



# Byron Shire Council



## Agenda

### Ordinary Meeting

**Thursday, 24 September 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**

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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.***

## MAYORAL MINUTE

**Mayoral Minute No. 8.1**  
**File No:**

**Completion of Byron to Suffolk Park Bike Path**  
**I2020/1417**

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**I move:**

1. **That Council completes a design to improve the Browning and Tennyson St intersection for cyclists and pedestrians and the connection to the Byron Bay Community School and Primary School.**
2. **That a funding source be identified to complete the works.**
3. **That to provide an uninterrupted visual association to the cycleway, consideration be given to establishing an unbroken use of green marking within the cycleway.**

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**Background Notes:**

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Though the path towards realisation of this much needed piece of access infrastructure is nearing an end, it is important we now turn our attention to ensuring it is completed as successfully and as thoroughly as possible.

In order to lower costs, minimise extra planning and design work and to avoid possible alternate route upgrade disruptions, we decided to end the planning scope of the cycleway at Browning St.

20

Now, it is worth revisiting what occurs townward of the path, especially in order to support our younger residents accessing schools and the recreation grounds. Currently, there are no immediate plans to improve the Browning and Tennyson St intersection for cyclists or pedestrians.

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This means school aged children riding the cycleway north towards Byron Bay Public and Community schools have to cross a dangerous intersection at Browning St. This intersection has no pram ramp on the south side, no refuge in the middle of Browning St, and no signage for motorists to watch for cyclists. About 70 metres north of this intersection there's an appropriate off-road shared path on the western side of Tennyson that goes all the way to the public school. There's also a raised crossing across Tennyson St that connects to the Community School.

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I believe it is prudent for us to now consider an improved crossing at Browning St and about 70 metres of path widening in order for the two primary schools to be connected (safely) to the cycleway.

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Though it is often only used at road crossings, I believe the use of a green treatment of cycleways provides visual reinforcement and awareness of cycleways and I believe an uninterrupted green treatment would further enhance the visual awareness of the new stretch of cycleway. I seek a costing and any identification of obstacles or regulatory impediments to achieve this aim.

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**Signed: Cr Simon Richardson**



## NOTICES OF MOTION

**Notice of Motion No. 9.1 Identifying three priority infrastructure projects for Destination North Coast**

5 **File No:** I2020/1399

I move:

**That Council identify its' three priority infrastructure projects that may have a definitive impact on the Byron Shire's visitor economy.**

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**Signed: Cr Simon Richardson**

**Councillor's supporting information:**

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Tabled at the last Northern Rivers Joint Organisation (NRJO) Ordinary Board Meeting, on August 21, 2020, as part of its Associate Member Report, Destination North Coast (DNC) requested LGA's identify their top three key infrastructure projects in order to add its support and advocacy. The master list of projects will be used by DNC to promote and accommodate requests from the State and Federal Governments and other relevant agencies in the planning and development of infrastructure projects that may support the regions visitor economy.

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Keeping possible projects to those which align with enhancing the local visitor economy, Byron Shire Council has quite a few that could be considered when narrowing the list to a final three projects.

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Firstly, the activation of the rail corridor in Byron Bay is considered by staff to be the most important project for inclusion due its potential scope and impact ,coupled with its overwhelmingly wider environmental and community benefits.

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Secondly, other possible projects may include:

- The Byron Green Line;
- The Sandhills activation;
- Butler Street reserve visitor parking and reserve works;
- Jonson Street pedestrian activation and masterplan beautification;
- Seven Mile Beach Rd and Broken Head area movement, access and parking upgrades;
- Marshall Creek, Brunswick Heads, jetty/pontoon and access infrastructure;
- Brunswick Heads historical 'Housie Shed' upgrades;
- Brunswick Heads public toilet upgrades (note: a Crown Reserves Improvement Fund application has been made to replace the toilets opposite the Brunswick Heads Surf Lifesaving Club);
- Ocean Shores shared path along Simpsons Creek to connect to Brunswick Heads; and
- Federal Village centre pedestrian activation.

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**Staff comments by Claire McGarry, Byron Place Manager, Office of General Manager and Christopher Soulsby Development Planning Officer, Infrastructure Services.**

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On 12 August 2020, Council provided Destination North Coast (DNC) with three priority infrastructure projects connected to visitor economy outcomes identified in the Byron Shire. This list has been amalgamated with projects across the region for inclusion in a 'Top 100' list for state tourism which Destination NSW will use in discussions with NSW Treasury.

The projects submitted to DNC for inclusion were:

1. *Multi-Use of the Rail Corridor*
2. *Byron Bay Town Centre Masterplan Projects:*
  - Byron Bay Green Spine (presented as Green Line / Kabul)
  - Sandhills Activation
  - Byron Bay foreshore upgrade
  - Arakwal Cultural Centre
  - Byron Lighthouse Walk extension
3. *Ewingsdale Road Upgrade.*

These projects were chosen for their strategic value to the region and their ability to deliver triple-bottom line outcomes in the local community. They have a combined total value of over \$300 million.

DNC have subsequently advised that the *Byron Bay Town Centre Masterplan Projects* was included in the DNC top 5 projects for the region, and as such as been included in the top 100 projects for the State. At this stage it is unknown how Destination NSW will use this list either in lobbying for these projects or in submissions for funding for these projects.

There is some alignment between projects provided to DNC and those identified in the Notice of Motion, however, the below projects were not put forward

:

- Butler Street reserve visitor parking and reserve works;
- Jonson Street pedestrian activation and masterplan beautification;
- Seven Mile Beach Rd and Broken Head area movement, access and parking upgrades;
- Marshall Creek, Brunswick Heads, jetty/pontoon and access infrastructure;
- Brunswick Heads historical 'Housie Shed' upgrades;
- Brunswick Heads public toilet upgrades;
- Ocean Shores shared path along Simpsons Creek to connect to Brunswick Heads; and
- Federal Village centre pedestrian activation.

These projects could be included in future project priority lists.

At the Council meeting on 27 August 2020, Council considered Report 13.26 - Strategic Project Planning – Funding for "Shovel Ready" Infrastructure Projects. This report identified that State and Federal Governments have a preference for funding "shovel-ready" projects. A shovel ready project has:

1. Clear Scope;
2. Has had business case approval;
3. Consultation occurred;
4. Planned;
5. Designed;
6. Costed; and
7. Obtained any relevant approvals (or such approvals identified and can be readily obtained).

In order to progress the identified priority projects in this NOM, it is recommended they be included in the list E2020/51425 to be presented and discussed at a Strategic Planning Workshop as per resolution **20-392**.

20-392 Resolved:

1. That the proposed "Shovel Ready" list attached be presented to a Strategic Planning Workshop in order to prioritise the list of proposed projects.
2. That Council consider funding the planning and design of high priority projects at the September Quarterly Review, and incorporate priority projects into Council's Operational Plan.
3. That the Place Planning Collective consider the list of projects provided in attachment 1 (E2020/51425) at their next available meeting. (Richardson/Lyon)

It is acknowledged that this NOM may partially pre-empt the outcome of the Strategic Planning Workshop, but it is essential that the projects identified in this NOM be incorporated into a consolidated list to enable a properly managed approach to funding and best practice project management processes and procedures.

Financial/Resource/Legal Implications:

As identified in resolution 20-392, the funding of projects identified in the NOM should be considered for at the September Quarterly Review, and incorporate priority projects into Council's Operational Plan. This will enable staff to pursue future grant opportunities for shovel-ready projects.

Is the proposal consistent with any Delivery Program tasks?

The proposal is consistent with several key outcomes of the Delivery Program as set out below:

**Community Strategic Plan and Operational Plan**

CSP Objective	L2	CSP Strategy	L3	DP Action	L4	OP Activity
<b>Community Objective 4: We manage growth and change responsibly</b>	4.1	Support the visions and aspirations of local communities through place-based planning and management	4.1.2	Ensure consistency of place-based projects with community Place Plans through embedding a governance framework that includes planning, implementation and ongoing management	4.1.2.2	Cross directorate coordination of funding and delivery of projects from Place Plans
<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	5.2.1.5	Keep community informed about community-led governance opportunities, projects and progress
<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	5.5.1.2	Support the organisation in identifying financial implications of projects, proposals and plans



# BYRON SHIRE COUNCIL

## NOTICES OF MOTION

9.1

<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)	5.6.12.1	Coordinate competitive grant applications with Council's business units to meet Federal and State government outcomes
	5.6	Manage Council's resources sustainably	5.6.12	Implement strategic grants management systems to deliver priority projects for Byron's community (SP)	5.6.12.3	Provide governance for grants management

**Notice of Motion No. 9.2     Parklet Policy**  
**File No:                             I2020/1404**

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**I move that:**

1. **Council develops a ‘Parklet Policy’ to permit the use of street car park spaces by adjacent restaurants in our shire for outside dining after hours for a trial period of 12 months.**
2. **Council doesn’t charge for the use of the parking spaces for the period the state COVID social distancing restrictions are in place, but a price for such a charge be included in the draft policy.**
3. **The draft policy be brought to Council at the October Ordinary meeting prior to going on exhibition and consultation with the Police and relevant traffic authorities for 1 month after which, if there are no submissions, it be adopted and again reviewed at the end of trial period.**

**Signed: Cr Alan Hunter**

**Councillor’s supporting information:**

Covid-19 Social Distancing restrictions are likely to be with us for quite some time, yet the effect on our local restaurant and hospitality industry is very significant because of the extra space required for each patron.

There is much demand for outdoor dining around the Shire with limited space available within the existing verges and I believe this is one small concession Council can make to assist the community to meet the current financial and social challenges.

Additional outdoor dining space within town centres can be achieved with the use of street parking spaces after 5pm daily.

The parklet trial is expected to provide a range of benefits including additional vibrancy & interest in the streetscape as well as delivering economic benefits to adjacent businesses.

**What is a Parklet?**

A parklet is a footpath extension that provides more space and amenities for people using the street. Usually parklets are installed on parking zones and use several parking spaces. Parklets typically extend out level from the footpath to the width of the adjacent parking space. Parklets provide additional alfresco dining space for adjacent cafes and restaurants.

A parklet may be thought of as permanent, but must be designed for quick and easy removal for emergencies or other maintenance requirements, allowing removal without damage to the curb or street.

One roadside parking space in front of a café or bar might mean one or two customers – assuming they come to that business. A car park can instead become a parklet with space for six to eight people, while looking a lot more inviting. Put two or three parking spaces together and you’ve got a miniature dining area or a parklet.

### Who Pays for a Parklet?

Council outdoor dining space fees and rates for the parklet will apply.

- 5 The construction and maintenance costs associated with parklets are to be funded by the operator and/or property owner. Once installed the operator and/or property owner is responsible for ensuring that the area remains clean and attractive as for other outdoor dining areas.
- 10 Port Macquarie and a number of other Local Government Areas here and overseas have made parklets available to their local restaurants.



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**Staff comments by Shannon Burt, Director, Sustainable Environment and Economy:**

5 (Management Comments must not include formatted recommendations – resolution 11-979)

**Parklets** are a type of ‘street makeover’ that temporarily repurposes public roads for car free use.

10 In Australia around 30% of our urban space is dedicated to roads and car parks. Reclaiming this space of pedestrians, even in the short term, can change streets into active places that contribute to health, well being and environmental quality of neighbourhoods.

15 Tactical ‘street makeovers’ as they are known as more broadly, encourage people to temporarily reimagine how their roads could serve as public spaces. In the current circumstance these can counter at a local neighbourhood scale the current social impacts of COVID 19.

Local Byron Shire examples of tactical ‘street makeovers’ have included:

20 **Park(ing) Day:** this is where a single or more car parking space is transformed into a temporary park for a few hours to a day by paying for its use. **Council held a Park(ing) Day in Byron Bay in September 2018.**



25 **Parklets:** this is where kerbside parks are reinvented as public spaces for a day, a month or longer. **Council has previously included parklets as part of community engagement**



activities while developing town and village master plans. These parklets were at the time well received.



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**Pop-up parks:** this involves a temporary street closure to provide public space for locals and visitors to connect, while generating extra foot traffic for local traders. **Council has previously activated Bay Lane Byron Bay for this purpose.**



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**Better Block Movement:** this is where public space, laneways and vacant shopfronts are temporarily activated for neighbourhood building street parties.



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**The Mullumbimby Talking Street – Streets as Shared Spaces Project** proposes to activate Mullumbimby's main street through a more shared main street and to activate the key intersection of Burringbar and Stuart streets. This includes Parklets for outdoor dining purposes which will occur, with local business, Chamber and community support over the coming months.

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**Elements**

The following are the main elements of the Mullumbimby Talking Street project and are in response to identified challenges and opportunities. The following plan defines broadly the main areas of spatial change.



The recommendation requests that Council staff develop a 'Parklet Policy' to enable restaurants to expand their dining areas to the street after hours for a trial period. That this policy be reported to the October meeting of Council and exhibited following. This timeline is short and not really adequate for staff to prepare a formal Policy. It is also a concern that this Policy will only consider one aspect of a street makeover program.

As an alternate, following a search and review of the Port Macquarie Hastings Council webpages the documents to support a trial parklet program could be easily modified to suit Byron Shire for an expression of interest process. Site selection criteria and parklet requirements however will need to be fit for Byron Shire circumstances and use. Not all streets and or parking spaces will be appropriate in this regard.

<https://www.pmhc.nsw.gov.au/Business/Business-Registrations-and-Licences/Approvals-and-licences/Outdoor-Dining-Parklet-Trial>

Notwithstanding the above, there are many other councils with 'street makeover' aka tactical urbanism and street activation program policies that could be used by staff to prepare a more comprehensive Council policy response. It is staff preference that sufficient time is granted to enable a more thorough review of these, and consultation with the business community / Chambers regarding what types of street makeovers are best for their towns and villages before reporting to Council on a Policy.



An alternate staff recommendation follows:

**I move that Council:**

- 5     **1. Acknowledges that Parklets for outdoor dining purposes will be trialled in Mullumbimby as part of the Talking Mullumbimby Project, with the support of local business, Chamber and community.**
- 10    **2. Requests staff to prepare an expression of interest for suitable businesses and/or property owners outside of Mullumbimby to submit a conceptual parklet scheme for review and selection by Council, based on the Port Macquarie Hasting Parklet Trial documentation.**
- 15       **That the expression of interest documentation be reported to Council before the end of the year. The details to include site suitability criteria and advice about approvals, construction, maintenance and cost responsibility.**
- 20    **3. Requests staff to commence preparation of a more comprehensive Street Activation Policy for consideration by Council before the end of the FY20/21.**

Financial/Resource/Legal Implications:

25     The EOI process and or preparation of a new Policy is not in the current Operational Plan or Budget. Funds and resourcing will need to be considered at the next Budget Quarterly review.

Standard Council outdoor dining space fees and rates ordinarily apply to the use of parking spaces for a parklet, hoarding and the like as per Council's current Fees and Charges.

30     Any suspension or waiver of fees for a parklet will have a financial impact on Council's revenue.

Is the proposal consistent with any Delivery Program tasks?

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

**Notice of Motion No. 9.3**      **Creation of safe school cycling linkage**  
**File No:**                              **I2020/1415**

**I move that Council:**

1.      **Upgrades the Browning and Tennyson St intersection to connect a missing link in the Byron to Suffolk Park cycleway and to provide a safe cycleway for children to get to school and to improve usage for cyclists and pedestrians generally.**

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**Signed: Cr Catherine Coorey**

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**Councillor's supporting information:**

Currently the scope of the Byron to Suffolk cycleway project ends at Browning Street, which means there are no immediate plans to improve the Browning and Tennyson St intersection for cyclists or pedestrians.

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Children riding the cycleway north towards Byron Bay Public and Community schools have to cross a dangerous intersection at Browning St. This intersection has no pram ramp on the south side, no refuge for cyclists in the middle of Browning St, and no signage for motorists to watch for cyclists.

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About 70 metres north of this intersection there's a good off-road shared path on the western side of Tennyson that goes all the way to the public school. There's also a raised crossing across Tennyson St that connects to the Community School.

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An improved crossing at Browning St and about 70 metres of path widening can connect the two primary schools (safely) to the cycleway.



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**Staff comments by Evan Elford, Manager Works, Infrastructure Services:**

(Management Comments must not include formatted recommendations – resolution 11-979)

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The works identified in this Notice of Motion are included in high priority works identified in both the Byron Shire Bike Plan and the PAMP in Browning Street and Tennyson Streets.

The bike plan has identified as a high priority works to improve linkages to and around the schools area as follows:

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- bike path linkages to and beyond the new bypass roundabout along Browning Street from the Bangalow Road/Tennyson St roundabout.
- Upgraded crossings at the Bangalow Road/Tennyson Street roundabout.
- Shared path works in Tennyson Street; and
- Upgraded crossings in Tennyson Street at the intersections of Ruskin, Kingsley and Carlyle Streets.

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These works, which form a natural extension to works associated with the Suffolk Park to Byron Bay Cycleway, have not been included in that project and will require survey or design investigation to determine an estimate of cost.





## Map legend

### BIKE PLAN

#### Shared Path / Cycle Path Type

##### Priority

High

Medium

Low

<span style="color: red;">—</span>	<span style="color: orange;">—</span>	<span style="color: blue;">—</span>	Cycle Paths
<span style="color: red;">- - -</span>	<span style="color: orange;">- - -</span>	<span style="color: blue;">- - -</span>	Mixed traffic
<span style="color: red;">.....</span>	<span style="color: orange;">.....</span>	<span style="color: blue;">.....</span>	Shared Path
<span style="color: red;">◆</span>	<span style="color: orange;">◆</span>	<span style="color: blue;">◆</span>	Crossings

#### Existing Path Network

— Footpath

..... Shared Cycle Footpath

### Financial/Resource/Legal Implications:

- 5 Subject to detailed investigation and approval of a scope of works grant variation to the Election Commitment Gant, it is considered that the works should be able to be delivered from funds freed up from the Suffolk Park to Byron Bay Cycleway project as a consequence of the additional funding received for that project from TfNSW.
- 10 There is currently \$190,000 in developer contributions available for Byron Bay Cycleways. Infrastructure Planning preference is to retain these funds to undertake design works and leverage



grant funds where possible particularly as most grants now require projects to be shovel ready such that the grants do not fund survey and design components of projects. The proposed works, being in high traffic zones requiring significant traffic control and site management, would likely exhaust the bulk of available developer contributions.

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Is the proposal consistent with any Delivery Program tasks?

Yes.

- 10 These works are consistent with works identified as high priority in both the Byron Shire - Bike Plan Plan and PAMP

CSP Objective	L2	CSP Strategy	L3	DP Action
<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

**Notice of Motion No. 9.4 Reimbursement of Development Application Fees - Reforest Now**  
**File No:** I2020/1419

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I move that Council reimburses Reforest Now for the recent Development Application fees associated with lodgement and assessment of their nursery structure in the Mullumbimby Community Gardens, funded out of the Council's Community Initiatives Program Fund (Contribution to DA Fees).

10 **Signed: Cr Michael Lyon**

**Councillor's supporting information:**

15 Reforest Now have been doing some fantastic works in the Shire, created 16 local jobs in recent tough times and they have pumped out an incredible amount of replanting sites, in the last year alone they have planted well over 40,000 trees in the Byron Shire. They have also done 16 Ha of regeneration as well. They recently lodged a Development Application (DA) for a nursery structure for plants at the Mullumbimby Community Gardens, which is being determined shortly. This is to reimburse fees associated with the lodgement and assessment of this DA.

20

**Staff comments by Shannon Burt, Director, Sustainable Environment and Economy:**  
 (Management Comments must not include formatted recommendations – resolution 11-979)

25 Council's Community Initiatives Policy 2019 provides a funding program for community driven initiatives that address a specific community need and that also build a sense of community.

30 Applications for reimbursement of Council fees and charges (development applications inclusive) can be considered retrospectively for fees paid within the previous 12 months. The maximum amount of funds that can be allocated to any one request under this Policy is \$1,000.

The fees paid for Development Application 2020/230 Nursery Structure was \$1,026.

Financial/Resource/Legal Implications:

35 Council has set aside \$2,000 FY20/21 under the Community Initiatives Program for donations, fee waivers and co contributions. Funds remain available.

Is the proposal consistent with any Delivery Program tasks?

40 5.2.2.2 Deliver annual Community Donations Program

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	5.2.2	Incorporate wellbeing framework within organisation to inform decision making	5.2.2.2	Deliver annual Community Donations Program


**SUBMISSIONS AND GRANTS****Report No. 11.1 Grants and Submissions Report for August 2020****Directorate:** Corporate and Community Services**Report Author:** Alexandra Keen, Grants Coordinator**File No:** I2020/1391**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 (E2020/70392) for Byron Shire Council's Submissions and Grants as at 3 September 2020.**

**Attachments:**

1 Grant Submissions Lodged as at 3 September 2020, E2020/70392 

**REPORT**

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

5 Successful applications

Council was successful in obtaining a \$250,000 grant from the NSW Government's *Streets As Shared Spaces* program in August 2020.

10 Unsuccessful applications

Council was not advised of any unsuccessful applications during August 2020.

Applications submitted

15

Three grant applications were submitted in August 2020 for:

- NSW Small Business Month – to host a business community workshop;
- Combating Illegal Dumping: Clean Up and Prevention Program and
- Public Spaces Legacy Program.

20

Upcoming grant opportunities

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

25

- Fixing Country Roads 2020;
- Fixing Country Bridges 2020;
- Coastal and Estuary Grants Program;
- Clubsgrants – Infrastructure Stream; and
- Habitat Action Grants.

30

**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

35

***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.

40

**Financial Considerations**

If Council is successful in obtaining the identified grants, more than \$11 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	\$11,038,019
Council cash contribution	\$2,332,857
Council in-kind contribution	\$241,532
Other contributions	\$288,809
<b>Funding applications submitted and awaiting notification (total project value)</b>	<b>\$13,874,217</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**      **Lease over road reserve for a children's treehouse**

**Directorate:**      General Manager

**Report Author:**      Paula Telford, Leasing and Licensing Coordinator

**File No:**      I2020/1051

**Summary:**

Council has previously resolved (**18-574** and **19-423**) to grant Ms Mell Coppin twelve month leases over an unused part of the road reserve adjoining 77 Massinger Street Byron Bay for a children's treehouse. Ms Coppin seeks a new twelve month lease to commence 1 October 2020.

This report recommends that Council grant a new twelve month lease to Ms Coppin.

All submissions received on the proposed lease are detailed in this report.

**RECOMMENDATION:**

1. That Council grants to Ms Mell Coppin a lease over an unused portion of the road reserve adjoining 77 Massinger Street Byron Bay for the purpose of a children's treehouse on the following terms:
  - a) twelve months to commence 1 October 2020;
  - b) minimal rent of \$1 per annum payable on demand; and
  - c) public liability cover to a minimum of \$20 million over Council land that mitigates risk to Council should the treehouse structure not be compliant with Australian Standard AS 4685 for children's play equipment.
2. That the structural engineer's report attesting to the structural integrity of the treehouse and arborist report attesting to the health of both trees be valid to 30 September 2022.

**Attachments:**

- 1 Submission 1 Lease to Mell Coppin, E2020/58529 



**REPORT**

Council resolved (**18-271**) at its 19 April 2018 meeting

- 5     1.     *By close of business on Thursday, 31 May 2018 Ms Coppin of 77 Massinger Street Byron Bay provide Council with the following:*
  - 10       a.     *evidence by way of a Certificate of Currency that Public Liability Insurance coverage to the value of \$20 million has been effected in respect of the structure.*
  - b.     *evidence by way of an engineering certificate attesting to the structural integrity of the structure;*
  - c.     *evidence by way of an arborist report attesting to the health of the trees where the structure is located*
- 15     2.     *That on compliance with all components of 1 above Council, for a period of 28 days, advertise its intention to grant Ms Coppin a 12 month lease over the unused public road being that part of the public road adjoining the property at 77 Massinger Street Byron Bay at a rental of \$1 per annum.*
- 20     3.     *In the event that there are no submissions Council delegate to the General Manager authority to enter into the lease referred to in 2 above, or in the event that submissions are made all submissions received be reported to Council for consideration.*
- 25     4.     *That when approval is granted Council withdraw all directions to remove the structure.*
5.     *That enforcement action in respect directions presently issued be stayed until the happening of either of the events in 3 above, whichever shall first occur.*

30     In accordance with the above resolution, Council further resolved to grant Ms Coppin two additional twelve month leases (18-574 and 19-423). Ms Coppin requests that Council grant a third twelve month lease to commence 1 October 2020.

35     In accordance with the above resolution, Ms Coppin provided new structural engineer's and arborist reports. The new structural engineer's report attests to the structural integrity of the treehouse with the new arborist report recommending that minor mitigation works be carried out to ensure the ongoing health and stability of both trees. Mitigations works have now been completed. Both reports remain valid for two years to 30 September 2022.

40     Terms of lease

The proposed lease is to be granted under the same requirements as resolution (18-271) being a term of twelve months to commence 1 October 2020 at minimal rent of \$1 per annum.

45     That Ms Coppin continue to provide public liability insurance cover at a minimum of \$20 million over Council owned land that mitigates risk to Council as a result of the treehouse not complying with Australian Standards AS 4685 for children's play equipment.

Public consultation

50     Council publically advertised the proposed lease as required by s154(1) of the Roads Act 1993 (NSW) between 29 July and 28 August 2020 and received one submission.

A summary of the submission is tabled below:

55

Submission	Council reply
<ul style="list-style-type: none"> <li>Supports the retention of the treehouse outside of 77 Massinger St.</li> <li>Requests that pedestrian access is retained on the nature strip outside of 77 Massinger St.</li> </ul>	<ul style="list-style-type: none"> <li>Noted</li> <li>Terms of the lease requires unimpeded pedestrian access on the road reserve at all times.</li> </ul>

Council must consider the submission duly made on the proposed lease and may grant the lease with or without alterations, or may refuse to grant the lease.

