



# Byron Shire Council



## Ordinary Meeting

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.

A handwritten signature in black ink that reads "Mark Arnold".

**Mark Arnold**  
General Manager

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## CONFLICT OF INTERESTS

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

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

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

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

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

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

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

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

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

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

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

### **Disclosure and participation in meetings**

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

Committee, or

- (b) at any time during which the Council or Committee is voting on any question in relation to the matter.

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

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

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

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

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## RECORDING OF VOTING ON PLANNING MATTERS

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

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

**BYRON SHIRE COUNCIL**  
**BUSINESS OF ORDINARY MEETING**

- 1. PUBLIC ACCESS**
- 2. APOLOGIES**
- 3. REQUESTS FOR LEAVE OF ABSENCE**
- 4. DECLARATIONS OF INTEREST – PECUNIARY AND NON-PECUNIARY**
- 5. TABLING OF PECUNIARY INTEREST RETURNS (CL 4.9 CODE OF CONDUCT FOR COUNCILLORS)**
- 6. ADOPTION OF MINUTES FROM PREVIOUS MEETINGS**
  - 6.1 Ordinary Meeting held on 17 December 2020
- 7. RESERVATION OF ITEMS FOR DEBATE AND ORDER OF BUSINESS**
- 8. MAYORAL MINUTE**
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*Questions with Notice: A response to Questions with Notice will be provided at the meeting if possible, that response will be included in the meeting minutes. If a response is unable to be provided the question will be taken on notice, with an answer to be provided to the person/organisation prior to the next Ordinary Meeting and placed on Councils website [www.byron.nsw.gov.au/Council/Council-meetings/Questions-on-Notice](http://www.byron.nsw.gov.au/Council/Council-meetings/Questions-on-Notice)*

# BYRON SHIRE COUNCIL

## 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 Mayor's Discretionary Allowance**

File No: I2021/164

5

I move:

1. That Council confirms the following donation from the Mayor's Discretionary Allowance 2020/21:

10 \$1,100 – Sustainable Schools Program to support a Byron Shire School's attendance

2. That Council advertise the donations in accordance with Section 356 of the Local Government Act 1993.

Attachments:

15 1 2021 Sustainability Symposium - Information Package, E2021/27341 

Signed: Cr Simon Richardson

**Councillor's supporting information:**

20 The Sustainable Schools Network (SSN) has approached Council, requesting funding of \$1,100 to support a Byron Shire school to participate in the 2021 Sustainable Schools Symposium, to be held over three days at All Saints Anglican School on the Gold Coast,

25 The funding would enable one Byron Shire school (chosen through an EOI process) to participate in the 'Kids Teaching Kids' opportunity (see page 6 of Attachment 1). This involves students from the chosen school actively facilitating a workshop for other students using the UN Sustainable Development Goal themes, Good Health and Wellbeing or Life Below Water.

The SSN has so far secured speakers such as Ash Buchanan (<https://benefitmindset.com/about/>) and academics from Griffith University, Curtin University, the University of Tasmania, and the University of Southern Queensland.

30 The funding would provide the following for the chosen school:

- 2 x teachers to participate, over two days, in the Professional Development sessions
- 14 students and 2 adults to attend the Kids Teaching Kids sessions
- 1 x School Leader (Principal or Business Service Manager) to attend the student session

# BYRON SHIRE COUNCIL

## NOTICES OF MOTION

9.1

Council's funding does not include transport to the event or accommodation; this would need to be provided by the successful school.

- 5 An EOI would be sent to all schools in Byron Shire to ensure a fair and equitable application process. Mullumbimby High School and Byron High School have already shown an interest in the event.

### **Staff comments**

**by Vanessa Adams, Director Corporate and Community Services:**

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

- 10 There is sufficient funding available and if the NoM is adopted staff will process accordingly.

### **Financial/Resource/Legal Implications:**

The 2020/21 Budget adopted by Council included an allocation of \$2,000.00 for budget item Mayor – Discretionary Allowance. Sufficient funds are available for making the nominated donation of \$1,100.

- 15 In relating to the making of Section 356 Donations from Mayor – Discretionary Allowance, Council at its Ordinary meeting held on 14 May 2009 resolved as follows: -

“09-349 Resolved that Council confirm that all s356 donations, to be made from the budget allocation “Mayor – Discretionary Allowance”, must be the subject of a resolution of the Council at Ordinary or Extraordinary meeting.”

- 20 This Notice of Motion is to confirm the making of the listed Section 356 Donation.

The Section 356 Donation will be advertised and public notice of financial assistance provided in accordance with Section 356 of the Local Government Act 1993.

