.

**Financial Implications**

As per the Reports listed within the Biodiversity Advisory Committee Meeting of 4 May 2020.

**Statutory and Policy Compliance Implications**

As per the Reports listed within the Biodiversity Advisory Committee Meeting of 4 May 2020.

**REPORTS OF COMMITTEES - INFRASTRUCTURE SERVICES**

**Report No. 14.3      Report of the Local Traffic Committee Meeting held on 10 March 2020**

**Directorate:** Infrastructure Services

**Report Author:** Stephanie Tucker, Pay Parking Coordinator

**File No:** I2020/604

**Summary:**

This report contains the recommendations of the Local Traffic Committee meeting held on 10 March 2020.

Council's action on the LTC advice will be:

- a) If Council is in agreement with the LTC unanimous support then the proposal may be approved. In these cases there is no conflict between Council and the advice of the LTC, consequently there is no need for Council to inform the RMS or the NSW Police representatives of the decision.
- b) If Council is in agreement with the LTC unanimous support, but no longer wants to proceed, the proposal may still be rejected.
- c) If Council is in agreement with the LTC unanimous decline then the proposal may be rejected. Again there is no conflict between Council and the advice of the LTC. Consequently there is no need for Council to inform the RMS or the NSW Police representatives of the decision.
- d) If Council decides to proceed with a proposal where the advice of the LTC is not unanimous support, then the Council must first advise the RMS and the NSW Police representatives in writing of their intention to approve the proposal. The RMS or the NSW Police may then lodge an appeal to the Regional Traffic Committee (RTC).
- e) If Council decides to proceed with a proposal where the advice of the LTC is a unanimous decline, then the Council must first advise the RMS and NSW Police representatives in writing of their intention to approve the proposal. The RMS or the NSW Police may then lodge an appeal to the RTC.

Due to the fact that the RMS and the NSW Police have the power to appeal certain decisions of the Council, the LTC cannot provide its advice to Council until both the RMS and the NSW Police have provided their vote on the issue.

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**RECOMMENDATION:**

**1. That Council note the minutes of the Local Traffic Committee Meeting held on 10 March 2020.**

**2. That Council adopt the following Committee Recommendation(s):**

**Report No. 6.1 No Stopping - Suffolk Park Cul-de-Sacs**  
**File No: I2020/65**

**Committee Recommendation 6.1.1**

1. That Council support the investigation of No Parking signs in Korau, Oceanside, Azolla and No Stopping in Paterson Lane to assist with waste collection at the end of the following cul-de-sacs:

Cul-de-Sac	Collection Day	Number of Signs	Sign Wording
Korau Place, Suffolk Park	Friday	3	No Parking (time limited - investigate times)
Oceanside Place, Suffolk Park	Friday	3	No Parking (time limited - investigate times)
Azolla Place, Suffolk Park	Friday	3	No Parking (time limited - investigate times)
Paterson Lane, Byron Bay Northern Section	N/a	4	No Stopping (full time)

2. That the matter be referred back to LTC after further investigations.
3. That Council adopt the following Committee Recommendation(s):

**Report No. 6.2 No Stopping - Daniels St, Byron Bay**  
File No: I2020/71

**Committee Recommendation 6.2.1**

That Council support the installation of No Stopping signs along the entire northern edge of Daniels Street, Byron Bay.

4. That Council adopt the following Committee Recommendation(s): )

**Report No. 6.3 Byron Bay Bypass Stage 4 Signage**  
File No: I2020/140

**Committee Recommendation 6.3.1**

1. That Council address the southern exit from the Police station to ensure safe egress.
2. That Council review pedestrian access provisions with a view to improving pedestrian access points and safety.
3. That Council note the attached Pavement Marking and Signage Plans for Stage Four of the Byron Bay Bypass project (#E2020/13820).
4. The amended design plans (further amendments to E2020/13820) be referred to LTC for concurrence (electronic concurrence).
5. That Council adopt the following Committee Recommendation(s):  
**Report No. 6.4 Events - Anzac Day 2020 - Road Closures in Byron, Mullumbimby, Brunswick Heads, Bangalow**  
File No: I2020/157