- 5 This report recommends that Council grant a new twelve month lease to Ms Coppin for a children's treehouse constructed on an unused portion of road reserve adjoining 77 Massinger Street Byron Bay.

## **STRATEGIC CONSIDERATIONS**

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

CSP Objective	L2	CSP Strategy	L3	DP Action	L4	OP Activity
<b>Community Objective 2: We cultivate and celebrate our diverse cultures, lifestyle and sense of community</b>	2.2	Support access to a wide range of services and activities that contribute to the wellbeing of all members of the Byron Shire community	2.2.1	Develop and maintain collaborative relationships with government, sector and community	2.2.1.2	Participate in community planning to inform decision making, build capacity and develop a shared responsibility for actions with the community.

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

#### **153 Short-term leases of unused public roads**

- (1) A roads authority may lease land comprising a public road (other than a Crown road) to the owner or lessee of land adjoining the public road if, in its opinion, the road is not being used by the public.
- (2) However, a lease may not be granted under this Division with respect to land that has been acquired by RMS under Division 3 of Part 12 (being land that forms part of a classified road) except by RMS.
- (3) A lease granted under this Division may be terminated by the roads authority at any time and for any reason.

#### **154 Public notice to be given of proposed lease**

- (1) Before granting a lease under this Division, the roads authority must cause notice of the proposed lease:
  - (a) to be published in a local newspaper, and
  - (b) to be served on the owner of each parcel of land adjoining the length of public road concerned.
- (2) The notice:
  - (a) must identify the public road concerned, and
  - (b) must state that any person is entitled to make submissions to the roads authority with respect to the proposed lease, and

- (c) must indicate the manner in which, and the period (being at least 28 days) within which, any such submission should be made.

**156 Decision on proposed lease**

- (1) After considering any submissions that have been duly made with respect to the proposed lease, the roads authority may grant the lease, either with or without alteration, or may refuse to grant the lease.
- (2) If the roads authority grants a lease, the roads authority must cause notice of that fact to be published in a local newspaper.

**157 Special provisions with respect to short-term leases**

- (1) The term of a lease, together with any option to renew, must not exceed:
- (a) except as provided by paragraph (b), 5 years, or
- (b) in the case of a lease of land that has been acquired by the roads authority under Division 3 of Part 12, 10 years.
- (2) A person must not erect any structure on land the subject of a lease under this Division otherwise than in accordance with the consent of the roads authority.  
Maximum penalty: 10 penalty units.
- (3) Such a consent may not be given unless the roads authority is satisfied that the proposed structure comprises a fence or a temporary structure of a kind that can easily be demolished or removed.

**Financial Considerations**

Nil.

**Consultation and Engagement**

Public notification of the lease for 28 days between 29 July and 26 August 2020 for comment in accordance with s154(1) of the Roads Act 1993 (NSW).

**Report No. 13.2**      **Amendment of Council's Code of Conduct for Councillors, the Procedures for the Administration of Council's Code of Conduct and Council's Code of Meeting Practice**

**Directorate:**      General Manager

5      **Report Author:**      Ralph James, Legal Counsel

Heather Sills, Corporate Planning and Improvement Coordinator

**File No:**      I2020/1259

10      **Summary:**

On 7 August 2020, the NSW Government published *The Model Code of Conduct for Local Councils in NSW 2020* and the *New Code for the Administration of The Model Code of Conduct for Local Councils in NSW 2020*. These documents replace the previous versions published in 2018.

The new Model Code has binding legal force on local government officials under section 440(5) of the *Local Government Act 1993* (NSW). The new Code Procedures have binding legal force on local government officials in relation to the investigation of complaints about breaches of the new Model Code and associated matters under s440AA(5) of the LG Act.

20      The new Model Code and new Code Procedures contain changes relating to

- the definitions of council committees and council committee members,
- grounds of harassment and discrimination
- gifts and benefits,
- the establishment of conduct review panels,
- 25      • the procedures for investigating code of conduct complaints regarding councillors and general managers,
- the imposition of sanctions, and
- the procedures for reviewing decisions to impose sanctions.

30      Some of the amendments regarding the investigation of code of conduct complaints about councillors and general managers, the imposition of sanctions, and the review of decisions to impose sanctions, stem from the consideration by the Office of Local Government of the decision of the Supreme Court of NSW in *Cornish v Secretary, Department of Planning, Industry and Environment* [2019] NSWSC 1134.

35      In *Cornish*, the Supreme Court held that a council resolution that subjected a councillor to disciplinary measures (being the suspension of remuneration for a period of 3 months) was invalid as it was not authorised by the LG Act under which a council's disciplinary powers for councillor misconduct are limited to the power of censure (see section 440G of the LG Act).

The amendments are set out in red in the following report and in the attachments.

40      Each of the amendments (other than in respect of gifts) are prescribed in such a way that Council is obligated to adopt them, however, more information on each of the changes is provided in detail in the report. Council is not obliged to amend its Code of Conduct to lift the \$50 cap on gifts if it

does not wish to do so. It is recommended that Council retain the \$50 cap on the value of gifts that may be accepted.

5 Since 14 December 2019, councils have been required to webcast meetings of the council and committees that comprise only of councillors. The webcasting requirement may be met simply by posting an audio or video recording of the meeting on the council's website.

10 The *Model Code of Meeting Practice for Local Councils in NSW* requires councils to specify in their codes of meeting practice, the minimum time period that a webcast recording will be made publicly available on a council's website but does not prescribe a minimum period.

15 Based on NSW State Archives and Records guidance, the Office of Local Government recommends that webcast recordings of meetings should be retained on councils' websites for a minimum of 12 months.

The requirement for councils to retain recordings of meetings on their websites for at least 12 months is now prescribed under the *Local Government (General) Regulation 2005*.




20 As the amendments are prescribed by legislation, there is no obligation on Council to publicly exhibit the documents or seek submissions. Therefore it is proposed that the Codes be adopted by Council and that the Procedures be endorsed.

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### RECOMMENDATION:

1. That Council adopts the amendments to the *Code of Conduct for Councillors* (E2020/69254) as detailed in the Report.
2. That Council endorses the amendments to the *Procedures for the Administration of Council's Code of Conduct* (E2020/69256) as detailed in the Report.
3. That Council adopts the amendments to the *Code of Meeting Practice* (E2020/69047) as detailed in the Report.

### 25 Attachments:

- 1 Amended Statutory Policy: Code of Conduct for Councillors, E2020/69254 
  - 2 Amended Procedures for the Administration of Council's Code of Conduct, E2020/69256 
  - 3 Amended Statutory Policy: Code of Meeting Practice, E2020/69047 
- 30

## REPORT

**Code of Conduct**

The Model Code of Conduct has been amended, **with immediate effect**, to:

- 5 *Include in the definition of council committee and council committee members, members of audit, risk and improvement committees (ARICs) in anticipation of the commencement of the requirement for all councils to appoint an ARIC following the next local government elections.*

The definition now reads:

- 10 council committee member a person other than a councillor or member of staff of a council who is a member of a council committee other than a wholly advisory committee, and a person other than a councillor who is a member of the council's audit, risk and improvement committee

*Update the language used to describe the various heads of discrimination in clause 3.6 to reflect more contemporary standards.*

Clause 3.6 has been amended to read:

- 15 3.6 You must not harass or unlawfully discriminate against others, or support others who harass or unlawfully discriminate against others, on the grounds of age, disability, race (including colour, national or ethnic origin or immigrant status), sex, pregnancy, marital or relationship status, family responsibilities or breastfeeding, sexual orientation, gender identity or intersex status or political, religious or other affiliation.

- 20 *Amend the gifts and benefits provisions as follows:*

- *lift the \$50 cap on the value of gifts that may be accepted to \$100*
- *clarify that items with a value of \$10 or less are not "gifts or benefits" for the purposes of the Model Code of Conduct and do not need to be disclosed*
- 25 • *clarify that benefits and facilities provided by councils (as opposed to third parties) to staff and councillors are not "gifts or benefits" for the purposes of the Model Code of Conduct, and*
- *remove the cap on the value of meals and refreshments that may be accepted by council officials in conjunction with the performance of their official duties.*

Clauses 6.2, 6.9 to 6.12 now read

- 30 6.2 A reference to a gift or benefit in this Part does not include:
- a) items with a value of \$10 or less
  - b) a political donation for the purposes of the Electoral Funding Act 2018
  - 35 c) a gift provided to the council as part of a cultural exchange or sister-city relationship that is not converted for the personal use or enjoyment of any individual council official or someone personally associated with them
  - d) a benefit or facility provided by the council to an employee or councillor
  - e) attendance by a council official at a work-related event or function for the purposes of
  - 40 performing their official duties, or



f) free or subsidised meals, beverages or refreshments provided to council officials in conjunction with the performance of their official duties such as, but not limited to:

i) the discussion of official business

ii) work-related events such as council-sponsored or community events, training, education sessions or workshops

iii) conferences

iv) council functions or events

v) social functions organised by groups, such as council committees and community organisations.

6.9 Gifts or benefits that exceed \$100 in value are gifts or benefits of more than token value for the purposes of clause 6.5(d) and, subject to clause 6.7, must not be accepted.

6.10 Gifts and benefits of more than token value include, but are not limited to, tickets to major sporting events (such as international matches or matches in national sporting codes) with a ticket value that exceeds \$100, corporate hospitality at a corporate facility at major sporting events, free or discounted products or services for personal use provided on terms that are not available to the general public or a broad class of persons, the use of holiday homes, artworks, free or discounted travel.

6.11 Where you have accepted a gift or benefit of token value from a person or organisation, you must not accept a further gift or benefit from the same person or organisation or another person associated with that person or organisation within a single 12-month period where the value of the gift, added to the value of earlier gifts received from the same person or organisation, or a person associated with that person or organisation, during the same 12-month period would exceed \$100 in value.

6.12 For the purposes of this Part, the value of a gift or benefit is the monetary value of the gift or benefit inclusive of GST.

**Councils are not obliged to amend their codes of conduct to lift the cap on the value of gifts that may be accepted if they do not wish to. It is open to councils to retain the existing \$50 cap or to impose another cap that is lower than \$100.**

This Report recommends that Council retain the existing \$50 cap on the value of gifts.

*Remove as a breach, failure to comply with a council resolution requiring action in relation to a code of conduct breach (because it is now redundant)*

Clause 9.9 has been removed.

### Procedures

The Procedures have been amended, **with immediate effect**, to:

*Provide options for Councils when taking disciplinary action against councillors for breaches of their codes of conduct*

*that a councillor be formally censured for the breach under section 440G of the Local Government Act 1993 (the Act), or*

*that a councillor be formally censured for a breach under section 440G and the matter referred to OLG for further disciplinary action under the misconduct provisions of the Act.*

*Amend the process for censuring councillors for breaches of the code of conduct by ensuring that councillors are made publicly accountable to their electors for their conduct. When censuring councillors, councils will be required to specify in their resolution the grounds on which the councillor is being censured by disclosing the investigator's findings and determination and any other grounds that the council considers may be relevant or appropriate.*

*Allow Councillors to avoid public censure for breaches of the code of conduct by voluntarily agreeing to undergo training or counselling, to apologise for their conduct or to give undertakings not to repeat their conduct before the investigator finalises their report to the council. Investigators will be able to finalise their investigations without a report to the council where they consider these to be an appropriate outcome to the matter they are investigating. However, it remains open to investigators to finalise their report and to recommend censure where they consider this is appropriate and warranted.*

*Provide a streamlined process for referral by councils of code of conduct breaches by councillors to OLG for further disciplinary action under the misconduct provisions of the Act. Investigators are required to consult with OLG before recommending the referral of matters to ensure the conduct in question is sufficiently serious to warrant disciplinary action for misconduct and that there is sufficient evidence of the breach to allow OLG to take further disciplinary action.*

Current clauses 7.36-7.40 have been replaced with the following:

7.36 At a minimum, the investigator's final report must contain the following information:

- a) a description of the allegations against the respondent
- b) the relevant provisions of the code of conduct that apply to the alleged conduct investigated
- c) a statement of reasons as to why the matter warranted investigation (having regard to the criteria specified in clause 6.23)
- d) a statement of reasons as to why the matter was one that could not or should not be resolved by alternative means
- e) a description of any attempts made to resolve the matter by use of alternative means
- f) the steps taken to investigate the matter
- g) the facts of the matter
- h) the investigator's findings in relation to the facts of the matter and the reasons for those findings
- i) the investigator's determination and the reasons for that determination
- j) any recommendations.

7.37 Where the investigator determines that the conduct investigated constitutes a breach of the code of conduct, the investigator may recommend:

- k) in the case of a breach by the general manager, that disciplinary action be taken

under the general manager's contract of employment for the breach, or

l) in the case of a breach by a councillor, that the councillor be formally censured for the breach under section 440G of the LGA, or

m) in the case of a breach by a councillor, that the council resolves as follows:

i) that the councillor be formally censured for the breach under section 440G of the LGA, and

ii) that the matter be referred to the Office for further action under the misconduct provisions of the LGA.

7.38 Where the investigator proposes to make a recommendation under clause 7.37(c), the investigator must first consult with the Office on their proposed findings, determination and recommendation prior to finalising their report, and must take any comments by the Office into consideration when finalising their report.

7.39 Where the investigator has determined that there has been a breach of the code of conduct, the investigator may, in addition to making a recommendation under clause 7.37, recommend that the council revise any of its policies, practices or procedures.

7.40 Where the investigator determines that the conduct investigated does not constitute a breach of the code of conduct, the investigator may recommend:

a) that the council revise any of its policies, practices or procedures that a person or persons undertake any training or other education.

7.41 The investigator must provide a copy of their report to the complaints coordinator and the respondent.

7.42 At the time the investigator provides a copy of their report to the complaints coordinator and the respondent, the investigator must provide the complainant with a written statement containing the following information:

a) the investigator's findings in relation to the facts of the matter and the reasons for those findings

b) the investigator's determination and the reasons for that determination

c) any recommendations, and

d) such other additional information that the investigator considers may be relevant.

7.43 Where the investigator has determined that there has not been a breach of the code of conduct, the complaints coordinator must provide a copy of the investigator's report to the general manager or, where the report relates to the general manager's conduct, to the mayor, and this will finalise consideration of the matter under these procedures.

*Current clauses 7.44 to 7.46 have been removed and replaced by*

7.44 Where the investigator has determined that there has been a breach of the code of

conduct and makes a recommendation under clause 7.37, the complaints coordinator must, where practicable, arrange for the investigator's report to be reported to the next ordinary council meeting for the council's consideration, unless the meeting is to be held within the 4 weeks prior to an ordinary local government election, in which case the report must be reported to the first ordinary council meeting following the election.

7.45 Where it is apparent to the complaints coordinator that the council will not be able to form a quorum to consider the investigator's report, the complaints coordinator must refer the investigator's report to the Office for its consideration instead of reporting it to the council under clause 7.44.

*Current clause 4.47 and following have been renumbered commencing from 7.46*

*Current clause 7.59 has been removed and replaced by:*

7.58 A council may by resolution impose one of the following sanctions on a respondent:

- a) in the case of a breach by the general manager, that disciplinary action be taken under the general manager's contract of employment for the breach, or
- b) in the case of a breach by a councillor, that the councillor be formally censured for the breach under section 440G of the LGA, or
- c) in the case of a breach by a councillor:
  - i) that the councillor be formally censured for the breach under section 440G of the LGA, and
  - ii) that the matter be referred to the Office for further action under the misconduct provisions of the LGA.

7.59 Where the council censures a councillor under section 440G of the LGA, the council must specify in the censure resolution the grounds on which it is satisfied that the councillor should be censured by disclosing in the resolution, the investigator's findings and determination and/or such other grounds that the council considers may be relevant or appropriate.

*The Procedures have been amended to allow the referral of investigators' reports to OLG for action under the misconduct provisions of the Act where the council will not have a quorum to deal with the matter.*

*Current clauses 7.61 and 7.62 has been removed and replaced by:*

7.61 Where the council resolves not to adopt the investigator's recommendation, the complaints coordinator must notify the Office of the council's decision and the reasons for it.

*Other amendments have been made to the Procedures to allow panels of conduct reviewers to be appointed without a resolution of the council.*

Adopting the amendments

The Model Code of Conduct for Local Councils in NSW is made for the purposes of section 440 of the Local Government Act 1993. Section 440 of the Act requires every council to adopt a code of conduct that incorporates the provisions of the Model Code.

5

A council's code of conduct has no effect to the extent that it is inconsistent with the Model Code. However, a council's adopted code of conduct may prescribe requirements that are more onerous than those prescribed in the Model Code.

10 In respect of the amendment of a Policy the usual practice is for a report to go to Council recommending the adoption of the amendments and for the public exhibition of the amended policy for a period of 28 days. If no submissions are received the policy is formally adopted. Should there be any submissions those submissions are reported to Council.

15 The question to be considered is whether the usual practice applies to circumstances where the adoption of amendments to the Model Code is a statutory requirement. The elected Council has no ability to reject the Model Code amendments either of its own motion or as a result of submissions made to it.

20 **Code of Meeting Practice**

The Office of Local Government [Circular 20-31 New requirement for councils to retain recordings of meetings on their websites for a minimum of 12 months](#) prescribes that the Code of Meeting Practice be amended, **with immediate effect**, to:

25 *"require recordings of meetings of the councils and committees that comprise only of councillors to be retained on the council's website for 12 months or more."*

While Council already complies with this requirement and standard practice has been to retain audio recordings on the website indefinitely, the Code of Meeting Practice has been updated to reflect this minimum requirement.

30 The section pertaining to webcasting of meetings is extracted below, with the proposed amendment identified in red:

***"Webcasting of meetings***

35 5.4 All meetings of the council and committees of the council are to be **webcast and retained for a period of not less than 12 months** on the council's website. The General Manager shall arrange for audio recordings of Council meetings and any Committee meeting as resolved by Council.

Note: **Clause 5.19 reflects section 423 of the Regulations.**  
Webcast is defined in clause 22.

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5.5 Clause 5.19 does not apply to parts of a meeting that have been closed to the public under section 10A of the Act or to Public Access sessions.

45 5.6 At the start of each meeting the chairperson is to make a statement informing those in attendance that the meeting is being webcast and that those in attendance should refrain from making any defamatory statements.

5.7 Signage that meetings will be recorded will be displayed at the public entrance to the meeting."

It is worth noting that the requirement to webcast the Council meeting in the *Code of Meeting Practice* does not extend to the Public Access session, however, to provide open and transparent access during COVID-19 this has been facilitated.

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## 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	5.2.4	Support Councillors to carry out their civic duties	5.2.4.6	Improve Council's livestreaming of Council meetings to provide increased accessibility to the community
	5.6	Manage Council's resources sustainably	5.6.13	Manage the delivery of high quality cost effective legal services	5.6.13.3	Manage code of conduct matters

10

### *Legal/Statutory/Policy Considerations*

The **Local Government (General) Regulation** was amended such that:

[s423 Interim obligation to webcast meetings of councils and their committees](#)

(c) a recording of each meeting of a relevant council and any committee of a relevant council all the members of which are councillors is to be retained on the council's website for at least 12 months.

### *Financial Considerations*

20

Not applicable.

### *Consultation and Engagement*

As the amendments are prescribed by legislation, there is no obligation on the part of the Council to publicly exhibit the documents or seek submissions. Therefore it is proposed that the documents be endorsed by Council.

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## STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

**Report No. 13.3****Election of Deputy Mayor 2020-21****Directorate:**

Corporate and Community Services

**Report Author:**

Heather Sills, Corporate Planning and Improvement Coordinator

**File No:**

I2019/2152

**Theme:**

Corporate Management

Councillor Services

**Summary:**

In accordance with Section 231 of the *Local Government Act 1993* Councillors can elect a Deputy Mayor. The normal practice for Byron Shire is to elect a Deputy Mayor for a period of 12 months at the first Ordinary Council meeting in September each year.

**RECOMMENDATION:**

1. That Council elects a Deputy Mayor for the period from 24 September 2020 for the remainder of the Council term.
2. That the method of election of the Deputy Mayor be by way of ordinary ballot.

**Attachments:**

- 1 Byron Shire Council Nomination Form Deputy Mayor 2020, E2020/58947 



**REPORT**

In accordance with Section 231 of the Local Government Act 1993, a council may elect a Deputy Mayor to assist the Mayor in the performance of his/her duties.

(1) *The councillors may elect a person from among their number to be the deputy mayor.*

(2) *The person may be elected for the mayoral term or a shorter term.*

(3) *The deputy mayor may exercise any function of the mayor at the request of the mayor or if the mayor is prevented by illness, absence or otherwise from exercising the function or if there is a casual vacancy in the office of mayor.*

(4) *The councillors may elect a person from among their number to act as deputy mayor if the deputy mayor is prevented by illness, absence or otherwise from exercising a function under this section, or if no deputy mayor has been elected.*

Term of the Deputy Mayor

Section 231 (2) of the Local Government Act states: “*The person may be elected for the mayoral term or a shorter term*” such as:

1. For a period of 12 months
2. For the period of the Mayoral Term
3. For another period determined by Council

Returning Officer

Schedule 7(1) of the Local Government (General) Regulation 2005 states that the “*General Manager (or a person appointed by the General Manager) is the Returning Officer.*”

Nomination

Schedule 7(2) of the Local Government (General) Regulation 2005 states that:

(1) *A councillor may be nominated without notice for election as mayor or deputy mayor.*

(2) *The nomination is to be made in writing by 2 or more councillors (one of whom may be the nominee). The nomination is not valid unless the nominee has indicated consent to the nomination in writing.*

(3) *The nomination is to be delivered or sent to the returning officer.*

(4) *The returning officer is to announce the names of the nominees at the council meeting at which the election is to be held.*

Nomination forms have been provided as an attachment to this business paper. Any completed nomination forms should be handed to the General Manager prior to the commencement of the Council meeting.

Election

Schedule 7(3) of the Local Government (General) Regulation 2005 states:

- 5     (1)   *If only one councillor is nominated, that councillor is elected.*
- (2)   *If more than one councillor is nominated, the council is to resolve whether the election is to proceed by preferential ballot, by ordinary ballot; or by open voting.*
- 10    (4)   *The election is to be held at the Council meeting at which the Council resolves the method of voting.*
- (4)   *In this clause:*
- 15            “**ballot**” *has its normal meaning of secret ballot;*
- “**open voting**” *means voting by a show of hands or similar means.*

20    The following additional information outlines various ballot systems. Traditionally, this Council has determined the election for Deputy Mayor by ordinary ballot.

25    Preferential ballot – as per its normal interpretation, the ballot papers are to contain the names of all candidates and Councillors mark their votes 1, 2, 3 and so on against the various names, so as to indicate their order of preference for all of the candidates.

Ordinary ballot – this is the usual method adopted in New South Wales. Ballots are secret with only one candidate’s name written on a ballot paper.

30    Where there are two candidates, the person with the most votes is elected. If the ballots for the two candidates are tied, the one to be elected is to be chosen by lots, with the first name out being declared elected.

35    Where there are three or more candidates, the person with the lowest number of votes is eliminated and the process started again until there are only two candidates. The determination of the election would then proceed as if the two were the only candidates. In the case of three or more candidates where a tie occurs, the one to be excluded will be chosen by lot.

40    Choosing by Lot – to choose a candidate by lot, the names of the candidates who have equal numbers of votes are written on similar slips of paper by the returning officer, the slips are folded by the returning officer so as to prevent the names being seen, the slips are mixed and one is drawn at random by the returning officer and the candidate whose name is on the drawn slip is chosen, on the basis detailed above.

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## 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	5.2.4	Support Councillors to carry out their civic duties	5.2.4.3	Provide support to Councillors – including councillor requests, briefing sessions, provision of facilities and payment of expenses, and record keeping

5 **Legal/Statutory/Policy Considerations**

The Deputy Mayor will undertake the Mayor's role at the request of the Mayor and in situations where the Mayor is prevented by illness, absence or other reasons from exercising the functions of the position. The role of the Mayor is defined by [Section 226 of the Local Government Act 1993](#).

10 **Financial Considerations**

On 12 June 2014, Council resolved **(14-304)** in part 3: "*That Council in accordance with its current practice not determine a fee payable to the Deputy Mayor.*"

Section 249(5) of the Local Government Act 1993 states:

(5) *A council may pay the deputy mayor (if there is one) a fee determined by the council for such time as the deputy mayor acts in the office of the mayor. The amount of the fee so paid must be deducted from the mayor's annual fee.*

Therefore the Deputy Mayor when acting in the role of Mayor, in instances where the Mayor has leave of absence endorsed by Council, would be paid a fee calculated on a pro-rata basis of the annual Mayoral allowance, which would be deducted from the amount of the monthly Mayoral allowance paid to the Mayor, in accordance with Section 249 of the *Local Government Act 1993*.

**Consultation and Engagement**

Not applicable.

**Report No. 13.4      Report of the Extraordinary Public Art Panel meeting held on 20 August 2020**

**Directorate:** Corporate and Community Services  
**Report Author:** Joanne McMurtry, Community Project Officer  
**File No:** I2020/1248  
**Theme:** Corporate Management  
Community Development

**Summary:**

An Extraordinary Public Art Panel meeting was held on 20 August 2020 to consider locations for *Memento Aestates*. The Panel recommendation is provided for Council's consideration.

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**RECOMMENDATION:**

**That Council supports the installation of *Memento Aestates* at the station building forecourt site within Railway Park, Byron Bay, pending final Heritage approval.**

**Attachments:**

- 1      Minutes 20/08/2020 Public Art Panel Extraordinary, I2020/1220 

**REPORT**

An Extraordinary Public Art Panel meeting was held on 20 August 2020 to consider locations for *Memento Aestates*.