### **Is the proposal consistent with any Delivery Program tasks?**

Yes

- 25 The project aligns with OP action - *Provide coastal, environmental and sustainability information and encourage and support community activities and groups*

PETITIONS

**Petition No. 10.1 Tallowood Ridge**

**Directorate:** Sustainable Environment and Economy

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

5 **File No:** I2021/17

Council is in receipt of a petition containing 489 signatures which seeks:

*We are asking Byron Shire Council to:*

10 *Zone the area to prevent any further development in the forested area along the ridge and to ensure Council takes responsibility for the long-term management and protection of the koalas, other native animals and plants/trees that are found there. To place the ridge line and koala reserve into public ownership to allow access and for it to become a community asset for generations to come.*

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

15 The Tallowood Ridge land was the subject of a recent Notice of Motion at the Ordinary Meeting 17 December 2020.

Notice of Motion 9.2 Tallowood Ridge Reserve:

[https://byron.infocouncil.biz/Open/2020/12/OC\\_17122020\\_AGN\\_1178.PDF](https://byron.infocouncil.biz/Open/2020/12/OC_17122020_AGN_1178.PDF)

**20-720** Resolved that Council:

- 20 1. *Enter negotiations with the relevant landowners and/or developer to seek the gifting of the land outlined in the map in the report for the management of Council in conjunction with the community in perpetuity.*
2. *Ensure that these negotiations stipulate that this is not instead of any other previous environmental agreement.*
- 25 3. *Acknowledge that if negotiations are successful, staff will take the appropriate steps to prepare a Plan of Management (Ndiaye/Richardson)*

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**RECOMMENDATION:**

- 1. That the petition regarding Tallowood Ridge be noted.**
- 2. That the petition be referred to the Director Sustainable Environment and**

# BYRON SHIRE COUNCIL

## PETITIONS

10.1

### **Economy.**

#### **.Attachments:**

- 1 Confidential - Petition with 489 signatures regarding Tallowood Ridge requesting protection of Koalas, E2020/102617

5

**Petition No. 10.2 Petition against the changing of Ewingsdale rulings, R5 and R2**

**Directorate:** Sustainable Environment and Economy

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

5 **File No:** I2021/19

Council is in receipt of a petition containing 294 signatures which seeks:

*“We the people of rural Ewingsdale village insist the R5 & R2 ruling remain in line with what this village is all about, Country!*

10 *We suggest that ‘INGENIA’ forfeit their deposit & move onto their other options.”*

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

This petition is in response to a consultation undertaken by Ingenia Lifestyle for an over 55s to retire or age in place proposal on Lot 101, Ewingsdale Road Ewingsdale.

<https://ingenialifestyle.com.au/ewingsdale#contact>

15 This consultation was proponent initiated and led and not part of any formal Council process.

Council’s Business and Industrial Lands Strategy 2020 states:

20 *Any development proposal in proximity to the hospital will be assessed against its consistency with the function of the hospital, its ability to value add to existing community and economic benefits of the hospital and its commercial viability. Areas adjoining the hospital precinct are to be utilised for allied hospital services, except where designated as having high ecological values or for public access and movement.*

*Allied uses are described as offering:*

- *medical devices;*
- 25 • *precision medicine and regenerative medicine products and services*
- *medical specialist consulting rooms*
- *health care worker services, such as a child care facility*
- *health education, training and research*
- 30 • *residential facilities providing for resident needs to visit hospital for management of a chronic or acute health condition or to receive treatment for an injury. This may*

## BYRON SHIRE COUNCIL

### PETITIONS

10.2

*include a residential aged care facility, with either permanent or respite basis accommodation.*

Any application received for the development of this land will be considered against the BILs criteria.

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### **RECOMMENDATION:**

- 1. That the petition regarding the possible rezoning of Lot 101 Ewingsdale Road be noted.**
- 2. That the petition be referred to the Director Sustainable Environment and Economy.**

### **5 .Attachments:**

- 1 Confidential - Petition from Residents of Ewingsdale Regarding Possible Rezoning of Lot 101 Ewingsdale Road EWINGSDALE - 294 Signatures, S2020/11180**

10

**Petition No. 10.3    Petition with 140 signatures to reduce speed at Rifle Range Road**

**Directorate:** Infrastructure Services

**Report Author:** Joshua Provis, Road and Bridge Engineer

5 **File No:** I2021/182

Council is in receipt of a petition containing 140 signatures to reduce the speed zone on Lismore-Bangalow Road at the Rifle Range Road signatures which states:

*“Reduce speed limit at intersection of Rifle Range and Lismore Road”*

10 **Comments from Director Infrastructure:**

Lismore-Bangalow is a state government controlled road, and Transport for NSW is the authority required to undertake speed zone reviews, Council cannot undertake a speed zone review.

15 Therefore following receipt of the petition Council staff requested TfNSW undertake a speed zone review at the location.

The speed zone review was undertaken by TfNSW on Wednesday 3 February 2021.

Pending the TfNSW approvals process an outcome of the review is expected in late March 2021.

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20 **RECOMMENDATION:**

1. **That the petition regarding Reduce speed limit at intersection of Rifle Range and Lismore Road be noted.**
2. **That the petition be referred to the Director Infrastructure Services.**

**Attachments:**

- 25
- 1 Confidential - Petition with 140 signatures to reduce speed at Rifle Range Road, E2020/102685

**SUBMISSIONS AND GRANTS**

**Report No. 11.1 Grants and Submissions February 2021**

**Directorate:** Corporate and Community Services

**Report Author:** Donna Johnston, Grants Coordinator

5 **File No:** I2021/154

**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.

10

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**RECOMMENDATION:**

15 **That Council notes the report and Attachment 1 (E2021/23600) for Byron Shire Council's Submissions and Grants as at 31 January 2021.**

**Attachments:**

1 Grants Report to Council - February 2021, E2021/23600 

20

**Report**

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

Successful applications

5 Council was not advised of any successful applications during December 2020 and January 2021.

Unsuccessful applications

10 Council was advised prior to Christmas that it was unsuccessful in the Fixing Country Roads 2019 Tranche 2 (Transport for NSW) applications for Manns Road, Booyong Road and Byron Arts and Industry Estate arterial roads. Applications for Manns Road and Byron Arts and Industry Estate arterial roads were resubmitted for the Fixing Country Roads 2020 funding program in December 2020.