**Moved 6.4.1**

1. That Council:-
  - a) endorse the ANZAC Day Parades for 2020-2022 for the Return Services

League sub branches of Byron Bay, Mullumbimby, Bangalow and Brunswick Heads / Billinudgel, subject to there being no changes to the current TCPs and road closures;

- b) assists, where requested and required, with implementing the necessary temporary road closures and detours;
  - c) place advertisements in a local weekly newspaper a minimum of one week prior to the operational impacts taking effect, noting it must include the event name, specifics of any traffic impacts or road closures and times, alternative route arrangements, event organiser, a personal contact name and a telephone number for all event related enquiries or complaints;
  - d) notify the event on Council's webpage.
2. That the event organiser:
- a) obtain separate approvals by NSW Police and TfNSW, noting that the Bangalow event is on a state road or may impact the state road network;
  - b) undertake consultation with community and affected businesses including adequate response/action to any raised concerns;
  - c) undertake consultation with emergency services and any identified issues addressed;
  - d) holding \$20m public liability insurance cover which is valid for the event.
3. That the approvals provided above are subject to NSW Police approval being obtained and that each event is undertaken either or both under Police escort or traffic control and/or Council's implemented traffic control.
6. That Council adopt the following Committee Recommendation(s):

**Report No. 6.5 Events - Bangalow Billycart Derby 2020 - Byron Street Road Closure  
17 May 2020**

File No: I2020/230

**Committee Recommendation 6.5.1**

1. That Council endorse the Bangalow Billy Cart Derby to be held on Sunday 17 May 2020, that includes the temporary road closure below:
- a) Byron Street, Bangalow between Ashton Street and Granuaille Road, between 6am and 4pm on Sunday 17 May 2020.
2. That the approval provided in Part 1 is subject to:
- a) Separate approvals by NSW Police and TfNSW being obtained, noting that the event is on a state road or may impact the state road network;
  - b) Traffic Control Plan(s) to be developed by people with the appropriate TfNSW accreditation;
  - c) Traffic Control Plan(s) to be implemented by people with appropriate accreditation;
  - d) That the impact of the event be advertised via a notice in the local weekly paper a minimum of one week prior to the operational impacts taking effect, noting it must include the event name, specifics of any traffic impacts or road closures and times, alternative route arrangements, event organiser, a

personal contact name and a telephone number for all event related enquiries or complaints.

- e) The event notified on Council's webpage.

**3. That the event organiser:**

- i) Undertake consultation with community and affected businesses including adequate response/action to any raised concerns.
- ii) Undertake consultation with emergency services and any identified issues addressed.
- iii) Holding \$20m public liability insurance cover which is valid for the event.
- iv) Pays Council's Road Event Application Fee prior to the event.

**7. That Council adopt the following Committee Recommendation(s):**

**Report No. 7.1 Events - 2020 Splendour in the Grass Music Festival**

File No: I2020/189

**Committee Recommendation 7.1.1**

**1. That Council note the Traffic Control Plans for the 2020 Splendour in the Grass to be held 22<sup>nd</sup>-27<sup>th</sup> July, 2020. This includes:**

- a) The installation and enforcement of No Stopping signs every 75m on:-
  - i) Tweed Valley Way through to the shire boundary in the north;
  - ii) Brunswick Valley Way from Shara Blvd intersection in the south through to Tweed Valley Way intersection;
  - iii) Yelgun Road, from Tweed Valley Way and extending for 300m;
  - iv) Billinudgel Rd from Tweed Valley Way and extending for 280m.
- b) An alternate temporary pick up and drop off Bus Zone (with associated signage and works) on the northern side of Fawcett St, between Mona Lane and the War Memorial, Brunswick Heads.

**2. That the event organisers are to undertake the following:**

- a) Separate approvals by NSW Police and TFNSW being obtained, noting that the event is on a state road or may impact the state road network;
- b) The Traffic Control Plan(s) to be developed by someone with appropriate and relevant accreditation.
- c) The Traffic Management Plan and Traffic Control Plans to be implemented by those with appropriate accreditation;
- d) That the impact of the event be advertised via a notice in the local weekly paper a minimum of one week prior to the operational impacts taking effect, noting it must include the event name, specifics of any traffic impacts or road closures and times, alternative route arrangements, event organiser, a personal contact name and a telephone number for all event related enquiries or complaints.



