



Byron Shire Council



Agenda

Ordinary Meeting

Thursday, 22 October 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

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)

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

BUSINESS OF ORDINARY MEETING

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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

16. CONFIDENTIAL REPORTS

General Manager

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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.

NOTICES OF MOTION

Notice of Motion No. 9.1 MURC Bayshore Dr to Tyagarah
File No: I2020/1560

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I move:

1. **That Council prioritises the section of rail corridor between Bayshore Drive and Tyagarah for investigation into the alternatives including multi use.**

2. **That Council seeks landowners consent to carry out environmental works on the rail corridor between Bayshore Drive and Tyagarah**

3. **That Council seeks funding**
 - a) **for the clearing of the vegetation on the line**
 - b) **for the planting of suitable native species in the corridor with local Land Care and environmental groups and**
 - c) **to establish the corridor as a wildlife corridor.**

4. **That Council, when funding is available, commissions a structural assessment and cost estimate of the 6 timber bridges suitable for**
 - a) **combined light rail and cycle/walkway and**
 - b) **cycle/walkway on the rail line**

10

Signed: Cr Alan Hunter

Councillor's supporting information:

15 Council has so far been unsuccessful in securing expressions of interest from potential sponsors, commercial operators, or government funding programs despite 16 years of discussions and much council time and expense.

20 Government agencies have also not expressed any interest in funding vegetative regeneration with our current plans for the corridor unlike the 2 councils at each end of the rail corridor, who have both been successful in securing funding for their rail trail plans in the corridor.

25 The Casino to Murwillumbah rail corridor has now been closed for any vehicular traffic on the rail line at each end making any extension into Qld or rail connection south further into NSW almost impossible.

30 The financial circumstances, post COVID-19, for governments has now changed and will now find difficulty in justifying the once favoured social projects and no doubt will continue to do so in the wake of the pandemic.

35 The 4.7km of rail corridor from Bayshore Drive to Tyagarah is relatively lightly overgrown and allows safer access for staff, volunteers and contractors to do their work along the line. It is also the cheapest and easiest to access by road.

This affords an opportunity to lower the upfront expense and gain a better idea of the sort of options sooner than a taking on a longer section of the corridor to Mullumbimby. Any further west from Tyagarah will be significantly more expensive and take longer to do.

This section of the track is probably to most valuable link for the wildlife corridor from west to east and would be most beneficial for the safety of our little furry and other friends of the bush providing safe passage away from the speeding traffic.

5

Staff comments by Christopher Soulsby, Acting Manager Assets and Major Projects, Infrastructure Services:

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

10 This notice of motion is partly inconsistent with resolution **20-518**

Resolved:

1. That Council closes Resolution 19-335, with the remaining actions being duplicated within Resolution 20-127.

15

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. (Richardson/Cameron)

20 If this notice of motion is adopted it refines the scope of the task and adds additional requirements. The inconsistency arises from item 4 (b). The previous reports and resolutions on the MURC are predicated on rail with trial. Item 4(b) whilst it is only seeking a costing of the option for a trail on the formation, it will allow for a comparison between the two options. This notice of motion gives clear guidance to staff on the task to be carried out and the area of rail infrastructure to be considered.

25

The approval pathway is via the SEPP Infrastructure. Clause 79 of the SEPP allows for rail infrastructure facilities to be carried out without development consent. This includes routine maintenance (clearing of vegetation from the tracks) and environmental works if carried out by or on behalf of a public authority.

30

Financial/Resource/Legal Implications:

If this NOM is adopted a revised cost estimate will be provided in the quarterly budget review to undertake the works.

35

Is the proposal consistent with any Delivery Program tasks?

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	1.3	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

BYRON SHIRE COUNCIL

NOTICES OF MOTION

9.1

Community Objective 1: We have infrastructure, transport and services which meet our expectations	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
	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

PETITIONS

Petition No. 10.1 **To REFUSE Development Application DA 10.2020.370.1 - 68 Byron Street BANGALOW**

5 **Directorate:** Sustainable Environment and Economy
Report Author: Shannon Burt, Director Sustainable Environment and Economy
File No: I2020/1428

10 Council is in receipt of a petition with 103 signatures which states:

'We the undersigned petition Byron Council to REFUSE DA 2020.370 for the following reasons

- 15 1. *If allowed the Development would have a negative impact on the Bangalow Heritage Conservation Area.*
2. *The Proposal does not comply with the future direction of Bangalow Village; to protect our heritage buildings and established gardens.*
3. *The removal of the established garden and the addition of a detached commercial building would have a negative impact on the location, impacting the appearance and amenity of the heritage precinct and have an unacceptable impact on the adjoining property.*
- 20

In Summary: We the undersigned believe this is an overdevelopment of the historical site and not in keeping with the charm and character of Bangalow as a Heritage Village valued by locals and popular with visitors to our area. The DA is not in the public interest.'

25 **Comments from Director Sustainable Environment and Economy:**

Development Application DA 10.2020.370.1 was presented to the Planning Review Committee (PRC) on the 17 September 2020. The PRC has called up the DA to Council for determination at a future meeting. The matters raised in the petition will be considered in the staff assessment report to Council.

30

RECOMMENDATION:

1. **That the petition regarding Development Application DA 10.2020.370.1 - 68 Byron Street BANGALOW be noted.**
2. **That the petition be referred to the Director Sustainable Environment and Economy.**

35 **Attachments:**

- 1 Confidential - 10.2020.370.1 Petition 103 Signature - For refusal of DA, S2020/8444


SUBMISSIONS AND GRANTS**Report No. 11.1 Grants and Submissions October 2020****Directorate:** Corporate and Community Services**Report Author:** Alexandra Keen, Grants Coordinator**File No:** I2020/1529**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 (E2020/79328) for Byron Shire Council's Submissions and Grants as at 1 October 2020.

Attachments:

1 Attachment 1 - Grants and Submissions Table, E2020/79328 

REPORT

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

5 Successful applications

10 In September 2020, Council was successful in obtaining a \$402,679 grant from the Australian Government's Bridges Renewal Program Round 5 for replacing Main Arm Causeway #2, and a \$2,000 grant from NSW Government's Small Business Month Program 2020 to host a workshop for small businesses in October 2020.

Unsuccessful applications

15 Council was not advised of any unsuccessful applications during September 2020.

Applications submitted

Three grant applications were submitted in September 2020 for:

- 20
- Youth Opportunities Program – Byron Shire Youth Solutions;
 - Coastal Zone Management Program - New Brighton Sand Dune Protection Project; and
 - Australia Day Branding Grant.

In late August 2020, four applications were submitted under Transport for NSW's Safer Roads Program for:

- 25
- Coorabell Road;
 - Wilsons Creek Road;
 - The Pocket Road; and
 - Tweed Valley Way.

30 Upcoming grant opportunities

There are a number of upcoming grant opportunities for which Council may submit funding applications including:

- 35
- Fixing Country Roads 2020;
 - Fixing Country Bridges 2020;
 - Everyone Can Play Grants; and
 - NSW Public Library Infrastructure Grants.

STRATEGIC CONSIDERATIONS

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

CSP Objective	L2	CSP Strategy	L3	DP Action	L4	OP Activity
Community Objective 5: We have community led decision making which is open and inclusive	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

Legal/Statutory/Policy Considerations

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

Financial Considerations

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

The potential funding and allocation is noted below:

Requested funds from funding bodies	\$14,963,632
Council cash contribution	\$2,321,857
Council in-kind contribution	\$214,532
Other contributions	\$112,869
Funding applications submitted and awaiting notification (total project value)	\$17,612,890

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 **Grant of five year licence over Tyagarah Hall (25 Staceys Way, Tyagarah)**

Directorate: General Manager

Report Author: Pattie Ruck, Open Space Facilities Coordinator

File No: I2020/1196

Summary:

Council advertised for a Request for Proposal for a five (5) year licence over the premise at 25 Staceys Way, Tyagarah colloquially known as the Tyagarah Hall. The Request for Proposal was publically advertised from 13 July and closed at 2pm on 11 August 2020.

Submissions received for the Request for Proposal were assessed by an independent Evaluation Panel from 12 to 24 August 2020 in accordance with the Tender Evaluation Plan. This report recommends that the Evaluation Panel's preferred Respondent is granted a five (5) year licence to occupy the Tyagarah Hall for the purpose of a community facility.

RECOMMENDATION:

That Council resolves to grant a five (5) year licence to Tyagarah Community Association as the preferred respondent, over part Folio 49/881232, 25 Staceys Way, Tyagarah colloquially known as the Tyagarah Hall.

Attachments:

1 Confidential - RFP-2020 Evaluation Panel Report: 5yr Licence over Tyagarah Hall, E2020/64130

REPORT

Council at its 13 December 2018 meeting resolved (**18-825**) to reject all submissions received from a previous Request for Proposal process to occupy the Tyagarah Hall for commercial purposes.

A subsequent Council resolution (**19-237**) from the 23 May 2019 meeting required a new expression of interest to be called from non-profit organisations to licence the Tyagarah Hall and its immediate surroundings.

A new Request for Proposal was run between 13 July and 11 August 2020 calling for non-profit associations to licence the Tyagarah Hall over five (5) years. Council received two submissions:

1. COMS Maritime Trainers and assessors Incorporated; and
2. Tyagarah Community Association.

Evaluation of submissions received:

Submissions received were assessed against predetermined Compliance and Qualitative criteria's.

The evaluation assessment period ran between 12 and 24 August 2020 in accordance with the Evaluation Plan. The Evaluation Panel was chaired by the Community Project Officer (Joanne McMurtry) with probity advice was provided by the Legal Counsel (Ralph James).

In accordance with the Evaluation Plan, the Evaluation Panel was required to:

- a) Evaluate the compliance criteria and establish that a submission was compliant;
- b) Score the qualitative criteria;
- c) Clarify information with respondents if required; and
- d) Make recommendations of a preferred Respondent.

The Evaluation Panel independently evaluated both Request for Proposal submissions by scoring each against the below compliance and weighted qualitative criteria's:

Compliance Criteria	
1. Instrument of proposal:	
i. Organisations name and details:	
ii. ABN and Not-For-Profit registration:	
iii. Referee name and contacts:	
2. Details of public liability insurance or statement of ability to obtain required public liability insurance.	
3. Proposed commencement date of Licence.	
4. Conflict of Interest Declaration.	

Qualitative Criteria	Weighting
1. Describe your organisations vision and proposed use of the Tyagarah Hall <i>Minimum information to provide:</i> <ol style="list-style-type: none"> a) Describe details of your organisation structure, legal entity status and provide a copy of your constitution or similar. b) Describe the social benefits and social purposes provided by your organisation. c) Describe the activities your organisation will carryout in the Hall. 	30%
2. Describe how your organisation will manage the community hall and the key personnel involved: <i>Minimum information to provide:</i> <ol style="list-style-type: none"> a) Describe how your organisation plans to manage the Tyagarah Hall to allow for equitable access to individuals and community groups, including your proposed hours and management of out of hour's usage. 	40%

Qualitative Criteria	Weighting
b) Describe your anticipated hire fee structure. c) Describe your bookings management system including the ability of that system to report numbers hiring the Hall. d) Describe your complaints management processes.	
3. Describe available resources of your organisation: <i>Minimum information to provide:</i> a) Describe how your organisation will pay rent and outgoings under the licence. b) Describe how your organisation plans to maintain and clean the interior of the hall and grounds immediate surrounding the Hall.	30%

The Panel meet on several occasions to resolve discrepancies before reaching a consensus as to the following preferred Respondent:

- 5 1. Tygarah Community Association be awarded the lease as the successful respondent.

The Evaluation Panel report is contained in Attachment 1.

- 10 There is no statutory requirement for Council to undertake community consultation in granting a lease over Council owned operational land.

STRATEGIC CONSIDERATIONS

Community Strategic Plan and Operational Plan

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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	1.2.6	Optimise Council's property portfolio (SP)	1.2.6.8	Deliver adopted capital works program for Suffolk Park Holiday Park

Legal/Statutory/Policy Considerations

Nil.