The Fixing Country Roads funding program is about moving freight more efficiently supporting jobs, and supporting the economic growth and productivity of regional NSW by reducing the cost of getting goods to market.

15 Feedback from Transport for NSW for 2019 Tranche 2 was provided at the end of January 2021 and included:

- TOTAL funding pool \$20M (limited funding release, and slow assessments, was due to COVID).
- 93 applications received.
- 20 • 4 successful applications.
- In general, more evidence on the benefits relating to heavy freight movement was required versus the safety aspects of improved roads.
- More evidence required to demonstrate 'growing' economies.
- Acknowledged the good letters of support for the projects.

25 On a positive note, the next funding round will be released in 2 to 3 months, with an increased funding pool of \$80M. Webinars will be run to support applications.

January also saw NSW Planning Industry & Planning advise Council was unsuccessful in its application to the 2021-21 Crown Reserves Improvement Fund for:

- South Beach Reserve (Brunswick Heads) - \$300,000 towards new toilet block
- 30 • Summers Park – \$20,000 weed eradication on the riparian vegetation along the Brunswick Heads Recreation Grounds
- Byron Bay Surf Club Hall – application submitted direct by Surf Club

# BYRON SHIRE COUNCIL

## SUBMISSIONS AND GRANTS

11.1

Over 900 applications were received for this grant round. Council is waiting on feedback directly relating to the grant applications submitted.

### Applications submitted

- 5 Eleven grant applications were submitted in December and January including:
- 1) Bushfire Local Economic Recovery Fund 2021
    - Mullumbimby to Brunswick Heads Cycleway
    - Bangalow Cycleway
    - The Green Line - Byron Bay to Belongil Coast Walk
  - 10 - Repurposing Byron Hospital
  
  - 2) Regional NSW - Summer Break Activities
    - Slip N Slide Fun at Mullumbimby Petria Thomas Swimming Pool
  - 15 3) Transport for NSW - Fixing Country Roads
    - Byron Arts and Industry Estate arterial roads
    - Manns Road
    - Springvale Rd
    - Midgen Flat Rd
  - 20 4) Transport for NSW - Fixing Local Roads
    - Seven Mile Beach Rd
    - Various roads Ocean Shores, South Golden Beach and New Brighton

### Upcoming grant opportunities

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

#### Building Better Regions Fund 2021

- Sandhills Wetlands Project
- Bioenergy Facility

30

#### Heritage NSW

- Local Government Heritage Studies for Aboriginal cultural heritage mapping/management plan

#### 35 Create NSW

- Local Government Authorities (LGA) Arts & Cultural Funding

## Strategic Considerations

### Community Strategic Plan and Operational Plan

CSP Objective	L2	CSP Strategy	L3	DP Action	L4	OP Activity
<b>Community Objective 5: We have community led decision making which is open and inclusive</b>	5.6	Manage Council's resources sustainably	5.6.12	Implement strategic grants management systems to deliver priority projects for Byron's community (SP)	5.6.12.2	Provide governance for grants management

### Legal/Statutory/Policy Considerations

- 5 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

- 10 If Council is successful in obtaining the identified grants, more than \$18 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 detailed below:

15	Requested funds from funding bodies	\$32,871,038
	Council Contribution Cash	\$2,823,842
	Council Contribution In-Kind	\$153,500
	Other contributions	\$288,809
20	<b>Funding applications submitted and awaiting notification (total project value)</b>	<b>\$36,137,189</b>

**Consultation and Engagement**

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

STAFF REPORTS - GENERAL MANAGER

**Report No. 13.1      Licence to Byron Bay Community Association Incorporated for occupation of the Byron Community Cabin**

5    **Directorate:**                      General Manager  
**Report Author:**                  Paula Telford, Leasing and Licensing Coordinator  
**File No:**                              I2021/31

**Summary:**

10    The Byron Bay Community Association Incorporated requests a five year licence over the Byron Community Cabin located in the Byron Recreation Grounds Folio 444/28/758207 for the purpose of a community hall and ancillary use of shower facilities by persons that are homeless.

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**RECOMMENDATION:**

1.    **That Council notes that no submissions were received on the proposal to grant the Byron Bay Community Association Incorporated a five year licence over the Byron Community Cabin located in Lot 444 Section 28 DP758207.**
2.    **That Council authorises the General Manager to enter into licence with the Byron Bay Community Association Incorporated over the Byron Community Cabin located in Lot 444 Section 28 DP758207 on the following terms:**
  - a)    **term five years to commence 1 March 2021,**
  - b)    **purpose of a community hall and ancillary use of shower facilities by persons that are homeless on a booking system,**
  - c)    **the Licensee to pay initial rent of \$490 (exclusive GST) with rent increased thereafter annually by Consumer Price Index all Groups Sydney,**
  - d)    **the Licensee to pay outgoings for the use of all services connected to the premises and requisite insurance covers,**
  - e)    **Council to pay outgoings to the full value of general land rates (if applicable), fixed water and sewerage charges, building insurance, pest inspections and fire safety compliance,**
  - f)    **Council to subsidise licence preparation costs of \$536 (inclusive GST).**

## Report

The Byron Bay Community Association Incorporation ('BBCA') holds an annual licence to operate and manage the Byron Community Cabin (the Premises') located in the Byron Recreation Grounds, Lot 444 Section 28 DP 758207.