- e) The event be notified on Council's webpage with event details supplied to Council by the event organiser.
3. That the event organiser:
- i) undertake consultation with community and affected businesses including adequate response/action to any raised concerns.
  - ii) undertake consultation with emergency services and any identified issues addressed.
  - iii) holding \$20m public liability insurance cover which is valid for the event.
  - iv) paying Council's Road Event Application Fee prior to the event.
  - v) the holding of an event debrief within one month following the festival which includes but is not limited to Council, TfNSW and Police representatives;
8. That Council adopt the following Committee Recommendation(s):
- Report No. 7.2 Events - Byron Writers Festival 2019 - Road Closure**  
File No: I2020/216
- Committee Recommendation 7.2.1**
- 1. That Council endorse the Byron Bay Writers Festival 7-9 August 2020 and submitted Traffic Management Plan.
  - 2. That the approval provided in Part 1 is subject to:
    - a) separate approvals by NSW Police and TfNSW being obtained
    - b) The traffic control plan is to operate Thursday 6th August to Sunday 9<sup>th</sup> August.
    - c) West bound event traffic arriving from Byron Town Centre is to be directed down Sunrise Blvd, as a contingency, if east bound traffic on Ewingsdale Rd is queued back onto the Motorway.
    - d) Document within the TCP, TMP persons who can change and approve the TCP on the day for unforeseen circumstances.
    - e) The development of a Traffic Control Plan(s) by those with relevant TfNSW accreditation. Traffic control plan(s) to be generally in accordance with the endorsed TMP.
    - f) The Traffic Control Plan to be implemented by those with relevant and current TfNSW accreditation.
  - 3. That the event organiser must:
    - i. Advertise the impact of the event via a notice in the local weekly paper a minimum of one week prior to the operational impacts taking effect. The

notification must include the event name, specifics of any traffic impacts or road closures and times, alternative route arrangements, event organiser, a personal contact name and a telephone number for all event related enquiries or complaints,

- ii. Notify the public of event details on Council's webpage. Details to be supplied to Council by the event organisers,
- iii. Undertake consultation with community and affected businesses including adequate response/action to any concerns raised,
- iv. Undertake consultation with emergency services and any identified issues addressed,
- v. Hold \$20m public liability insurance cover which is valid for the event.

**9. That Council adopt the following Committee Recommendation(s):**

**Report No. 7.3 Event - Byron Triathlon**  
File No: I2020/231

**Committee Recommendation 7.3.1**

**That:**

- 1. Council endorse the Byron Bay Triathlon to be held on Saturday 9th May 2020, which includes the following temporary road closures below:

STREET	EXTENT	CLOSURE TIMES
Bay St	- from the Surf Club to Middleton St	5am-5pm
Middleton St	- from Bay St to Lawson St	5am-5pm
Lawson St	- from Middleton St to Massinger St	5am-5pm
Gilmore Crescent	- full length	5am-5pm
Middleton St	- from Lawson St to Marvel St	10.30am – 3pm
Marvel St	- from Middleton St to Tennyson St	10.30am – 3pm
Tennyson St	- from Marvell St to Browning	10.30am – 3pm
Bangalow Rd	- from Browning St to Broken Head Rd	11.30am – 3pm
Broken Head Rd	- from Bangalow Rd to 166 Broken Head Rd	11.30am – 3pm

- 2. The approval provided in Part 1 and Part 2 is subject to:
  - a) separate approvals by NSW Police and TfNSW being obtained;
  - b) the event organiser provide council with an updated Traffic Management Plan and Traffic Control Plan for the 2020 event, if required by the Police and TfNSW;
  - c) development and implementation of a Traffic Management Plan and Traffic Control Plan(s) by those with appropriate TfNSW accreditation and the holding of current and appropriate levels of insurance and liability cover;
  - d) the impact of the event be advertised, and charged at cost to the organisers, via a notice in the local weekly paper a minimum of one week prior to the

**operational impacts taking effect, noting it must include the event name, specifics of any traffic impacts or road closures and times, alternative route arrangements, event organiser, a personal contact name and a telephone number for all event related enquiries or complaints;**

- e) the event be notified on Council's web page with the event organiser supplying Council with the relevant information;**