Financial Considerations

The Request for Proposal stipulated rent payable under the licence is set at the value of minimum Crown Land rent currently \$490 (excluding GST) per annum and increased thereafter by Consumer Price Index All Groups Sydney.

Terms of the licence will require the Licensee to pay all usage charges for all services connected to the Premises with Council to subsidise annual fixed rates and charges plus carry out annual fire compliance, pest inspections and control and cover building insurance for full replacement cost.

Report No. 13.2 **Five year licence to Shara Community Garden Incorporated**
Directorate: General Manager
Report Author: Paula Telford, Leasing and Licensing Coordinator
File No: I2020/1254

5

Summary:

- 10 The Shara Community Garden s Incorporated requests a new five (5) year licence to occupy Lot 2005 DP 808461 known as the Ocean Shores Shara Community Gardens. This report recommends that Council enter into the proposed licence.

RECOMMENDATION:

1. That Council considers all public comments received on the proposed five (5) year licence to Shara Community Garden s Incorporated over Lot 2005 DP808461 known as the Shara Community Gardens.
2. That Council grants a licence to Shara Community Garden s Incorporated over Lot 2005 DP808461 on the following terms:
 - a) term five (5) years with no holding over;
 - b) for the purpose of a community garden as defined in Policy Byron Shire Community Gardens 2020;
 - c) rent to commence at \$490 (exclusive of GST) and thereafter increased annually by Consumer Price Index All Groups Sydney for the term;
 - d) the Licensee to pay usage charges for all services connected to the land including waste management services and provide public liability and contents insurance; and
 - e) the Licensor to pay outgoings of the value of general land rates and fixed water and sewer charges (if payable).

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Attachments:

- 1 Submission 1 to Shara Community Gardens proposed 5 year licence, E2020/77219 

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REPORT

Background:

- 5 In March 2011, following an expression of interest, Council granted a short-term licence to Mullumbimby Sustainability Education and Enterprise Development Incorporated ('Mullum SEED') to occupy Lot 2005 DP 808461 for the purpose of the Shara Community Garden . The Shara Community Garden Committee was then formed for the day to day management of the garden.
- 10 In 2012 Council resolved (**12-838**) to grant a further three year licence to Mullum SEED to occupy the Shara Community Garden . On expiry of that licence a further five year licence was granted by resolution (**15-105**) to Mullum SEED to 3 April 2020.
- 15 In late 2019 Mullum SEED notified Council that it no longer intended to hold a licence over the Shara Community Garden and requested that Council transfer the licence to the Shara Community Garden Committee. To allow Council sufficient time to consider the request, the licence to Mullum SEED was placed on holding over to 31 October 2020.

Direct negotiation:

- 20 Council staff commenced working with the Shara Community Garden Committee in early 2020 to determine if the Committee had sufficient membership, skills and financial sustainability to hold a licence over Council owned land.
- 25 The Shara Community Garden s Incorporated ('SCG Inc') was formed and has since demonstrated its intention to comply with Council's Community Gardens Policy and Procedures. As a result, Council staff recommend that a new five year licence be granted to SCG Inc over the Shara Community Garden site to commence 1 November 2020.
- 30 Section 46A of the *Local Government Act 1993* (NSW) authorises Council to directly negotiate the proposed five year licence with SCG Inc because the incorporation is a registered not for profit organisation.

Proposed new licence:

- 35 Lot 2005 DP808461 is Council owned land classified and community land and categorised as a park. The Plan of Management for the land expressly permits the grant of a licence for purposes authorised by the *Local Government Act*. A licence for a community garden to support the physical, cultural, social and intellectual development of the public is a purposed authorised by the
- 40 *Act*.

Terms of the proposed licence will include:

- 45 i. 5 year term with no holding over;
- ii. Initial rent to commence at \$490 (exclusive of GST) and annually increased thereafter by Consumer Price Index All Groups Sydney;
- iii. Licensee outgoings:
- a. all usage costs for all services connected to the land including waste management services; and
- 50 b. public liability and contents insurances.
- iv. Licensors outgoings:
- a. Annual fixed rates and charges (if payable)

55

Public notification:

In accordance with s47A of the *Local Government Act 1993* (NSW), Council publically advertised the proposed licence for 28 days between 31 August and 28 September 2020 and received one submission.

A summary of the submission received is tabled below:

Submission	Council response
<ul style="list-style-type: none"> I support this licence 	Noted.

Section 47(4) of the *Local Government Act 1993* (NSW) requires that Council must consider all submissions duly made before granting the proposed licence.

This report recommends that Council grant the proposed five year licence to SCG Inc for the purpose of the Shara Community Garden

STRATEGIC CONSIDERATIONS

Community Strategic Plan and Operational Plan

CSP Objective	L2	CSP Strategy	L3	DP Action	L4	OP Activity
Community Objective 2: We cultivate and celebrate our diverse cultures, lifestyle and sense of community	2.2	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 and inform community planning

Legal/Statutory/Policy Considerations

s47 Leases, licences and other estates in respect of community land—terms greater than 5 years

- (1) If a council proposes to grant a lease, licence or other estate in respect of community land for a period (including any period for which the lease, licence or other estate could be renewed by the exercise of an option) exceeding 5 years, it must:
 - (a) give public notice of the proposal (including on the council's website), and
 - (b) exhibit notice of the proposal on the land to which the proposal relates, and
 - (c) give notice of the proposal to such persons as appear to it to own or occupy the land adjoining the community land, and
 - (d) give notice of the proposal to any other person, appearing to the council to be the owner or occupier of land in the vicinity of the community land, if in the opinion of the council the land the subject of the proposal is likely to form the primary focus of the person's enjoyment of community land.
- (2) A notice of the proposal must include:
 - information sufficient to identify the community land concerned
 - the purpose for which the land will be used under the proposed lease, licence or other estate
 - the term of the proposed lease, licence or other estate (including particulars of any options for renewal)
 - the name of the person to whom it is proposed to grant the lease, licence or other estate (if known)
 - a statement that submissions in writing may be made to the council concerning the proposal within a period, not less than 28 days, specified in the notice.
- (3) Any person may make a submission in writing to the council during the period specified for the purpose in the notice.

- (4) *Before granting the lease, licence or other estate, the council must consider all submissions duly made to it.*

s47A Leases, licences and other estates in respect of community land—terms of 5 years or less

- (1) *This section applies to a lease, licence or other estate in respect of community land granted for a period that (including any period for which the lease, licence or other estate could be renewed by the exercise of an option) does not exceed 5 years, other than a lease, licence or other estate exempted by the regulations.*

- (2) *If a council proposes to grant a lease, licence or other estate to which this section applies:*

- (a) *the proposal must be notified and exhibited in the manner prescribed by section 47, and*
 (b) *the provisions of section 47 (3) and (4) apply to the proposal, and*
 (c) *on receipt by the council of a written request from the Minister, the proposal is to be referred to the Minister, who is to determine whether or not the provisions of section 47 (5)–(9) are to apply to the proposal.*

- (3) *If the Minister, under subsection (2) (c), determines that the provisions of section 47 (5)–(9) are to apply to the proposal:*

- (a) *the council, the Minister and the Director of Planning are to deal with the proposal in accordance with the provisions of section 47 (1)–(8), and*
 (b) *section 47 (9) has effect with respect to the Minister's consent.*

Financial Considerations

The Shara Community Garden s Incorporated to pay annual rent commencing at \$490 (exclusive of GST) with rent to be annually increased thereafter by Consumer Price Index All Groups Sydney.

The Licensee to pay all usage charges for all services connected to the land including waste management services and to provide public liability and contents insurance cover. The Licensor outgoings are limited to the value of annual general land rates and fixed charges (if payable).

Consultation and Engagement

Council publically advertise the proposed licence for at least 28 days between 31 August and 28 September 2020 for public comment.

Report No. 13.3 **Byron Masterplan Guidance Group - appointment of new members**
Directorate: General Manager
Report Author: Claire McGarry, Place Manager - Byron Bay
File No: I2020/1553

5

Summary:

10 The Byron Masterplan Guidance Group (BMGG) has been established to influence and provide advice to Council on policies and strategies relating to the implementation of the Byron Bay Town Centre Masterplan.

15 Recent vacancies on the group resulted in Council running an Expression of Interest process for new members. The opportunity was promoted through media releases, social media and Council's printed advertisements in local papers.


20 23 Expressions of Interest were received, which were considered by the BMGG at their September meeting.

This report details the applications received and the recommendations of the BMGG.

RECOMMENDATION:

1. **That Council endorses and invites the 8 recommended applicants to join the Byron Masterplan Guidance Group, being Applicant 1, Applicant 2, Applicant 3, Applicant 7, Applicant 8, Applicant 11, Applicant 18, Applicant 22.**
2. **That Council amends the Byron Masterplan Guidance Group charter to increase membership number from 22 to 27.**

25 **Attachments:**

- 1 Charter - Byron Masterplan Guidance Group, E2018/19664 
- 2 Confidential - Byron Masterplan Guidance Group Members Expression of Interest applications - September 2020, E2020/75079

30

REPORT

The Byron Masterplan Guidance Group has been established to influence and provide advice to Council on policies and strategies relating to the implementation of the Byron Bay Town Centre Masterplan (BBTCMP).

The key objectives of the group are to:

- Develop and maintain communication and understanding between the community and Council regarding the implementation of the BBTCMP
- Provide comment and feedback to Council on projects relating to the implementation of the BBTCMP
- Ensure open communication between the group and Council
- Actively engage with the community and provide feedback to Council on local aspirations, visions, needs and concerns
- Identify and assist in facilitating partnerships between the community and Council for relevant projects.

The group is made up of up to 22 members, plus 3 Councillors and the Mayor.

Recently, a change of circumstance for 4 members has seen vacancies arise – there are currently 18 members in the group.

As per the group Charter, Council ran an Expression of Interest process for new members from 20 August to 18 September 2020.

Candidates for membership were required to demonstrate suitability on the basis of:

- An understanding of and interest in Byron Bay
- Demonstrated leadership skills
- The ability to effectively listen to, and cooperate with community members holding similar or different points of view
- An ability to develop and sustain contacts with key individuals and groupings in the local community.

Applications were received from 23 community members. The Byron Masterplan Guidance Group met on 24 September to assess the applications received and provide a recommendation to Council. The applications received are contained in Confidential Attachment 2.

The group has recommended the appointment of nine new members, which would increase the total membership from 22 to 27. The charter can be amended to reflect this change. Eight of these new members were identified through the Expression of Interest process, and one was directly appointed earlier in the year to replace an outgoing representative from the Byron Surf Club.

The group has recommended appointment of:

Applicant 1
Applicant 2
Applicant 3
Applicant 7
Applicant 8
Applicant 11
Applicant 18
Applicant 22

STRATEGIC CONSIDERATIONS

Community Strategic Plan and Operational Plan

CSP Objective	L2	CSP Strategy	L3	DP Action	L4	OP Activity
Community Objective 4: We manage growth and change responsibly	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	4.1.2.1	There are no actions identified in the 2020/21 Operational Plan

5

Legal/Statutory/Policy Considerations

The above process has been conducted in line with the Byron Masterplan Guidance Group's adopted charter.

10

Financial Considerations

There are no financial implications of the above recommendation.

15

Consultation and Engagement

The Expression of Interest opportunity was publicly advertised. Recommended new members were determined by the Byron Masterplan Guidance Group, for endorsement by Council.

20

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES**Report No. 13.4****Annual Report 2019/20****Directorate:**

Corporate and Community Services

Report Author:

Heather Sills, Corporate Planning and Improvement Coordinator

File No:

I2020/1528

Theme:

Corporate Management

Governance Services

Summary:

Each NSW Local Government Authority is required under S428 of the *Local Government Act 1993* to prepare and submit to the Minister of Local Government an Annual Report.

The preparation of an Annual Report is an opportunity for a Council to provide feedback back to the community on how the Council has implemented its operational plan and delivered outcomes for the community.