- 5 The BBCA requests a new five year licence over to ensure eligibility for grant funding to upgrade fittings within the Premises.

### The land:

- 10 Lot 444 Section 28 DP 758207 is Council owned land classified as community land and categorised as a sportsground and general community use. The Premises is located on land categorised for general community use.

The Plan of Management for the Byron Recreation Grounds expressly authorises the grant of a licence for a term up to 21 years over land categorised for general community use for purposes in accordance with the *Local Government Act*.

### Background:

- 15 The BBCA has held a series of one year licences to occupy the premises since 1 June 2016 for the purpose of a community hall and homeless showering.

- 20 Terms of the licence requires that the BBCA offer the premises for hire to the public or specific sections of the public for low impact activities between 9:00am and 5:00pm all days. The BBCA may also offer use of shower facilities in the premises to persons that are homeless under a booking system between 10:00am and 2:00pm weekdays only. The BBCA must consider use and occupation of surrounding recreation grounds by schools and organised sporting groups in determining when bookings may be made.

The licence is offered to the BBCA on the condition that no alcohol or illicit drugs are taken into the Premises or consumed within or immediate surrounding grounds of the Premises.

- 25 **Public notification of the proposed licence:**

In accordance with the *Local Government Act 1993* (NSW), Council sought public comment on the proposed licence between 10 December 2020 and 14 January 2021. Council received no submissions on the proposed licence.

### Proposed licence:

- 30 This report recommends that a new five year licence is granted to the BBCA for the period 1 March 2021 to 28 February 2026 on the following terms:

- for use as a community hall with ancillary use of shower facilities by persons that are homeless by bookings only,

# BYRON SHIRE COUNCIL

## STAFF REPORTS - GENERAL MANAGER

13.1

- initial rent to be set at the value of minimum Crown rent currently \$490 (exclusive of GST) and thereafter increased Consumer Price Index all Groups Sydney for the licence term.
  - licence preparation costs to be subsidised by Council,
- 5
- the Licensee to pay outgoings for usage cost of all services connected to the premises including but not limited to electricity, phone, water and waste management costs,
  - the Licensee to provide \$20 million public liability, and contents insurance for all owned fixture and fittings for full replacement value, and
- 10
- Council to pay outgoings limited to the full value of general land rates (if payable), annual fixed water and sewerage charges, building insurance, security, pest inspections and fire safety compliance costs.

15

Due to ongoing vandalism incidents at the Premises, Council is proposing the install closed circuit television ('CCTV') during the licence term. Ownership and maintenance of the CCTV equipment will remain with Council and termed in the Licence.

### Direct negotiation:

Council may directly negotiate the proposed five year licence with the BBCA being a non-profit organisation, in accordance with section 46A(3) of the *Local Government Act 1993* (NSW).

## 20 Strategic Considerations

### Community Strategic Plan and Operational Plan

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

**Legal/Statutory/Policy Considerations**

Local Government Act 1993 (NSW)

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

- 5 (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*
- 10 (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*
- 15 (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*
  - 20 • *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)*
  - 25 • *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.*
- 30 (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.*
- 5 (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*
- 10 (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:*
- 15 (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**

20 This report recommends that initial rent is set at the value of minimum Crown rent at \$490 (exclusive of GST) and thereafter increased by Consumer Price Index all groups Sydney .

The Licensee to pay outgoings of all user charges for all services connected to the premises and required insurances.

Council to pay outgoings of general land rates (if payable), fixed water and sewerage charges, building insurance, security, pest inspections and fire safety compliance costs.

### **25 Consultation and Engagement**

In accordance with s47A(2)(a) of the *Local Government Act*, Council called for public comment on the proposed licence between 10 December 2020 to 14 January 2021 and individually contacted all surrounding residences.

**Report No. 13.2      Financial hardship of the Upper Main Arm  
Community Association Incorporated**

**Directorate:**                      General Manager

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

5    **File No:**                        I2021/41

**Summary:**

10    The Upper Main Arm Community Association Incorporated is the Licensee of the Kohinur Hall. The Licensee is in financial hardship due to a complete loss of hall booking caused by COVID-19 restrictions. The Licensee seeks financial assistance from Council to keep the Hall open.

---

**RECOMMENDATION:**

1.    **That Council waives 100% of the rent payable under a licence granted to the Upper Main Arm Community Association Incorporated for the period 1 August 2020 to 31 July 2021 at a cost of \$539 inclusive of GST.**
2.    **That Council gifts the Upper Main Arm Community Association Incorporated \$800 inclusive of GST for the payment of Public Liability Insurance cover due 11 February 2021 upon issue of an invoice.**
3.    **That Council includes the Kohinur Hall in its review of Section 355 Committees of Council to secure the future of the Hall in the Main Arm community.**

**Attachments:**

- 15    1    Confidential 2018 Financial Statement Upper Main Arm Community Association Inc,  
E2021/3803 

## Report

Council resolved (**20-167**) to enter into a five year licence with the Upper Main Arm Community Association Incorporated ('the Licensee') to manage and operate the Kohinur Hall, Lot 1 DP771568 as a community hall commencing 1 August 2020.