**3. The event organisers:**

- inform the community and businesses that are directly impacted (eg within road closure zones) via written information which is delivered to the property in a timely manner so as to document, consider and respond to any concerns raised;**
- arranging for private property access and egress affected by the event;**
- liaising with bus, taxi and waste operators and ensuring arrangements are made for provision of services during conduct of the event;**
- consulting with emergency services and any identified issues be addressed;**
- holding \$20m public liability insurance cover which is valid for the event;**
- paying Council's Road Event Application Fee prior to the event.**

**Report**

The attachment to this report provides the minutes of the Local Traffic Committee Meeting of 10 March 2020 for determination by Council. The agenda for this meeting can be located on Council's website at:

[https://byron.infocouncil.biz/Open/2020/03/LTC\\_10032020\\_AGN\\_1188\\_AT.PDF](https://byron.infocouncil.biz/Open/2020/03/LTC_10032020_AGN_1188_AT.PDF)

**Financial Implications**

As per the Reports listed within the Local Traffic Committee Meeting of 10 March 2020.

**Statutory and Policy Compliance Implications**

As per the Reports listed within the Local Traffic Committee Meeting of 10 March 2020.

**Report No. 14.4**      **Report of the Water, Waste and Sewer Advisory Committee Meeting held on 9 April 2020**  
**Directorate:**      Infrastructure Services  
**Report Author:**      Dominika Tomanek, Executive Assistant Infrastructure Services  
**File No:**      I2020/716

**Summary:**

The attachment to this report provides the minutes of the Water, Waste and Sewer Advisory Committee Meeting of 9 April 2020 for determination by Council.

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**RECOMMENDATION:**

1. That Council note the minutes of the Water, Waste and Sewer Advisory Committee Meeting held on 9 April 2020.

2. That Council adopt the following Committee Recommendation(s):

**Report No. 4.2 Nutrient Loading in the Belongil**  
**File No:** I2020/297

**Committee Recommendation 4.2.1**

1. That Council note that:-

- a) for the twelve-month period 27 April 2017 to 26 April 2018 Total Nitrogen (TN; monitored as required in Condition 11 of Council's approval under its Resolution 02-1329 of December 2002) released to Belongil Creek was 1,564 kg and that this exceeds:
  - (i) the allowable discharge of 1,500kg TN; and
  - (ii) the 80% threshold under which an investigation is triggered.
- b) the Condition requires this monitoring be done on a rolling two-month window, based on weekly sampling.
- c) the Condition requires Council to investigate feasible management strategies to reduce loads below 80%.
- d) the Condition further requires Council to discuss appropriate courses of action to prevent further exceedances.

2. That Council sample nutrient loads weekly or better, as required by Consent Condition 11.

3. That Council investigate all feasible management strategies to reduce loads below 80%, including strategies already under way such as:

- a) Biostem pellets for removing sludge and therefore possibly nutrients, and
- b) vetiver grass [increase sampling downstream of the trial planting to assess the grass's ability to reduce nutrients].

4. That Council continue testing its flow meter newly installed at EPA location #4 to assess accuracy and reliability of flow results and, once performance is confirmed or by the end of June 2020 (whichever is sooner) these results be reported to the next meeting (scheduled for 30 July) of the Water, Waste and Sewer Advisory Committee and published on Council's Water & Sewer information website.
5. That Council recognise:
  - a) that it is impossible to mitigate against increased nutrient loads during high rainfall events and
  - b) that rainfall periods longer than a month may cause breaches of Consent Conditions 11.
3. That Council adopt the following Committee Recommendation(s):

**Report No. 4.3 Effects of water mining in Byron and surrounding shires on groundwater resources**  
File No: I2020/298

**Committee Recommendation 4.3.1**

**That Council:**

  1. Note that the October 2019 Independent review of the impacts of the bottled water industry on groundwater resources in the Northern Rivers region of NSW (Final Report - NSW Chief Scientist & Engineer - 31 October 2019; E2019/91097) fails to consider cumulative impacts of this expanding industry on groundwater and does not adequately consider non-water impacts such as traffic in local communities and proliferation of plastic bottles.
  2. Receive confirmation from staff to the committee that the current status of water mining for bottled water is that it is prohibited in the Byron shire.
4. That Council adopt the following Committee Recommendation(s):