Council is asked to note the Annual Report 2019/20 and its submission to the Minister for Local Government.

A separate report on the 2019/20 Financial Statements will be prepared for the consideration of Council.

RECOMMENDATION:

That Council notes the Annual Report 2019/20 (#E2020/78609), included as Attachment 1 to this report and its submission to the Minister for Local Government.

Attachments:

1 Byron Shire Council Annual Report 2019/20, E2020/78609 

Report

Each Council in NSW has an obligation to prepare and submit an Annual Report. It is an opportunity to celebrate Council's achievements and report back to the community.

The attached Annual Report has been prepared in accordance with the *Local Government Act 1993* and includes the information prescribed in the *Local Government (General) Regulation 2005*. Information that is required by the Local Government Act and Regulation, or any other legislative requirement is noted with reference to the relevant legislation in bold.

In addition to the prescribed information, this Annual Report is one of the key points of accountability between Council and our community. The Annual Report highlights some of our achievements in implementing the Delivery Program over the last year and the ways in which these activities contribute to the overarching objectives in the Community Strategic Plan 2028:

- **INFRASTRUCTURE** - We have infrastructure, transport and services which meet our expectations
- **COMMUNITY** - We cultivate and celebrate our diverse cultures, lifestyle and sense of community
- **ENVIRONMENT** - We protect and enhance our natural environment
- **GROWTH** - We manage growth and change responsibly
- **GOVERNANCE** - We have community led decision making which is open and inclusive

Highlights for these objectives include:

Governance:

- Council has met the challenges of drought, fire, flood and pandemic with all the associated additional work, and still substantially delivered the Operational Plan.
- In a NSW first, a new co-design model was used to develop 'The Byron Model', a community-led framework for making democratic decisions in Byron Shire that can be widely supported by the community.
 - As a direct outcome 417 people have registered on Council's 'Citizens Lottery' and since February 2020, participants have been randomly chosen to deliberate on 2 citizen panels and participate in various community engagement projects.
- 78% of residents are satisfied with Council, up from 69% in 2016
- Council generated \$76 million in own-source revenue, up 16% compared with 2015/2016.
- 78% of Operational Plan activities were achieved and 11% substantially achieved

Growth:

- Innovative Affordable Housing Developer Contributions Policy adopted.
- NSW's first bespoke planning provisions regulating events in rural areas, aiming to reward good behaviour and reduce demand on public enforcement agencies.
- Bangalow, Mullumbimby, and Byron Arts and Industry Estate masterplans developed through community partnership.
- 867 development applications processed with an economic value of \$340 million.
- 8.8% increase in satisfaction rating for development application processing.
- 2,800 submissions for consultation on 22 land management strategic plans.

Environment:

- 24.7km of the Brunswick River restored for fish navigation all year round, a significant increase from 10 days a year for only a short distance from the river mouth.
- On a per resident basis, Byron Shire collects less residual waste and over 2.5 times more recyclables than averages for other council areas* (**The Australasian FY19 Performance*

Excellence Program 16 December 2019 Byron Shire Council, LG Professionals and PricewaterhouseCoopers).

- Community partnerships established to protect and enhance Koala and Flying Fox habitat.
- 238 hectares of bush regeneration, up from 130 hectares in 2015/2016.
- 5 • Since 2017, there has been a 78% reduction in cigarette butt litter on our beaches and a 31% reduction in overall litter across the Shire.
- In Byron Bay, more than 20% of the water we use for urban purposes is recycled, up from 12% in 2016.

Community:

- 10 • Five parks and playgrounds and three skate-parks upgraded, valued at \$3.38 million.
- \$39 million in project grant funding announced in 2019/20, including the \$25 million tourism. impact grant. It followed \$18 million in grant funding received last year.
- A regional NSW first – in just five months Council Public Space Liaison Officers supported 21 vulnerable people to access temporary accommodation.
- 15 • Resident satisfaction with:
 - parks and playgrounds is 83%, up from 72% in 2016
 - sporting facilities is 91%, up from 79% in 2016
 - quality of town centres and public spaces is 80%, up from 70% in 2016

Infrastructure:

- 20 • Council delivered a \$36.2 million capital program in 2019/2020, its largest ever. This is an increase of 55% compared with 2015/16
- A bridge and causeway replacement and upgrade program was delivered with a value of \$5.2 million. \$13.5 million has been spent since 2015/16
- As a result 80% of bridges are now in fair to good condition, up 20% compared with 2015/16
- 25 • In another NSW first, Council was awarded \$25 million as a NSW Government Road and Infrastructure Election Commitment, in recognition of the challenges experienced by a regional council with a population of 35,081 managing more than 2.4 million tourists a year
- \$24.6 million investment in roadworks, compared with only \$9.8 million in 2015/2016
- 8.3km of new share paths and cycle lanes was built, a 9% increase to the network

Operational Plan Achievements

Overall, Council achieved 78% of planned activities against the measures in the plan. This compares to 81% during 2017/18. However the total number of activities also increased from 301 to 413, which is a 37% increase. A small number of activities were deferred/delayed, largely due to the impacts of COVID.

	2019/20
✓ Achieved/completed	322 (78%)
● Substantially Achieved	45 (10.9%)
☒ Partially achieved	30 (7.3%)
🔄 Deferred/delayed	16 (3.9%)
✗ Not achieved	0 (0%)
Total	413

STRATEGIC CONSIDERATIONS

Community Strategic Plan and Operational Plan

CSP Objective	L2	CSP Strategy	L3	DP Action	L4	OP Activity
Community Objective 5: We have community led decision making which is open and inclusive	5.2	Create a culture of trust with the community by being open, genuine and transparent	5.2.1	Provide timely, accessible and accurate information to the community	5.2.1.3	Prepare and submit Annual Report

5

Legal/Statutory/Policy Considerations

10 [Section 428](#) of the *Local Government Act 1993* requires Council to prepare an annual report within 5 months after the end of each year and to detail its achievements in implementing its delivery program and the effectiveness of the principal activities undertaken in achieving the objectives at which those principal activities are directed.

The Local Government (General) Regulation

15 The report must include a copy of the council's audited financial reports prepared in accordance with the *Local Government Code of Accounting Practice and Financial Reporting* published by the Department, as in force from time to time, and such other information or material as the regulations or the guidelines under section 406 may require. A copy of the council's Annual Report must be posted on the council's website and provided to the Minister.

20

Financial Considerations

The preparation of the document was funded within existing budget allocations.

25 **Consultation and Engagement**

An accessible version of the Annual Report will be published on Council's website and the Report will be promoted via social media.

30

Report No. 13.5 **Council Investments - 1 September 2020 to 30 September 2020**
Directorate: Corporate and Community Services
Report Author: James Brickley, Manager Finance
File No: I2020/1534

5

Summary:

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

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

15

RECOMMENDATION:

That Council notes the report listing Council's investments and overall cash position as at 30 September 2020.

REPORT

Council has continued to maintain a diversified portfolio of investments. At 30 September 2020, the average 90 day bank bill rate (BBSW) for the month of September 2020 was 0.09%. Council's performance to 30 September 2020 was 1.09%. This is largely due to the active ongoing management of the investment portfolio, maximising investment returns through secure term deposits, bonds and purchasing floating rate notes with attractive interest rates. It should be noted that as investments mature, Council's % return will continue to decrease due to the lower rates available in the current market.

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

Schedule of Investments held as at 30 September 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	N	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	N	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
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	N	TD	1.41%	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
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

BYRON SHIRE COUNCIL

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

13.5

Purch Date	Principal (\$)	Description	CP*	Rating	Maturity Date	No Fossil Fuel	Type	Interest Rate Per Annum	Current Value
02/06/20	1,000,000	ME Bank	Y	BBB	01/12/20	N	TD	1.13%	1,000,000.00
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
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
02/09/20	1,000,000	Bank of Queensland	N	BBB+	01/09/21	N	TD	0.78%	1,000,000.00
02/09/20	1,000,000	NAB	N	AA-	02/09/21	N	TD	0.75%	1,000,000.00
07/09/20	2,000,000	NAB	N	AA-	05/01/21	N	TD	0.70%	2,000,000.00
24/09/20	2,000,000	NAB	N	AA-	24/09/21	N	TD	0.65%	2,000,000.00
30/09/20	1,000,000	Bank of Queensland	N	BBB+	30/09/21	N	TD	0.65%	1,000,000.00
30/09/20	2,000,000	CBA Green Deposit	N	AA-	30/09/21	N	TD	0.70%	2,000,000.00
N/A	11,253,596.12	CBA Business Saver	N	AA-	N/A	N	CALL	0.55%	11,253,596.12
N/A	2,512,235.79	CBA Business Saver – Tourism Infrastructure Grant	N	AA-	N/A	N	CALL	0.55%	2,512,235.79
N/A	6,104,245.56	NSW Treasury Corp	N	AAA	N/A	Y	CALL	0.04%	6,104,245.56
Total	69,618,678.47						AVG	1.09%	70,105,222.47

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.

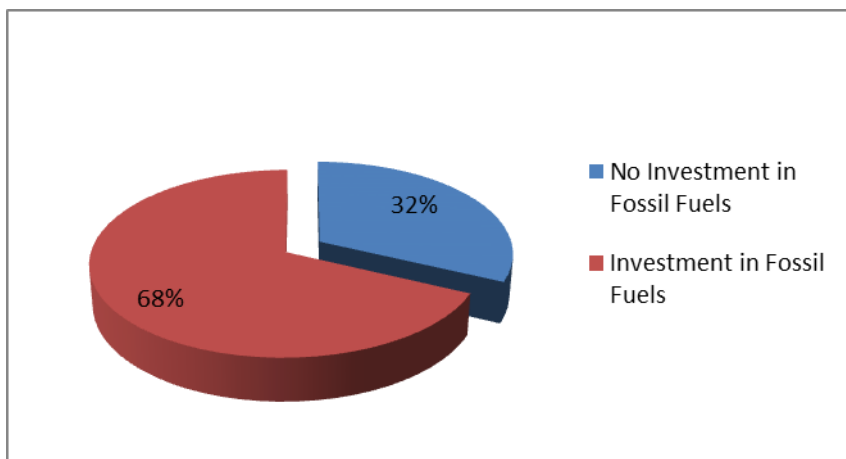
Environmental and Socially Responsible Investing (ESRI)

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 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 three 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.
3. \$2,000,000 investment with Commonwealth Bank maturing on 30 September 2021 known as a Green Deposit.



Investment Policy Compliance

Investment policy compliance			ACTUAL	Variance
% per institution should not exceed the following				
AAA to AA	A1+	100%	59%	Meets policy
A+ to A-	A1	60%	3%	Meets policy
BBB to NR	A2,NR	40%	38%	Meets policy

- 5 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

- 15 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.

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

Dissection of Council Investment Portfolio as at 30 September 2020

Principal Value (\$)	Investment Linked to:	Current Market Value (\$)	Cumulative Unrealised Gain/(Loss) (\$)
42,000,001.00	Term Deposits	42,000,001.00	0.00
2,250,000.00	Floating Rate Note	2,266,657.50	16,657.50
11,253,596.12	CBA Business Saver	11,253,596.12	0.00
2,512,235.79	CBA Business Saver – Tourism Infrastructure Grant	2,512,235.79	0.00
6,104,245.56	NSW Treasury Corp	6,104,245.56	0.00
5,498,600.00	Bonds	5,968,486.50	469,886.50
69,618,678.47		70,105,222.47	486,544.00

- 25 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.
- 30 The table below provides a reconciliation of investment purchases and maturities for the period of 1 September 2020 to 30 September 2020 on a current market value basis.