- 5 On 6 January 2021, the Licensee contacted Council requesting financial assistance to keep the Hall open. The Licensee is in financial hardship. See Confidential attachment 1. The Licensee has not previously requested rent relief.

10 With no bookings for weddings or other events since March 2020 due to COVID-19 restrictions, the Licensee has no means to generate income to cover rent and outgoings in the short-term. The Licensee is confident that bookings will resume to pre-COVID-19 levels once the pandemic restrictions are lifted with a tentative booking for a wedding in April 2021.

### Financial assistance:

15 Terms of the Licence requires the Licensee to pay rent and certain outgoings including electricity and insurance costs.

The Licensee provided its 2018 financial statements that detailed the Hall, at that time, was running at a loss but the Committee held sufficient funds to cover its outgoings.

20 In 2021 the viability and sustainability of the Licensee and its ability to manage the Hall is now in question. The Licensee has insufficient funds to cover its outgoings and requests the following financial assistance:

- i. a full waiver of annual rent at a cost of \$539 inclusive of GST; and
- ii. a gift of \$800 to renew its public liability insurance cover.

25 Council has received similar requests from other tenants also in financial distress due to COVID-19. In those circumstances Council offered to waive rent rather than offer direct financial assistance by way of a gift or a loan.

### Options:

Council has the following options regarding the financial assistance request:

- 30 1. Provide \$539 rental assistance thereby enabling the Licensee to meet its insurance costs from available funds but leave the Licensee with little funds to pay other outgoings as they become due and payable; or
2. Provide \$539 rental assistance and gift \$800 to cover insurance costs totalling \$1,339 thereby retaining the Licensee in its current financial position; or

# BYRON SHIRE COUNCIL

## STAFF REPORTS - GENERAL MANAGER

13.2

3. Provide no financial assistance with the following likely consequences:

a. The Hall remains open either by;

i. the Licensee relaxing COVID restrictions to open up the Hall for hire to any person for any activity; or

5 ii. private persons cover rent and other outgoings either gratuitously or via a loan to the Licensee.

10 Placing the Licensee in a vulnerable financial position could result in the return of the previous problematic use of the Kohinur Hall. Use of the Hall was subject to numerous complaints and Police interventions for illegal camping and rubbish, excessive noise, trespass, assaults and other serious anti-social behaviour. Since licensing the Hall, Council has not received any complaints however, the Hall has not held an event since March 2020.

b. The Hall is closed either by:

15 i. the Licensee defaulting under the Licence for non-payment of rent, or

ii. Council resolving to suspend the Licence and temporarily closing the Hall until bookings return.

20 The Hall is highly valued by the local community. The voluntary closure of the Hall would not be sanctioned by the community or assist the Licensee resolve its financial hardship. Upon closure of the Hall all costs associated with maintenance and management of a vacant building pass unbudgeted to Council.

25 4. Establish a section 355 committee of Council under the Local Government Act for the care, control and management of the Hall. The Licensee's financial hardship raises questions about the long-term viability and suitability of management of the Hall under a licence arrangement particularly given the every increasing cost of insurance cover. This report recommends that Council include the Hall into its upcoming review  
30 of Section 355 Committees to secure the future of the Hall in the Main Arm community.

## **Strategic Considerations**

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

<b>CSP Objective</b>	<b>L2</b>	<b>CSP Strategy</b>	<b>L3</b>	<b>DP Action</b>	<b>L4</b>	<b>OP Activity</b>
<b>Community Objective 1: We have infrastructure, transport and services which meet our expectations</b>	1.2	Provide essential services and reliable infrastructure which meet an acceptable community standard	1.2.8	Develop capital upgrades, renewal and enhancements works program for buildings-including community buildings, public toilets, emergency services, sports club facilities and Council operations buildings (SP)	1.2.8.1	Consult with user groups to establish user agreements, leases, licenses and Plans of Management

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

Retail and Other Commercial Leases (COVID-19) Regulation 2020

### **5 Financial Considerations**

The quantum of the recommended is \$1,339 inclusive of GST.

### **Consultation and Engagement**

Nil.

**Report No. 13.3      Licence for the operation and maintenance  
of Byron Bay car parks**

**Directorate:**                      General Manager

5      **Report Author:**                  Claire McGarry, Place Manager - Byron Bay  
    Ralph James, Legal Counsel

**File No:**                              I2021/201

**Summary:**

10      This report recommends that Council authorise the General Manager to continue to negotiate and enter into a 10 year property licence agreement with Transport for NSW for the operations, maintenance and revenue-share of two car parks in Byron Bay:

- Railway Hotel car park
- Lawson St South car park

15      This agreement is based on a revenue-share arrangement for revenue collected via the introduction of paid parking on both sites.