**Report No. 4.4 Condition 9. Additional Load at Byron STP**  
File No: I2020/497

**Committee Recommendation 4.4.1**

**That Council receive reports twice yearly on the performance of BBSTP against its Consent Condition 9 via reports to its Water, Waste and Sewer Advisory Committee.**
5. That Council adopt the following Committee Recommendation(s):

**Report No. 4.5 Inflow and Infiltration - quarterly update**  
File No: I2020/504

**Committee Recommendation 4.5.1**

**That Council note the report.**
6. That Council adopt the following Committee Recommendation(s):

**Report No. 4.6 Rous County Council - Service Level Agreements 1st July - 31st  
December 2019**


File No: I2020/520

**Committee Recommendation 4.6.1**

**That the Council note the report.**

**Attachments:**

5

- 1 Minutes 09/04/2020 Water, Waste and Sewer Advisory Committee, I2020/533 

**Report**

5 The attachment to this report provides the minutes of the Water, Waste and Sewer Advisory Committee Meeting of 9 April 2020 for determination by Council. The agenda for this meeting can be located on Council's website at:

[https://byron.infocouncil.biz/Open/2020/04/WW SAC\\_09042020\\_AGN\\_1193\\_AT.PDF](https://byron.infocouncil.biz/Open/2020/04/WW SAC_09042020_AGN_1193_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 Water, Waste and Sewer Advisory Committee Meeting of 9 April 2020.

**Statutory and Policy Compliance Implications**

20

As per the Reports listed within the Water, Waste and Sewer Advisory Committee Meeting of 9 April 2020.



**Report No. 14.5**                      **Report of the Local Traffic Committee Meeting held on 16 April 2020**  
**Directorate:**                      Infrastructure Services  
**Report Author:**                  Stephanie Tucker, Pay Parking Coordinator  
   Andrew Pearce, Traffic Engineer  
5   **File No:**                              I2020/746

**Summary:**

- 10   This report contains the recommendations of the Extraordinary Local Traffic Committee (LTC) meeting held electronically on 16 April 2020.

Council's action on the LTC advice will be:

- 15   a)    If Council is in agreement with the LTC unanimous support then the proposal may be approved. In these cases there is no conflict between Council and the advice of the LTC, consequently there is no need for Council to inform the RMS or the NSW Police representatives of the decision.
- 20   b)    If Council is in agreement with the LTC unanimous support, but no longer wants to proceed, the proposal may still be rejected.
- 25   c)    If Council is in agreement with the LTC unanimous decline then the proposal may be rejected. Again there is no conflict between Council and the advice of the LTC. Consequently there is no need for Council to inform the RMS or the NSW Police representatives of the decision.
- 30   d)    If Council decides to proceed with a proposal where the advice of the LTC is not unanimous support, then the Council must first advise the RMS and the NSW Police representatives in writing of their intention to approve the proposal. The RMS or the NSW Police may then lodge an appeal to the Regional Traffic Committee (RTC).
- 35   e)    If Council decides to proceed with a proposal where the advice of the LTC is a unanimous decline, then the Council must first advise the RMS and NSW Police representatives in writing of their intention to approve the proposal. The RMS or the NSW Police may then lodge an appeal to the RTC.

40   Due to the fact that the RMS and the NSW Police have the power to appeal certain decisions of the Council, the LTC cannot provide its advice to Council until both the RMS and the NSW Police have provided their vote on the issue.

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**RECOMMENDATION:**

1.    **That Council note the minutes of the Local Traffic Committee Meeting held on 16 April 2020.**
2.    **That Council adopt the following Committee Recommendation(s):**

**Report No. 6.1   Parking time limits -South Beach Rd, Brunswick Heads**  
**File No: I2020/555**

**Committee Recommendation 6.1.1**

**That Council implement 2P parking time limits in South Beach Road and South Beach**

**Lane from 5am – 7am Monday to Sunday, and No Parking 7pm - 5am with signage as per signage plan in Figure 1 until 31 July 2020 or as otherwise directed by council.**

**Report**

The attachment to this report provides the minutes of the Local Traffic Committee Meeting of 16 April 2020 for determination by Council. The agenda for this meeting can be located on Council's website at:

<https://www.byron.nsw.gov.au/Council/Council-meetings/Agendas-Minutes>

**Financial Implications**

As per the Reports listed within the Local Traffic Committee Meeting of 16 April 2020.