Movement in Investment Portfolio – 30 September 2020

Item	Current Market Value (at end of month) \$
Opening Balance at 1 August 2020	65,397,700.60
Add: New Investments Purchased	9,000,000.00
Add: Call Account Additions	4,000,000.00
Add: Interest from Call Account	4,164.67
Add: Interest from Tourism Saver Account	1,135.16
Less: Investments Matured	6,000,000.00
Add: T Corp Additions	0.00
Add: Interest from T Corp	2,222.04
Less: Call Account Redemption	2,300,000.00
Less: T Corp Redemption	0.00
Plus: Fair Value Movement for period	0.00
Closing Balance at 30 September 2020	70,105,222.47

Term Deposit Investments Maturities and Returns – 1 September 2020 to 30 September 2020

5

Principal Value (\$)	Description	Maturity Date	Number of Days Invested	Interest Rate Per Annum	Interest Paid on Maturity \$
2,000,000.00	NAB TD	07/09/2020	90	0.90%	4,438.36
2,000,000.00	NAB TD	24/09/2020	365	1.60%	32,000.00
1,000,000.00	NSW Treasury Corp	25/09/2020	184	0.57%	2,873.42
1,000,000.00	Coastline Credit Union	30/09/2020	92	1.05%	2,646.58
6,000,000.00					41,958.36

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 September 2020 the table below identifies Council's overall cash position as follows:

10

Dissection of Council's Cash Position as at 30 September 2020

Item	Principal Value (\$)	Current Market Value (\$)	Cumulative Unrealised Gain/(Loss) (\$)
Investments Portfolio			
Term Deposits	42,000,001.00	42,000,001.00	0.00
Floating Rate Note	2,250,000.00	2,266,657.50	16,657.50
CBA Business Saver	11,253,596.12	11,253,596.12	0.00
CBA Business Saver – Tourism Infrastructure Grant	2,512,235.79	2,512,235.79	0.00
NSW Treasury Corp	6,104,245.56	6,104,245.56	0.00
Bonds	5,498,600.00	5,968,486.50	469,886.50
Total Investment Portfolio	69,618,678.47	70,105,222.47	486,544.00

Item	Principal Value (\$)	Current Market Value (\$)	Cumulative Unrealised Gain/(Loss) (\$)
		0	
Cash at Bank			
Consolidated Fund	3,527,590.59	3,527,590.59	0.00
Total Cash at Bank	3,527,590.59	3,527,590.59	0.00
Total Cash Position	73,146,269.06	73,632,813.06	486,544.00

STRATEGIC CONSIDERATIONS

Community Strategic Plan and Operational Plan

5

CSP Objective	L2	CSP Strategy	L3	DP Action	L4	OP Activity
Community Objective 5: We have community led decision making which is open and inclusive	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

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

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

Report No. 13.6
Directorate:
Report Author:
File No:

Draft 2019/2020 Financial Statements
Corporate and Community Services
James Brickley, Manager Finance
I2020/1574

5

Summary:



10 The Draft 2019/2020 Financial Statements have been prepared, and at the time of writing this report, subject to external audit which is still in progress. This report recommends to Council the adoption of the Draft 2019/2020 Financial Statements as prepared, that they are formally referred to audit and the completion of the statutory steps outlined in Section 418 to 420 of the Local Government Act 1993.

15

RECOMMENDATION:

1. That Council adopts the Draft 2019/2020 Financial Statements incorporating the General Purpose Financial Statements and Special Purpose Financial Statements and refers these Financial Statements to Audit.
2. That Council approves the signing of the “Statement by Councillors and Management” in accordance with Section 413(2)(c) of the Local Government Act 1993 and Clause 215 of the Local Government (General) Regulation 2005 in relation to the 2019/2020 Draft Financial Statements.
3. That the Audited Financial Statements and Auditors Report be presented to the public at the Ordinary Meeting of Council scheduled for 26 November 2020 in accordance with Section 418(1) of the Local Government Act 1993.

Attachments:

- 20 1 Draft 2019-2020 General Purpose Financial Statements, E2020/81431 
- 2 Draft 2019-2020 Special Purpose Financial Statements, E2020/81432 

REPORT

The Draft 2019/2020 Financial Statements have been prepared, and at the time of writing this report, subject to external audit which is still in progress. This report recommends to Council the adoption of the Draft 2019/2020 Financial Statements as prepared, that they are formally referred to audit, and the completion of the statutory steps outlined in Section 418 to 420 of the Local Government Act 1993.

The Draft 2019/2020 Financial Statements are to be considered by the Audit, Risk and Improvement Committee on 14 November 2020, by when the external audit process is expected to be completed. The Draft 2019/2020 Financial Statements will be considered again by Council at its Ordinary Meeting on 26 November 2020 where they will be presented to the public in conjunction with the Auditor's Reports. At this Ordinary Meeting, Council will be provided with details of any adjustments that may be made to the draft financial statements attached to this report following completion of the audit process. In addition it is expected that the Audit Office of NSW or its nominated delegate will make a presentation to Council on the financial outcomes for the 2019/2020 financial year and answer any questions Councillors may have.

The Financial Statements are a statutory requirement and provide information on the financial performance of Council over the previous twelve-month period.

The Draft 2019/2020 Financial Statements provided in the attachments are broken down into:

- General Purpose Financial Statements – Attachment 1
- Special Purpose Financial Statements – Attachment 2

As in previous years, Council produces Special Schedules that are not audited (except Permissible Income for General Rates). However from the 2018/2019 financial year, whilst the Special Schedules are still produced and submitted to the Office of Local Government, they are no longer required to be published as part of Council's Financial Statements, except for the Special Schedules relating to Permissible Income for General Rates and Report on Infrastructure Assets.

Brief explanations for each item follow:

General Purpose Financial Statements

These Statements provide an overview of the operating result, financial position, changes in equity and cash flow movement of Council as at 30 June 2020 on a consolidated basis with internal transactions between Council's General, Water and Sewerage Funds eliminated. The notes included with these reports provide details of major items of income and expenditure with comparisons to the previous financial year. The notes also highlight the cash position of Council and indicate which funds are externally restricted (i.e. may be used for a specific purpose only), and those that may be used at Council's discretion.

Special Purpose Financial Statements

These Statements are a result of the implementation of the National Competition Policy and relate to those aspects of Council's operations that are business oriented and compete with other businesses with similar operations.

Mandatory disclosures in the Special Purpose Financial Reports are Water and Sewerage.

Additional disclosure relate to Council business units that Council deems 'commercial'. In this regard Council has traditionally reported its Caravan Park Operations, being Suffolk Beachfront

Holiday Park and First Sun Holiday Park, on a combined basis. These financial reports must also classify business units in the following categories:

- Category 1 – operating turnover is greater than \$2million
- Category 2 – operating turnover is less than \$2million

All of Council's business units are classed as Category 1 with all having operating turnover greater than \$2 million.

Another feature of the Special Purpose Financial Reports is to build taxes and charges, where not physically incurred, into the financial results in order that the results can be measured on a level playing field with other organisations operating similar businesses, who *are* required to pay these additional taxes and charges. These taxes and charges include:

- Land tax – Council is normally exempt from this tax, so notional land tax is applied.
- Income tax – Council is exempt from income tax and in regard to these reports, company tax. Any surplus generated has a notional company tax applied to it.
- Debt guarantee fees – Generally due to the low credit risk associated with Councils, Councils can often borrow loan funds at lower interest rates than the private sector. A debt guarantee fee inflates the borrowing costs by incorporating a notional cost between interest payable on loans at the interest rate borrowed by Council and one that would apply commercially.

The Special Purpose Financial Reports are prepared on a non-consolidated basis - in other words they are grossed up to include any internal transactions with the General Fund.

Specific Items relating to 2019/2020 Draft Financial Statements

The Draft 2019/2020 Financial Statement results have been impacted by the following items that require explanation:

- Operating Result from Continuing Operations

The 2019/2020 financial year has seen a positive overall financial result. Council recorded a \$23.778million surplus compared to the \$13.022million surplus in 2018/2019. This result incorporates the recognition of capital revenues such as capital grants and contributions for specific purposes and asset dedications amounting to \$32.021 million, compared to \$21.109million in 2018/2019. Capital grants and contributions in 2019/2020 were significantly influenced by additional grant funding i.e. from the Election Commitment Grant, and recognising asset values for the former Byron Hospital over and above the \$1 purchase price.

A more important indicator is the operating result before capital grants and contributions. This result was a deficit of \$8.243 million in 2019/2020 compared to a deficit of \$8.087million in 2018/2019, representing an increase of \$0.156million between financial years. This indicates Council's operating expenditures exceeded its operating revenues. Whilst operating revenues, excluding capital grants and contributions, grew by \$0.467million, overall operating expenses grew by \$0.623million. Considering the impacts of the COVID-19 pandemic during the later half of the 2019-2020 financial year, it could be considered that this is a reasonable outcome.

With reference to the Income Statement to the General Purpose Financial Reports included at Attachment 1, the following table indicates the major changes between 2019/2020 and 2018/2019 by line item:

BYRON SHIRE COUNCIL

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

13.6

Item	Change between 2019/2020 and 2018/2019 \$'000	Change Outcome	Comment
Income			
Rates & Annual Charges	+\$3,251	Increase	Reflects imposition of the third year of the 7.50% Special Rate Variation and changes in annual charges from Council's adopted 2019/2020 Revenue Policy
User Charges and Fees	-\$2,057	Decrease	Incorporating the new line item of rental income to provide comparison to previous year, there has been a reduction of \$2.057million. It is in this area that Council has realised most revenue losses from COVID-19. Revenue reductions include holiday parks \$1.180million and pay parking fees \$0.667million Further information is available in Note 3(b) to Attachment 1.
Other Revenues	-\$367	Decrease	The major reduction in this item relates to fine revenues.
Grants & Contributions – Operating	+\$302	Increase	Overall operating grants increased by \$257k including \$205k increase in the Financial Assistance Grant but contributions reduced by \$325k. Further information is available in Note 3€ and Note 3(f) to Attachment 1.
Grants & Contributions – Capital	+\$10,912	Increase	Revenue increases in this item are associated with grant funding for the Byron Bay Bypass and Election Commitment Grant. Additionally Council recognised former Byron Hospital assets at fair value compared to the purchase price of \$1.
Interest and Investment Revenue	-\$715	Decrease	Interest rates during 2019-2020 have fallen to historic lows plus liquidity measures by Reserve Bank during COVID-19 have reduced investment rates significantly, lowering the return on Council's investments.
Net share of interests in associates	+53	Increase	Recognition of Byron Shire Council's share of a surplus for Richmond Tweed Regional Library for 2019/2020
Total Income Change	+\$11,379	Increase	
Expenditure			
Employee Benefits and Oncosts	+\$2,908	Increase	Increased leave entitlement expenses of \$143k reflecting emphasis on controlling leave balances and impact of declining interest rates on present value of liability calculations. There was a decrease of \$88k of employee costs capitalised on capital works in 2019/2020 compared to 2018/2019 and gross salary and wages increased \$2,884k. More information is provided at Note 5(a) to Attachment 1.
Borrowing Costs	-\$1,053	Decrease	Reduction due to significant refinancing of sewerage loan in 2019/2020, ongoing repayment of existing loans and borrowing of new loans at lower interest rates given current market conditions.
Materials & Contracts	-\$1,912	Decrease	Raw materials and contracts decreased overall as a result of increasing capital works spending along with reduction in the cost of the former Mullumbimby Hospital remediation of

BYRON SHIRE COUNCIL

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

13.6

Item	Change between 2019/2020 and 2018/2019 \$'000	Change Outcome	Comment
			\$0.942million compared to previous year. Other changes can be found at Note 5(c) to Attachment 1.
Depreciation	+\$673	Increase	Respective changes between asset classes are outlined at Note 4(d) to Attachment 1. Essentially small incremental increases in each asset class.
Other Expenses	-\$60	Decrease	Overall small but there were variations in line items as disclosed at Note 5(e) to Attachment 1.
Net Losses from Disposal of Assets	+\$71	Increase	Reflection of the written down value of assets disposed of at the end of financial year and is contingent upon the extent of assets disposed and their written down value at the time of disposal which can vary. For 2019/2020, Council has more disposals than gains, including the disposal of infrastructure \$2,516k, plant and equipment \$127k gain. Further details can be found at Note 6 to Attachment 1
Net share of interests in associates	-\$4	Decrease	Recognition of Council's share of the operating result of Richmond Tweed Regional Library for 2019/2020 was a surplus, not a deficit as it was in the previous year.
Total Expenditure Change	+\$623	Increase	
Change in Result	+\$10,756	Increase	Increase in overall surplus between financial years.