*Memento Aestates* by Giovanni Veronesi, working under Urban Art Projects (UAP) Brisbane, is the artwork commissioned by Council in November 2018 as part of the upgrade to Railway Park in the Byron Bay town centre.

Following delays in determining material and form of the sculpture and the finalisation of works in Railway Park, Council resolved to remove *Memento Aestates* from the Railway Park scope of work and consider it for other locations within the Byron Bay town centre.

At the Ordinary Meeting held on 12 December 2019, Council resolved to support the location of the artwork in the Byron Rail Corridor, however heritage advice precluded the sculpture from being included in the upgrade to the Rail Corridor.

Site options have been explored and were presented to the Public Art Panel. The Panel have recommended that Council supports the installation of *Memento Aestates* at the station building forecourt site within Railway Park, Byron Bay, pending final Heritage approval

The minutes of the meeting are attached.

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

CSP Objective	L2	CSP Strategy	L3	DP Action	L4	OP Activity
<b>Community Objective 2: We cultivate and celebrate our diverse cultures, lifestyle and sense of community</b>	2.1	Support and encourage our vibrant culture and creativity	2.1.3	Enhance opportunities for interaction with art in public spaces	2.1.3.1	Implement Public Art Strategy

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

Public Art Policy  
Public Art Strategy  
Public Art Guidelines and Criteria

***Financial Considerations***

A total budget of \$80,000 has been allocated for the commissioning of this artwork, funded from paid parking and Section 94 Developer Contributions.

A \$40,000 deposit has been paid to UAP. The remaining \$40,000 has been retained for contracted project completion.

Any additional costs in fabricating the sculpture will result in the final artwork being adjusted, most likely the scale being reduced, to deliver within the total \$80,000 budget available for the project.

***Consultation and Engagement***

Consultation about this artwork and its location has occurred with:

Byron Bay Town Centre Masterplan Guidance Group  
UAP (the contractor) and Giovanni Veronesi (the artist)

- 5 This report provides the minutes of the Public Art Panel, made up of 6 community representatives, 2 invited members and 2 councillors.

**Report No. 13.5      Section 355 Management Committees - resignations and appointments****Directorate:** Corporate and Community Services**Report Author:** Joanne McMurtry, Community Project Officer**File No:** I2020/1252**Theme:** Society and Culture

Community Development

**Summary:**

This report updates Council on recent resignations to Section 355 committees.

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**RECOMMENDATION:**

1. That a letter of thanks for Jane Shand's service to the Durrumbul Hall Management Committee be provided to the family.
2. That the resignation from Carmel Lancaster from the Brunswick Valley Community Centre Management Committee be accepted and that a letter of thanks be provided.
3. That the resignation from Nancy English from the Marvell Hall Management Committee be accepted and that a letter of thanks be provided.
4. That the resignation from Margaret White from the Lone Goat Gallery Board of Management be accepted and that a letter of thanks be provided.



**Report**

This report details resignations for Section 355 committees where nominations have been received.

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Durrumbul Hall

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Council are requested to note that Jane Shand passed away in April. Jane provided many years of service to the Durrumbul Hall Section 355 Management Committee and will be sorely missed by the committee. The current committee have decided they do not need any additional members at this time.

Committee positions have changed with current members on this Management Committee being:

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*Councillors*

- Cr Jeannette Martin

*Community Representatives*

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- Rommel Albanese
- Robin Buckley
- Wayne Smith (Maintenance)
- Duncan Dey (Secretary/ Treasurer)
- Liz Elliott
- Ewan Willis
- 25 • Amber Cordell-Mollet (Chair)

*Management Recommendation*

30

That a letter of thanks for Jane Shand's service to the Durrumbul Hall Management Committee be provided to the family.

Brunswick Valley Community Centre

35

A resignation has been received from Carmel Lancaster from the Brunswick Valley Community Centre Management Committee.

Current members on this Management Committee are:

*Councillors*

40

- Cr Jeannette Martin

*Community Representatives*

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- Fran Leske (Bookings/ Secretary/ Assistant Treasurer)
- Colin Munroe (Chair)
- 45 • Jennifer Moore (Treasurer/ Assistant Secretary)
- Elizabeth Jackson

*Management Recommendation*

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That the resignation from Carmel Lancaster from the Brunswick Valley Community Centre Management Committee be accepted and that a letter of thanks be provided.

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**Marvell Hall**

A resignation has been received from Nancy English from the Marvell Hall Management Committee.

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Current members on this Management Committee are:

*Councillors*

- Cr Cate Coorey
- 10 • Cr Jan Hackett (alternate)

*Community Representatives*

- Margaret Robertson (Booking)
- Caroline Lloyd (Chair/Maintenance)
- 15 • Jim Beatson
- Maureen Lightfoot (Treasurer)
- Christine Willmot (Secretary)

*Management Recommendation*

20

That the resignation from Nancy English from the Marvell Hall Management Committee be accepted and that a letter of thanks be provided.

**Lone Goat Gallery Board of Management**

25

A resignation has been received from Margaret White from the Lone Goat Gallery Board.

Current members on this Board of Management are:

*Councillors*

- Cr Michael Lyon
- 30 • Cr Simon Richardson (alternate)

*Community Representatives:*

- 35 • Maureen Lightfoot (Treasurer)
- Denise Napier (Chair)
- Faye Dorczak (Secretary)
- Liz Marshall
- Isabel Studer
- 40 • John Hertzberg

*Management Recommendation:*

That the resignation from Margaret White from the Lone Goat Gallery Board of Management be accepted and that a letter of thanks be provided.

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## 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>	1.2	Provide essential services and reliable infrastructure which meet an acceptable community standard	1.2.9	Develop capital upgrades, renewal and enhancements works program for buildings- including community buildings, public toilets, emergency services, sports club facilities and Council operations buildings (SP)	1.2.9.1	Deliver program in consultation with community groups, s355 committees, Council asset managers and Plans of Management

5

**Legal / Statutory / Policy Considerations**

Management Committees and Boards of Management operate under Guidelines which state:

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**3.2 Committee Membership**

*Committee membership will number not less than four and not more than nine and each committee will state the actual number in their Terms of Reference unless otherwise decided by Council. The exception will be the Bangalow Parks (Showground) committee which numbers twelve. Council reserves the right to appoint up to two Councillors to each Committee. The total number of members includes office bearer committee members and Councillor members which are appointed by Council.*

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*Whilst no particular qualifications are necessary (notwithstanding 3.1.a), a commitment to the activities of the Committee and a willingness to be actively involved in Committee issues is essential. Committees work best when the workload is shared amongst committee members and there is evident goodwill and cooperation amongst members.*

25

Further information on the operations and meeting minutes for these Committees and Boards can be found on Council's web site at <https://www.byron.nsw.gov.au/Council/Committees-and-groups/Section-355-Committees-and-Boards-of-Management>.

**Financial Considerations**

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Community Members of Section 355 Management Committees are volunteer positions unless otherwise resolved by Council.

**Consultation and Engagement**

35

Section 355 Committee members are nominated in response to an open period of advertising calling to fill a vacancy. To hold office and be responsible for the management of a Council facility, all community committee members will be assessed against a set of criteria. Nominations are formally submitted in writing to Council for appointment.

**Report No. 13.6**                      **2020-2021 Financial Assistance Grant**  
**Directorate:**                      Corporate and Community Services  
**Report Author:**                  James Brickley, Manager Finance  
**File No:**                              I2020/1263

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**Summary:**

10    The NSW Local Government Grants Commission has advised Council of its 2020-2021 Financial Assistance Grant entitlement via letter dated 21 August 2020. The letter requests that its contents be tabled at the next Ordinary Meeting of Council.

15    This report also provides Council with some additional information related to the Financial Assistance Grant entitlement for the 2020-2021 financial year.


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**RECOMMENDATION:**

**That Council receives and notes the 2020-2021 Financial Assistance Grant report (#E2020/67773).**

**Attachments:**

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1       Letter from NSW Grants Commission outlining 2020-2021 Financial Assistance Grant Outcome, E2020/67773 

2       Details of Byron Shire Council 2020-2021 Financial Assistance Grant Entitlement, E2020/67779 

3       Schedule of Financial Assistance Grants Payments 2020-2021 to NSW Councils, E2020/67786 

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## REPORT

The NSW Local Government Grants Commission has advised Council of its 2020-2021 Financial Assistance Grant entitlement via letter dated 21 August 2020. The letter requests that its contents be tabled at the next Ordinary Meeting of Council and can be found at Attachment 1 (E2020/67773).

This report addresses that request and provides Council with some additional information related to the Financial Assistance Grant entitlement for the 2020-2021 financial year.

The monetary value of the Council's 2020-2021 Financial Assistance Grant is provided in the table below:

Grant Component	Value \$
General Purpose	2,068,396
Roads Component	1,244,610
<b>Gross Financial Assistance Grant</b>	<b>3,313,006</b>
Less CPI Adjustment from 2019-2020 General	(4,452)
Less CPI Adjustment from 2019-2020 Roads	(2,592)
<b>Total Financial Assistance Grant 2020-2021</b>	<b>3,305,962</b>

The total General Purpose component of the Financial Assistance Grant for 2020-2021 is \$2,063,944 and the total Roads component is \$1,242,018 after adjustments from the previous year Consumer Price Index (CPI) outcome. The gross grant allocation for Council is a 1.4% increase on the 2019-2020 Financial Assistance Grant.

The Commonwealth Government has again determined to pay part of the 2020-2021 Financial Assistance Grant in advance. In this regard, Council received a total advance payment of \$1,704,286 on 26 May 2020. Grant payments received during the course of the 2020-2021 financial year will be reduced by the amount of the advance payment. Remaining instalments payable to Council in 2019-2020 are outlined in Attachment 2 along with details of the Byron Shire Council specific grant entitlement.

The Financial Assistance Grant to Council is a general purpose grant. That is, whilst it has defined components as outlined in the table above, there are no conditions attached about how Council spends it. Council recognises this grant in the General Purpose Revenues Program along with rate revenue, which is distributed to Council programs through the budget.

Incorporating the advance payment received at the end of the 2019-2020 financial year, that Council has carried forward to expend in the 2020-2021 financial year, Council's estimated budget is approximately \$55,800 below the proposed net 2020-2021 Financial Assistance Grant.

This additional \$55,800 in revenue will be included in the 30 September 2020 Budget Review which will be presented to Council at the 26 November 2020 Ordinary Meeting. It is proposed the increase will be used to part address the 2020-2021 budget deficit of \$356,800.

Attachment 3 provides a schedule of all Financial Assistance Grant payments to NSW Councils for the 2020-2021 financial year. The table below shows the net grant entitlements of neighbouring Councils.

Whilst each Council has its own circumstances that contribute to the grant calculations i.e. disability factors, population, property values etc., it still demonstrates the reality of how low the Financial Assistance Grant Revenue received by Byron Shire Council is relative to others locally.



2020-2021 Financial Assistance Grant Outcomes

<b>Council</b>	<b>Population</b>	<b>Net General Purpose</b>	<b>Net Roads Component</b>	<b>Total Net Financial Assistance Grant</b>
Ballina	44,628	3,187,246	1,479,738	4,666,984
<b>Byron</b>	<b>35,081</b>	<b>2,063,944</b>	<b>1,242,018</b>	<b>3,305,962</b>
Clarence Valley	51,662	7,764,904	3,377,466	11,142,370
Kyogle	8,796	2,934,194	1,657,568	4,591,762
Lismore	43,692	4,423,653	2,017,515	6,441,168
Richmond Valley	23,465	3,597,950	1,643,634	5,241,584
Tweed	97,001	7,875,490	3,006,828	10,882,318

- 5 The table below sets out the actual grant differences.

2020-2021 Financial Assistance Grant Differences

<b>Council</b>	<b>Additional FAG Revenue compared to Byron \$</b>	<b>Grant Entitlement greater then Byron (times)</b>
Ballina	1,361,022	1.41
Clarence Valley	7,836,408	3.37
Kyogle	1,285,800	1.39
Lismore	3,135,206	1.95
Richmond Valley	1,935,622	1.59
Tweed	7,576,356	3.29

**10 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 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***

- 15 The Financial Assistance Grant is provided by the Commonwealth Government via the NSW Local Government Grants Commission. The NSW Local Government Grants Commission determines distribution to each Council in NSW from the pool of funds allocated to the State of NSW by the Commonwealth Government. Each State in Australia is required to have a Local Government Grants Commission to determine distributions.
- 20

***Financial Considerations***

- 25 There are no financial implications associated with this report as it is informing Council of its Financial Assistance Grant entitlement for 2020-2021.

**Report No. 13.7**      **Council Investments - 1 August 2020 to 31 August 2020**  
**Directorate:**      Corporate and Community Services  
**Report Author:**      James Brickley, Manager Finance  
**File No:**      I2020/1266

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**Summary:**

10      This report includes a list of investments and identifies Council's overall cash position for the period 1 August 2020 to 31 August 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 Council notes the report listing Council's investments and overall cash position as at 31 August 2020.**

## REPORT

Council has continued to maintain a diversified portfolio of investments. At 31 August 2020, the average 90 day bank bill rate (BBSW) for the month of August 2020 was 0.10%. Council's performance to 31 August 2020 was 1.17%. 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 31 August 2020

## Schedule of Investments held as at 31 August 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%	1,046,700.00
15/11/18	980,060	NSW Treasury Corp (Green Bond)	N	AAA	15/11/28	Y	B	3.00%	1,152,260.00
20/11/18	1,018,290	QLD Treasury Corp (Green Bond)	N	AA+	22/03/24	Y	B	3.00%	1,091,930.00
28/03/19	1,000,000	National Housing Finance & Investment Corporation	Y	AAA	28/03/31	Y	B	2.38%	1,126,670.00
21/11/19	1,000,250	NSW Treasury Corp (Sustainability Bond)	N	AAA	20/03/25	Y	B	1.25%	1,028,020.00
27/11/19	500,000	National Housing Finance & Investment Social Bond	Y	AAA	27/05/30	Y	B	1.57%	522,906.50
31/03/17	1,000,000	CBA Climate Bond	Y	AA-	31/03/22	Y	FRN	1.02%	1,010,430.00
16/11/17	750,000	Bank of Queensland	Y	BBB+	16/11/21	N	FRN	1.93%	753,337.50
30/08/18	500,000	Bank Australia Ltd (Sustainability Bond)	Y	BBB+	30/08/21	Y	FRN	1.40%	502,890.00
07/12/18	2,000,000	Credit Union Australia	Y	BBB	07/12/20	Y	TD	3.02%	2,000,000.00
25/09/19	2,000,000	NAB	N	AA-	24/09/20	N	TD	1.60%	2,000,000.00
27/11/19	1,000,000	Coastline Credit Union	Y	NR	26/11/20	Y	TD	1.80%	1,000,000.00
06/01/20	1,000,000	Judo Bank	Y	NR	05/01/21	N	TD	2.10%	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
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
06/05/20	1,000,001	AMP Bank	Y	BBB	04/11/20	N	TD	1.65%	1,000,001.00
12/05/20	1,000,000	The Mutual Bank	Y	NR	09/11/20	N	TD	1.50%	1,000,000.00
25/05/20	1,000,000	AMP Bank	N	BBB	23/11/20	N	TD	1.65%	1,000,000.00
26/05/20	1,000,000	Judo Bank	N	NR	24/11/20	Y	TD	1.70%	1,000,000.00
28/05/20	2,000,000	AMP Bank	N	BBB+	25/11/20	N	TD	1.65%	2,000,000.00
02/06/20	1,000,000	The Mutual Bank	N	NR	13/10/20	N	TD	1.25%	1,000,000.00

# BYRON SHIRE COUNCIL

## STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

13.7

Purch Date	Principal (\$)	Description	CP*	Rating	Maturity Date	No Fossil Fuel	Type	Interest Rate Per Annum	Current Value
02/06/20	1,000,000	AMP Bank	N	BBB	01/12/20	N	TD	1.60%	1,000,000.00
03/06/20	1,000,000	Auswide Bank	Y	NR	02/12/20	N	TD	1.15%	1,000,000.00
02/06/20	1,000,000	ME Bank	Y	BBB	01/12/20	N	TD	1.13%	1,000,000.00
09/06/20	2,000,000	NAB	N	AA-	07/09/20	N	TD	0.90%	2,000,000.00
30/06/20	1,000,000	The Mutual Bank	N	NR	28/10/20	N	TD	1.05%	1,000,000.00
30/06/20	1,000,000	Coastline Credit Union	N	NR	28/10/20	N	TD	1.05%	1,000,000.00
30/06/20	1,000,000	Coastline Credit Union	N	NR	30/09/20	N	TD	1.05%	1,000,000.00
24/07/20	2,000,000	Bank of Queensland	N	BBB+	19/07/21	N	TD	0.90%	2,000,000.00
28/07/20	1,000,000	ME Bank	N	BBB	29/01/21	Y	TD	0.63%	1,000,000.00
28/07/20	1,000,000	The Capricornian	Y	NR	27/10/20	Y	TD	0.70%	1,000,000.00
29/07/20	2,000,000	Macquarie Bank Ltd	Y	A	28/10/20	N	TD	0.50%	2,000,000.00
30/07/20	1,000,000	Judo Bank	N	NR	30/07/21	N	TD	1.25%	1,000,000.00
03/08/20	1,000,000	NAB	N	AA-	03/08/21	N	TD	0.85%	1,000,000.00
04/08/20	2,000,000	Suncorp	Y	A+	04/08/20	N	TD	0.70%	2,000,000.00
19/08/20	2,000,000	NAB	N	AA-	17/12/20	N	TD	0.70%	2,000,000.00
19/08/20	2,000,000	NAB	N	AA-	19/08/21	N	TD	0.80%	2,000,000.00
26/08/20	1,000,000	AMP Bank	N	BBB	26/08/20	N	TD	0.80%	1,000,000.00
N/A	9,549,431.45	CBA Business Saver	N	AA-	N/A	N	CALL	0.55%	9,549,431.45
N/A	2,511,100.63	CBA Business Saver – Tourism Infrastructure Grant	N	AA-	N/A	N	CALL	0.55%	2,511,100.63
N/A	6,102,023.52	NSW Treasury Corp	N	AAA	N/A	Y	CALL	0.12%	6,102,023.52
<b>Total</b>	<b>64,911,156.60</b>						<b>AVG</b>	<b>1.17%</b>	<b>65,397,700.60</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.

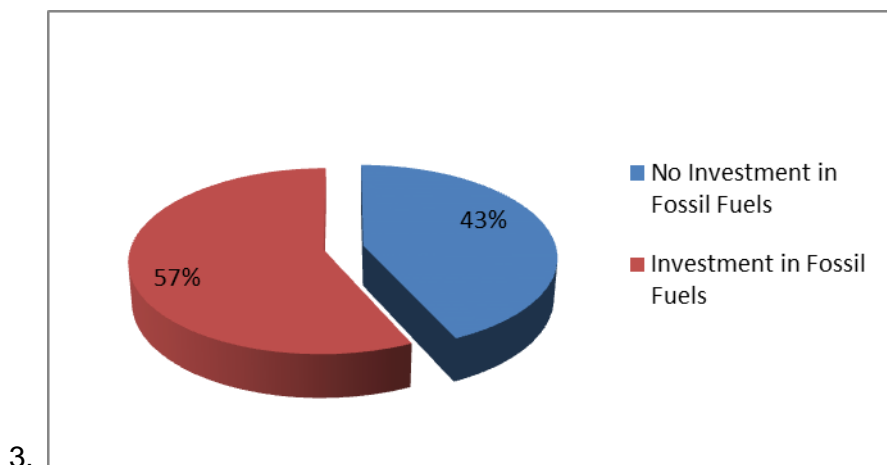
Environmental and Socially Responsible Investing (ESRI)

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.

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](#).

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%	58%	Meets policy
A+ to A-	A1	60%	3%	Meets policy
BBB to NR	A2,NR	40%	39%	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 August 2020 to 31 August 2020:

#### **Dissection of Council Investment Portfolio as at 31 August 2020**

<b>Principal Value (\$)</b>	<b>Investment Linked to:</b>	<b>Current Market Value (\$)</b>	<b>Cumulative Unrealised Gain/(Loss) (\$)</b>
39,000,001.00	Term Deposits	39,000,001.00	0.00
2,250,000.00	Floating Rate Note	2,266,657.50	16,657.50
9,549,431.45	CBA Business Saver	9,549,431.45	0.00
2,511,100.63	CBA Business Saver – Tourism Infrastructure Grant	2,511,100.63	0.00
6,102,023.52	NSW Treasury Corp	6,102,023.52	0.00
5,498,600.00	Bonds	5,968,486.50	469,886.50
<b>64,911,156.60</b>		<b>65,397,700.60</b>	<b>486,544.00</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 August 2020 to 31 August 2020 on a current market value basis.

**Movement in Investment Portfolio – 31 August 2020**

Item	Current Market Value (at end of month) \$
<b>Opening Balance at 1 August 2020</b>	<b>69,388,090.94</b>
Add: New Investments Purchased	8,000,000.00
Add: Call Account Additions	5,000,000.00
Add: Interest from Call Account	5,317.18
Add: Interest from Tourism Saver Account	1,172.45
Less: Investments Matured	8,000,000.00
Add: T Corp Additions	0.00
Add: Interest from T Corp	3,120.03
Less: Call Account Redemption	4,000,000.00
Less: T Corp Redemption	5,000,000.00
Plus: Fair Value Movement for period	0.00
<b>Closing Balance at 31 August 2020</b>	<b>65,397,700.60</b>

**Term Deposit Investments Maturities and Returns – 1 August 2020 to 31 August 2020**

5

Principal Value (\$)	Description	Maturity Date	Number of Days Invested	Interest Rate Per Annum	Interest Paid on Maturity \$
2,000,000.00	Suncorp Bank	04/08/2020	270	1.60%	23,671.23
1,000,000.00	NAB TD	03/08/2020	91	1.00%	2,493.14
1,000,000.00	Summerland Credit Union	20/08/2020	108	1.30%	3,846.58
1,000,000.00	ME Bank	11/08/2020	91	1.27%	3,166.30
1,000,000.00	AMP Bank	26/08/2020	365	1.80%	18,000.00
1,000,000.00	MyState Bank	06/08/2020	182	1.70%	8,476.71
1,000,000.00	Macquarie Bank	24/08/2020	91	1.00%	2,493.35
<b>8,000,000.00</b>					<b>62,147.31</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 August 2020 the table below identifies Council's overall cash position as follows:

10

**Dissection of Council's Cash Position as at 31 August 2020**

Item	Principal Value (\$)	Current Market Value (\$)	Cumulative Unrealised Gain/(Loss) (\$)
<b>Investments Portfolio</b>			
Term Deposits	39,000,001.00	39,000,001.00	0.00
Floating Rate Note	2,250,000.00	2,266,657.50	16,657.50
CBA Business Saver	9,549,431.45	9,549,431.45	0.00
CBA Business Saver – Tourism Infrastructure Grant	2,511,100.63	2,511,100.63	0.00

Item	Principal Value (\$)	Current Market Value (\$)	Cumulative Unrealised Gain/(Loss) (\$)
NSW Treasury Corp	6,102,023.52	6,102,023.52	0.00
Bonds	5,498,600.00	5,968,486.50	469,886.50
<b>Total Investment Portfolio</b>	<b>64,911,156.60</b>	<b>65,397,700.60</b>	<b>486,544.00</b>
<b>Cash at Bank</b>			
Consolidated Fund	2,906,091.69	2,906,091.69	0.00
<b>Total Cash at Bank</b>	<b>2,906,091.69</b>	<b>2,906,091.69</b>	<b>0.00</b>
<b>Total Cash Position</b>	<b>67,817,248.29</b>	<b>68,303,792.29</b>	<b>486,544.00</b>

## 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>	5.5	Manage Council's finances sustainably	5.5.2	Ensure the financial integrity and sustainability of Council through effective planning and reporting systems (SP)	5.5.2.6	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. 13.8**                      **Extension of Ratepayers Payment Arrangements due to COVID-19**  
**Directorate:**                      Corporate and Community Services  
**Report Author:**                  James Brickley, Manager Finance  
**File No:**                              I2020/1269

5

**Summary:**

- 10 Council considered at the 26 March 2020 Ordinary Meeting a Mayoral Minute regarding its COVID-19 Pandemic response, which amongst a number of measures included support for individuals and businesses experiencing financial hardship. Further to this, Council considered further financial assistance and actions due to COVID-19, at the 23 April 2020 Ordinary Meeting.
- 15 This report is provided to Council to consider the need for a further extension of payment arrangements for ratepayers, for the payment of rates and charges, due to the ongoing impacts of the COVID-19 Pandemic and NSW Government decisions.

20

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**RECOMMENDATION:**

**That Council extends current payment arrangements for ratepayers impacted by the COVID-19 Pandemic to 31 December 2020.**

25

## REPORT

Council considered at the 26 March 2020 Ordinary Meeting a Mayoral Minute regarding its COVID-19 Pandemic response, which amongst a number of measures included support for individuals and businesses experiencing financial hardship. Further to this, Council considered additional financial assistance and actions due to COVID-19 at the 23 April 2020 Ordinary Meeting via Report 13.7 'COVID-19 Financial Assistance and Actions'. Contained within this report was the following information:

### Payment arrangements for rates and water/sewerage accounts

In accordance with resolution **20-124**, Council's Debt Management and Financial Assistance Policy has been extended to local business ratepayers.

Further to the above, Council's website now has an [online form](#) for ratepayers to use to establish a payment arrangement.

Submitting this form generates an auto acceptance of the arrangement for a six month period from 1 April 2020 to 30 September 2020. The minimum payment required is \$50 per month. During the arrangement term, interest on outstanding rates and charges will still accrue but if the arrangement is substantially honoured as agreed, interest accrued from 1 April 2020 to 30 September 2020 will be written off.