---

**RECOMMENDATION:**

20      **That the General Manager be authorised to enter into a Property Licence between Transport Asset Holding Entity of New South Wales and Byron Shire Council for part Lot 1 in DP 1001454 and part Lot 4729 DP 1228104 subject to the terms of the licence to be finalised under delegation.**

**Attachments:**

- 25      1      Confidential - DRAFT TAHE CRN Property Licence for Car Park, E2021/29853  
                 2      Confidential - Overview of Licence Conditions, E2021/30220

**Background**

During 2019 and 2020, the NSW Government have been constructing a new Byron Bay bus interchange on Butler Street, Byron Bay.

- 5 The scope of works for this construction included significant upgrades to the Railway Hotel carpark and Lawson Street South carpark as well as the introduction of paid parking in these areas.

As works near completion, Transport for NSW have proposed an agreement for the operation, maintenance and revenue-share arrangements from these car parks – see Confidential Attachment 1.

- 10 Essentially, the agreement requires Council to manage and maintain the infrastructure built by NSW in these two parking areas.

Under the arrangement, Council pays a licence fee to Transport for NSW. This fee is calculated as such:

*Revenue (paid parking) minus expenses (\$65,000 + meter operations)*

- 15 The operation and maintenance expenses for the carpark are covered by the \$65,000 annual contribution.

Parking fines collected in the parking areas are not counted as revenue with fine revenue going directly to Council.

**Licence Conditions**

- 20 The license is 47 pages long and contains 29 clauses with numerous subclauses. The license contains 6 schedules. They are numbered 1 through 7- schedule 2 is not used.

The parties are Transport Asset Holding Entity of New South Wales (TAHE) and Byron Shire Council. TAHE is the owner of the Licence Area.

- 25 Clause 27 of the licence deals with confidentiality and requires each party to keep the contents of the licence (and all plans, documents and information made available to that party for the purpose of entering into the licence or in the course of the performance of the licence) confidential, and not to disclose any information to any other person without the written consent of the other party.

- 30 A document has been prepared providing Councillors with an overview of the licence conditions. Confidential Attachment 2.

## **Strategic Considerations**

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

<b>CSP Objective</b>	<b>L2</b>	<b>CSP Strategy</b>	<b>L3</b>	<b>DP Action</b>	<b>L4</b>	<b>OP Activity</b>
<b>Community Objective 1: We have infrastructure, transport and services which meet our expectations</b>	1.3	Support, through partnership, a network of integrated sustainable transport options	1.3.1	Ensure an integrated and accessible transport network (SP)	1.3.1.3	Support the Byron Bay Bus Interchange in partnership with Transport for NSW

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

Nil

### **5 Financial Considerations**

The licence agreement includes a payment to Council to cover any expenses incurred.

**STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES****Report No. 13.4 Security Services Tender Outcome**

**Directorate:** Corporate and Community Services

**Report Author:** Len Reilly, Property Maintenance Coordinator

5 **File No:** I2020/1592

**Summary:**

On 21 August 2020, the General Manager, under delegated authority, approved the use of the open tender method to call for tenders for Contract 2020-0009 Security Services.

The Request for Tender was advertised from 15/10/2020 to 15/11/2020.

10 Tenders have been assessed in accordance with the provisions of the Local Government (General) Regulations 2005. This report summarises the background and assessment of the tenders and provides a recommendation to award the tender for Contract 2020-0009.

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**RECOMMENDATION:**

1. That Council award Tender 2020-0009 Security Services to the preferred tenderer as identified in the Confidential Attachment (E2021/5095).
2. That Council's seal is affixed to the relevant documents.
3. That Council makes public its decision, including the name and amount of the successful tenderer, in accordance with Clause 179(b) of the Local Government (General) Regulation 2005.

**Attachments:**

15 1 Confidential - Tender 2020-0009 Evaluation Report, E2021/5095

**Report**

On 21 August 2020 the General Manager, under delegated authority, approved the use of the open tendering method to call for tenders for Contract 2020-0009 Security Services.

5 The previous contract for Security Services has expired. Council requires Security Services for Community Buildings, Council Operations Buildings, Water and Sewer Treatment Plants, Depot Stores and yards.

The Request for Tender sought responses from proponents to provide Security Patrols, Security Alarm Monitoring Services, Alarm System Maintenance, Cash Collection and CCTV Systems Maintenance.

10 The Contract is expected to commence in March 2021 for a period of three years, with the option of two one year extensions.

The Contract will be managed by the Property Maintenance Coordinator.

Tenders were advertised as follows:

- Vendor Panel: 15/10/2020
- 15 • Council's website: 15/10/2020

No site briefings were held due to travel restrictions in place for COVID 19 control.

An Evaluation Panel comprising four Council staff members was formed.

Tenders closed on 15/10/2020 and 12 tenders were received. Tenders were evaluated by the Evaluation Panel in accordance with the following evaluation criteria:

20 *Mandatory criteria:*

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

*Qualitative criteria:*

Criteria	Elements
Profile and relevant experience	Tenderer profile
	Previous relevant experience

	Environmental practices
	Opportunities for disadvantaged people
	Local employment opportunities
Quality and availability of resources	Proposed key personnel
	Proposed staff
	Use of subcontractors
	Vehicles, plant and equipment
Delivery Plan	Goods/services standards and methodology
	Implementation plan
	Product sustainability
	Supporting local business, social enterprise and Indigenous business
Price	Total contract price

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

**Financial Implications**

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

Council spends over \$400,000.00 per year on Security Services.