Following from the operating results, are the performance ratios at Note 27(a) to the General Purpose Financial Statements. These have been derived following the financial assessments undertaken by NSW Treasury Corporation on all NSW Councils in 2012, and are now incorporated into the latest update to the Code of Accounting Practice and Financial Reporting that determines the content of Council's Financial Statements. These ratios present either a stable or improving result for Council except for the following:

- Operating Performance Ratio is a reflection of Council's operating result. The benchmark is to be greater than 0% but in 2018/2019 Council's ratio was -7.11% and in 2019/2020 it was -7.09%, a very slight improvement. This ratio was impacted by some one-off items i.e. demolition costs of the former Mullumbimby Hospital and revenue losses due to COVID-19, however Council will look to improve this result back towards the benchmark.
- Outstanding, Rates and Annual Charges – Whilst still within the industry benchmark, Council's ratio has increased to 7.32% in 2019/2020 from 4.63% in 2018/2019. The increase can be attributable not only to the third year of the special rate variation increases to annual charges but also the impact of the COVID-19 Pandemic. Through its assistance program Council has offered ratepayers extended payment arrangements and suspended debt recovery.

• Asset Revaluations

During 2019/2020, a revaluation of assets relating to Roads, Bridges, Stormwater Drainage and Community Land was undertaken. These revaluations have increased Council's asset values by the following amounts:

- Roads – \$19.531million
- Bridges – \$9.068million
- Bulk Earthworks - \$6.083million
- Stormwater Drainage - \$78.336million
- Community Land - \$25.594million

For the upcoming 2020/2021 financial year, Council will need to consider the revaluation of Operational Land and Building along with Open Space and Recreation assets given these assets have not been revalued since 2016 and are due for revaluation.

• Asset Recognition

As indicated at Note 11 to Council's financial statements, Council expended \$30.938million on asset renewals and \$14.555million on new assets. The extent of asset renewals is significant and demonstrates ongoing commitment in that area. The depreciation expense of Council's assets for 2019/2020 was \$15.685million so it is pleasing to see that asset renewal was significantly more than the financial depreciation of Council's assets. The draft 2019/2020 Financial Statements at Note 11(a) currently indicate asset renewals of \$8.4million for Operational Land. This will need to be reallocated as a new asset before statement finalisation, as this represents the value of land associated with the former Byron Bay Hospital. No value related to the buildings for the former Byron Bay Hospital has been included, as these assets would automatically then need to be impaired, as they are not able to be used for their intended purpose without redevelopment.

• Cash and Investments

As at 30 June 2020 (detailed at Note 7 to the financial statements), Council has maintained \$0.724million in unrestricted cash and investments being a reduction of \$0.276million compared to 2018/2019. This is a satisfactory result given the impacts of COVID-19 and the assistance Council has endeavoured to provide the community during these uncertain times.

Whilst still dealing with COVID-19 Council aims to restore one of its short term financial goals of reaching an unrestricted cash balance of \$1million by the end of 2020/2021. All other cash and investments totalling \$75.838million at 30 June 2020 are restricted for specific purposes. Overall the cash and investment position of Council decreased by \$1.808million during the year.

• Receivables

As at 30 June 2020 (detailed at Note 8 to the financial statements), Council was due \$12.474million in receivables. Of this amount \$3.336million was due from Roads and Maritime Services for expenditure claims, \$0.963million from the Commonwealth Government for Goods and Services Tax and \$0.740million in Government grants and subsidies. Overall receivables increased by \$1.287million compared to the 2018/2019 financial year.

• Payables and Provisions

At 30 June 2020 (detailed at Note 14 for payables and Note 15 for provisions), total payables by Council were \$13.067million including \$4.130million held in security bonds, deposits and retentions, \$0.442million in accrued expenses and \$8.007million payable to suppliers. In addition at 30 June 2020, Council has accrued employee leave entitlements valued at \$6.776million. Specific employee leave entitlements include \$2.348million for annual leave, \$4.272million for long service leave and \$0.156million for gratuities. In comparison to 2018/2019, total payables increased by \$2.464million whereas total provisions for employee leave entitlements increased by \$0.924million.

- Loan Borrowings

During 2019/2020 Council borrowed new loans of \$1.884million and continued to make normal loan repayments. Council has now borrowed the full \$6million in loan funds it committed to as part of the 2017/2018 Special Rate Variation application to provide additional funding to infrastructure renewal.

Council's outstanding loans as at 30 June 2020 are \$62.835million. Total loan expenditure for 2019/2020 included interest of \$3.305million and principal payments of \$2.372million. Total expenditure in 2019/2020 related to loan repayments was \$5.677million or 6.60% of Council's revenue, excluding all grants and contributions.

The outstanding loans by Fund totalling \$62.835million are as follows:

- General Fund \$22.263million
- Water Fund \$0 – Water Fund is debt free
- Sewerage Fund \$40.572million

- New Accounting Standards

The 2019-2020 financial year has required Council to implement the following new accounting standards:

- AASB 15/AASB 1058 – Revenue from Contracts with Customers and Income of Not for Profit Entities
- AASB 16 – Leases

AASB15 and AASB 1058 have had the most impact on Council's reported results. Council now has to disclose rates received in advance as a liability. Previously these were reported in receivables, effectively reducing receivables outstanding. At 30 June 2020 Council has \$488k in prepaid rates which are now shown as a liability.

Council now also has to show advance bookings for its holiday parks as a contract liability instead of a payment in advance. Whilst ultimately still a liability, the change reflects the requirements of AASB15. Council historically has recognised grant revenues as revenue when received. The implications of AASB 15/AASB1058 now require revenue recognition when the obligations of the grant have been performed. At 30 June 2020, Council has \$925k in unexpended capital grants now recognised as a contract liability. Previously this would have been recognised as revenue.

Council is of the view that the implications of AAASB 16 concerning leases have an immaterial impact and therefore Council does not have any disclosure requirements.

The implementation of these new accounting standards does not require restating the previous year comparative and therefore this is not provided.

Liquidity

Council's Statement of Financial Position (balance sheet) indicates net current assets of \$58.161million. It is on this basis, in the opinion of the Responsible Accounting Officer, that the short term financial position of Council remains in a satisfactory position and that Council can be confident it can meet its payment obligations as and when they fall due. That is, there is no uncertainty as to Council being considered a 'going concern'. In addition, Council's cash expense cover ratio is at 10.79 months whereas the minimum benchmark is 3 months. Council exceeds this benchmark by nearly four times.

Council's Unrestricted Current Ratio has improved to 3.14, demonstrating Council has \$3.14 in unrestricted current assets compared to every \$1.00 of unrestricted current liabilities.

On a longer term basis Council will need to consider its financial position carefully. Nevertheless in isolation, the financial results for 2019/2020 continue to present a 'stable' financial position especially given the impacts of COVID-19. Every effort will be made to manage the trend towards operational deficits before capital grants and contributions. Furthermore, it will be a goal to endeavour to restore the unrestricted cash balance back to \$1million during the course of the 2020-2021 financial year.

STRATEGIC CONSIDERATIONS

Community Strategic Plan and Operational Plan

CSP Objective	L2	CSP Strategy	L3	DP Action	L4	OP Activity
Community Objective 5: We have community led decision making which is open and inclusive	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)	5.5.2.2	Complete annual statutory financial reports

Legal/Statutory/Policy Considerations

Section 413(2)(c) of the Local Government Act 1993 and Regulation 215 of the Local Government (General) Regulation 2005 requires Council to specifically form an opinion on the financial statements. Specifically Council needs to sign off an opinion on the Financial Statements regarding their preparation and content as follows:

In this regard the Financial Statements have been prepared in accordance with:

- The Local Government Act 1993 (as amended) and the Regulations made thereunder.
- The Australian Accounting Standards and professional pronouncements.
- The Local Government Code of Accounting Practice and Financial Reporting.

And the content to the best of knowledge and belief:

- Presents fairly the Council's operating result and financial position for the year.
- Accords with Council's accounting and other records.
- Management is not aware of any matter that would render the Financial Statements false or misleading in any way.

Section 416(1) of the Local Government Act 1993, requires a Council's annual Financial Statements to be prepared and audited within four (4) months of the end of that financial year i.e. on or before 31 October 2020. Due to the COVID-19 Pandemic, all Councils in NSW have been granted an extra month ie on or before 30 November 2020 for the 2019/2020 financial year.

Section 417(4) of the Local Government Act 1993 requires, as soon as practicable after completing the audit, the Auditor must send a copy of the Auditor's Reports to the Departmental Chief Executive and to the Council.

Section 417(5) of the Local Government Act 1993 requires Council, as soon as practicable after receiving the Auditor's Reports, to send a copy of the Auditor's Reports on the Council's Financial

Statements, together with a copy of the Council's audited Financial Statements, to the Departmental Chief Executive before 7 November 2020. Due to the COVID-19 Pandemic, all Councils in NSW have been granted an extra month ie on or before 7 December 2020 for the 2019/2020 financial year.

- 5 Section 418(1) of the Local Government Act 1993 requires Council to fix a date for the Meeting at which it proposes to present its audited Financial Statements, together with the Auditor's Reports, to the public, and must give public notice of the date so fixed. This requirement must be completed within five weeks after Council has received the Auditors Reports.

10 ***Financial Considerations***

There are no direct financial implications associated with this report as the report does not involve any future expenditure of Council funds but is a report advising on Council's draft financial outcomes during the 2019/2020 financial year, which are identified in this report and attachments.

- 15 These financial outcomes are also still subject to audit and may change.

Consultation and Engagement

- 20 Section 420 of the Local Government Act 1993 requires Council to provide the opportunity for the public to submit submissions on the Financial Statements. Submissions are to be submitted within seven days of the Financial Statements being presented to the public. In the case of the 2019/2020 Financial Statements, the closing date for submissions is expected to be 1 December 2020.

25

STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

Report No. 13.7 Public Exhibition for the 2020 - 2030 Byron Shire Sustainable Visitation Strategy and Resilience discussion paper**Directorate:** Sustainable Environment and Economy**Report Author:** Sarah Workman, Tourism Officer**File No:** I2020/1385**Summary:**

This report provides an update on the draft 2020 – 2030 Byron Shire Sustainable Visitation Strategy (SVS), which Council endorsed (**Resolution 20-101**) for public exhibition at the 19 March 2020 meeting.

<https://www.byron.nsw.gov.au/Business/Business-in-Byron/Tourism/Sustainable-Visitation-Strategy-2020-2030>

Shortly after Council resolved to exhibit the draft SVS in March, COVID-19 put the country into various stages of lockdown. As a consequence the exhibition of the draft SVS was placed on hold due to the extensive impact of this had on the tourism industry.

The time in between, has now been used to engage with the industry and to revise the economic and tourism forecast data in order to understand the impacts of COVID-19 on the tourism industry and the recovery forecast. This information has been used to inform a resilience tourism discussion paper which will accompany the exhibition of the draft SVS.

RECOMMENDATION:

That Council notes the update on the draft 2020 – 2030 Byron Shire Sustainable Visitation Strategy and preparation of a tourism resilience discussion paper and their intended public exhibition.