Payment arrangements established due to the COVID-19 Pandemic will be reviewed at 30 September 2020.

Council's Debt Management and Financial Hardship Policy currently provides potential assistance to an owner/occupier. This means a ratepayer who may currently own more than one property can only make an arrangement on one property and only if they are occupying it. It is recommended this requirement be relaxed provided the ratepayer enters into a suitable payment arrangement for each of their individual properties during the period of the COVID-19 Pandemic.

***Recommendation:*** Council relaxes the owner/occupier rule to also allow payment arrangements from owners with multiple properties provided they enter into a suitable payment arrangement for each individual property.

This report is provided to Council to consider the need for a further extension of payment arrangements for support to ratepayers in the payment of rates and charges due to the ongoing impacts of the COVID-19 Pandemic and NSW Government decisions beyond 30 September 2020, following the review outlined in Report 13.7 to the 23 April 2020 Ordinary Meeting.

At the time of writing this report, Council has received and accepted 570 payment arrangements for individual properties. Council is due to communicate with these property owners as to the next steps and is starting to receive further enquiries regarding payment arrangements following the delivery of the 2020-2021 Rate Notices, that have the first instalment payment due date of 30 September 2020. Should Council approve the proposed recommendation, existing ratepayers who are currently on payment arrangements due to COVID-19 will not need to reapply for the extension.

Since Council's decision on 23 April 2020 to offer the payment arrangement scheme, the NSW Government via the Office of Local Government has announced the following measures that impact the payment of rates and charges:

- The Office of Local Government advised via Circular 20-12 on 17 April 2020 (regulations under Section 747B of the Local Government Act 1993) of amendments to Councils'

statutory obligations amongst other matters including the ability to adopt operational plans, revenue policies and issue rate notices one month later. Byron Shire Council utilised this amendment, adopting its Operational Plan, Revenue Policy and Budget on 30 July 2020 and issuing 2020-2021 rate notices in August 2020 with the first instalment due date extended by one month to 30 September 2020. Given that Byron Shire Council rate notices have been issued later than usual but within approved timeframes and ratepayers will be due again to pay the second instalment on 30 November 2020, they will not have the usual three month payment gap between rate instalments.

- Part of the COVID-19 Legislative Amendment (Emergency Measures-Miscellaneous) Act No 2 advised in Circular 20-18 on 19 May 2020, prevents Councils from taking legal action to recover unpaid rates and charges for six months unless specific matters have been considered. The six month period provided by the legislative amendment expires on 26 September 2020 but given current circumstances could possibly be extended. In any case, Council determined through resolution **20-171** not to undertake any debt recovery beyond issuance of a reminder notice, until 31 December 2020

- Office of Local Government Circular 20-19 issued on 26 May 2020 determined that the maximum interest rate for outstanding rates and charges for 2020-2021 is to be set at 0% from 1 July 2020 to 31 December 2020 and then change to 7% from 1 January 2021 to 30 June 2021.

Given the NSW Government decisions outlined above, to ensure consistency and given that the COVID-19 Pandemic is still ongoing, it is recommended that Council extends the payment arrangement facility endorsed at the 23 April 2020 Ordinary Meeting to 31 December 2020.

If circumstances change or there are other government directives, it may be necessary before 31 December 2020 to report further to Council on this matter, particularly if the availability of payment extensions may need to extend beyond 31 December 2020. It is important to note that Council does not have the legislative ability to write off applicable rates and charges but can make decisions as to acceptance of timing and application of interest on overdue amounts within the parameters set by the NSW Government.

It is essential for ratepayers to understand outstanding rates and charges debts accumulate over time and there will come a time when these debts will need to be recovered. Entering into and maintaining a suitable payment arrangement with an agreed payment (minimum \$50 per month) acts to signal this for ratepayers in these most uncertain times.

## 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>	5.5	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*

Applicable Statutory Considerations associated with this report have been outlined above.



***Financial Considerations***

5 The extension of deferral of payment of rates and charges, whilst not reducing the amount of the  
debt payable to Council overall, has the potential to negatively influence Council's cash flow on the  
basis Council will continue to maintain its expenditure levels within its adopted 2020-2021 budget.  
This will be actively monitored. Should Council approve the proposed recommendation in this  
report, it will be likely to result in an increase in Council's outstanding rates and charges  
percentage. For a number of years Council has kept this below 5% but indications are at 30 June  
10 2020 (still subject to audit) that this could now be up to 8%. Further extension of payment  
arrangements may increase this percentage.

15 More importantly though, these are unprecedented times with many people experiencing financial  
difficulty due to the impacts of the COVID-19 Pandemic and associated restrictions. The proposed  
recommendation if approved will further assist ratepayers in regard to payment of outstanding  
rates and charges and provide (subject to acceptance of the payment arrangement conditions)  
some flexibility in these difficult times.

**Report No. 13.9**                      **Council Resolutions Quarterly Review - Q4 - 1 April to 30 June 2020**  
**Directorate:**                      Corporate and Community Services  
**Report Author:**                  Heather Sills, Corporate Planning and Improvement Coordinator  
**File No:**                              I2020/1137  
5    **Theme:**                            Corporate Management  
    Governance Services

**Summary:**

10    This report provides an update on the status of Council resolutions. The report was prepared for the 27 August 2020 Ordinary Meeting of Council where Council resolved *“that the report Council Resolutions Quarterly Review - Q4 - 1 April to 30 June 2020 be deferred to the 24 September Ordinary Meeting of Council.”*

15    182 resolutions were completed during the period 1 April to 30 June 2020.

20    As at 30 June 2020, there were 91 active resolutions. Resolutions could be active or overdue as a result of budget constraints, staff resourcing, extended negotiations with stakeholders, or other reasons.



25    The next Council Resolutions Quarterly Review – Q1 – 1 July to 30 September 2020 will be provided to the 26 November Ordinary Meeting of Council.

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**RECOMMENDATION:**

1.    **That Council notes the information provided in this report on active Council Resolutions in Attachment 1 (#E2020/57581).**
2.    **That Council notes the completed Resolutions in Attachment 2 (#E2020/57582).**

**Attachments:**

- 30    1    Active Resolutions - as at 30 June 2020, E2020/57581 
- 2    Completed Resolutions - 1 April to 30 June 2020, E2020/57582 

## Report

This report provides a quarterly update on the status of Council Resolutions to 30 June 2020. Detailed in the attached reports are:

- 182 resolutions were completed between 1 April – 30 June 2020
- 91 resolutions remained active
- 51 of the active resolutions were overdue

The active Council resolutions per Council terms are provided below:

- 91 active Council Resolutions from current Council (2016-2020)

Details of completed resolutions for the period are provided at Attachment 2 (E2020/57582).

## 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	5.2.4	Support Councillors to carry out their civic duties	5.2.4.2	Deliver Council meeting secretariat – including agenda preparation, minutes and council resolutions monitoring

### *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.

### *Financial issues*

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

**Report No. 13.10**      **Update on War Widows Cottage**  
**Directorate:**      Corporate and Community Services  
**Report Author:**      Alexandra Keen, Grants Coordinator  
                                 Shannon McKelvey, Executive Officer  
5   **File No:**              I2020/1377

**Summary:**

To provide Council with an update on the grant funded project to refurbish and upgrade the War Widows Cottage, 34 Gordon Street, Mullumbimby NSW (Lot 4, Sec 8 DP 758725) and seek a resolution to proceed with the Project or not.

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**RECOMMENDATION:**

**That Council resolves to:**

1.    **Proceed with the Stronger Country Communities Fund grant funded Project at the War Widows Cottage and accept the risk of liability to have to repay the grant funds in the event that Department of Planning Industry and Environment – Crown Lands does not grant Council tenure at the expiry of the current lease.**
2.    **Allocate a budget of \$60,000 towards the project with funding from the 2017/2018 Special Rate Variation Funds as outlined in the Financial Considerations section of this report.**

**Attachments:**

- 1      Confidential - Attachment 1, E2020/71566

**REPORT**

Council, on behalf of Byron Youth Service (BYS), was successful in receiving \$197,716 of funding under the Stronger Country Communities Fund Round 2 in January 2019 to upgrade and refurbish the War Widows Cottage in Mullumbimby (the Project). The War Widows Cottage is currently used by BYS to deliver outreach programs to vulnerable youth, and is one of the few sites outside of Byron Bay available for this purpose.

The War Widows Cottage is situated on Crown Land managed by the State Government. Council leases the land from Crown Lands and subleases it to BYS.

The War Widows Cottage, is in need of upgrade. It contains asbestos and does not currently meet a number of code and accessibility requirements. Accordingly, the project being undertaken by BYS, in conjunction with Council, has NSW Crown Lands support. The project would remove some of the asbestos, install a new bathroom and laundry facility, provide disability access, construct a new training room, replace the roof, and reinstate the lawn.

The grant funding program ends in February 2021, so a final decision on whether the project proceeds or not is now needed. If the works commence in October 2020 they can be finished this financial year. A final variation to the grant timetable has been sought until the end of June 2021 to allow the works to be completed. Council is awaiting a response, and an update should be available at the meeting.

***Key Issues***

Funding Contract Obligations on Council

There is a clause in the Grant Funding Contract that requires Council to commit to maintaining the works for a period of 5 years after completion i.e. up to June 2026, however, Council's current lease expires in June 2022. The Grant Funding Contract includes a clause that gives the NSW Government the right to require Council to repay the grant funds if Council does not maintain the works for the full 5 year period after construction (refer **Confidential Attachment 1**).

Council has been working with Department of Regional NSW (who administers the grant funding in conjunction with Department of Premier and Cabinet (DPC)) and Department of Planning Industry and Environment – Crown Lands (who manage this Crown Reserve) since May 2019 to try to remove the inconsistency between the Grant Funding Contract requirement and the lack of control Council has over future use and management of the site. In that 15 month period, Council staff met with and emailed Crown Lands many times.

Crown Lands staff were impacted by the 13 month delay between the Federal Court Native Title Determination and registration of the ILUA required by the determination, and Council staff have continued dialogue with the Department of Regional NSW which has been working with DPC as outlined below.

Council, DPIE-CL regional office staff and BYS all support the project proceeding. Three options that would enable the project to proceed are as follows:

1. The Grant Funding Contract is changed to reduce the maintenance obligation period to match the end date of the current lease.

This would seem to be the simplest solution, given that State Government will always retain the value of the investment in its asset. However, Council's requests to Department of Regional NSW for this change have, so far, been declined. One last request for this change

has been made with a request for a response by 8 September 2020. An update will be available for the meeting.

2. That DPIE-CL grants Council a new lease or license, without the standard terms which preserve the Minister's right to terminate in certain circumstances, for example if an Aboriginal Land Claim is upheld.

Council has been working with DPIE-CL, but so far it has not been possible for it to issue an unconditional license or extend the lease in the timeframes required by the grant program.

3. That DPIE-CL instead gives Council written confirmation that, should it decide not to issue Council with further tenure after June 2022, then DPIE-CL will indemnify Council against any claim made by NSW Government for a refund of the grant funds.

DPIE-CL is currently considering this request and an update will be available for the meeting.

If one of the above options does not occur, the only remaining option if the project is to proceed, is for Council to accept the risk of future financial liability and resolve that the works proceed under the funding contract, in the knowledge that Council may not be able to meet its contractual obligations to maintain the works for 5 years after construction.

Council staff cannot know whether the State Government would ever try to act on the maintenance clause, but can anticipate that it could become a contentious issue. In effect the State Government would be asking a local council to repay grant funds, when decisions about the lease and future use of the building were not within that council's control.

In the circumstances and given the volume of correspondence Council has with which to back up the reasonableness and extent of the efforts Council has gone to, staff recommend proceeding and accepting the risk, however adoption of this option is beyond staff delegations.

Council has been keeping Christian Tancred, Chief Executive Officer BYS, informed of ongoing discussions. BYS, like Council, wishes to see the Project proceed. To date, approximately \$16,000 of grant funding has been spent.

#### Additional Funds Required

In its grant application BYS did not identify or seek funding works required to comply with fire safety under Australian Building Standards. Council staff have assessed the requirements, and the costs of the additional fire safety works, needed due to the age of the building and its proximity to the building next door, are estimated at \$60,000. The grant funding will not cover these costs and there is no option to seek additional grant funding.

If the project proceeds, the further \$60,000 in addition to the allocated grant funding, will require a budget.

### ***Options***

#### **Option 1**

Council approves:

- The continued delivery of the Project, subject to the approval of the variation to extend the delivery date to 30 June 2021 by DPC, regardless of whether Council's land tenure can be secured with Crown Lands beyond 30 June 2022; and



- The allocation of a further \$60,000 to enable the fire safety alterations required to meet fire code standards.

**Option 2**

- 5 Council approves the discontinuance of the Project, and authorises staff to work with BYS and Department of Regional NSW representatives with respect to negotiating the possible return of the balance of the funding.

Staff support Option 1.

10

**STRATEGIC CONSIDERATIONS**

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

CSP Objective	L2	CSP Strategy	L3	DP Action	L4	OP Activity
Community Objective 1: We have infrastructure, transport and services which meet our expectations	1.2	Provide essential services and reliable infrastructure which meet an acceptable community standard	1.2.5	Ensure ongoing maintenance and upgrade of inclusive community buildings and swimming pools	1.2.5.2	Implement successful building grants eg stronger country communities program

15

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

Clause 20 of the Funding Deed (**Confidential Attachment 1**) between Council and NSW Department of Premier and Cabinet. Confidential as the funding body has not agreed to release the funding document.

20

***Financial Considerations***

If Council decides to proceed with the Project, \$60,000 will need to be reallocated from the 2017-2018 SRV allocation for Community Buildings Renewals of \$285,600 included in the 2020-2021 Budget from GL Account 4191.088, and transferred to GL Account 4191.079.

25

This expenditure, should Council approve recommendation 2 to this report, is not setting a precedent in the expenditure of Council funds on Crown Reserves. Council continually maintains Crown Reserves and their associated assets well in excess of funding received via revenue generated on Crown Reserves. In addition, specifically Council has previously expended its own funding on the War Widows Cottage when in the 2012/2013 financial year it expended \$9,900 on repair works.

30

***Consultation and Engagement***

Byron Youth Service  
 Manager, Social and Cultural Development  
 Manager, Assets and Major Projects  
 Project Manager, Assets and Major Projects  
 Department of Regional New South Wales  
 Department of Planning Industry and Environment – Crown Lands

35

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## STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

**Report No. 13.11      Report on the restoration and regeneration of riparian zones in Byron Shire****Directorate:** Sustainable Environment and Economy**Report Author:** Lizabeth Caddick, Biodiversity Officer**File No:** I2020/1231**Summary:**

This report provides information as per Council **Resolution 20-191**:

1. *That Council staff provide a report on work done in the Shire by Byron Shire Council, in the last 5 years, on the restoration and regeneration of riparian zones, including:*
  - a) *any work or progress with cattle-holding landowners to fence off riparian areas;*
  - b) *any riparian rehabilitation done with a view to effecting/reducing sediment runoff;*
  - c) *any grant funding opportunities used, or available for use in this area;*
  - d) *the effect of dams of waterways and the legality of creating new dams on private property that block a water course.*
2. *Where able to collate information, the staff report to also include work done by Brunswick Valley Land Care, Local Land Services, other local environmental groups and private land owners in the last 5 years on the restoration and regeneration of riparian zones as per points 1 a-d.*
3. *That a report be brought to Council responding to points 1 and 2 before September 2020.*

Available riparian restoration data for the past 5 years is presented, as sourced from Council records and records held by local volunteer conservation groups.

**RECOMMENDATION:**

**That Council notes the report on the restoration and regeneration of riparian zones in Byron Shire.**

**REPORT**

At the Council meeting of 23 April 2020, staff were requested to report on riparian restoration and regeneration in the Shire, as per **Resolution 20-191**:

1. *That Council staff provide a report on work done in the Shire by Byron Shire Council, in the last 5 years, on the restoration and regeneration of riparian zones, including:*
  - a) *any work or progress with cattle-holding landowners to fence off riparian areas;*
  - b) *any riparian rehabilitation done with a view to effecting/reducing sediment runoff;*
  - c) *any grant funding opportunities used, or available for use in this area;*
  - d) *the effect of dams of waterways and the legality of creating new dams on private property that block a water course.*
2. *Where able to collate information, the staff report to also include work done by Brunswick Valley Land Care, Local Land Services, other local environmental groups and private land owners in the last 5 years on the restoration and regeneration of riparian zones as per points 1 a-d.*
3. *That a report be brought to Council responding to points 1 and 2 before September 2020.*

**Riparian restoration and regeneration**

Table 1 below gives a summary of riparian restoration and regeneration projects carried out by Council and other community environmental groups over the past five years. The table includes information on where stock protection (e.g. fencing) has been used, and also identifies funding sources.

Riparian restoration is defined as restoration that occurs on land alongside creeks, streams, gullies, rivers and wetlands. For this report we have aimed to include projects that have occurred within a 100m buffer of a waterway. It is important to note, however, that some of the projects listed below are not exclusively riparian restoration projects, although they include riparian areas. Some of the project costs listed below reflect the restoration cost for a whole site rather than just the riparian part of this site.

Riparian restoration work carried out by Council over the last 5 years covers approximately 65.5 ha across 20 sites. This includes sites on Council owned/managed land that are being restored by Councils bush regeneration team, as well as privately owned sites restored as part of grant-funded projects, including Byron Habitat Corridors, Koala Connections and the North East Hinterland Koala Conservation project. Of these sites, around 31 ha are at a maintenance level, whilst restoration is still in progress at the other sites.

Riparian restoration sites restored by environmental groups under the Brunswick Valley Landcare umbrella total around 30 ha. This figure is likely to be an underestimate, as not all community groups contacted were able to provide all their data within the timeframe available. Of the 40 groups contacted, 20 responded. Of these, 10 groups had done some work on riparian sites and 8 of these were able to contribute information.

Use of stock exclusion, including fencing and tree guards, was reported on 12 of the sites listed in Table 1. Fencing is essential where riparian restoration is undertaken on grazing properties, and can add significant cost to a project.

**Table 1 – Riparian Restoration Works in Byron Shire 2015-2020**

BSC = Byron Shire Council  
 CL = Crown Land  
 NSW ET = New South Wales Environment Trust  
 LLS = Local Land Services  
 DPIE = NSW Department of Planning, Industry and Environment  
 BVL = Brunswick Valley Landcare

# BYRON SHIRE COUNCIL

## STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

13.11

Site	Project Name	Area restored or revegetated (ha)	Length of riparian habitat restored (m)	Tenure	Project Manager	Project Cost	Funding Source	Maintenance level	Fencing/stock excluded
Byron Creek -Bangalow Weir	Bangalow Weir	2.78	490	BSC	BSC	\$14,875 from 16.01.19	BSC	In progress	no
Brunswick River - Brunswick Heads Boat Ramp	Bringing Back The Bruns	8.96	480	CL/ BSC	BSC	\$28,100 from 31.10.16	BSC	Maintenance level	no
Marshall's Creek - Casons Lane, New Brighton	Restoring fish habitat on Marshall's Creek, Brunswick River	0.21	230	BSC road reserve	BSC	\$2,200 from 31.05.18	BSC	Maintenance level	no
Brunswick River - Casuarina Street, Mullumbimby	Bringing Back The Bruns	2.42	600	BSC road reserve	BSC	\$10,650 Project commenced 26.09.19	BSC	In progress	No
Brunswick River - Horse Paddock zones 1 & 2, Mullumbimby	Bringing Back The Bruns	1.86	560	BSC	BSC	\$30,325 from 10.01.17	BSC	Maintenance level	Yes
Brunswick River - Mullum Footy Club	Bringing Back The Bruns	1.17	455	BSC	BSC	\$10,425 from 10.08.16	BSC	Maintenance level	Yes
Paddys Creek - Bangalow	Flying Improvement	2.58	384	BSC	BSC	\$53,110	BSC	In progress	No
Brunswick River - Rotary Rainforest Park Zone 1, Mullumbimby	Bringing Back The Bruns	0.62	310	CL/ BSC	BSC	\$4,150 from 24.01.18	BSC	Maintenance level	No
Simpson's Creek - South Beach Lane, Brunswick Heads	Bringing Back The Bruns	0.92	235	CL/ BSC	BSC	\$7,075 Project commenced 22.03.18	BSC	Maintenance level	No
Saltwater Creek & Mullumbimby Creek - Stewart Park, Mullumbimby	Bringing Back The Bruns	1.42	607	CL/ BSC	BSC	\$20,000 from 25.02.20	CL/BSC	In progress	No
Brunswick River - STP Brunswick Valley - Zone 1	Bringing Back The Bruns	12.7	697	BSC	BSC	\$10, 000 from 20.05.19	BSC	In progress	Yes

# BYRON SHIRE COUNCIL

## STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

13.11

Site	Project Name	Area restored or revegetated (ha)	Length of riparian habitat restored (m)	Tenure	Project Manager	Project Cost	Funding Source	Maintenance level	Fencing/stock excluded
Brunswick River - STP Brunswick Valley - Zone 2	Bringing Back The Bruns	4.01	1086	BSC	BSC	\$23,700 from 19.10.17	BSC	Maintenance level	Yes
Brunswick River - STP Brunswick Valley - Zone 3	Bringing Back The Bruns	10.37	1017	BSC	BSC	\$63,900 from 10.01.19	BSC	Maintenance level	Yes
Brunswick River - STP Brunswick Valley - Zone 4	Bringing Back The Bruns	2.97	482	BSC	BSC	\$19,725 from 08.08.18	BSC	In progress	Yes
Brunswick River - STP Brunswick Valley - Zone 5	Bringing Back The Bruns	2.82	502	BSC	BSC	\$14,700 from 29.08.18	BSC	Maintenance level	Yes
STP Bangalow - Dudgeons Lane	Byron Habitat Corridors 2017-21	0.97	150	BSC	BSC	\$46,795.31	BSC	In progress	Yes
Byron Habitat Corridors sites: Left Bank Road Mullumbimby & Dingo Lane Myocum	Byron Habitat Corridors 2017-21	3.34	400	Private	BSC	\$28,000.00	NSW ET Grant (2016_SL-0006)	In progress	Yes
Dingo Lane Myocum	NE Hinterland Koala Conservation Project	0.5	450m	Private	BSC	\$8,000	DPIE Saving our Species program	In progress	Yes
Coopers Lane South, Main Arm	Koala Connections	4.78	320	Private	BSC & Tweed Shire Council	unknown	Australian Government Biodiversity Fund	Unknown	n/a
Simpsons Creek - Koala Corridor-restore, enhance and connect-Stage 1	NSW ET Restoration Grant	15.94	2464	Private	Brunswick Valley Landcare	\$94,400	NSW ET Restoration Grant - 2016/RR/0014	Maintenance level	Yes
Simpsons Creek - Gondwana Community, Tyagarah	Targeted Engagement Grants Northern SEL-Year 2	1	77	Private	Brunswick Valley Landcare	\$49,852	North Coast LLS - Contract #NC00365	In progress	N/A
Simpsons Creek, The Farm (Byron Bay)	Simpsons Creek Eastern Headwaters Rehabilitation	0.5	401	Private	Brunswick Valley Landcare	\$11,742	North Coast LLS	Unknown	Yes

# BYRON SHIRE COUNCIL

## STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

13.11

Site	Project Name	Area restored or revegetated (ha)	Length of riparian habitat restored (m)	Tenure	Project Manager	Project Cost	Funding Source	Maintenance level	Fencing/stock excluded
	Project - Year 1								
Marshall's Creek - Ocean Shores	Restoring fish habitat on Marshall's Creek, Brunswick River	4.75	530	CL/ Private	Brunswick Valley Landcare	\$39,705	NSW DPI Habitat Action Grant	Maintenance level	No
Brunswick River - Main Arm Road - Fish Habitat project	Ozfish planting	0.2054	128	Private	Brunswick Valley Landcare	\$9,706	Ozfish, BCF & Zero Emissions Byron	In progress	N/A
Brunswick River - Coral avenue, Mullumbimby	SOS - <i>Phyllanthus microdactylus</i>	0.96	37.94	CL/ Private	Brunswick Valley Landcare	\$22,800	DPIE Saving our Species program	Maintenance level	No
Marshall's Creek - Jinangong Nature Reserve	Jinangong Nature Reserve	1.6	200	Crown	Jinangong Nature Reserve volunteers	In kind only	No funding	Maintenance level	N/A
Byron creek - All Souls Church - Bangalow	Bangalow Land and River Care	0.99	482.3	CL/ Private	Bangalow Land and River Care	\$58,080	2 Million Trees	Unknown	N/A
Brunswick River - Heritage Park, Mullumbimby	Ongoing maintenance	1.24	268	CL / BSC	Heritage Park Landcare Group	\$2,000	BVL locality grant	In progress	N/A
Marshall's Creek tributary - Yallakool Drive reserve, Ocean Shores	Community rainforest restoration and walking trail in YallaKool Reserve	0.23	80	BSC	Brunswick Valley Landcare	\$49,818	National Landcare Program – Environment Small Grants NLESG67 914	In progress	N/A
Wilson's and Coopers Creeks, Goonengerry	Bush Connect (2019 - Year 5 of 6), Restoration and linkage of Wilsons and Coopers Creeks	0.62	672.3	Private	Goonengerry Landcare & Wilson's Creek Huonbrook Landcare consortium.	\$75,519.36 - whole project cost to date (riparian areas are a portion of this).	NSW Environment Trust R&R Grant - ref: 2015/BC/0 013	In progress	N/A



Site	Project Name	Area restored or revegetated (ha)	Length of riparian habitat restored (m)	Tenure	Project Manager	Project Cost	Funding Source	Maintenance level	Fencing/stock excluded
Upper Wilson's and Cooper's Creek Catchments	Upper Wilson's and Cooper's Creek Catchments - Goonengerry to Federal Linkages 2018	0.27	276.71	Private	Goonengerry Landcare Group Inc.	\$44,884.58 whole project cost to date (riparian areas are a portion of this).	NSW Environment Trust R&R Grant - ref: 2018/RR/0043	In progress	N/A
Brushbox Drive and Left Bank Rd	Tristan Parade – Landcare Locality Group working bees	0.9	230	Private	Tristan Parade Landcare Locality Group	\$2,500	BVL locality grant	In progress	N/A

All riparian restoration projects listed in Table 1 will help to reduce the impact of sediment run off.