**Statutory and Policy Compliance Implications**

As per the Reports listed within the Local Traffic Committee Meeting of 16 April 2020.

**CONFIDENTIAL REPORTS - GENERAL MANAGER**

**Report No. 16.1**      **CONFIDENTIAL - Rent relief for commercial and non-profit tenants of Council during the COVID-19 crisis**

**Directorate:**      General Manager  
**Report Author:**      Ralph James, Legal Counsel  
                          Paula Telford, Leasing and Licensing Coordinator  
                          James Brickley, Manager Finance  
**File No:**              I2020/442

**Summary:**

Travel bans, social gathering and other restrictions imposed by the Federal and State Governments in response to the COVID-19 crisis have resulted in the closure or significant scaling back of Council's commercial and non-profit tenant's businesses. Tenants now seek rent relief from Council for the period of COVID-19 restrictions. Relief is assessed in accordance with the mandatory code of conduct for commercial leasing issued by the National Cabinet and brought into law in NSW on 24 April 2020.

The measures proposed in this report comprise a scaled rent relief program that waives and/or defers up to 100% of rent and outgoings owed to Council by eligible business for a period of up-to six months. All tenants of a Council-owned property are eligible to seek relief, however, the recommended waiver/deferral differ depending on how the COVID-19 pandemic has impacted the tenant and on the commercial status of the tenant.

**RECOMMENDATION:**

1. That pursuant to Section 10A(2)(b) and (d)i of the Local Government Act, 1993, Council resolve to move into Confidential Session to discuss the report Rent relief for commercial and non-profit tenants of Council during the COVID-19 crisis..
2. That the reasons for closing the meeting to the public to consider this item be that the report contains:
  - a) discussion in relation to the personal hardship of a resident or ratepayer
  - 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:
 

The report contains information on the financial impact on the entities mentioned of the COVID 19 pandemic.

It contains information provided on a commercial-in-confidence basis.

**Attachments:**

- 1 Confidential - List of entities recommended for waiver and/or deferral of rent and outgoings., E2020/34086
- 2 Confidential - In confidence - eligibility for JobKeeper, E2020/29166
- 3 Confidential - In confidence - eligibility for JobKeeper, E2020/29898
- 4 Confidential - In confidence - eligibility for JobKeeper, E2020/30118
- 5 Confidential - In confidence - eligibility for JobKeeper, E2020/30162

# BYRON SHIRE COUNCIL

## CONFIDENTIAL REPORTS - GENERAL MANAGER

16.1

- 6 Confidential - In confidence - eligibility for JobKeeper, E2020/30394
- 7 Confidential - In confidence - eligibility for JobKeeper, E2020/31130
- 8 Confidential - In confidence - eligibility for JobKeeper, E2020/31195
- 9 Confidential - In confidence - eligibility for JobKeeper, E2020/31210
- 5 10 Confidential - In confidence - eligibility for JobKeeper, E2020/31208
- 11 Confidential - In confidence - eligibility for JobKeeper, E2020/31238
- 12 Confidential - In confidence - eligibility for JobKeeper, E2020/31607
- 13 Confidential - In confidence - eligibility for JobKeeper, E2020/31894
- 10 14 Confidential - Email for rent relief under lease agreement in response to COVID-19 crisis, E2020/24224
- 15 15 Confidential - In confidence - eligibility for JobKeeper, E2020/30916
- 16 Confidential - In confidence - eligibility for JobKeeper, E2020/30275
- 17 Confidential - In confidence - eligibility for JobKeeper, E2020/30578
- 18 Confidential - Request for financial assistance to waive fees and charges, E2020/23403
- 15 19 Confidential - Request for rent relief under lease agreement., E2020/23350
- 20 Confidential - In confidence - eligibility for JobKeeper, E2020/29420
- 21 Confidential - Request for rent relief, E2020/23401
- 22 Confidential - In confidence - eligibility for JobKeeper, E2020/29165
- 23 Confidential - Email seeking rent relief due to COVID-19 closures, E2020/26127
- 20 24 Confidential - Letter to Council outlining measures during COVID19, E2020/32035
- 25 Confidential - Rent Relief Request - Suspended Services, E2020/36507
- 26 National Cabinet mandatory code of conduct, E2020/26422