REPORT**Background:**

- 5 At Council's Planning Meeting on 19 March, the draft SVS was adopted by Council for public exhibition as follows:

20-101 Resolved:

- 10 1. That Council endorse the draft Sustainable Visitation Strategy, Attachment 1 (E2020/9477), to proceed to public exhibition subject to:
- a) the inclusion of a more detailed summary of the key findings of the Southern Cross University Short Term Rental Accommodation Research Reports in Theme 6 Planning for Visitor Accommodation.
 - 15 b) the augmentation of the comments made in Theme 5 Transport, Infrastructure and Open Spaces about the Multi Use Rail Corridor and the potential for the Corridor to deliver tourism opportunities and benefits Shire wide and to the region more widely.
 - c) any necessary design changes to meet Council's style guide and national accessibility and vision guidelines for the purpose of public exhibition.
 - 20 d) the inclusion of more detailed findings of the engagement and research informing the strategy in section
2. That Council authorise the Director Sustainable Environment and Economy (through the General Manager) to undertake the changes required to meet point 1 to ensure a suitable standard for public exhibition. (Ndiaye/Coorey)

25 Part 1 of the resolution is complete.

Prior to the natural disasters of 2019/20 and the COVID-19 pandemic, Council undertook an extensive engagement program where it heard from over 1500 residents, ratepayers, businesses and visitors to inform the development of the 2020 – 2030 Byron Shire Sustainable Visitation Strategy (SVS).

30 The draft SVS was considered by Council at its Planning Meeting on 19 March 2020 and was endorsed for public exhibition. Less than one week later, COVID-19 sent the country into various stages of lockdown and the SVS has since been on hold due to the impact this has had on the tourism industry.

35 As the SVS was drafted prior the natural disasters of 2019/20 and COVID-19, it was important to pause, prior to exhibition to enable further engagement with the industry to capture ideas and feedback for resilience planning and to revise the economic and tourism forecast data. It has been an important time to connect with the tourism industry to understand the effect COVID-19 has had on their businesses, share ideas and understand their position on the recovery process so far.

45 This information has been used to inform the preparation of a resilience tourism discussion paper to be read alongside the exhibition of the draft SVS. The discussion paper aims to re-engage and stimulate discussion with businesses, industry and community around the resilience of our tourism industry.

The discussion paper covers the following:

- Snapshot of the current visitor economy in Byron Shire
- The impacts of COVID-19 on the visitor economy and wider community
- Revised visitor forecast to 2030
- Current and future visitor trends

The findings of the discussion paper and public exhibition feedback will be used to reshape the SVS including a new section on tourism industry resilience. This section will be developed in partnership with the visitor economy so measures are in place to prepare for any future unforeseen events such as pandemics, bush fires and floods.

SVS Timeframes and next steps

- October/November 2020 - SVS and discussion paper on public exhibition
- December 2020 - public exhibition responses collated and Council report prepared
- February 2021 - SVS reported to Council for endorsement (capturing feedback from the public exhibition process)

STRATEGIC CONSIDERATIONS

Community Strategic Plan and Operational Plan

CSP Objective	L2	CSP Strategy	L3	DP Action	L4	OP Activity
Community Objective 4: We manage growth and change responsibly	4.4	Support tourism and events that reflect our culture and lifestyle	4.4.1	Build a tourism industry that delivers local and regional benefits in line with the community's values	4.4.1.1	Finalise development of Sustainable Visitation Strategy

Legal/Statutory/Policy Considerations

Not applicable.

Financial Considerations

The funds are allocated and available as part of the approved SVS project budget.

Consultation and Engagement

Not applicable.

STAFF REPORTS - INFRASTRUCTURE SERVICES

Report No. 13.8 Dingo Lane Solar Farm Project Progress and Owners Consent to Submit Development Application

Directorate: Infrastructure Services
Report Author: Andrew Swan, Senior Project Manager Dingo Lane Solar Farm
File No: I2020/1394

Summary:

It is essential to the progress of the detailed feasibility assessment of the Dingo Lane Solar Farm, and Council's aspiration to construct the solar farm that an application now be lodged to obtain Development Approval for the project.











A full set of documentation has been included as an attachment to this Council report to show the nature and extent of the proposed development, including photomontages. Some of the project details will change through the tendering / detailed design phases, but it is anticipated that this can be resolved through normal Development Approval processes.

It should be noted that approval to submit the project is not a go / no go point for this project and a Capital Expenditure (CAPEX) Review Report is still to be developed and submitted to Council for consideration in line with Office of Local Government Requirements (see Business Case section below).

RECOMMENDATION:

1. **That Council authorises the General Manager to submit a Development Application for the proposed 5MW Solar Farm at Dingo Lane, Myocum (Lot 15 DP 1178892)**
2. **That Council notes that the DA is to seek approval for the use of the land for a 5MW Solar Farm only and that the consideration of the go/no go around the outcomes of the business case, feasibility investigation and commercial delivery options be reported to council in February 2021**

Attachments:

- 1 Statement of Environmental Effects, E2020/81528 
- 2 Concept Site Plan, E2020/81529 
- 3 Engineering Assessment- No Appendices, E2020/81530 
- 4 Terrestrial Flora And Fauna Assessment, E2020/81525 
- 5 Statement of Landspace Intent, E2020/81526 
- 6 Traffic Impact Statement, E2020/81527 
- 7 Glare Assessment, E2020/81522 
- 8 Visual Impact Assessment, E2020/81521 
- 9 Photomontages, E2020/81524 
- 10 Confidential - Private property photo montages, E2020/81523
- 11 Stakeholder Engagement Plan, E2019/74192 

REPORT

The Dingo Lane Solar Farm Project is a 5MW Solar Farm proposed to be constructed on Council Owned, operational land, in Myocum. The land is adjacent to the existing landfill operations in Myocum and is currently subject to a cattle adjustment and residential rental property (a single dwelling). In May 2019 Council considered a preliminary Business Case which demonstrated the viability of the project on the basis of \$12.2M capital expenditure. As a consequence of the outcomes of the preliminary business case, Council approved a (\$456,000) detailed feasibility study to progress and verify the project by confirming and obtaining necessary approvals and carrying out investigations and designs that may be necessary to progress the project and confirm / update the business case.

This has included the attached documentation which provides the details considered to be necessary to apply and obtain a Development Application approval. It is anticipated that a Joint Regional Planning Panel (JRPP) approval will be required.

The studies and documentation included in the Council Report has been developed in consultation with internal and external stakeholders. External consultation has been carried out in accordance with a Stakeholder Engagement Plan, the outcomes of which are detailed below.

In May 2019 the following 'next steps' were proposed;

'Next Steps' from May 2019	Progress as at October 2020
Obtain a Council decision to approve a project budget of \$465,000 in 2019/20 FY to progress the project through detailed feasibility (pre-build) and procurement.	Completed
Prepare an Expression of Interest (EOI) to test market appetite to undertake the Design & build/ Operation & Maintenance for the Project	Completed, currently completing an Early Contract Involvement process which has been delayed during to coronavirus travel restrictions with QLD (now lifted)
Prepare an Expression of Interest (EOI) to test market appetite and the alternative options for retailing of the electricity output and the sale of Large-Scale Generation Certificates associated with the farm.	EOIs currently being evaluated by Council evaluation team
Notify Essential Energy in writing with Council's intention to proceed with a connection application by 19 April 2019 - Essential Energy has been notified of Council's intention to connect, which at this stage is a non-binding notification process, however, required to streamline the process if the project does progress.	Completed.
Engage a third-party to complete further independent detailed flood risk modelling for the site.	Completed
Undertake preliminary site geotechnical studies.	Completed
Consider the optimum level of equity capital required by the Project and consult with NSW TCorp, CEFC and other preferred lending providers to assess appetite and terms to fund the required capital budget	This will be progressed after the technical feasibility aspects of the project have been further investigated and cost/benefits are better known
Undertake a pre-lodgement meeting with Council to understand development approval needs and progress the DA process, noting the requirement that the development will require JRPP approval.	Completed
Engage a third-party consultant to prepare a development application and associated studies.	Completed, some minor drafting updates required prior to lodgement (attached)
Prepare the Office of Local Government (OLG) capital	Awaiting completion of EOI processes

'Next Steps' from May 2019	Progress as at October 2020
expenditure submission – this will need to be completed post EOI process to enable the level of detail required to fulfil the submission; and	
Develop a stakeholder/community engagement plan to keep the community involved.	Completed

Previous Council Decisions

- 23 March 2017 – Council adopts targets - 100% Net Zero Emissions Target by 2025 and 100% of its energy through renewable energy within 10 years (report 13.7)
- 5 • 21 September 2017 - 'Energy Action Tank' recommendations considered by Council (report 13.18)
- 14 December 2017 – List of potential actions in response to Energy Action Tank recommendations shows Dingo Lane Solar Farm as potential option (report 13.3), states "A site feasibility assessment is underway for a 5 MW ground mounted solar farm on Council
- 10 owned land in Dingo Lane, Myocum."
- 23 May 2019 – Council considers business case of Dingo Lane Solar Farm and allocates \$465,000 to detailed feasibility assessment (report 13.17)
- 20 June 2019 – Council Adopts "Net Zero Emissions Strategy", highlights Dingo Lane Solar Farm as key project (Report 6.1)
- 15 • 14 November 2019 – Finance committee meeting, increase to project Budget by \$129,000
- 28 November 2019 – Council resolves to proceed to public tender to establish a shortlist of Contractors to build the solar farm (Report 13.16)
- 23 April 2020 – Shortlist awarded for contractors to five companies (Report 13.9)
- 20 • 30 July 2020 – inclusion in Budget Estimates of \$12M for Dingo Lane Solar farm pending final determination of financial viability

Key issues

Net Zero Emissions Objectives

25 There are several priorities listed within the Net Zero Emissions Strategy which are important to this project and underpin the strategic drivers for this project.

30 • *Zero Net Emissions*

Council currently achieves zero emissions from the supply of electricity because all emissions are offset by the energy retailer (Powershop). The Dingo Lane Solar Farm provides a way for Council to generate its own offsets (called LGCs) or its own renewable energy source (which negates the need for offsets).

35 • *Renewable Energy*

Council does not currently source its energy from renewable sources. Though Council could do this by purchasing 'green power' and this would negate the need for Council to purchase any offsets related to the supply of electricity. Alternatively Council could construct its own solar generation asset (at Dingo Lane) and use the solar energy from this asset as the source for Council electricity supply. It should be noted that there are 'time of use' considerations (such as night-time lighting) for which Council would need to accept the mismatch or source other renewable energy (ie green power) for those times.

45

Some (renewable energy professionals) consider the retiring of LGCs (and use of normal grid energy) as equivalent to having a renewable energy source and sufficient to meet this objective without some other, identified, renewable energy source being determined.

5 • *Maximise Renewable Energy Generation*

10 Previous deliberation (in the preliminary business case) has evaluated the benefits of various sizing options on the site (2MW, 5MW or 7MW) and 5MW was the selected, best size for the land in question. This keeps the project under the AEMO regulation limits while maximising the output as much as otherwise possible. It should be noted that the actual final output size is less than 5MW and ultimately related to the specific inverter technology (ie could be 4.95 MW).

15 Business Case

The preliminary business case (2019) showed that project would have a positive impact on revenue of the 25 year life of the project of \$6.9M based on a capital investment of \$12.2M. These details are still being reviewed by the project team. The Business Case is the key component of the Office of Local Government CAPEX review report, particularly pending the evaluation of the energy market EOI currently underway. The CAPEX review report will be the peak document for Council to make a go / no go decision on this project and is anticipated to be provided to Council by February 2020.

25 Community Perspectives / Response

Having carried out two discrete rounds of local community engagement, which included on site meetings, two mail outs to around 300 homes, door to door visits, media releases, website submissions, emails, letters and telephone calls; Council staff have engaged broadly with the local and broader community as part of pre-lodgement consultation. Pre-lodgement consultation is a requirement of the Development Application process and Council staff have exceeded the guidelines requirements for this process (which only requires direct notification to the immediate neighbours).