The roots of weedy species generally don't grow down below the water level like those of native plants, resulting in river bank destabilisation and erosion. A healthy functioning riparian zone

- 5 planted with native species contributes to good water quality by stabilising river banks and providing filtration for overbank runoff. Furthermore, non-native plants don't usually supply the right nutrients for the river and weedy vines can pull down native trees, reducing shade which is important for river health.

### 10 **Grant funding for riparian restoration**

Several funding sources are available for riparian restoration, including:

- 15 • Environmental Trust Restoration and Rehabilitation Grants  
<https://www.environment.nsw.gov.au/funding-and-support/nsw-environmental-trust/grants-available/environmental-restoration-and-rehabilitation>
- Habitat Action Grants  
<https://www.dpi.nsw.gov.au/fishing/habitat/rehabilitating/ahr-grants-program>
- 20 • Flagship Fish Habitat Rehabilitation Grant  
<https://www.dpi.nsw.gov.au/fishing/habitat/rehabilitating/ahr-grants-program/flagship-fish-eoi>

Some recent funding sources for Council riparian restoration projects are listed below. Not all of these projects were developed with the primary objective of riparian restoration – projects have also been included where riparian areas were restored for other project objectives (e.g. creation/protection of koala habitat)

- NSW Environment Trust, Byron Habitat Corridors Project, \$28,000.
- NSW DPIE Saving Our Species Iconic Koala program, NE Hinterland Koala Conservation project, \$8,000.
- 30 • NSW Fisheries, Bringing Back the Bruns project, Mullumbimby bank rehabilitation, \$40,000.
- NSW Environment Trust, Flying Improvement Project, Paddy's Creek, Bangalow, \$65,800.

***Impact of dams on waterways***

The effects of damming a watercourse are relative to the scale of the watercourse, it's location in the catchment and the size and purpose of the dam. In general, a dam on a watercourse will have positive effects for habitation and primary production but is likely to create negative ecological and geomorphic effects. It can also influence neighbourly relations, often in a negative way.

Positive impacts of dams include:

- Ongoing, unseasonal and poor season availability of water for domestic and commercial supply.
- Enable planning and forecasting of primary production.
- Easy access, convenience of location.
- Provision of some aquatic and terrestrial habitat for native species. Vast amounts of literature are available to assist in incorporating wildlife habitat in and around farm dams.
- Initial retention of high flows in larger dams and on intermittent streams (flood proofing).
- Provision of water for fire fighting.
- Sediment retention in poor condition, high surface erosion catchments.

Negative impacts of dams include:

- Creation of unnatural barriers for fish and other organism movement and migration.
- Dams may result in the reduced occurrence of flow variability which results in:
  - instream build up of silt and gravels in riffles and bars from lack of regular flushing;
  - decrease in the connectivity of in-channel pools and floodplain wetlands from reduction of flow from upstream dams;
  - reduction in high flow triggers affecting breeding and migration cycles for many native organisms;
  - a more stable flow that suits some exotic aquatic pests that are usually unable to cope with seasonal or normal flow variability.
- Upstream capture and water use may reduce the amount of available runoff downstream to neighbours (at local, regional, state and international levels).
- Erosion is often experienced downstream of a dam. Stream size, width, depth, shape and meander pattern is determined naturally over thousands of years by the amount and consistency of runoff, surrounding landforms, geology and available sediment load. In its natural state a waterway is a balanced system that can withstand minor changes. A major change to any one of these parameters upsets the balance. When dammed, sediment drops from the water column as the water slows. Water then released from the dam generally has less or no sediment, therefore it has increased energy until sediment is picked up (erosion) and transported in the flow (siltation and saltation) until a balance is re-established.

For more information, refer to: <https://theconversation.com/rivers-rain-and-releases-what-happens-when-you-dam-a-waterway-3934>

***Requirements for creating a legal dam***

In NSW, a dam may be constructed on a watercourse for domestic and commercial purposes. Dams usually can't be built just anywhere, some require licence and others don't. Location and purpose will determine whether a dam can be built and whether a licence is required. Generally, dams for commercial water supply or irrigation require a licence.

Water NSW is the Government agency responsible for the assessment of applications for the licencing of dams and the licencing of the water use.

Harvestable rights

Owners or occupiers of land can collect a proportion of the rainfall run-off from the land in one or more dams without a water licence, water supply work approval, or water use approval.

- 5 Restrictions on the size of the dams and the location of the dams apply. The water captured in a harvestable rights dam cannot be supplied to any other property.

Dams that do not require a licence:

- 10
- Dams that capture water under a harvestable right
  - Dams built before 1999
  - Dams up to one mega litre on small properties

The following Water NSW fact sheets provide further detail regarding licensing and locating dams:

- 15
1. Dams in NSW- Do you need a licence?  
[https://www.watarnsw.com.au/\\_data/assets/pdf\\_file/0003/128352/2.-Dams-in-NSW-Do-you-need-a-licence-V2.pdf](https://www.watarnsw.com.au/_data/assets/pdf_file/0003/128352/2.-Dams-in-NSW-Do-you-need-a-licence-V2.pdf)
  2. Dams in NSW – Where can they be built?  
[https://www.watarnsw.com.au/\\_data/assets/pdf\\_file/0003/128379/3.-Dams-in-NSW-where-can-they-be-built\\_v2.pdf](https://www.watarnsw.com.au/_data/assets/pdf_file/0003/128379/3.-Dams-in-NSW-where-can-they-be-built_v2.pdf)
  - 20 3. The *harvestable rights calculator* which informs landholders who wish to build a Harvestable Rights dam (discussed in fact sheet Link 1) <https://www.watarnsw.com.au/customer-service/water-licensing/basic-landholder-rights/harvestable-rights-dams/maximum-harvestable-right-calculator>

**In summary:**

- 25
- Landholders may construct and use a dam to store different kinds of water taken under different rights and licences (see link 1).
  - The location and purpose of a proposed dam within the catchment will determine whether a
  - 30 licence is required or not (see link 2).
  - If a landholder is able to build a harvestable right dam (links 1 and 2), the total capacity of the dam or dams is determined using the calculator (link 3).

**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	3.1.1.1	Implement the Biodiversity Conservation Strategy
	3.1	Partner to protect and enhance our biodiversity, ecosystems and ecology	3.1.1	Protect and enhance our natural environment and biodiversity	3.1.1.6	Investigate opportunities for Council to provide incentives for landholders to conduct restoration works on their properties that will assist with long term biodiversity conservation.(Biodiversity Conservation Strategy action)

<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 3: We protect and enhance our natural environment</b>	3.1	Partner to protect and enhance our biodiversity, ecosystems and ecology	3.1.2	Restore degraded areas and habitats that have or provide significant or high environmental and or community value	3.1.2.1	Undertake bush regeneration activities to maintain and expand restoration of HEV sites on Council owned or managed lands forming part of the Council bush regeneration program
	3.1	Partner to protect and enhance our biodiversity, ecosystems and ecology	3.1.2	Restore degraded areas and habitats that have or provide significant or high environmental and or community value	3.1.2.4	Progression of high profile sites to maintenance levels for restoration works
	3.2	Strive to become a sustainable community	3.2.2	Support community environmental and sustainability projects	3.2.2.5	Support Brunswick Valley Landcare to deliver the Land for Wildlife Program and biodiversity enquiries
<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	3.3.1.3	Continue Bringing Back the Brunswick River Project

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

N/A

5

***Financial Considerations***

N/A

10

***Consultation and Engagement***

Community environmental groups that have contributed information to this report are listed in Table 1 above.

## STAFF REPORTS - INFRASTRUCTURE SERVICES

**Report No. 13.12**      **Byron Shire Rail with Trail**  
**Directorate:**      Infrastructure Services  
**Report Author:**      Therese Black, Business Analyst  
**File No:**      I2020/1251

**Summary:**

The purpose of this report is to provide a detailed project update and to document specific progress on Council Resolutions **19-335** and **20-127**.

Work has continued to realise the re-activation of the Byron Bay to Mullumbimby "Rail with Trail", despite the absence of a 2020/21 budget allocation. The remaining actions from Res **19-335** are duplicated within the later Res **20-127**. The key activities that have been addressed since the previous Council Report are as follows:

**Communication with identified Government departments**

On 19 June 2020 letters were emailed to Infrastructure Australia, Infrastructure NSW, TfNSW, DPIE Chris Hanger and Craig Jenkins. However, no direct responses have yet been received.

**Engineering Assessment**

A key constraint to understanding the condition of the rail infrastructure within the rail corridor is the heavy vegetation growing both on and adjacent to the embankment. This will need to be addressed to allow end-to-end access to the rail line. During meetings in February 2020, Chris Hanger and Craig Jenkins confirmed that the NSW government currently has no budget to assist with this vegetation clearing.

To understand the methodology required to complete the required detailed engineering assessment of the existing rail infrastructure, Arcadis Australia has undertaken a trial Point Cloud Scan and Digital Engineering Solution for the assessment of a single rail bridge in Tyagarah. The images taken were used to create 2D and 3D models to provide detailed data on the condition of the structural elements, capacity and reparation work required under differing loads. The Arcadis proposal identifies the pros and cons of this approach and the deliverables that could be provided using a digital solution rather than the more traditional bridge assessment. (see *Appendix A - E2020/67895 - BSC Bridge assessment proposal final Arcadis wAppendices*)

**Governance Framework**

There are three primary ways a rail trail (or Rail with trail) can be managed through the delivery and operation of the Rail with Trail, and each of the three models has its advantages and disadvantages;

1. Local Government as the sole manager, e.g. Railway Reserves Heritage Trail, WA; Mary to Bay Rail Trail, QLD.
2. Local Government leading a partnership with other stakeholders; NSW Government and community, e.g. Murray to the Mountains, Victoria.
3. Local Government as part of the management structure, e.g. Great Southern Rail Trail Victoria; Riesling Trail, SA

The preferred model for rail trail management across Australia (i.e. the one that is the most common) is one where the Local Government or Government has a lead role in partnership with other stakeholders.

- 5 Governance of a combined vehicle on rail and trail off embankment (Rail with Trail) as proposed in Byron Shire, could pose key points of difference to uniquely trail models.


**Integrated Transport Strategy**

- 10 Council staff can confirm the activation of the Rail Corridor has been incorporated into the Draft Integrated Transport Strategy. This strategy will include a list of recommended projects and actions to be progressed over a 20 year horizon. While the draft version of the strategy is still under development, in consultation with TIAC, it is expected that a number of actions will be included in the final version of the strategy that specifically relate to the activation of the Rail Corridor supported by Park and Ride and other measures to promote active and public transport.
- 15

**RECOMMENDATION:**

1. **That Council closes Resolution 19-335, with the remaining actions being duplicated within Resolution 20-127.**
2. **That Council considers a budget allocation at the September quarterly review to undertake further work on the Rail with Trail on the corridor between Mullumbimby and Byron Bay.**

**Attachments:**

- 20 1 24.2017.33.1 BSC Bridge assessment proposal final\_Arcadis\_wAppendices, E2020/67895 

**REPORT**

The purpose of this report is to document progress on Council Resolutions **19-335** and **20-127**.

Work has continued on the re-activation of the Byron Shire Rail Corridor “Rail with Trail” project. The progress on the actions from Res **19-335** is as follows:

1. Supports the preferred option of a “Rail with Trail” use for the Byron Shire Rail Corridor as an outcome of the Feasibility Study completed by Arcadis Australia Pacific Pty Ltd. *(Closed - No action required)*
2. Prioritise the removal of vegetation and maintenance of drainage within the rail corridor as the first stage towards reactivating the rail corridor, and that in relation to this prioritisation:
  - i. Note the recent meeting between the General Manager, Director of Sustainable Environment and Economy and Mayor with the Hon. Ben Franklin MP and Minister of Regional Transport, the Hon. Paul Toole, and thank the Minister for his acknowledgment that the Byron Shire section of the Casino to Murwillumbah Rail Corridor could facilitate a Rail with Trail activation if further feasibility investigations supported this outcome and that clarity of where ongoing rail corridor maintenance responsibility lies will be forthcoming. *(Completed)*
  - ii. Notes and endorses the unanimous support by the Northern River Joint Organisation for the prioritisation of removing vegetation from within the rail corridor and its request to the State Government for its immediate removal in order to commence reactivation of the rail corridor as resolved at the 16 August, 2019 ordinary meeting of the NRJO. *(Completed)*
3. Concurrently, prioritise the investigation into and eventual recommendation of the preferred governance model to manage the Casino to Murwillumbah Rail Corridor reactivation project, with a specific focus on the Rail with Trail activation within Byron Shire. *(Work in Progress - see Res 20-127 Item 3)*
4. Endorse further investigation of a “Rail with Trail” option, including the following activities for reactivating the Byron Shire Rail Corridor:
  - i. Letter of Understanding with NRJO to collaborate on a Northern Rivers Rail Corridor Reactivation Project (Casino to Murwillumbah), incorporating a Rail with Trail project in Byron Shire. *(Completed)*
  - ii. Undertake further design and engineering assessment work to prepare for track based transport vehicles (on formation) to be grant and/or investment ready and that this includes reviewing the Office of the National Rail Safety Regulator- Safety Management System Guideline. *(Work in Progress - see Res 20-127 Item 3)*
  - iii. Apply for grant funding, as opportunities arise, including regional economic development grant opportunities. *(Work in Progress - see Res 20-127 Item 5)*
5. Consider a budget allocation of \$100,000 as part of the 31 December Quarterly budget review, to progress points 3 and 4. *(Work in Progress - see Res 20-127 Item 11)*

Provided below is an update on the key activities undertaken in response to Res **20-127**:

1. Commence planning for a rail link connecting Mullumbimby and Byron Bay as part of a multi-use activation of the rail corridor. *(Work in Progress - ongoing)*



2. Incorporate the project as a key element of the draft Integrated Transport Strategy, which is supported by Park and Ride and other measures to promote active and public transport development within the Strategy. *(Council has incorporated the activation of the Rail Corridor into the draft Integrated Transport Strategy as a key element.)*
3. Prepare an economic and social business plan including development of a governance framework to support the project. *(Work has commenced on the development of a governance framework – see detail below in this report)*
4. Provide notice of the intention to establish a rail link to Infrastructure Australia, Infrastructure NSW, TfNSW and other relevant agencies to seek advice on funding criteria and project development. *(Completed – Letters to the above were sent on 19 June 2020. However, no responses have yet been received.)*
5. Investigate Federal, NSW and other funding bodies to identify funding sources including, but not limited to tourism, infrastructure, transport and climate change mitigation/adaption grants with a priority focus on funding vegetation removal within the rail corridor. *(Work in Progress - currently no funding opportunities have been identified for a “Rail with Trail” project)*
6. Actively seek expressions of interest from potential operators interested in providing commuter shuttle and visitor oriented services. *(Work in Progress - to be commenced concurrently or after the detailed engineering assessment has been completed.)*
7. Seek support including funding through Federal and NSW Ministers for Transport, Hon. Tamara Smith MP, Hon. Ben Franklin MLC and Hon. Justine Elliot MP. *(Work in Progress - Letters have been drafted and awaiting responses from item 5 above. Letters to be issued in September if no feedback has been received.)*
8. Receive six monthly reports on progress. *(This report is the first six monthly progress reports to be issued.)*
9. The business plan be included in the 20/21 Operational Plan, forward Delivery Plans and draft budget. *(Included in the 20/21 Operational Plan)*
10. Item 2 above be funded from the existing Integrated Transport Strategy budget. *(Incorporating the activation of the rail corridor into the Integrated Transport Strategy, together with recommended projects and actions, has been and will continue to be funded from the existing Integrated Transport Strategy.)*
11. Implement Actions 4, 5, 7 and 8 immediately and include as part of a rail link project in the 20/21 Operational Plan and forward Delivery Plans that includes item 6 above as an action as well as consideration of a budget for project management. *(Actions 4,5,7 and 8 are variously completed or in progress, action 6 pending and the recommendation of this report is that Council consider a budget allocation at the next quarterly review)*

### **Engineering Assessment**

The final report from the feasibility study delivered by Arcadis Australia was noted by Councillors in the Council Meeting of 27th June 2019, and concluded that there would be economic, environmental and social benefits from reactivating the rail corridor for multi-use transport

applications. The feasibility study concluded that the corridor potentially could support very light rail vehicles under 10 tonne axles at speeds equal or less than 60 kilometres an hour.

However, for Byron Shire Council to pursue potential funding opportunities, a robust business case is required, with an important element of this to undertake detailed structural assessments of the rail corridor infrastructure to confirm condition and capacity assumptions, and to develop an accurate scope and estimate of the reparation works required to reactivate the corridor under different transport modes.

Arcadis Australia has proposed a digital methodology to undertake the structural assessments that minimises costs and high-risk manual site inspection activities whilst providing the level of detail and accuracy required for each bridge assessment. This approach maximises the use of technology to collect the data on the structure (point cloud scanning) and applies digital processing to interpret and develop as constructed drawings which provide the dimensional details to assess the bridge/s existing capacity to deliver the required level of service.

As an example of how this technology could meet our needs and at no cost to council, Arcadis Australia has provided staff and resources to undertake a trial engineering assessment of Tyagarah rail-bridge, using *point cloud scan/laser* technology. The scan was conducted on Tuesday 30 June 2020. Arcadis collected over 1,000 images around the site and have created a virtual model (2D and 3D) of the bridge infrastructure. These images have allowed Arcadis engineers to undertake detailed analysis of the structural bridge elements to enable them to identify condition, capacity and reparation works under different loads, i.e. varying rail vehicles on the tracks.

A desktop audit of the rail infrastructure, limited by vegetation visibility, has identified the following structures between Mullumbimby and Byron Bay:

- 10 Bridges of varying lengths between 10m and 35m, and
- 8 Road crossings. There are several significant road crossings along the former rail corridor of the proposed rail with trail, within the existing railway line.

A key constraint to undertaking the condition assessment of the rail infrastructure within the rail corridor is the heavy vegetation growing on the embankment. This would need to be removed to allow end-to-end access to the rail line. Communication with Chris Hanger and Craig Jenkins has confirmed that the NSW government currently has no budget allocation to assist with this vegetation clearing.

Notably, the above Engineering assessment concentrates on understanding the state of the rail infrastructure on the embankment only. A secondary engineering assessment would need to be conducted to design the rail trail or shared path that would be developed alongside the rail line and off the embankment. There may be points where the two intersect and where the shared path may need to go up on the embankment. These obvious safety concerns would need to be mitigated as the need arises.

#### **Governance Framework**

There are three primary ways a rail trail (or Rail with Trail) can be managed through the delivery and operation of the Rail with Trail, and each of the three models has its advantages and disadvantages;

- i. Local Government as the sole manager, e.g. Railway Reserves Heritage Trail, WA; Mary to Bay Rail Trail, QLD.
- ii. Local Government leading a partnership with other stakeholders; NSW Government and community, e.g. Murray to the Mountains, Victoria.
- iii. Local Government as part of the management structure, e.g. Great Southern Rail Trail Victoria; Riesling Trail, SA

The preferred model for rail trail management across Australia (i.e. the one that is the most common) is one where the Local Government or Government has a lead role in partnership with other stakeholders.

Throughout Australia, and elsewhere in the world, there are only a handful of examples of where shared paths have been constructed alongside operating or 'active' railways. In Perth, Western Australia, for example, shared paths have been constructed along many kilometres of the suburban high speed, electrified commuter railways without issue.

The following Rail with Trail case studies have been identified as similar in nature and may present potential Governance Models that meet the needs of Byron Shire's Rail with Trail project. They are as follows; Mary to Bay Rail Trail (Hervey Bay QLD), the Cranbourne Rail Trail (VIC).

**Mary to Bay Rail with Trail:** The route for this rail trail through Maryborough utilises the existing (active) railway corridor. The corridor has ample width for the alignment of an adjacent pathway/trail. The railway corridor through Maryborough serves only a handful of trains (at very slow speeds) each week, not unlike the proposed link between Mullumbimby and Byron Bay. However, barrier fencing is required to provide added safety for rail trail users and to prevent trespass along the active rail corridor.

The Mary to Bay Rail Trail is governed solely by the Fraser Coast Regional Council. Funding for this Rail Trail was in part provided by the QLD State Government.

**Cranbourne Rail Trail:** Local Government is the lead player in partnership with other stakeholders, i.e. Community groups. This is the most common approach used in Victoria and there is a strong argument for this model as it provides community 'ownership'. Key stakeholders involved in rail trails strongly assert the view that community involvement needs to be significant and meaningful, and that this ownership provides a strong correlation with successful rail trails.

The final decision on a management option may well depend on the NSW Government's position. The adopted Governance model will need to be established early to see the project through the construction and ongoing operation of the Mullumbimby to Byron Bay Rail with Trail.

The adopted Governance Model for the Mullumbimby to Byron Bay Rail with Trail will also depend on the following variables:

- land tenure,
- the organisation/s that operate vehicles on the tracks,
- the legislative change in process to permanently "Close" the line between Casino and Murwillumbah, and
- the requirements of the Office of the National Rail Safety Regulator (ONRSR).

**Byron Solar Train:** Byron Bay Railroad Company (BBRC) has generously shared their experience in achieving their goal of running a solar train on the 3km rail line between Bayshore Drive and Shirley St. BBRC is a not for profit company limited by guarantee and an accredited heritage rail operator. BBRC hold a non-exclusive licence from Transport for NSW to use the rail corridor and the rail infrastructure. They are required to maintain both these state-owned assets at their own cost whilst the rail corridor and rail infrastructure including any improvements made by BBRC remain the property of TfNSW.

Their key learnings are as follows;

1. *Heritage Licence 2014*

Discussion started in 2011 and the first trip was launched in 2018. It was a complex 7 year process from start to finish. The licence to use the rail corridor transfers all of the risks and responsibility of operations to the licensee. The requirement is to have \$10 million public liability insurance. The refurbished train has the capacity for 100 seated passengers.

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### 2. Rail Safety Regulator (ONRSR)

This was a 4 year process, with a team of 3-4 well connected rail experts on the project team. They consisted of:

- 10
  - Jeff Clark (retired rail engineer and rail expert),
  - Terry Brady (key gatekeeper), and a
  - Track conditioner.

The final submission to the ONRSR was more than 2,000 pages.

### 15 3. The rail infrastructure is required to be audited biannually, with additional compliance requirements (weekly, monthly and annually).

It was decided to end the railway before the Shirley St intersection as the cost to continue into Byron Bay town centre further was prohibitive, (i.e. approximately \$1 million for lights and signals). There is one (1) bridge and one (1) level crossing on this 3km stretch of the rail corridor.

20

### Key issues for Byron's Rail with Trail

- 25
  - During the meeting with Chris Hanger and Craig Jenkins on Monday 17 February 2020 it was advised that there is currently no funding available for vehicles on the tracks.
  - In fact, the NSW government is currently undertaking a change in legislation to formally close the rail corridor between Casino and Murwillumbah. Chris noted that it would be unlikely for the government to adopt different legislation for any section of the rail corridor between Casino and Murwillumbah. (Staff have continued this conversation with TfNSW since the initial meeting, and it is understood that the legislation will exclude the rail corridor with the Byron Shire LGA. Staff have not seen the proposed legislation but have been advised that it proposed to presented to Parliament in the near future.)
  - 30
    - They were also clear that there was no funding available for vegetation removal along the corridor.
    - 35
      - Letters were sent on 19 June to Infrastructure Australia, Infrastructure NSW, TfNSW, DPIE Cris Hanger and DPC Craig Jenkins. However, no direct responses to these have yet been received.
      - Northern Rivers Rail Trail – Tweed and Richmond Valley have received government funding for a Rail Trail only and neither at this time are considering vehicles on the tracks.
      - 40
        - Staff have requested a meeting with TfNSW and a representative of ONRSR to discuss the progression of the Rail with Trail Project and are currently awaiting advice confirming the arrangements for this meeting.

### Next steps

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The important next steps to realise the reactivation of the Byron Shire Rail Corridor Stage 1 (Mullumbimby to Byron Bay) include:

- 50
  - Continued progression of liaison with TfNSW
  - Closure of Res 19-335; with the remaining actions being duplicated within Res 20-127.
  - Consideration of a budget allocation at the September quarterly review to undertake further work on the Rail with Trail on the corridor between Mullumbimby and Byron Bay.
  - meeting with TfNSW and a representative of ONRSR.

Key to the success of this project is a well connected, rail-experienced project team to drive this project through the long and complex process across legislative and compliance frameworks.

## 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>	1.3	Support, through partnership, a network of integrated sustainable transport options	1.3.1	Ensure an integrated and accessible transport network (SP)	1.3.1.5	Provide a quarterly update report on the outcome of discussions with State government and agencies about the multi-use of the rail corridor, including any policy developments and funding opportunities identified
	1.3	Support, through partnership, a network of integrated sustainable transport options	1.3.1	Ensure an integrated and accessible transport network (SP)	1.3.1.6	Develop a governance model to support rail corridor activation

### *Financial Considerations*

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Council will have the opportunity to consider a budget allocation to progress this project in 20/21 at the September quarterly review.