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

**Statutory and Policy Compliance Implications**

- 10 The tendering process has been undertaken in accordance with Council’s Purchasing and Procurement Policy, and the provisions of the Local Government (General) Regulation 2005.

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

Local Government (General) Regulation 2005 - Reg 178

- 15 *Acceptance of tenders*

*178 Acceptance of tenders*

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

- (a) *accept the tender that, having regard to all the circumstances, appears to it to be the most advantageous, or*
- (b) *decline to accept any of the tenders.*
- 5 (2) *A council must ensure that every contract it enters into as a result of a tender accepted by the council is with the successful tenderer and in accordance with the tender (modified by any variation under clause 176). However, if the successful tender was made by the council (as provided for in [section 55](#) (2A) of [the Act](#)), the council is not required to enter into any contract in order to carry out the requirements of the proposed contract.*
- 10 (3) *A council that decides not to accept any of the tenders for a proposed contract or receives no tenders for the proposed contract must, by resolution, do one of the following:*
- (a) *postpone or cancel the proposal for the contract,*
- 15 (b) *invite, in accordance with clause 167, 168 or 169, fresh tenders based on the same or different details,*
- (c) *invite, in accordance with clause 168, fresh applications from persons interested in tendering for the proposed contract,*
- (d) *invite, in accordance with clause 169, fresh applications from persons interested in tendering for contracts of the same kind as the proposed contract,*
- 20 (e) *enter into negotiations with any person (whether or not the person was a tenderer) with a view to entering into a contract in relation to the subject matter of the tender,*
- (f) *carry out the requirements of the proposed contract itself.*
- 25 (4) *If a council resolves to enter into negotiations as referred to in subclause (3) (e), the resolution must state the following:*
- (a) *the council's reasons for declining to invite fresh tenders or applications as referred to in subclause (3) (b)–(d),*
- (b) *the council's reasons for determining to enter into negotiations with the person or persons referred to in subclause (3) (e).*
- 30 Council's endorsement of the recommendation to award the tender as recommended in the attached Evaluation Report is sought.

**Report No. 13.5      Conduct a Constitutional referendum or council poll at the Local Government election in September 2021**

**Directorate:** Corporate and Community Services

5 **Report Author:** Lisa Brennan, EA Corporate and Community Services  
Esmeralda Davis, A/Manager Corporate Services

**File No:** I2021/7

**Summary:**

10 Council may conduct a Constitutional referendum or poll in conjunction with the Local Government Election, to be held in September 2021. If Council resolves to do so, the NSW Electoral Commissioner (NSWEC) must be informed as soon as possible in order that it can prepare to administer the referendum or poll.

---

**RECOMMENDATION:**

**That Council determines if there is to be a Constitutional referendum or council poll conducted in association with the Local Government election on 4 September 2021.**

**Attachments:**

15 1 Circular 20-39 NSW Office of Local Government - Constitutional referenda and council polls, E2020/96277 

## Report

On 22 August 2019 Council resolved to enter into a contract with the NSW Electoral Commissioner (NSWEC) to administer all elections, council polls and constitutional referenda (Res 19-385).

- 5 Councils are required to inform the NSWEC if they resolve to administer a Constitutional referendum or poll in conjunction with the September 2021 Local Government election. The NSWEC has requested that Council notifies it as soon as possible (prior to end June at the latest) if it wishes to enter into an arrangement for the administration of a referendum or poll.

### 10 **Constitutional referendum**

Under section 16 of the Local Government Act 1993, a council must obtain the approval of its electors at a constitutional referendum to do each of the following:

- divide a council area into wards or abolish wards
- change the number of councillors
- 15 • change the method of electing the mayor
- change the method of election for councillors where the council's area is divided into wards.

Further information in relation to proposing a referendum can be found in the Circular at Attachment 1(E2020/96277).

- 20 Any changes approved at a referendum will come into effect at the September 2024 Local Government elections.

The decision made at a Constitutional referendum binds the council until changed by a subsequent constitutional referendum.

### **Council poll**

- 25 Section 14 of the Local Government Act states "A council may take a poll of electors for its information and guidance on any matter".

If a council resolves that a constitutional referendum or poll is to be conducted, it must comply with the notification requirements contained in Schedule 10 of the Local Government (General) Regulation 2005.

- 30 Council did not propose either a Constitutional referendum or council poll for the 2016 Local Government election.

**Options**

1. Council proposes to conduct a Constitutional referendum or council poll in conjunction with the 2021 local government election.
2. Council does not conduct a Constitutional referendum or council poll in conjunction with the 2021 local government election.

**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	5.2.3	Provide access to publicly available corporate registers	5.2.3.3	Develop and implement pre-election community information program

**Legal/Statutory/Policy Considerations**

- Sections 14 and 16 of the Local Government Act 1993 (Conduct Referendum/Poll)
- 10 Section 296(2), (3) and 5(A) of the Local Government Act 1993 (Contract)
- Schedule 10 of the Local Government (General) Regulation 2005 (Referendum/Poll)

**Financial Considerations**

15 The 2021 election costs will be incorporated in the draft Budget for 2021/22. The cost estimate by the NSW Electoral Commission to administer the election is currently \$232,590 excluding GST, as per the current contract.