35 The responses received to date have (for the most part) been negative or opposed to the solar farm. Those who oppose the solar farm development list the following key reasons for their objection;

- Glare impact, with some disagreement / doubt about Council's glare impact findings
- Visual impact, including
 - The project is not in keeping with the current vista of the area and conflicts with Council's other commitments to the rural character of the region
 - Impact to local tourism / users of the scenic drive
 - Impact on housing prices
- Cumulative impact;
 - That the approval of the project may increase the number of solar renewable projects in the immediate location
- Site selection
 - That there has not been a thorough evaluation of all potential locations for Council to construct a 5MW solar farm in / around the shire.
 - Reduction in available agricultural land

50 Some residents have also progressed their own studies / assessments of the project.

55 It does not appear that any of the issues raised during local stakeholder consultation are related to any specific planning requirement that would cause the project to not be approved. Attached to this report are the photo montages for the proposed development, which includes some private

property specific images. The private-property-specific images are not generally made public and are included as a confidential attachment to this report. They will be shared directly with the relevant property owners.

5 Options

Not to submit the Development Application documentation

Should Council elect to not submit the development application documentation at this stage; the feasibility study will still be able to be completed although the scope of the development (ie any added or removed work) would not be as firm. Council would still be able to complete the CAPEX Review documentation and submit to the Office of Local Government in accordance with the guidelines requirements as the amount of variation of the final scope would be within tolerance limits (ie +/- 5%)

It would, however, prevent the construction project (should it be later approved) from being carried out in as timely a manner.

Site Visit

Councillors are encouraged to view the project site and the publically available accessible locations where the site is visible from to be more familiar with the project (if they are not already familiar). A staff coordinated site visit / tour can be arranged if required and private property owners have offered the opportunity to see the site from their vantage point if desired.

Next steps

- Complete Early Contractor Involvement process with construction contractors
- Complete Energy Market EOI process
- Lodge Development Application
- Carry out public consultation during the Development Application exhibition period
- Obtain Development Application Approval
- Obtain Essential Energy Connection Agreement
- Update and Report Business Case / Office of Local Government CAPEX Review to Council
- Submit CAPEX Review report to Office of Local Government

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	1.4	Provide a regular and acceptable waste and recycling service	1.4.4	Ensure facilities and services meet statutory requirements	1.4.4.5	Dingo Lane, Myocum Solar Farm Project
Community Objective 3: We protect and enhance our natural environment	3.2	Strive to become a sustainable community	3.2.1	Work towards Council's zero-emissions target	3.2.1.1	Deliver the Net Zero Emissions Action Plan for Council Operations 2025

Legal/Statutory/Policy Considerations

5 OLG Capital Expenditure Review Requirements; sets the benchmark for the information required by Council to progress the project as well as the need for a Probity Plan. The existing Probity Plan includes provisions and a description of Council's role as both proponent and authority associated with this project, although a JRPP approval is anticipated.

10 Net-Zero Emissions Policy; provides a justification for the project with respect to the offsetting of electricity sector greenhouse gas missions of Council.

Financial Considerations

15 Any expenditure related to the Develop Application submission has already been priced in the existing budget estimate for this project. No impact is anticipated on the current budget.

Consultation and Engagement

20 Notification of this Council report will be shared directly with local stakeholders who have been in contact with the project to date. And the information included in the public agenda will be added to Council's project webpage.

25 The Development Application, when lodged, will also be placed on public exhibition and Council's existing Local Stakeholder Engagement Plan includes some activities that will be carried out during this phase to raise the awareness of the project details - Stage 2 and 3 of the attached Stakeholder Engagement Plan (E2019/74192).

Report No. 13.9 **Report of Coastal Estuary Catchment Panel Meeting held on 10 September 2020**
Directorate: Infrastructure Services
Report Author: Dominika Tomanek, Executive Assistant Infrastructure Services
File No: I2020/1551

Summary:


The attachment to this report provides the minutes of the Coastal Estuary Catchment Panel Meeting of 10 September 2020 for determination by Council

RECOMMENDATIONS:

That Council adopt the following Panel recommendations:

- 1. That Council notes the minutes of the Coastal Estuary Catchment Panel Meeting held on 12 March 2020.**
- 2. That Council escalates the unresolved matters regarding the Belongil Drainage Board status and lack of response from NSW Department of Planning, Industry and Environment staff to the NSW Minister for Water, Property and Housing.**
- 3. In relation to the presentation from Student on Pesticide Occurrence in the Coastal Aquatic system, Council considers approaching NSW Premier Gladys Berejiklian, Minister for Energy and Environment Matt Kean, Minister for Health Brad Hazzard, Minister for Agriculture Adam Marshall and Minister Gabrielle Upton (responsible for National Parks) with a copy to Ballina MP Tamara Smith, asking them to follow the findings of the EU in banning the sale and use of the following pesticides in NSW:**
 - a) Dimethoate**
 - b) Omethoate**
 - c) Terbutryn**
 - d) Methomyl**
 - e) Triadimenol**
- 4. That's Council notes the update provided on the coastal projects presently being delivered by the Coastal, Biodiversity and Sustainability team.**

Attachments:

- 1 Minutes 10/09/2020 Coastal Estuary Catchment Panel, I2020/1382** 

REPORT

The attachment to this report provides the minutes of the Coastal Estuary Catchment Panel Meeting of 10 September 2020 for determination by Council. The agenda for this meeting can be located on Council's website at:

https://byron.infocouncil.biz/Open/2020/09/CECP_10092020_AGN_1218_AT_EMBEDDED.PDF

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

Staff support Panel recommendation.

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

CSP Objective	L2	CSP Strategy	L3	DP Action	L4	OP Activity
Community Objective 3: We protect and enhance our natural environment	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	3.3.1.4	Commence a Coastal Management Program (CMP) in accordance with the staged process for Cape Byron Southern Coastline (including Tallow and Belongil Creek Catchment)

Legal/Statutory/Policy Considerations

Not applicable.

Financial Considerations

Not applicable.

Consultation and Engagement

Not applicable.

REPORTS OF COMMITTEES - CORPORATE AND COMMUNITY SERVICES**Report No. 14.1 Report of the Audit, Risk and Improvement Committee Meeting held on 20 August 2020**

Directorate: Corporate and Community Services
Report Author: Emma Fountain, Strategic Risk & Business Continuity Coordinator
File No: I2020/1429

Summary:

This report provides the minutes of the Audit, Risk and Improvement Committee Meeting held on 20 August 2020 for determination by Council.

RECOMMENDATION:

1. That Council notes the minutes of the Audit, Risk and Improvement Committee Meeting held on 20 August 2020.

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

Report No. 4.1 Draft Audit, Risk and Improvement Committee Constitution and 2021 Agenda Schedule

File No: I2020/1022

Committee Recommendation 4.1.1

That the Audit, Risk and Improvement Committee:

1. Considers the draft Audit, Risk and Improvement Committee Constitution (E2020/46708) and the Agenda Schedule for 2021 (E2020/46705) and provides feedback to the Chair by 3 September 2020.
2. Submits the Audit, Risk and Improvement Committee Constitution, with any amendments based on feedback from the Committee, to Council for adoption.
3. Be provided with a copy of the Update on Council's Financial and Investment Positions as provided to the Finance Advisory Committee.

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

Report No. 4.2 Annual Compliance Report 2019-2020

File No: I2020/1055

Committee Recommendation 4.2.1

That the Audit, Risk and Improvement Committee notes Council's compliance with legislative reporting requirements as at 30 June 2020.

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

Report No. 5.1 Risk Management- Update

File No: I2020/953

Committee Recommendation 5.1.2

1. That the Audit, Risk and Improvement Committee notes the strategic and operational risk reports for the quarter ending 30 June 2020 (E2020/49108).
 2. That the Audit, Risk and Improvement Committee requests Council consider the impacts on all transport users when implementing asset upgrades particularly roads.
5. That Council adopts the following Committee Recommendation(s):

Report No. 5.2 Audit Progress Report - August 2020

File No: I2020/954

Committee Recommendation 5.2.2

1. That the Audit, Risk and Improvement Committee notes the Internal Audit Activity Report – August 2020 (E2020/60577).
 2. That the Audit, Risk and Improvement Committee endorses the recommendation from the Executive Team to close off 18 recommendations in Appendix E of the attached report (E2020/60577).
6. That Council adopts the following Committee Recommendation(s):

Report No. 5.3 Cyber Security and System Outages Quarterly Update

File No: I2020/1113

Committee Recommendation 5.3.1

That the Audit, Risk and Improvement Committee:

- a) notes the Cyber Incidents report, attachment 1; and,
 - b) notes the System Outages report, attachment 2; and,
 - c) receives ongoing status reports for cyber Incidents and systems outages
7. That Council adopts the following Committee Recommendation(s):

Report No. 5.4 Development Application Processes Audit Review

File No: I2020/1179

Committee Recommendation 5.4.1

1. That the Audit, Risk and Improvement Committee notes the Development Application Processes internal audit review report.
2. That the Audit, Risk and Improvement Committee requests management to implement the recommendations made in the report, identified as Confidential Attachment 1 (E2020/60181).
3. That the report and Confidential Attachment 1 (E2020/60181) of the closed part of the meeting remain confidential.

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

Report No. 5.5 2020 External Audit Interim Audit Management Letter
File No: I2020/1185

Committee Recommendation 5.5.1

That the comments provided by Management in response to matters raised in the 2020 External Audit Interim Audit Management Letter detailed at Attachment 1 (#E2020/60321) be noted by the Audit, Risk and Improvement Committee.



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

Report No. 5.6 External Audit Actions - Quarter 4 2020 Update
File No: I2020/1187

Committee Recommendation 5.6.1

That the Audit, Risk and Improvement Committee notes the external audit activity update for the quarter ending 30 June 2020.

5 Attachments:

- 1 Minutes 20/08/2020 Audit, Risk and Improvement Committee, I2020/1200 
- 2 Audit Risk and Improvement Committee Constitution (draft), E2020/43124 

Report

A meeting of the Audit, Risk and Improvement Committee was held on 20 August 2020.

- 5 Council is to note that there was a very late apology from the chair and a councillor was elected by majority vote to chair the meeting. This was later discovered to be inconsistent with the constitution which specifies that the chairperson is to be an external member. This was inconsequential to the outcome of the meeting and it is recommended that Council adopts the Committee recommendations.

10 The attachment to this report provides the minutes of the Audit, Risk and Improvement Committee Meeting of 20 August 2020 for determination by Council. The agenda for this meeting can be located on Council's website at:

15 https://byron.infocouncil.biz/Open/2020/08/ARIC_20082020_AGN_1213_AT_EMBEDDED.PDF

Report No. 4.1 Draft Audit, Risk and Improvement Committee Constitution and 2021 Agenda Schedule

- 20 This report provides a draft Constitution and proposed 2021 Agenda Schedule for consideration and endorsement by the Audit, Risk and Improvement Committee. The draft Constitution is provided as an attachment (Attachment 2 E2020/43124).

Report No. 4.2 Annual Compliance Report 2019-2020

- 25 This report presents an update on Council's compliance with legislative reporting requirements for the 2019-2020 financial year.

Report No. 5.1 Risk Management- Update

- 30 This report provides an update on the Enterprise Risk Management framework.

Report No. 5.2 Audit Progress Report - August 2020

- 35 This report presents the Internal Audit Activity Report – August 2020 prepared by staff and the Internal Auditor, O'Connor Marsden and Associates (OCM).

40 The activity report contains the remaining recommendations from each audit review conducted by Council's previous internal audit provider as well as recommendations from recently completed audit reviews conducted by OCM.

Report No. 5.3 Cyber Security and System Outages Quarterly Update

- 45 This report provides summary reports for cyber security incidents and IT service outages.

No significant cyber incidents or extended IT service outages have been reported during the period of 1 April 2020 to 30 June 2020.

Report No. 5.4 Development Application Processes Audit Review

- 50 Council's Internal Auditors, O'Connor Marsden and Associates (OCM), conducted an internal audit review of Development Application Processes. Their report is at Confidential Attachment 1 (E2020/60181).

This audit received a review rating of 2 - Satisfactory and it identified two medium risks. Agreed recommendations and actions are included in Confidential Attachment 1 (E2020/60181).