### *Consultation and Engagement*

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Key Stakeholders:

Government: TfNSW, NSW State and Federal Government representatives.

Neighbouring Shire Councils: Tweed, Lismore and Richmond Valley and Northern Rivers Joint Organisation (NRJO).

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Community Groups: e.g. TOOT Trains on our Tracks.

**Report No. 13.13**      **2020-0028 Provision of Transport and Disposal of Waste and Recycling Materials**

**Directorate:**           Infrastructure Services

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

**File No:**                I2020/1355

**Summary:**

On 21 May 2020 the General Manager, under delegated authority, approved the use of the open tender method to call for tenders for Contract 2020-0028 Provision of Transport and Disposal of Waste and Recycling materials.

The Request for Tender was advertised from 7 August to 28 August 2020. Tenders were received from the following organisations:

- ADH Transport
- Andrew Johnston Haulage Pty Ltd
- Jorgji Pty Ltd
- Raw Metal Corp
- Remondis
- Solo Resource Recovery
- Ti Tree Bio Energy ( Veolia environmental Services ( Australia) Pty Ltd & J.J Richards Ti Tree Pty Ltd)

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 tenders and provides a recommendation to award the tender for Contract 2020-0028.

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**RECOMMENDATION:**

1. That if discussion of matters contained in Confidential Attachment 1 is required, it is recommended that pursuant to Section 10A(2)(c), and 10A(2)(d)i of the Local Government Act, 1993, Council resolve to move into Confidential Session to discuss that part of this report.
2. That the reasons for closing the meeting to the public to consider information contained in the confidential attachment are that it contains;
  - a) information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting, or proposed to conduct, business
  - b) commercial information of a confidential nature that would if disclosed prejudice the commercial position of the person who supplied it.
3. That on balance it is considered that receipt and discussion of the information contained in Confidential Attachment 1 in open Council would be contrary to the public interest, as it contains privileged commercial information that could, if disclosed, cause potential risk and disadvantage to Council or other parties that Council proposes to conduct business with.
4. That Council allocates an additional \$216,000 funded from the Other Waste Reserve to

**the current adopted 2020/2021 expenditure budget for mixed waste transport and disposal (GL Account 3414.019).**

- 5. That Council adopts the recommendation as set out in page 10 of the report – Confidential Attachment 1 (E2020/70628) as follows:-**
  - a) Tenderer ‘x’ for Contract Term 1: General Solid Waste - Separable Portions 1.2 and 2.2 combined, defined as “other Items 2.3 Mixed MSW and C&D Waste”**
  - b) Tenderer ‘y’ for Contract Term 2: Recyclable waste - Separable portions 3.2 and 5.2**
- 6. 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.**
- 7. That Council authorises the affixing of the Council seal to all documents that may require it, in regards to the Contract.**

**Attachments:**

- |   |  |
|---|--|
| 5 | <div style="display: flex; align-items: flex-start;"><div style="margin-right: 10px; text-align: right;">1</div><div>Confidential - 2020-0028 Provision of Transport and Disposal of Waste and Recycling Materials Evaluation Panel Recommendation Report, E2020/70628</div></div> |
|---|--|



**Report**

On 21 May 2020 the General Manager, under delegated authority, approved the use of the open tendering method to call for tenders for Contract 2020-0028 Provision of Transport and Disposal of Waste and Recycling materials.

The Request for Tender was issued as the current Waste Transport and Disposal Contract is coming to an end, as are and the agreements in place for the transport and disposal of cardboard and co-mingled recyclables. Having a secure contract in place for the transport and disposal of these waste streams is integral to the Resource Recovery operation.

The Request for Tender sought responses from proponents to provide for the *Provision of Transport and Disposal of Waste and Recycling Materials*. This includes solid waste, construction and demolition waste, co-mingled recycling, and cardboard from the Byron Resource Recovery Centre (BRRRC), located at 115 The Manse Road, Myocum, NSW, to licensed processing and/or disposal facilities.

The tender provided separable portions under two contract terms to allow tenderers to provide a submission for one or several of the waste streams dependant on their area of expertise. The contract terms are as follows;

Contract Term 1: General solid waste - for a period of 3 years commencing October 2020 with an option to extend the contract for 2 additional periods of 1 year at Council's sole discretion.

Contract Term 2: Recyclable waste – for a period of 2 years commencing October 2020 with an option to extend the contract for 2 additional periods of 1 year, and 6 month increments for the final year at Council's sole discretion.

The Contracts will be managed by the Resource Recovery Contracts Management Officer.

Tenders were advertised as follows:

Vendor Panel: 7-28 August 2020

Council website: 7-28 August 2020

An optional site inspection was held at 10am on Thursday 13 August at the Byron Resource Recovery Centre. Two organisations were represented.

An Evaluation Panel comprising of three Council staff members was formed.

Tenders closed on Friday 28 August 2020 and tenders were received from the following proponents:

- ADH Transport
- Andrew Johnston Haulage Pty Ltd
- Jorgji Pty Ltd
- Raw Metal Corp
- Remondis
- Solo Resource Recovery
- Ti-Tree Bio Energy ( Veolia environmental Services ( Australia) Pty Ltd & J.J Richards Ti Tree Pty Ltd)

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

*Mandatory criteria:*

- Tender lodged on time, in accordance with the Conditions of Tender.
- Respondent has a valid Australian Business Number.
- 5 • Respondent substantially complies with the Statement of Requirements.
- 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
- 10 • Respondent has satisfactory work health and safety and environmental compliance practices.
- Financial capacity to undertake the contract
- 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
Price	Total contract price

- 15 Following the evaluation, the Evaluation Panel conducted referee checks on the preferred tenderer(s). The results of these checks were deemed by the Evaluation Panel to be satisfactory as detailed in the attached Evaluation Report.
- 20 Council's endorsement of the recommendation to award the tender as recommended in the attached confidential Evaluation Report is sought.

**Financial Implications**

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

- 30 Council has an adopted budget to cater for the provision of transport and disposal of waste and recycling materials (GL Account 3414.019). Should Council approve the recommendations of this report as the most advantageous tender outcome, it will need to increase the adopted expenditure budget for this purpose by \$216,000. There is adequate funding in the Other Waste Reserve to accommodate the additional expenditure budget required.

**Statutory and Policy Compliance Implications**

- 5 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.

Local Government (General) Regulation 2005 - Reg 178*Acceptance of tenders**178 Acceptance of tenders*

- 15 (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.*
- 20 (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.*
- 25 (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,*
  - 30 (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,*
  - (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,*
  - 35 (f) *carry out the requirements of the proposed contract itself.*
- (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),*
  - 40 (b) *the council's reasons for determining to enter into negotiations with the person or persons referred to in subclause (3) (e).*

**Report No. 13.14**      **Final Report of the NSW Bushfire Inquiry**  
**Directorate:**      Infrastructure Services  
**Report Author:**      Andrew Erskine, Open Space Technical Services Officer  
**File No:**      I2020/1372

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**Summary:**

10 Council at its Ordinary Meeting on 27 August 2020 considered an Urgency Motion regarding the NSW Fire Report that was released on 31 July 2020.

This report provides a response in relation to Res **20-462** for Council's consideration.

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**RECOMMENDATION:**

**That Council:-**

1. Notes the report and advice provided on the “Final Report of the NSW Bushfire Inquiry” (Attachment 1); and
2. Invites a NSW Rural Fire Service (NSW RFS) and Fire and Rescue NSW (FRNSW) representative to the next available SPW to provide a briefing on the preparations for the 2020/21 Fire Season and actions from the inquiry that relate to Byron Shire Council.

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Full version of NSW Final Report of the NSW Bushfire Inquiry can be found at:  
<https://www.dpc.nsw.gov.au/publications/categories/nsw-bushfire-inquiry/>

**REPORT**

Council at its Ordinary Meeting on 27 August 2020 considered an Urgency item regarding the NSW Fire Report Res 20-462 as follows

1. *Receives a report to the next Ordinary Meeting of Council in relation to the 2019/2020 bush fires in Byron Shire, that includes:*
  - a) *how interagency communications can be improved*
  - b) *the range and impact of the fires, including information on known fire history in those areas.*
  - c) *information regarding BSC role in fire management and other relevant local agency responsibilities.*
  - d) *information and evaluation of bush fire Neighbourhood Safe Places and Evacuation Centres and when and how evacuation takes place.*
  - e) *consideration of what impacts the fires may have on future planning decisions.*
  - f) *impact of the fire on the shire's residents and businesses and issues for future preparedness.*
  - g) *planning for the development of a community communications plan and business and in particular tourism accommodation.*
  - h) *coordination of and what assistance council can provide in community engagement.*
  - i) *consideration of relevant Bushfire Inquiry recommendations.*
  - j) *consideration be given to the recent report prepared by Rob Kooyman (ph)*
2. *Acknowledges the professional response to last summer's fire's by Council staff.*
3. *Also acknowledges that impacts of COVID-19 started occurring just weeks after drought, fires then floods.*

**BACKGROUND****Final Report of the NSW Bushfire Inquiry, 31 July 2020**

On 30 January 2020 the Premier announced an inquiry into the 2019-20 bush fire<sup>2</sup> season to make recommendations in relation to bush fire preparedness and response ahead of the 2020-21 bush fire season. The Terms of Reference for the Inquiry were as follows.

*The Inquiry is to consider, and report to the Premier on, the following matters.*

1. *The causes of, and factors contributing to, the frequency, intensity, timing and location of, bushfires in NSW in the 2019-20 bushfire season, including consideration of any role of weather, drought, climate change, fuel loads and human activity.*
2. *The preparation and planning by agencies, government, other entities and the community for bushfires in NSW, including current laws, practices and strategies, and building standards and their application and effect.*
3. *Responses to bushfires, particularly measures to control the spread of the fires and to protect life, property and the environment, including:*
  - *immediate management, including the issuing of public warnings*
  - *resourcing, coordination and deployment*
  - *equipment and communication systems.*
4. *Any other matters that the inquiry deems appropriate in relation to bushfires.*

*AND to make recommendations arising from the Inquiry as considered appropriate, including on:*

5. *Preparation and planning for future bushfire threats and risks.*
6. *Land use planning and management and building standards, including appropriate clearing and other hazard reduction, zoning, and any appropriate use of indigenous practices.*
7. *Appropriate action to adapt to future bushfire risks to communities and ecosystems.*
8. *Emergency responses to bushfires, including overall human and capital resourcing.*
9. *Coordination and collaboration by the NSW Government with the Australian Government, other state and territory governments and local governments.*
10. *Safety of first responders.*
11. *Public communication and advice systems and strategies.*

The Final Report was finalised on 31 July 2020 with 76 recommendations for future improvements to how NSW plans and prepares for, and responds to, bush fires. (Refer Attachment 1 and 2)

To assist the inquiry Community Meetings were held at Lithgow (25 February 2020), Tenterfield (8 March 2020) and Glen Innes (9 March 2020).

Due to COVID-19, community consultation was also undertaken via video conference at the following locations:-

- Lake Conjola/Fisherman's Paradise (16 April 2020)
- Mid North Coast (17 and 23 April 2020)
- Snowy Monaro (29 April 2020)
- Snowy Valley (29 April 2020)
- Shoalhaven (1 May 2020)
- Northern Rivers and Clarence Valley (4 May 2020)
- Far South Coast (6 May 2020)
- Wollondilly and Southern Highlands (7 May 2020)
- Hawkesbury (11 May 2020)
- Blue Mountains (12 May 2020)
- Capital to Coast (13 May 2020)
- Snowy Valley (25 May 2020).

The Inquiry received 1,967 submissions and 970 have been published.

Below is an infographic summarising the 2019/20 Fire Season (Figure 0-1: Bush Fire Impact Data 2019-20 NSW page xxi, NSW Final Report of the NSW Bushfire Inquiry, 31 July 2020).

Full version of NSW Final Report of the NSW Bushfire Inquiry can be found at:-

<https://www.dpc.nsw.gov.au/publications/categories/nsw-bushfire-inquiry/>

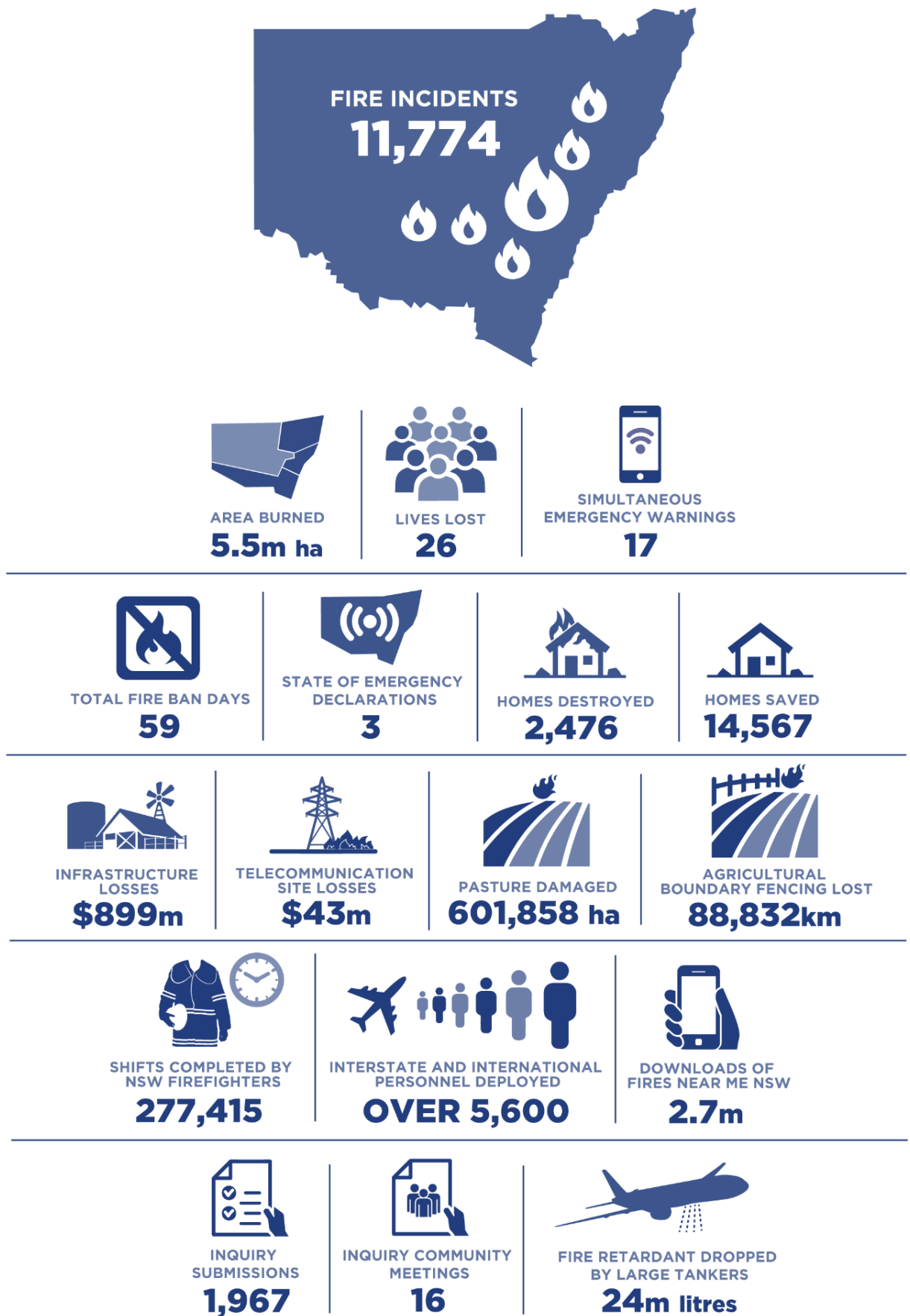


Fig 1 - Bush Fire Impact Data 2019-20 NSW page xxi, NSW Final Report of the NSW Bushfire Inquiry, 31 July 2020



**Consideration of Res 20-462**

Staff have reviewed the NSW Final Report of the NSW Bushfire Inquiry, 31 July 2020 and provide the following comments. This report is not intended to repeat the findings of the report but to provide a summary of the report's findings:-

a) *how interagency communications can be improved*

The Bushfire Inquiry makes a number of recommendations in relation to communications including Recommendations that specifically relate to communications are Recommendations 2, 24, 29, 30, 55, 56, 57, 58 and 61.

b) *the range and impact of the fires, including information on known fire history in those areas.*

Refer Fig 1 Bush Fire Impact Data 2019-20 NSW page xxi, NSW Final Report of the NSW Bushfire Inquiry, 31 July 2020. Across the state 5.5M Ha was burnt with 2,476 home lost.

The Mount Nardi Fire is not specifically mentioned in the final report, however advice from Northern Rivers RFS is that approximately 150-200Ha of land within Byron Shire was burnt and that no homes were lost.

c) *information regarding BSC role in fire management and other relevant local agency responsibilities.*

Refer to section 3.6 – The Role of Local Councils of the NSW Bushfire Inquiry Report page 131.

In relation to Byron Shire Council, its role and responsibility is directed by the Tweed Byron Local Emergency Management Committee (LEMC) and Local Emergency Operations Coordinator (LEOCON) and approved as per the Tweed/Byron Local Emergency Management Plan (EMPLAN) The following matters relating Fire Hazards have been identified and show the relevant combat agency:-

Hazard	Combat/Responsible Agency
<b>Fire (Bush or Grass)</b>	NSW RFS FRNSW
<b>Fire (Industrial/Commercial)</b>	FRNSW NSW RFS
<b>Fire (Residential)</b>	FRNSW NSW RFS

Responsibility for the preparation and maintenance of appropriate sub plans to the EMPLAN are the responsibility of the Combat/Responsible Agency e.g.

- Rural Fire Act 1997 – NSW RFS
- Fire Brigades Act – FRNSW
- Major Evacuation – State Emergency Management Committee
- NSW Rural Fire Services Operations Plan Section 52 – NSW RFS
- Bush Fire Risk Management Plan – NSW RFS

The Far North Coast Bush Fire Risk Management Plan can be found at: -

<https://www.rfs.nsw.gov.au/resources/publications/bush-fire-risk-management-plans>

Actions during Fires – Council will assist with the following actions under the direction of the LEOCON or Combat agency:

- 5     •     Public Information Dissemination,  
       •     Traffic Management,  
       •     Water Utilities (provide information/advice to LEOCON of any potential impacts),
- 10    *d)     information and evaluation of bush fire Neighbourhood Safe Places (NSPs) and Evacuation Centres and when and how evacuation takes place.*
- NSW Rural Fire Service is responsible for the evaluation of NSPs. An NSP is a place of last resort during a bushfire emergency and all information about them is available on RFS's website [www.rsf.nsw.gov.au](http://www.rsf.nsw.gov.au).
- 15    Refer Recommendation 17 of the NSW Bushfire Inquiry Report
- Evacuation Centres are managed by the Tweed Byron LEMC and are inspected on an annual basis. The decision to evacuate residents is managed by the combat agency or LEOCON
- 20    according to who has control of the event.
- e)     consideration of what impacts the fires may have on future planning decisions.*
- 25    Chapter 4 of the NSW Bushfire Inquiry Report commencing on page 149 considers this item. Refer to Recommendations 18 – 36.
- f)     impact of the fire on the shire's residents and businesses and issues for future preparedness.*
- 30    The NSW Bushfire Inquiry report does not specifically mention impacts on Byron Shire Residents and Businesses.
- In relation to preparedness the report Chapter 3 and 4 (Preparation and Planning – Emergency Management & Preparation and Planning – Land and Assets, respectively) considers preparedness refer to recommendations 8 to 36.
- 35
- g)     planning for the development of a community communications plan and business and in particular tourism accommodation.*
- 40    Refer to section 3.9.7 Preparedness for tourism businesses and accommodation providers of the NSW Bushfire Inquiry Report page 141 refer Recommendation 16 and 30 of the report
- h)     coordination of and what assistance council can provide in community engagement.*
- 45    During an event Council provides relevant information on its website/social media with the primary direction being to send people to the relevant response/recovery agency website. Council may also chair community meetings at which the lead agencies provide updates and information. Council will launch its Disaster Dashboard in November 2020. It is important to note there are State Government mandated protocols for communication in the event of a natural disaster.
- 50
- To assist with community resilience and planning ahead of an event Council is planning to deliver a series of workshops for community and business in collaboration with emergency services and volunteer agencies such as Red Cross, although this is currently impacted by COVID.
- 55    *i)     consideration of relevant Bushfire Inquiry recommendations.*

*Relevant Recommendations to BSC include:-*

Recommendation 11	
<p>That, in order to strengthen the capability of local councils in future emergency events:</p> <ul style="list-style-type: none"> <li>a) Resilience NSW, in consultation with local government, develop specific training that focuses on the role, responsibilities and expected functions of the Local Emergency Management Officer (LEMO), including regular 'refresher' components</li> <li>b) Councils support their staff to participate in LEMO training on an ongoing basis, and ensure that staff who are LEMOs are appropriately senior and have the authority to commit resources.</li> </ul>	<p>A worthy initiative, council will support staff to attend training of this nature.</p>
Recommendation 18	
<p>That, in order to equip NSW RFS with comprehensive information on all structures and assets at risk of bush fire, Government ensures that:</p> <ul style="list-style-type: none"> <li>a) there is a single whole-of-government procurement and acquisition program for imagery and LiDAR and that Government accelerate the building of the State Digital Twin and associated Digital Workbench</li> <li>b) owners/managers of assets (apart from private home owners whose information will be provided through local councils) in bush fire prone land are required to provide to the Digital Twin at least the following information/metadata with quality control certification on an annual basis (with annual census at least two months before the start of the fire season): <ul style="list-style-type: none"> <li>i) precise geolocation</li> <li>ii) description of asset including picture</li> <li>iii) value level</li> <li>iv) fire treatment on asset</li> <li>v) Asset Protection Zone (APZ) details and how it is maintained</li> <li>vi) access details</li> <li>vii) what redundancy is available if relevant</li> <li>viii) any metadata requirements specific to the asset class</li> <li>ix) emergency contact and instructions on how to access where more information is held</li> <li>x) any restrictions on data access</li> </ul> </li> </ul>	<p>Required information and data will be provided to RFS by Council where available.</p>

<p align="center">and sharing.</p> <p>The Digital Twin must also be able to incorporate:</p> <ul style="list-style-type: none"> <li>a) information about the hazard reduction results for road verges, fire trails, APZs and other defensible space</li> <li>b) local information supplied by organisations such as local NSW RFS brigades.</li> </ul>	
<p><b>Recommendation 20</b></p>	
<p>That Government, noting that hazard reduction targeted in proximity to assets is on balance more likely to provide help than hinder, should:</p> <ul style="list-style-type: none"> <li>a) support local councils and partner agencies to implement more comprehensive hazard reduction at a local level around towns/cities, communities and local infrastructure assets, and provide incentives for communities to organise themselves to prioritise and implement local hazard reduction initiatives. This will involve a suite of hazard reduction techniques depending on the landscape including prescribed burning, clearing, mowing, and mechanical treatments, and easy disposal of green waste into processors turning it into bioenergy or biofuels</li> <li>b) beyond the local level priorities for hazard reduction, prioritise prescribed burning in parts of the landscape where fuel treatment may help reduce probability of fires escalating quickly and where terrain and potential atmospheric interactions are likely to escalate fires into fire-generated thunderstorms. This will likely involve a proactive program of treating ridge tops that are prone to dry lightning where reduced fuels may help reduce speed of spread when the fire first starts, or particular windward or lee-slopes that are susceptible to generating extreme fire behaviour and drive fire towards towns.</li> </ul>	<p>RFS currently manages hazard reduction burns on ground. Training by RFS of the community to manage such burns is desirable and has been realised to some extent by the Firesticks training that RFS and Nature Conservation Council hosted at Broken Head in 2019 (attended by staff).</p> <p>Council will support this initiative as resources allow.</p>
<p><b>Recommendation 28</b></p>	
<p>That Government, acknowledging that a strategic approach to planning for bush fire will take time, and in order to protect, prepare and build resilience into existing communities better, should immediately:</p> <ul style="list-style-type: none"> <li>a) prepare, in association with the insurance sector, a model framework and statutory basis for the establishment of an enforcement, compliance and</li> </ul>	<ul style="list-style-type: none"> <li>a) Partially covered by Council's Development Control Plan, building inspections and subsequent approvals issued. Building must follow statutory</li> </ul>

<p>education program which adopts a risk-based approach to routine inspection of local bush fire prone developments to ensure that every local development on bush fire prone land is prepared for future bush fire seasons in accordance with bush fire protection standards of the day, that account for worsening conditions</p> <p>b) ensure local government is resourced to enable effective audit, enforcement and compliance powers in respect of local developments and assets on bush fire land</p> <p>c) consider the introduction of subsidies for property owners to undertake site mitigation works to reduce bush fire risk and work with the Insurance Council of Australia to develop an agreed set of measures to insure against with a view to risk reductions resulting in lower insurance premiums</p> <p>d) review vegetation clearing policies to ensure that the processes are clear and easy to navigate for the community, and that they enable appropriate bush fire risk management by individual landowners without undue cost or complexity.</p>	<p>guidelines for fire protection based on factors of inherent risk.</p> <p>b). An internal audit of resources required by Council to enforce compliance issues will be required and then budgeted for.</p> <p>c). Will require careful description of directions so as to not compromise environmental values in the name of reducing risk. An example is the newly introduced 10-50 rule which has been used to clear EEC. Are subsidies in the form of rate reductions? This could impact on Council's revenue.</p>
<p><b>Recommendation 31</b></p>	
<p>That, in order to improve bush fire planning and protection of road infrastructure and to ensure communities, freight movers and fire fighting agencies have appropriate access and egress in a bush fire event, Government, working with local government as needed:</p> <p>a) develop a formal bush fire risk assessment process for all State roads and bridges, to identify:</p> <p>i) 'high-risk' communities where access and egress in the event of a fire will be affected, for example rural communities connected by a single road surrounded by bushland, and ensure community bush fire planning processes (i.e. Bush Fire Risk Management Plans (BFRMPs) or Community Protection Plans) include plans to 'leave early' or enforce mandatory evacuation orders</p> <p>ii) how waterways can be integrated better into the transport network as evacuation routes or places of</p>	<p>i). Identified High fire risk communities (such as Jones Rd Yelgun) within Byron Shire mostly have Community Protection Plans in place. Where they do not, the high risk communities have been identified within the BFRMP (2019) as candidates for fire safety planning delivered by RFS as a priority action.</p> <p>ii). Good idea, though the upper reaches of the Brunswick River and its tributaries are too shallow to be navigable by larger boats.</p>