Report No. 5.5 2020 External Audit Interim Audit Management Letter

5 Council has received an Interim Audit Management Letter from the External Auditor, the Audit Office of NSW, relating to the 2020 Audit. The Interim External Audit Management Letter details two items for management to consider and provides recommendations to improve internal controls and systems.

10 Each of the audit matters raised in the 2020 Interim External Audit Management Letter have been identified in this report for consideration by the Audit, Risk and Improvement Committee.

Report No. 5.6 External Audit Actions - Quarter 4 2020 Update

15 This report provides an update on each of the audit matters raised in the 2019 External Audit Year End Management Letter for the quarter ending 30 June 2020.

Financial Implications

20 As per the Reports listed within the Audit, Risk and Improvement Committee Meeting of 20 August 2020.

Statutory and Policy Compliance Implications

25 As per the Reports listed within the Audit, Risk and Improvement Committee Meeting of 20 August 2020.

REPORTS OF COMMITTEES - INFRASTRUCTURE SERVICES

Report No. 14.2 Report of the Local Traffic Committee Meeting held on 8 September 2020

5 **Directorate:** Infrastructure Services
Report Author: Andrew Pearce, Traffic Engineer
File No: I2020/1414

10 **Summary:**

This report contains the recommendations of the Local Traffic Committee (LTC) meeting held on 8 September 2020.

15 Please note that LTC Committee Recommendation 6.1.1 does not have unanimous support from the LTC therefore the action d) below will be required if Council decides to proceed with the recommendation.

Council's action on the LTC advice will be:

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

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

RECOMMENDATION:

1. **That Council notes the minutes of the Local Traffic Committee Meeting held on 8 September 2020.**

2. That Council adopts the following Committee Recommendation(s):
Report No. 6.1 Coolamon Scenic Drive Regulatory Signage and Linemarking
File No: I2020/1232

Committee Recommendation 6.1.1

1. That Council endorse the designs for Coolamon Scenic Drive in terms of its regulatory signage and line marking (E2020/37667).

3. That Council adopts the following Committee Recommendation(s):
Report No. 6.2 Amendment to the proposed changes to Bangalow Road for the Byron to Suffolk Cycleway to relieve parking issues near the General Store
File No: I2020/1235

Committee Recommendation 6.2.1

That Council supports the modification of Bangalow Road as per the amended plans (E2020/65203), including replacement drawing SK 33D (E2020/71743), which include adjustment of the existing road alignment, lane widths, line-marking, signage, parking locations, parking time limits and bus-stop locations.

4. That Council adopts the following Committee Recommendation(s):
Report No. 6.3 Byron Cycle Club - Criterium Racing 2020 - Woodford Lane, Ewingsdale and Byron Arts & Industrial Estate
File No: I2020/1245

Committee Recommendation 6.3.1

1. That Council support the use of Woodford Lane, Ewingsdale, for criterium racing on every 2nd and 4th Sunday of the month until August 2021, subject to:
- a) Traffic control plan(s) and a Traffic Management Plan being designed by those with the appropriate and relevant NSW (RMS) accreditation.
 - b) The implementation of the Traffic Management Plan and Traffic Control Plan(s) by those with appropriate NSW (RMS) accreditation.
 - c) Holding \$20m public liability insurance cover which is valid for all races.
 - d) Obtaining separate approvals by NSW Police and RMS, as required.
 - e) Paying Council's Road Event Application Fee prior to the event

5. That Council adopts the following Committee Recommendation(s):
Report No. 6.4 M545 Traffic and Parking Management - Broken Head Road and Bangalow Road, Suffolk Park to Byron Bay
File No: I2020/1246

Committee Recommendation 6.4.1

That Council note the proposed regulatory actions and support implementing a traffic and parking management strategy for MR545 from Clifford Street, Suffolk Park to Browning Street, Byron Bay incorporating restricted parking areas, timed parking zones, No stopping, No parking and other associated regulatory signs and line marking.

6. That Council adopts the following Committee Recommendation(s):
Report No. 6.5 Broken Head Rd - Informal Bus Stop Parking Conflicts
File No: I2020/1206

Committee Recommendation 6.5.1

1. That Council support the implementation of a Restricted Parking Area and /or No Stopping and other appropriate regulatory signage and line marking to manage pedestrian, traffic and parking conflicts associated with the use of the informal bus stop on Broken Head Rd, Suffolk Park.
7. That Council adopts the following Committee Recommendation(s):
Report No. 6.1 Ruskin Street, Byron Bay - Parking Modifications
File No: I2020/1373

Committee Recommendation 6.1.1

That Council support the installation of “No Stopping” signs and/or yellow lines on the Northern side of the road of the eastern end of Ruskin Street, Byron Bay, with the extent of the yellow line to be generally from Cowper Street to Massinger Street, generally in accordance with Attachment 1(E2020/69866).

8. That Council adopt the following Committee Recommendation(s):
Report No. 6.2 Byron Bay Traffic and Pedestrian Management Strategy
File No: I2020/1387

Committee Recommendation 6.2.1

That Council endorse the provision of traffic management facilities and traffic controllers within Byron Bay, when deemed necessary, to provide increased safety for road users and pedestrians and to manage the efficient movement of vehicles on the road network during the school holiday periods and at other times, subject to the development and implementation of Traffic Control Plans by those with relevant TfNSW accreditation.

9. That Council adopt the following Committee Recommendation(s):
Report No. 7.1 'No Stopping' signs - Mott Street DA 10.2020.124.1
File No: I2020/1116

Committee Recommendation 7.1.1

That Council support the installation of ‘No Stopping’ signs along the eastern end of Mott Street, Byron Bay, to provide a safe turning point for the garbage trucks.

Attachments:

5

1 LTC_08092020_MIN_1216, E2020/75761 

Report

The attachment to this report provides the minutes of the Local Traffic Committee Meeting of 8 September 2020 for determination by Council. The agenda and supplementary agenda for this meeting can be located on Council's website at:

https://byron.infocouncil.biz/Open/2020/09/LTC_08092020_AGN_1216_AT.PDF

and

https://byron.infocouncil.biz/Open/2020/09/LTC_08092020_AGN_1216_AT_SUP.PDF

Management Comments

In accordance with the Committee Recommendation, Management provide the following additional information:

Due to LTC advice *not* unanimous for **Report No. 6.1.1 Coolamon Scenic Drive Regulatory Signage and Linemarking** Council must first advise the RMS and the NSW Police representatives in writing of their intention to approve the proposal. The RMS or the NSW Police may then lodge an appeal to the Regional Traffic Committee (RTC). Work may not proceed until RMS and Police advise whether an appeal will be lodged.

Financial Implications

As per the Reports listed within the Local Traffic Committee Meeting of 8 September 2020.

Statutory and Policy Compliance Implications

As per the Reports listed within the Local Traffic Committee Meeting of 8 September 2020.

Report No. 14.3 Report of the Local Traffic Committee Meeting held on 22 September 2020

Directorate: Infrastructure Services
Report Author: Andrew Pearce, Traffic Engineer
File No: I2020/1474

Summary:

10 This report contains the recommendations of the Local Traffic Committee (LTC) meeting held via email between Tuesday 15 September and Tues 22 September 2020.

Council's action on the LTC advice will be:

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

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

RECOMMENDATION:

1. **That Council notes the minutes of the Local Traffic Committee Meeting held on 22 September 2020.**

-
2. **That Council adopts the following Committee Recommendation(s):**
Report No. 6.1 Filming Event - Bangalow Road, Hayters Hill
File No: I2020/1427


Committee Recommendation 6.1.1

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 Attachments 1 and 2 (E2020/72772 and E2020/72773).**
- b. Local Traffic Committee support and associated Local Traffic Committee recommendations, namely:-**
 - i. Traffic Management Plan and Traffic Control Plans to be developed and implemented by those with appropriate TfNSW 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 TfNSW 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; and**
 - 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; and**
 - pay Council's Road Event Application Fee prior to the event.**

Attachments:

5

1 LTC_22092020_MIN_1254_EXTRA, E2020/77408 

Report

5 The attachment to this report provides the minutes of the Local Traffic Committee Meeting of 22 September 2020 for determination by Council. The agenda for this meeting can be located on Council's website at:

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

Financial Implications

10

As per the Reports listed within the Local Traffic Committee Meeting of 22 September 2020.

Statutory and Policy Compliance Implications

15

As per the Reports listed within the Local Traffic Committee Meeting of 22 September 2020.

**Report No. 14.4 Report of the Transport and Infrastructure Advisory Committee
Meeting held on 8 October 2020**

Directorate: Infrastructure Services

Report Author: Dominika Tomanek, Executive Assistant Infrastructure Services

File No: I2020/1569

Summary:

The attachment to this report provides the minutes of the Transport and Infrastructure Advisory Committee Meeting of 8 October 2020 for determination by Council.

RECOMMENDATION:

1. **That Council notes the minutes of the Transport and Infrastructure Advisory Committee Meeting held on 8 October 2020.**

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

Report No. 3.1 Adoption of Minutes from Previous Meeting

File No: I2020/1473

Committee Recommendation 3.1.1

That the minutes of the Transport and Infrastructure Advisory Committee Meeting held on 30 July 2020 be confirmed.

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

Report No. 4.1 Maintenance of non-Council owned toilets

File No: I2020/1162

Committee Recommendation 4.1.1

1. That Council note the contractual arrangements currently in place for maintenance of non-Council owned toilets.
2. That Council review public health information to ensure appropriate level of signage regarding COVID-19.
3. That Council note the need to review the arrangements for the cleaning servicing of Banner, Torakina and Terrace Park and terms and conditions of third party cleaning obligations.
4. That a report on performance of the contract and recommendation for further improvement be prepared to TIAC.

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

Report No. 4.2 Infrastructure Report (Special Schedule 7) Financial Statements 2020

File No: I2020/1448

Committee Recommendation 4.2.1

That Council note the report.

Attachments:

5

- 1 Minutes 08/10/2020 Transport and Infrastructure Advisory Committee, I2020/1531 

Report

The attachment to this report provides the minutes of the Transport and Infrastructure Advisory Committee Meeting of 8 October 2020 for determination by Council. The agenda for this meeting can be located on Council's website at:

https://byron.infocouncil.biz/Open/2020/10/TIAC_08102020_AGN_1221_AT_EMBEDDED.PDF

Committee Recommendation

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

Financial Implications

As per the Reports listed within the Transport and Infrastructure Advisory Committee Meeting of 8 October 2020.

Statutory and Policy Compliance Implications

As per the Reports listed within the Transport and Infrastructure Advisory Committee Meeting of 8 October 2020.

CONFIDENTIAL REPORTS - GENERAL MANAGER

Report No. 16.1 CONFIDENTIAL - Annual Review of GM's performance

Directorate: General Manager

5 **Report Author:** Kylie Armstrong, Manager People and Culture

File No: I2020/1562

10 **Summary:**

On 24 July 2020, the General Manager's annual performance review for the 2019/20 financial year was conducted by a performance review panel, in accordance with the Guidelines for the Appointment and Oversight of General Managers issued by the Division of Local Government, Department of Premier and Cabinet (the 'Guidelines').

The performance review panel consisted of the Mayor Cr Simon Richardson, Cr Michael Lyon, Cr Basil Cameron, and Cr Alan Hunter and they were assisted by an external facilitator Ms Sandra Wood from Sandra Wood Consulting.

A performance agreement for the 2020/21 financial year has been developed by the General Manager and Mayor Cr Simon Richardson.

25 **RECOMMENDATION:**

1. That pursuant to Section 10A(2)(a) of the Local Government Act, 1993, Council resolve to move into Confidential Session to discuss the report Annual Review of GM's performance.

2. That the reasons for closing the meeting to the public to consider this item be that the report contains:
a) personnel matters concerning particular individuals (other than councillors)

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:

it relates to the annual performance review of GM

40 **Attachments:**

- 1 1. GM Performance Review Report for July 2019 to June 2020, E2020/76953
- 2 2. GM Performance Agreement period ending June 2021, E2020/80743