<p>shelter when road and rail transport is unavailable – waterways should be included in regional emergency management plans</p> <p>iii) route options for rapid identification of needed road closures in the event of fire</p> <p>iv) key sections of the State's road network for future upgrade to ensure whole corridors are resilient to fire impacts, regardless of who manages the asset</p> <p>b) audit, through the NSW RFS Audit Unit (to be established) the inclusion of critical road infrastructure in BFRMPs prepared by Bush Fire Management Committees (ensuring that appropriate transport representation is provided to BFMCS) and Local Emergency Management Committees across the State. In support of these measures, it will be critical that the community is given early warning of bush fire events and has ample time to evacuate prior to or during an emergency.</p>	<p>iii). To be anticipated and options recorded by the LEMC prior to emergency.</p> <p>iv). Will be incorporated as a consideration in Council's pre-project check list.</p> <p>This was not considered in the 2019 BFRMP. It may be included in future LEMC meetings for discussion and ratification.</p>
<p><b>Recommendation 32</b></p>	
<p>That, in order to ensure outcomes-based roadside vegetation management to reduce roadside tree fall and grass ignitions in planning and preparing for bush fire, Transport for NSW, working with local government and NSW RFS, establish a consistent framework for roadside vegetation management that analyses road priority, utility, amenity, strategic value and risk. The framework should:</p> <p>a) take into consideration landscape characteristics like distance, slope, set back, vegetation maturity and type. Acceptable outcomes under this framework could include clear verges, or alternatives such as safe zones/pull-outs</p> <p>b) tie in formally with other strategic land use and biodiversity processes.</p>	<p>This project would require resources and annual inspection/audit. The resulting layer developed in GIS would be a complementary adjunct to the existing Roadside Vegetation Management Plan that Council has developed.</p>
<p><b>Recommendation 69</b></p>	
<p>That, in order to ensure evacuation arrangements can be scaled up when needed, Resilience NSW:</p> <p>a) ensure staff who are willing to be deployed to evacuation centres are trained as soon as possible to bolster evacuation centre staff surge capacity</p> <p>b) train council and NSW government regional staff in evacuation centre establishment</p>	<p>a). Applies to Resilience NSW staff</p> <p>b). DCJ Regional staff are responsible for a decision to open an evacuation centre.</p>

<p>and management, supported by a one-page 'start up sheet' for opening an evacuation centre</p> <p>c) enable interested community members to be trained to assist in evacuation centre establishment and management and provide an avenue for skilled volunteers to register their interest</p> <p>d) develop an exercise for the management of multiple evacuation centres dealing with large numbers of people for a protracted period over a widespread area.</p>	<p>Requires an expression of interest to Council staff and appropriate resourced training.</p> <p>c). As above</p> <p>d). As above</p>
<p><b>Recommendation 71</b></p> <p>That, in order to ensure people only need to tell their story once to access government agency support following an emergency, Resilience NSW and Service NSW jointly design an inclusive, person-centred approach to information collection at evacuation centres. This should be supported by an opt-in scheme enabling personal information to be shared between NSW government agencies, local councils and non-governmental organisations administering support services for disaster-affected people.</p>	<p>Relevant council staff will attend training when developed and support initiatives as they are formalised.</p>

j) *consideration be given to the recent report prepared by Rob Kooyman*

5 It is noted that Dr Robert Kooyman, Honorary Research Associate, Royal Botanic Gardens Emeritus attended the inquiry.

10 In relation to this report around forest vulnerability to fire and recovery/sustainability of the Nightcap area ecosystem, we note the recommendation that future planning policy should incorporate the planting of fire resistant rainforest species near houses/communities as a barrier to fire and have referred to Planning staff for consideration.

Further research papers have been co-written by Dr Kooyman are as follows:-

- **What fire regime works for one endangered species won't for another**

15 <https://www.theland.com.au/story/6585921/complex-approach-to-fire-management/>

- **Impact of 2019–2020 mega-fires on Australian fauna habitat**

20 <https://researchers.mq.edu.au/en/publications/impact-of-20192020-mega-fires-on-australian-fauna-habitat>

#### *Abstract*

25 *Australia's 2019–2020 mega-fires were exacerbated by drought, anthropogenic climate change and existing land-use management. Here, using a combination of remotely sensed data and species distribution models, we found these fires burnt ~97,000 km<sup>2</sup> of vegetation across southern*



and eastern Australia, which is considered habitat for 832 species of native vertebrate fauna. Seventy taxa had a substantial proportion (>30%) of habitat impacted; 21 of these were already listed as threatened with extinction. To avoid further species declines, Australia must urgently reassess the extinction vulnerability of fire-impacted species and assist the recovery of populations in both burnt and unburnt areas. Population recovery requires multipronged strategies aimed at ameliorating current and fire-induced threats, including proactively protecting unburnt habitats.

- Recent Australian wildfires made worse by logging and associated forest management

<https://www.nature.com/articles/s41559-020-1195-5>

### **Next steps**

The 2020/21 Fire Season has now commenced and the recommendations of this report will not be fully implemented for a period of time.

The lead agencies in relation to fire management are the NSW Rural Fire Service and NSW Fire and Rescue. On this basis staff recommend that these agencies be invited to provide a briefing to Councillors on the preparations for the 2020/21 Fire Season and actions from the inquiry that relate to Byron Shire Council.

## **STRATEGIC CONSIDERATIONS**

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

CSP Objective	L2	CSP Strategy	L3	DP Action	L4	OP Activity
<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	2.4.1	Provide and facilitate local emergency management	2.4.1.1	Maintain Byron Flood Warning Network and Disaster Dashboard
	2.4	Enhance community safety and amenity while respecting our shared values	2.4.1	Provide and facilitate local emergency management	2.4.1.4	Ensure sufficient staff are trained to undertake EM roles in and outside business hours
	2.4	Enhance community safety and amenity while respecting our shared values	2.4.1	Provide and facilitate local emergency management	2.4.1.5	Deploy technology to improve disaster response and recovery by preparing field devices and staff trained in readiness to respond to a natural disaster

# BYRON SHIRE COUNCIL

## STAFF REPORTS - INFRASTRUCTURE SERVICES

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Community Objective 2: We cultivate and celebrate our diverse cultures, lifestyle and sense of community Community Objective 2: We cultivate and celebrate our diverse cultures, lifestyle and sense of community Community Objective 2: We cultivate and celebrate our diverse cultures, lifestyle and sense of community Community Objective 2: We cultivate and celebrate our diverse cultures, lifestyle and sense of community Community Objective 2: We cultivate and celebrate our diverse cultures, lifestyle and sense of community Community Objective 2: We cultivate and celebrate our diverse cultures, lifestyle and sense of community	2.4	Enhance community safety and amenity while respecting our shared values	2.4.1	Provide and facilitate local emergency management	2.4.1.15	Establish a local Emergency Operations Centre
	2.4	Enhance community safety and amenity while respecting our shared values	2.4.1	Provide and facilitate local emergency management	2.4.1.16	Undertake remediation and improvement works at the evacuation and recovery centre
	2.4	Enhance community safety and amenity while respecting our shared values	2.4.1	Provide and facilitate local emergency management	2.4.1.19	Assist in delivery of community 'Firewise' education
	2.4	Enhance community safety and amenity while respecting our shared values	2.4.1	Provide and facilitate local emergency management	2.4.1.20	Maintain official APZ, SFAZ, and fire trail access on council tenured land
	2.4	Enhance community safety and amenity while respecting our shared values	2.4.1	Provide and facilitate local emergency management	2.4.1.21	Represent Council at Far North Coast Bushfire Management committee meetings quarterly
	2.4	Enhance community safety and amenity while respecting our shared values	2.4.1	Provide and facilitate local emergency management	2.4.1.22	Maintain fire management actions on FRS BRIMS database

### Legal/Statutory/Policy Considerations

*Rural Fires Act 1997*

5 *State Emergency and Rescue Management Act 1989 (SERM Act)*

*Fire and Rescue NSW Act 1989*

*Rural Fires Regulation 2013*

*National Parks and Wildlife Act 1974.*

*Emergency Services Levy Act 2017*

10 *Local Government Act 1993*

***Financial Considerations***

Not Applicable

**5 *Consultation and Engagement***

Tweed/Byron LEMO  
RFS Tweed/Byron

**Report No. 13.15**      **Tender 2020-0031 Ocean Shores Community Centre Upgrade**  
**Directorate:**        Infrastructure Services  
**Report Author:**     Michael Crosbie, Project Officer  
**File No:**                I2020/1174

5

**Summary:**

10      On the 4<sup>th</sup> of May 2020, the General Manager, under delegated authority, approved the use of the open tender method to call for tenders for Contract 2020-0031 Ocean Shores Community Centre upgrade.

15      The Request for Tender was advertised from 30<sup>th</sup> June 2020 to 11<sup>th</sup> August 2020. Tenders were received from the following organisations:

- Bishton Group
- Blaze Projects
- Direct Projects
- Greg Clarke Building
- 20      • Level 2 West Electrics
- Maintain Australia
- Quadracon building
- Water Conservation
- 25      • Woollam Constructions

25

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 tenders and provides a recommendation to award the tender for Contract 2020-0031.

30

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**RECOMMENDATION:**

1.      **That Council allocates a total budget of \$540,000 for the Oceans Shores Community Centre upgrade by amending the 2020-2021 Budget as indicated in Table 1 and Table 2 under the 'Financial Implications' section of this report.**
2.      **That Council awards Tender Ocean Shores Community Centre upgrade to the tenderer recommended on page 7 of the Confidential Tender Evaluation Report (Attachment 1 - #E2020/65992)**
3.      **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:**

- 35      1      Confidential - OSCC Request for Tender - Evaluation Report signed, E2020/65992

**Report**

On 4<sup>th</sup> May 2020 the General Manager, under delegated authority, approved the use of the open tendering method to call for tenders for Contract OCEAN SHORES COMMUNITY CENTRE UPGRADE WORKS.

The Ocean Shores Community Centre has been open since the 1990's and requires to be updated for today's requirements. There is also existing components that need to be replace or repainted as part of the scope of works.

The Request for Tender sought responses from proponents to provide: The scope is base on the plans provided for the tender which includes a new roof, new awing, replace windows, new meeting room spaces with kitchen amenities, new path and entry stairs, repainting external and new floor coverings.

The Contract is expected to commence in October 2020 for a period of 4 Months till the completion of the construction.

The Contract will be managed by Major Projects Contracts Officer, Mick Crosbie.

Tenders were advertised as follows:

Echo on the 8 July 2020

Vendor Panel: 30th June to 11th August 2020

Council website: 30th June to 11th August 2020.

A mandatory site inspection was held at 10am on 15th July 2020 at the Community Centre. The following organisations attended the briefing/site inspection:

- Bishton Group
- Quadracon
- Greg Clark Builders
- Rork Projects
- Woolam Constructions
- Maintain Australia
- Direct Projects
- Blaze Projects
- AGS Commercial

An Evaluation Panel comprising of 2 Council staff members was formed, with the inclusion of the architect engaged for the design and scope of the work for the tender.

Tenders closed on 11th August 2020 and tenders were received from the following proponents:

- Bishton Group
- Blaze Projects
- Direct Projects
- Greg Clarke Building
- Level 2 West Electrics
- Maintain Australia
- Quadracon building
- Water Conservation
- Woollam Constructions

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

*Mandatory criteria: <ensure the listed criteria match details in RFT and evaluation plan>>*

- a) Tenderer must have a valid Australian Business Number.

- b) Substantial conformance to Conditions of Contract and Statement of Requirements.
- c) Workers compensation insurance for all employees.
- d) Holds, or is willing to obtain, the insurances as specified in the Statement of Requirements.
- e) Satisfactory Work Health and Safety practices.
- f) Commitment to ethical business practice principles.

*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
Price	Total contract price \$448,575

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.

### **Financial Implications**

The price basis for the contract is a lump sum. The budget scope for the project was \$500,000 based on a Quantity Surveyors estimate on the scope of works and other allowances required to deliver the project for management, design and contingency. Given the receipt of the proposed best tender outcome with a contract price of \$448,575 excluding GST, it is recommended to adequately allow for this, plus other allowances for management, design and contingency, that the budget required to complete these works is now required to increase by \$40,000 to \$540,000.

### **Comment from Manager Finance**

The current 2020-2021 Council adopted Budget has the following amounts allocated for this project spread across different General Ledger Accounts outlined in Table 1 below:

# BYRON SHIRE COUNCIL

## STAFF REPORTS - INFRASTRUCTURE SERVICES

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Table 1

Funding Source	Amount \$	Comment	Allocated in 2020-2021 Budget
Grant Funding	60,000	Funding from Building Community Resilience grant \$60,000 of the \$100,000 allocated to GL Account 2430.021 2020-2021 for the roof.	Yes
Community Building Maintenance – Old SRV	100,000	GL Account 2320.152 Budget allocation included in 2020-2021 Budget for Ocean Shores Community Centre	Yes
2017-2018 SRV Funds	54,000	Reallocate \$54,000 from the 2017-2018 SRV allocation for Community Buildings Renewals of \$285,600 included in the 2020-2021 Budget from GL Account 4191.088.	Yes
<b>Total</b>	<b>214,000</b>		

- 5 It is proposed to create a single capital expenditure budget for this project via reallocation of the budget amounts identified in Table 1 above. Further, Council will need to allocate funding that is available for the project but is not currently allocated in the 2020-2021 Budget as outlined in Table 2 below:

Table 2

10

Funding Source	Amount \$	Comment	Allocated in 2020-2021 Budget
Grant Funding	141,000	Stronger Country Communities Fund Round 3 yet to be included in 2020-2021 budget.	No
Community Building Maintenance – Old SRV	65,000	Unexpended 2019-2020 budget for Ocean Shores Community Centre allocated to GL Account 2320.152 returned to reserve but not carried over. To be added to 2020-2021 Budget	No
S7.11 Developer Contributions (Section 94)	120,000	Funds available held for Community Facilities Ocean Shores. This will mostly deplete this reserve.	No
<b>Total</b>	<b>326,000</b>		

The combination of Table 1 and Table 2 above will provide overall funding of \$540,000 required for the project and it is recommended Council reallocates and allocates existing and required funding as identified in Table 1 and Table 2 before awarding the Tender subject to this report.

15

### Statutory and Policy Compliance Implications

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.

Local Government (General) Regulation 2005 - Reg 178

5

*Acceptance of tenders*

*178 Acceptance of tenders*

- 10 (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.*
- 15 (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.*
- 20 (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,*
  - 25 (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,*
  - (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,*
  - 30 (f) *carry out the requirements of the proposed contract itself.*
- (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),*
  - 35 (b) *the council's reasons for determining to enter into negotiations with the person or persons referred to in subclause (3) (e).*

40

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



**Report No. 13.16**      **RFT 2019-0170 Construction of Ferrous Chloride Dosing Facilities**  
**Directorate:**      Infrastructure Services  
**Report Author:**      Dean Baulch, Principal Engineer, Systems Planning  
**File No:**      I2020/1398

5

**Summary:**

10      On 12 May 2020, the General Manager, under delegated authority, approved the use of the open tender method to call for tenders for Contract 2019-0170 Construction of Ferrous Chloride Dosing Facilities.

15      The Request for Tender was advertised from 23 June 2020 to 15 July 2020. Tenders were received from the following organisations:

- All Hills Fencing
- Enware
- FB Contracting
- Greg Clark Building
- 20      • Kane Constructions

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 tenders and provides a recommendation to award the tender for Contract 2019-0170.

25

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**RECOMMENDATION:**

1.      That Council increases the total budget allocation for this project (GL Account 7649.019) by \$451,000 for the 2020/2021 Financial year with funding provided from unexpended Section 64 Sewerage Developer Contributions currently held in Reserve.
2.      That Council awards a Contract to the tender recommended in Attachment 2 (E2020/71272) on page 7 of the Confidential - 2019-0170 Construction of Ferrous Chloride Dosing Facilities Tender Evaluation Report.
3.      That Council delegates to the General Manager the authority to administer this contract to the contract value plus the contingency value nominated in this report.
4.      That Council authorises the affixing of the Council seal to all documents that may require it, in regards to the Contract.
5.      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.
6.      That the Tender Evaluation Plan and Tender Evaluation Report remain confidential until the contract is finalised.

**Attachments:**

- 30      1      Confidential - 24.2018.18.1 2019-0170 Tender Evaluation Plan, E2020/71271  
         2      Confidential - 24.2018.18.1 2019-0170 Tender Evaluation Report, E2020/71272

**Report**

On 12 May 2020, the General Manager, under delegated authority, approved the use of the open tender method to call for tenders for Contract 2019-0170 Construction of Ferrous Chloride Dosing Facilities.

These permanent dosing facilities will reduce the corrosion and odour emission phenomena along the treated components of the sewer line in Byron Bay and Suffolk Park. The decision to advance their construction has followed previous investigation and trial facility processes. The 6-month trial was conducted between November 2018 and May 2019.

Due to the broad range of benefits from this application there will be significant financial cost savings. Quantifiable financial benefits include:

- the protection of STP assets, including the inlet works;
- the protection of sewer collection network assets, including approximately 15 km of rising mains,
- manholes and three (3) pump station wet wells and pumps; and
- the negated need for proposed STP inlet works odour management plant (biofilter).

The expected operational and capital cost savings resulting from the implementing of permanent chemical dosing are \$348,000/y and \$900,000 respectively.

Additional qualitative benefits which are likely to be achieved are:

- safety risk mitigation for STP operators;
- reduction in odour complaints by public;
- protection of proposed bioenergy facility asset;
- reduced infrastructure replacement works in Byron Bay town centre;
- negated need for ferric sulfate dosing at the STP; and
- improved STP operations.

The Request for Tender sought responses from proponents to provide works for construction and design elements including civil and electrical works onsite at SPS3002 Tennyson Street, Byron Bay and SPS3008 Teak Circuit, Suffolk Park.

For each of the sites, a shed to host the dosing equipment will be part of the design and a construct component for the contract. The construction scope will include the concrete works for the shed foundation and bund, the manoeuvring bay, the pipework and service connections and liaising with the dosing equipment supply installer. It must be noted that the dosing equipment does not form part of this tender as it's already been awarded to Ixom through a separate contract.

The Contract is expected to commence in October 2020 for a period of 2 months with a defects liability period of 12 months.

The Contract will be managed by Utilities Principal Engineer, Systems Planning.

Tenders were advertised as follows:  
VendorPanel website: 23 June 2020  
Council website: 23 June 2020

One site briefing was held on 10am 2 July 2020 at both sites. The following organisations attended the briefing/site inspection:

- Sinergy
- TEW
- Kane Constructions
- Willis Brant

- FB Contracting
- Greg Clark Building

5 An Evaluation Panel comprising of 2 x Council staff members and 1 x External Technical consultant from Planit Consulting was formed.

Tenders closed on 15 July 2020 and tenders were received from the following proponents:

- All Hills Fencing
- Enware
- 10 • FB Contracting
- Greg Clark Building
- Kane Constructions

Tenders were evaluated by the Evaluation Panel in accordance with the tender evaluation plan at Attachment 1 (E2020/71271).

15 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 Evaluation Report (Attachment 2 E2020/71272).

## 20 **Financial Implications**

The price basis for the contract is a lump sum. The offer recommended to accept is \$374,079.00 (excluding GST).

25 Council budgeted \$250,000.00 for the Sewer System Odour Dosing (General Ledger Account 7649.019) for the financial year ending 2020 which included this project and RFQ 2019-0168 Supply and Install of Ferrous Chloride Storage and Dosing Equipment which was awarded under a lump sum quotation basis for \$199,150.00 (excluding GST) to Ixom Operations Pty.Ltd.

30 There is insufficient funding for the proposed contract in the current budget.

It is also recommended that an additional allowance equal to 10% of the lump sum tender price is allocated as a contingency and a further 10% is allocated for the cost of site supervision/contract management services.

35	<b>Remaining Budget FYE 2021</b>	<b>Amount</b>
	<i>GL 7649.019 Carry Over budget from FYE 2020.</i>	\$173,400
	RFQ 2019-0168 Supply and Install of Ferrous Chloride Storage and Dosing Equipment – Balance Remaining	\$144,730
	Contract 2019-0170 Construction of Ferrous Chloride Dosing Facilities	\$374,079
	Allowances/site supervision/contract management services at 20%	\$105,000
	<i>Total costs</i>	\$623,809

New budget forecast = \$623,809 - \$173,400 = \$450,409 ~ \$451,000

40 This would result in a forecast FYE2021 budget amount for the new works (both contracts) of \$451,000 (excluding GST) being required as a minimum.

An additional amount of \$451,000 is required to bring the total budget for GL 7649.019 – Sewer System Odour Dosing to \$624,000 with funding provided by unexpended Section 64 Sewerage Developer Contributions currently held in Reserve.

## 45 **Statutory and Policy Compliance Implications**

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.

5

Local Government (General) Regulation 2005 - Reg 178

*Acceptance of tenders*

10     178    *Acceptance of tenders*

- (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*
  - 15        (b)    *decline to accept any of the tenders.*
- (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*  
20        *contract in order to carry out the requirements of the proposed contract.*
- (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,*
  - 25        (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,*
  - 30        (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.*
- (4)    *If a council resolves to enter into negotiations as referred to in subclause (3) (e), the resolution must state the following:*
  - 35        (a)    *the council's reasons for declining to invite fresh tenders or applications as referred to in subclause (3) (b)–(d),*
  - (b)    *the council's reasons for determining to enter into negotiations with the person or persons referred to in subclause (3) (e).*

40     Council's endorsement of the recommendation to award tenderers as recommended in the attached Evaluation Report (Attachment 2) is sought.

**Report No. 13.17**      **2019-0034 South Byron STP Remediation - Stage 2B Works**  
**Directorate:**        Infrastructure Services  
**Report Author:**     Nikki Bourke, Project Officer  
**File No:**                I2020/1401

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**Summary:**

10      On 30 March 2020, the General Manager, under delegated authority, approved the use of the open tender method to call for tenders for Contract 2019-0034 South Byron Sewage Treatment Plant (STP) Remediation - Stage 2B Remediation (NSW Public Works RFT ID: RFT-10024771).

15      The Request for Tender was advertised from 25 June 2020 to 18 August 2020. Tenders were received from the following organisations:

- AGH Demolition & Asbestos Removal Pty Ltd
- Delta Group Pty Ltd
- DEMEX Pty Ltd
- 20      • Demolition Environmental Civil Contractors Pty Ltd
- Eire Constructions Pty Ltd
- Ledonne Constructions Pty Ltd
- Liberty Industrial Pty Ltd
- McMahon Services Australia Pty Ltd
- 25      • RMA Contracting Pty Ltd
- Synergy Resource Management Pty Ltd
- WMA Demolition

30      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 tenders and provides a recommendation to award the tender for Contract 2019-0034 (NSW Public Works RFT ID: RFT-10024771).

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**RECOMMENDATION:**

1.      **That Council awards Tender Contract 2019-0034 South Byron STP Remediation - Stage 2B Remediation to the tenderer recommended on page 9 of the Confidential Tender Evaluation Report (Attachment 1 - E2020/71322).**
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.**

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**Attachments:**

- 1      Confidential - 2019-0034 CONFIDENTIAL RFT-10024771 REPORT Tender Recommendation Final - Sth Byron STP - Stage 2B Remediation Works, E2020/71322

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**Report**

On 30 March 2020, the General Manager, under delegated authority, approved the use of the open tendering method to call for tenders for Contract 2019-0034 South Byron STP Remediation - Stage 2B Remediation (NSW Public Works RFT ID: RFT-10024771). The contract is required to remediate the land in accordance with the NSW Contaminated Land Management Act (CLM Act) (1997) and Regulation, and to enable beneficial future use of the site.

The Request for Tender sought responses from proponents to provide sewage treatment plant remediation works services and landscaping in accordance the CLM Act and Regulation.

The Contract is expected to commence in October 2020 for a period of 26 weeks including a maintenance period. This program may be extended depending on the actual contamination discovered during excavation works and the site validation process to meet the requirements of the appointed EPA accredited Contaminated Site Auditor.

The Contract will be managed by Benjamin Nowland of NSW Public Works Authority and Nikki Bourke, Project Officer, Assets and Major Projects, BSC.

Tenders were advertised as follows:  
NSW Government e-tendering website: 25 June 2020 – 18 August 2020.

A pre-tender site meeting was held at the 1 Broken Head Rd, Byron Bay STP site on Tuesday 14th July 2020 with 12 companies in attendance.

An Evaluation Panel comprising of two Council staff members and one member of NSW Public Works Authority was formed.

Tenders closed on 18 August 2020 and tenders were received from the following proponents:

- AGH Demolition & Asbestos Removal Pty Ltd
- Delta Group Pty Ltd
- DEMEX Pty Ltd
- Demolition Environmental Civil Contractors Pty Ltd
- Eire Constructions Pty Ltd
- Ledonne Constructions Pty Ltd
- Liberty Industrial Pty Ltd
- McMahon Services Australia Pty Ltd
- RMA Contracting Pty Ltd
- Synergy Resource Management Pty Ltd
- WMA Demolition

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

*Mandatory criteria:*

- a) A Certified Quality Management System
- b) A Certified Safety Management System
- c) A Certified Environmental Management System
- d) Satisfactory past performance, including satisfactory WHS and environmental management, and
- e) Demonstrated capacity to meet obligations under Aboriginal Participation requirements mentioned in the Preliminaries.
- f) Satisfactory financial capacity.

*Qualitative criteria:*

Criteria	Elements
Proposed Schedule (Program):	Provide a detailed program for the Works showing sequencing of the Works including durations from date of contract award to completion.
Proposed Project Delivery Methodology and Risks Assessment:	Advise preferred construction methodology - the Contractor is to provide proposals to optimise the Works for time, cost and quality;  Highlight in detail project risks and the Contractor's proposed risk elimination, reduction or mitigation measures.
Relevant Experience, Proposed Personnel, Sub Contractors, Suppliers and Plant:	Provide a detailed CV for proposed personnel with clear description of role;  Provide details of the Contractor's experience in contaminated site remediation projects, including clients worked for, project type, cost/size and a minimum of three (3) referees;  Provide details of Contractor's experience working with and site management of asbestos contaminated materials (ACM) and contaminated materials.  Provide details of Contractor's experience in demolition works;  Provide proposed sub-contractor(s) details including background, relevant experience and role in this project;  Provide proposed supplier(s) details and roles in this project;  Provide details of proposed plant and equipment and how it will be used for construction activities.
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.

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### **Financial Implications**

The price basis for the contract is a lump sum.

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Council has budgeted \$2,280,000 for the works phase of this project.

There is sufficient funding for the proposed contract in the current budget.

### **Statutory and Policy Compliance Implications**

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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.

Local Government (General) Regulation 2005 - Reg 178

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*Acceptance of tenders*

*178 Acceptance of tenders*

- 10 (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.*
- 15 (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.*
- 20 (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,*
  - 25 (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,*
  - (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,*
  - 30 (f) *carry out the requirements of the proposed contract itself.*
- (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),*
  - 35 (b) *the council's reasons for determining to enter into negotiations with the person or persons referred to in subclause (3) (e).*

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



**Report No. 13.18**      **Tender 2020-0022 - Mullumbimby STP Demolition and Remediation**  
**Directorate:**      Infrastructure Services  
**Report Author:**      Nikki Bourke, Project Officer  
**File No:**      I2020/1390

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**Summary:**

10      On 30 March 2020, the General Manager, under delegated authority, approved the use of the open tender method to call for tenders for Contract 2020-0022 Mullumbimby Sewage Treatment Plant (STP) Demolition and Remediation (NSW Public Works RFT ID: RFT-10032821).

15      The Request for Tender was advertised from 25 June 2020 to 18 August 2020. Tenders were received from the following organisations:

- AGH Demolition & Asbestos Removal Pty Ltd
- CIVIL CS Pty Ltd
- CUB Demolition Pty Ltd
- 20      • Delta Group Pty Ltd
- DEMEX Pty Ltd
- Demolition Environmental Civil Contractors Pty Ltd
- Eire Constructions Pty Ltd
- Ledonne Constructions Pty Ltd
- 25      • Liberty Industrial Pty Ltd
- McMahon Services Australia Pty Ltd
- Remedirite Pty Ltd
- RMA Contracting Pty Ltd
- Synergy Resource Management Pty Ltd
- 30      • WMA Demolition

35      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 tenders and provides a recommendation to award the tender for Contract 2020-0022 Mullumbimby STP Demolition and Remediation (NSW Public Works RFT ID: RFT-10032821).

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**RECOMMENDATION:**

1.      **That Council awards Tender 2020-0022 Mullumbimby STP Demolition and Remediation (NSW Public Works RFT ID: RFT-10032821) to the tenderer recommended on page 9 of the Confidential Tender Evaluation Report (Attachment 1 - E2020/71479).**
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.**

40      **Attachments:**

- 1      Confidential - 2020-0022 CONFIDENTIAL RFT-10032821 Tender Recommendation Report Mullumbimby STP Demolition and Remediation, E2020/71479

**Report**

On 30 March 2020, the General Manager, under delegated authority, approved the use of the open tendering method to call for tenders for Contract 2020-0022 Mullumbimby STP Demolition and Remediation (NSW Public Works RFT ID: RFT-10032821). The contract is required to remediate the land in accordance with the NSW Contaminated Land Management Act (CLM Act) (1997) and Regulation, and to enable beneficial future use of the site.

The Request for Tender sought responses from proponents to provide sewage treatment plant demolition, asbestos removal and remediation works services in accordance the CLM Act and Regulation.

The Contract is expected to commence in October 2020 for a period of 16 weeks including a maintenance period. This program may be extended depending on the actual contamination discovered during excavation works and the site validation process to meet the requirements of the appointed EPA accredited Contaminated Site Auditor.

The Contract will be managed by Benjamin Nowland of NSW Public Works Authority and Nikki Bourke, Project Officer, Assets and Major Projects, BSC.

Tenders were advertised as follows:

NSW Government e-tendering website: 25 June 2020 – 18 August 2020.

A pre-tender site meeting was held at the Casuarina St, Mullumbimby former STP site on Tuesday 14th July 2020 with 12 companies in attendance.

An Evaluation Panel comprising of two Council staff members and one member of NSW Public Works Authority was formed.

Tenders closed on 18 August 2020 and tenders were received from the following proponents:

- AGH Demolition & Asbestos Removal Pty Ltd
- CIVIL CS Pty Ltd
- CUB Demolition Pty Ltd
- Delta Group Pty Ltd
- DEMEX Pty Ltd
- Demolition Environmental Civil Contractors Pty Ltd
- Eire Constructions Pty Ltd
- Ledonne Constructions Pty Ltd
- Liberty Industrial Pty Ltd
- McMahon Services Australia Pty Ltd
- Remedirite Pty Ltd
- RMA Contracting Pty Ltd
- Synergy Resource Management Pty Ltd
- WMA Demolition

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

*Mandatory criteria:*

- a) A Certified Quality Management System
- b) A Certified Safety Management System
- c) A Certified Environmental Management System
- d) Satisfactory past performance, including satisfactory WHS and environmental management, and

- e) Demonstrated capacity to meet obligations under Aboriginal Participation requirements mentioned in the Preliminaries.
- f) Satisfactory financial capacity.

**5 Qualitative criteria:**

Criteria	Elements
Proposed Schedule (Program):	Provide a detailed program for the Works showing sequencing of the Works including durations from date of contract award to completion.
Proposed Project Delivery Methodology and Risks Assessment:	Advise preferred construction methodology - the Contractor is to provide proposals to optimise the Works for time, cost and quality;  Highlight in detail project risks and the Contractor's proposed risk elimination, reduction or mitigation measures.
Relevant Experience, Proposed Personnel, Sub Contractors, Suppliers and Plant:	Provide a detailed CV for proposed personnel with clear description of role;  Provide details of the Contractor's experience in contaminated site remediation projects, including clients worked for, project type, cost/size and a minimum of three (3) referees;  Provide details of Contractor's experience working with and site management of asbestos contaminated materials (ACM) and contaminated materials.  Provide details of Contractor's experience in demolition works;  Provide proposed sub-contractor(s) details including background, relevant experience and role in this project;  Provide proposed supplier(s) details and roles in this project;  Provide details of proposed plant and equipment and how it will be used for construction activities.
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.

**Financial Implications**

The price basis for the contract is a lump sum.  
Council has budgeted \$1,257,100 for the works phase of this project.

This allocated budget allows for both tender 2020-0022 and a separate waste disposal component (removing contaminated soils to landfill). The waste disposal component is estimated at \$725,000 for the project.

- 5 There is sufficient funding for the proposed contract in the current budget.

### **Statutory and Policy Compliance Implications**

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.

- 10 The Local Government (General) Regulations 2005 define the options available to Council. An extract is provided below.

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

#### 15 *Acceptance of tenders*

##### *178 Acceptance of tenders*

- (1) *After considering the tenders submitted for a proposed contract, the council must either:*
- 20 (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.*
- (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*
- 25 *(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.*
- (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:*
- 30 (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,*
- 35 (d) *invite, in accordance with clause 169, fresh applications from persons interested in tendering for contracts of the same kind as the proposed contract,*
- (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.*
- 40 (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),*
- 45 (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.

**Report No. 13.19**      **Filming Event - Bangalow Road**  
**Directorate:**        Infrastructure Services  
**Report Author:**     Andrew Pearce, Traffic Engineer  
                                  Jess Gilmore, Events & Economy Team Leader  
5    **File No:**                I2020/1425

**Summary:**

Council received an application from *Nine Perfect Strangers* to film a scene on Bangalow Road in the Hayters Hill Area.

Filming will be for one 10 hour day in either October or November 2020.

Refer to the body of this report for the location under discussion.

This report seeks Councils support to close a section of Bangalow Rd as part of this film event, with restricted and controlled access for locals and emergency vehicles.

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**RECOMMENDATION:**

**That Council supports the Nine Perfect Strangers film project and the associated temporary closure of part of Bangalow Road, subject to:-**

- a.    **The location of the temporary road closure to be generally in accordance with E2020/72772 and E2020/72773.**
- b.    **Local Traffic Committee support and associated Local Traffic Committee recommendations, namely:-**
  - i.    **Traffic Management Plan (TMP) and Traffic Control Plans (TCP) to be developed and implemented by those with appropriate RMS accreditation**
  - ii.   **The TMP and TCP is include:**
    - **Adequate private property access and egress affected by the project;**
    - **Traffic control measures for St Helena Road.**
  - iii.   **Separate approvals by NSW Police and RMS to be obtained;**
  - iv.   **That the impact of the event be advertised via a notice in the local weekly paper a minimum of 14 days 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;**
  - v.    **The film project organiser is to:-**
    - **liaise with Council to ensure filming does not conflict with and significantly impact Council works on the Bangalow Road railway bridge;**
    - **provide event details so it can be notified on Council's webpage;**
    - **inform the community and businesses that are directly impacted by the temporary road closure via written information which is delivered to the property in a timely manner so as to document, consider and respond to any concerns raised;**

- undertake consultation with emergency services, bus companies, taxi and waste operators ensuring arrangements are made for provision of services during conduct of the event;
  - hold \$20m public liability insurance cover which is valid for the event;
  - pay Council's Road Event Application Fee prior to the event.
- 

**Attachments:**

- 1 9PS Bungalow Rd - Byron Bay - Option 1, E2020/72772 
- 5 2 9PS Bungalow Rd - Byron Bay - Option 1 detour plan, E2020/72773 

**REPORT**Event Details

Council received a request from *Nine Perfect Strangers* to film a scene on Bangalow Road, Hayters Hill.

In particular, the application would like to begin the traffic control at the eastern Coopers Shoot Road intersection and continue west for 3km.

The snippet below is a check done on Geocortex with the yellow line measuring 3km west from the Cooper Shoot Rd intersection. The coloured circles show the eastern and western Coopers Shoot Road intersections. To close this section of Bangalow Road will require a detour to commence at the western Coopers Shoot Road intersection. This detour is proposed by the applicant.

It is noted the applicant has not taken into account St Helena Road in a concept TCP submitted to Council. Therefore, the recommendation states the applicant is to include St Helena Road within their traffic control measures.



The applicant intends to undertake filming in this section of road across one 10 hour day. The applicant has also stated the road closure is likely to be scheduled for late October or November 2020.

As the series is set in the US vehicles are required to be left hand drive and drive on the right side of the road. Given this added complication and the action nature of the scene it is recommended the applicant maintains a tight control of access along this stretch of road during the 10 hours of filming.

Local Traffic Committee

An extraordinary email meeting of the Local Traffic Committee has been convened (22 September 2020) with the recommendations of this extraordinary meeting not known at the time this Council report was written. However, it is noted that this Council report (including the recommendation) is identical to the report presented to the Local Traffic Committee.

As a result, it is recommended this film event be supported subject to LTC support and recommendations.

**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>	1.6	Manage traffic and parking in an efficient manner	1.6.4	Improve effectiveness of Local Traffic Committee	1.6.4.1	Report regulatory traffic matters for recommendation to Council and items requiring comment through the Local Traffic Committee
<b>Community Objective 2: We cultivate and celebrate our diverse cultures, lifestyle and sense of community</b>	2.1	Support and encourage our vibrant culture and creativity	2.1.7	Support range of existing, emerging and major events	2.1.7.3	Administer licences for weddings, events, activities and filming on council and crown land

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***Consultation and Engagement***

Community consultation will be required as per the recommendation.

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**REPORTS OF COMMITTEES - CORPORATE AND COMMUNITY SERVICES**

**Report No. 14.1**      **Report of the Finance Advisory Committee Meeting held on 20 August 2020**

**Directorate:**      Corporate and Community Services  
**Report Author:**      James Brickley, Manager Finance  
**File No:**      I2020/1256

**Summary:**

This report provides the minutes and recommendations of the Finance Advisory Committee Meeting held on 20 August 2020 for determination by Council.

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**RECOMMENDATION:**

1. That Council notes the minutes of the Finance Advisory Committee Meeting held on 20 August 2020.
2. That Council adopts the following Committee Recommendation:

**Report No. 4.1**      **Carryovers for Inclusion in the 2020-2021 Budget**  
File No: I2020/1178

**Committee Recommendation 4.1.1**

That the Committee endorses the recommendation that Council approves the works and services (with respective funding) shown in Attachment 1 (#E2020/60174) to be carried over from the 2019/2020 financial year and that the carryover budget allocations be adopted as budget revotes for inclusion in the 2020/2021 Budget Estimates.

3. That Council adopts the following Committee Recommendation:

**Report No. 4.2**      **Quarterly Update - Implementation of Special Rate Variation**  
File No: I2020/1202

**Committee Recommendation 4.2.1**

That the Finance Advisory Committee notes the quarterly update on the Special Rate Variation Implementation as at 30 June 2020 as outlined in Attachment 1 (#E2020/63603).

4. That Council adopts the following Committee Recommendation:

**Report No. 4.3**      **Budget Review - 1 April 2020 to 30 June 2020**  
File No: I2020/1208

**Committee Recommendation 4.3.1**

1. That Council authorises the itemised budget variations as shown in Attachment


**2 (#E2020/63870) which includes the following results in the 30 June 2020 Quarterly Review of the 2019/2020 Budget:**

- a) General Fund - \$699,700 change in Unrestricted Cash Result**
- b) General Fund - \$10,440,600 increase in reserves**
- c) Water Fund - \$1,966,800 increase in reserves**
- d) Sewerage Fund - \$1,491,600 increase in reserves.**

- 2. That Council adopts the revised General Fund Estimated Unrestricted Cash Result of \$723,400 for the 2019/2020 financial year.**

**Attachments:**

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- 1 Minutes 20 August 2020 Finance Advisory Committee, I2020/1210 

**Report**

The attachment to this report provides the minutes of the Finance Advisory Committee Meeting of 20 August 2020 for determination by Council. The agenda for this meeting can be located on Council's website at:

[https://byron.infocouncil.biz/Open/2020/08/FAC\\_20082020\\_AGN\\_1214\\_AT.PDF](https://byron.infocouncil.biz/Open/2020/08/FAC_20082020_AGN_1214_AT.PDF)

The Committee considered the following items:

**Report 4.1 Carryovers for Inclusion in the 2020-2021 Budget**

The Committee discussed the proposed carryover budgets from the 2019-2020 financial year representing works and services not yet completed to be carried forward and added to the 2020-2021 adopted budget. The report detailed total carryover budgets of \$10,123,500 made up of carryovers in the General Fund of \$7,875,500, Water Fund \$1,118,800 and Sewerage Fund \$1,129,200. Specific details of the individual carryover amounts are outlined at Attachment 1 to this agenda item. This report is also linked to Report 4.3 concerning the Budget Review for the period 1 April 2020 to 30 June 2020.

**Report 4.2 Quarterly Update - Implementation of Special Rate Variation**

The Committee considered a report that outlined expenditure in relation to the 2017/2018 Special Rate Variation. The report included a schedule of works with total funding of \$7,577,400 (this includes the \$3,508,600 derived from the third year of the 4 year Special Rate Variation that commenced on 1 July 2017 plus the residual amount unexpended at 30 June 2019 (\$33,300) less \$70,000 that has been placed in reserve. As at the end of June 2020, Council had expended 92.46% of the overall program.

**Report 4.3 – Budget Review – 1 April 2020 to 30 June 2020**

The Committee discussed the 30 June 2020 Quarter Budget Review, noting the proposed amendments to the 2019-2020 Budget and recommended their adoption to Council (this occurred at the 27 August 2020 Ordinary Meeting).

Of note in the report were the following major items:

1. Recognition of an improved projected budget deficit in the General Fund by \$699,700 from \$976,300 deficit to \$276,600 deficit.
2. Unrestricted cash balance has improved to be estimated at \$723,400 which is below Council's adopted target of \$1,000,000, but given current pandemic conditions is a pleasing result.
3. Adjustment of budgets to reflect current actual results and to take into consideration funding of carryover budget items to be carried forward to the 2020-2021 budget..

The Committee Recommendations are supported by management and are provided at Attachment 1 to this report. The recommendation for Report 4.3 has been considered and adopted separately at the 28 May 2020 Ordinary Council Meeting.

**Financial Implications**

As per the Reports listed within the Finance Advisory Committee Meeting of 20 August 2020.

**Statutory and Policy Compliance Implications**

As per the Reports listed within the Finance Advisory Committee Meeting of 20 August 2020.

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

**Report No. 14.2      Report of the Biodiversity Advisory Committee Meeting held on 10 August 2020**

**Directorate:**            Sustainable Environment and Economy  
**Report Author:**        Michelle Chapman, Project Support Officer  
**File No:**                  I2020/1240

**Summary:**

This report provides the minutes of the Biodiversity Advisory Committee Meeting held on 10 August 2020 for determination by Council.

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**RECOMMENDATION:**

1.    That Council notes the minutes of the Biodiversity Advisory Committee Meeting held on 10 August 2020.

2.    That Council adopts the following Committee Recommendations:

**Report No. 4.3   Mitchell's Rainforest Snail update**

File No: I2020/1068

**Committee Recommendation 4.3.1**

1.    That the Biodiversity Advisory Committee recommend that Council consider a budget bid for implementation of the following medium priority actions from the 2020-2030 Byron Shire Biodiversity Conservation Strategy:

- **Action 1.25: Map potential habitat areas for Mitchell's Rainforest Snail, in the 2021-22 financial year**
- **Action 2.6: Implement a community awareness campaign to assist in protection and habitat identification for the Mitchell's Rainforest Snail in the Byron Bay area, in the 2022-23 financial year.**

2.    That the Biodiversity Advisory Committee recommend that Council's outdoor staff be made more aware of the potential habitat and identification of Mitchell's Rainforest Snail.

**Attachments:**

1      Minutes 10/08/2020 Biodiversity Advisory Committee, I2020/1153 

**Report**

- 5 The attachment to this report provides the minutes of the Biodiversity Advisory Committee Meeting of 10 August 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/2020/08/BAC\\_10082020\\_AGN\\_1211\\_AT\\_EMBEDDED.PDF](https://byron.infocouncil.biz/RedirectToDoc.aspx?URL=Open/2020/08/BAC_10082020_AGN_1211_AT_EMBEDDED.PDF)

- 10 The remainder of 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 Biodiversity Advisory Committee Meeting of 10 August 2020.

**Statutory and Policy Compliance Implications**

- 20 As per the Reports listed within the Biodiversity Advisory Committee Meeting of 10 August 2020.

**REPORTS OF COMMITTEES - INFRASTRUCTURE SERVICES**

**Report No. 14.3**      **Report of the Byron Shire Floodplain Risk Management Committee Meeting held on 20 August 2020**

**Directorate:**      Infrastructure Services

**Report Author:**      Dominika Tomanek, Executive Assistant Infrastructure Services  
Shelley Flower, Infrastructure Planning Support Officer, IS - Assets & Major Projects

**File No:**      I2020/1361

**Summary:**

The attachment to this report provides the minutes of the Byron Shire Floodplain Risk Management Committee Meeting of 20 August 2020 for determination by Council.

Committee recommendations 1 to 3 have been completed and added to the North Byron Floodplain Risk Management Study and Plan provided at attachment 1. This document will be the Council adopted version as recommended by the committee.

**RECOMMENDATION:**

1.    **That Council notes the minutes of the Byron Shire Floodplain Risk Management Committee Meeting held on 20 August 2020.**

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

**Report No. 3.1    Minutes of Byron Shire Floodplain Risk Management Advisory Committee Meeting of 24 March 2020**

File No: I2020/1199

**ADOPTION OF MINUTES FROM PREVIOUS MEETING:**

1.    That the minutes of the Byron Shire Floodplain Risk Management Committee Meeting held on 24 March 2020 be confirmed.
2.    The minutes of the meeting held on 24 March 2020 were noted, and the Committee Recommendations adopted by Council, at the Ordinary Meeting held on 23 April 2020 without changes.

3.    **That Council adopts the following Committee Recommendation(s):**

**Report No. 4.1    North Byron Flood Risk Management Study and Plan Public Exhibition**

File No: I2020/1154

**Committee Recommendation 4.1.1**







That Council:-

1.    Support the preparation of a further stand alone technical memorandum (with reference to the Study) to support the North Byron Floodplain Risk Management Study and Plan,

detailing:-

- a) four dune opening scenarios;
  - b) rock wall modification scenarios;
  - c) training wall removal scenario;
  - d) dredging scenarios; and
  - e) bund modifications.
2. Support the addition of a reference to the technical memorandum in the North Byron Floodplain Risk Management Study document prior to adoption.
  3. Endorse the amendment of the North Byron Floodplain Risk Management Study and Plan to include modifications recommended in Attachment 2 in this committee agenda except for the following modifications, prior to adoption: -
    - a) Comment 3 (MLRA) – that original wording be retained
    - b) Comment 6 (Gray's lane) - no action
  4. Adopt the North Byron Floodplain Risk Management Study and Plan following completion of the amendments within points 1 to 3.
  5. Create a new Operational Plan action to commence development of internal maintenance plans for Council's drainage network within Councils maintenance management software Reflect.
  6. Create a new Operational Plan action to commence development of waterway management policies for waterways with relevant state agencies and the Byron Shire Floodplain Risk Management Committee.

**Attachments:**

- |    |   |
|----|---|
| 5  | 1 Minutes 20/08/2020 Byron Shire Floodplain Risk Management Committee, I2020/1204                          |
|    | 2 North Byron Floodplain Risk Management Plan - August 2020, E2020/72565                                   |
|    | 3 North Byron Floodplain Risk Management Study & Plan - August 2020, E2020/72569                           |
|    | 4 North Byron Floodplain Management Study & Plan - Technical Addendum, E2020/72566                         |
| 10 | 5 North Byron Floodplain Management Study & Plan - Appendix TA - Peak Flood Difference Options, E2020/72567  |
|    | 6 North Byron Floodplain Risk Management Study - Public Exhibition Comments, E2020/72589                   |

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**Report**

The attachment to this report provides the minutes of the Byron Shire Floodplain Risk Management Committee Meeting of 20 August 2020 for determination by Council. The agenda for this meeting can be located on Council's website at:

[https://byron.infocouncil.biz/Open/2020/08/BSFRM\\_20082020\\_AGN\\_1212\\_AT.PDF](https://byron.infocouncil.biz/Open/2020/08/BSFRM_20082020_AGN_1212_AT.PDF)

**Committee Recommendation**

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

**Management Comments**

In accordance with the Committee Recommendation, Management provide the following additional information documents at Attachment 2, 3, 4, 5 and 6 to support the adoption of the North Byron Floodplain Risk Management Study & the North Byron Floodplain Risk Management Plan.

**Financial Implications**

As per the Reports listed within the Byron Shire Floodplain Risk Management Committee Meeting of 20 August 2020.

**Statutory and Policy Compliance Implications**

As per the Reports listed within the Byron Shire Floodplain Risk Management Committee Meeting of 20 August 2020.

**CONFIDENTIAL REPORTS - GENERAL MANAGER**

**Report No. 16.1**                      **CONFIDENTIAL - Head lease - former Byron Hospital site**

**Directorate:**                      General Manager

**Report Author:**                Claire McGarry, Place Manager - Byron Bay

   Matt Meir, Solicitor

**File No:**                            I2020/1189

**Summary:**

This report details the terms and conditions of the proposed lease to Old Byron Hospital Pty Ltd for the former Byron Hospital site.

The lease is designed to enable the repurposing of the site in to a community hub providing vital and currently lacking welfare, social, cultural and education facilities servicing the Byron community.

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**RECOMMENDATION:**

1.    That pursuant to Section 10A(2)(d)i of the Local Government Act, 1993, Council resolve to move into Confidential Session to discuss the report Head lease - former Byron Hospital site.
2.    That the reasons for closing the meeting to the public to consider this item be that the report contains:
  - a)    commercial information of a confidential nature that would, if disclosed prejudice the commercial position of the person who supplied it
3.    That on balance it is considered that receipt and discussion of the matter in open Council would be contrary to the public interest, as:

**Report contains commercial details of negotiations not yet finalised**

**Attachments:**

- 1    [Draft Constitution Old Byron Bay Hospital Pty Ltd, E2020/70236](#)
- 2    Confidential - Former Byron Hospital Financial Analysis at 30 June 2020 attached to Council Agenda 24 September 2020, E2020/66376
- 3    Confidential - Draft lease - Council and Old Byron Hospital Ltd, E2020/60180
- 4    Confidential - Draft rent incentive - Council and Old Byron Hospital Ltd, E2020/60292