Additional costs will apply to conduct a poll/referendum and the NSWEC advises this would be approximately 10% or potentially an additional \$23,300 on top of the initial election cost.

**Consultation and Engagement**

20 If Council resolves to proceed with a referendum/poll, details and explanation will be included on Council’s website well in advance of the September election, in addition to Media Releases, social media posts and newsletters.

**Report No. 13.6 Section 355 Management Committees - resignations and appointments update**

**Directorate:** Corporate and Community Services

**Report Author:** Joanne McMurtry, Community Project Officer

5 **File No:** I2021/26

**Summary:**

This report updates Council on recent resignations and proposed new appointments for Section 355 committees where nominations have been received.

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**RECOMMENDATION:**

1. That the resignation from Jim Beatson from the Marvell Hall Management Committee be accepted and that a letter of thanks be provided.
2. That the resignations from Glenn Wright and Jennifer Parenteau from the Mullumbimby Civic Hall Management Committee be accepted and that a letter of thanks be provided.
3. That the resignations from Zerina Millard, Jennifer Parenteau, Gabrielle Rinaldi and Tony Horrigan from the South Golden Beach Hall Management Committee be accepted and that letters of thanks be provided.
4. That the nominee in Confidential Attachment 1 be appointed to the South Golden Beach Hall Management Committee.

**.Attachments:**

- 10
- 1 Confidential - Confidential attachment to Council report 25 February - Nominees for Section 355 committees, E2020/97177

## Report

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

5 Following Council resolution **20-385** to extend the term for Advisory Committees, Panels and Section 355 Committees until September 2021, community representatives on Section 355 Management Committees and Boards were given the option to continue until this date or give notice to resign. Some of the resignations below were received following this communication.

10 Advertising for new members for South Golden Beach Hall was conducted recently and a nomination was received following this process.

### Marvell Hall

A resignation has been received from Jim Beatson from the Marvell Hall Management Committee.

Current members on this Management Committee are:

15 *Councillors*

- Cr Cate Coorey
- Cr Jan Hackett (alternate)

*Community Representatives*

- 20
- Margaret Robertson (Booking)
  - Caroline Lloyd (Chair/Maintenance)
  - Maureen Lightfoot (Treasurer)
  - Cate Bailey

*Management Recommendation*

25 That the resignation from Jim Beatson from the Marvell Hall Management Committee be accepted and that a letter of thanks be provided.

### Mullumbimby Civic Hall

Resignations have been received from Glenn Wright and Jennifer Parenteau from the Mullumbimby Civic Hall Management Committee.

Current members on this Management Committee are:

30 *Councillors*

- Cr Jeannette Martin
- Cr Michael Lyon (alternate)

*Community Representatives*

- Sam Fell (Secretary)
- Maureen Lightfoot (Treasurer)
- John Dorczak
- 5 • Anthony Reardon

*Management Recommendation*

That the resignations from Glenn Wright and Jennifer Parenteau from the Mullumbimby Civic Hall Management Committee be accepted and that a letter of thanks be provided.

**South Golden Beach Hall**

- 10 Resignations have been received from Zerina Millard, Jennifer Parenteau, Gabrielle Rinaldi and Tony Horrigan from the South Golden Beach Hall Management Committee.

Current members on this Board of Management are:

*Councillors*

- Cr Basil Cameron
- 15 • Cr Sarah Ndiaye (alternate)

*Community Representatives:*

- Lotte Boer
- Maureen Lightfoot (Treasurer)

*Management Recommendation:*

- 20 That the resignations from Zerina Millard, Jennifer Parenteau, Gabrielle Rinaldi and Tony Horrigan from the South Golden Beach Hall Management Committee be accepted and that letters of thanks be provided.

That the nominee in Confidential Attachment 1 be appointed to the South Golden Beach Hall Management Committee.

## Strategic Considerations

### Community Strategic Plan and Operational Plan

CSP Objective	L2	CSP Strategy	L3	DP Action	L4	OP Activity
<b>Community Objective 1: We have infrastructure, transport and services which meet our expectations</b>	1.2	Provide essential services and reliable infrastructure which meet an acceptable community standard	1.2.1	Deliver infrastructure maintenance services in line with Community Solutions Panel values (SP)	1.2.1.1	Building assets managed to support the provision of services to the community.
<b>Community Objective 2: We cultivate and celebrate our diverse cultures, lifestyle and sense of community</b>	2.3	Provide accessible, local community spaces and facilities	2.3.2	Support effective management of community buildings (SP)	2.3.2.2	Review community building management models to maximise effective operation

### Legal/Statutory/Policy Considerations

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

#### **3.2 Committee Membership**

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

15 *Whilst no particular qualifications are necessary (not withstanding 3.1.a), a commitment to the activities of the Committee and a willingness to be actively involved in Committee issues is essential. Committees work best when the*

*workload is shared amongst committee members and there is evident goodwill and cooperation amongst members.*

Further information on the operations and meeting minutes for these Committees and Boards can be found on Council's web site at

- 5 <https://www.byron.nsw.gov.au/Council/Committees-and-groups/Section-355-Committees-and-Boards-of-Management>.

### **Financial Considerations**

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

### 10 **Consultation and Engagement**

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

**Report No. 13.7 Council Investments - 1 December 2020 to 31 December 2020**

**Directorate:** Corporate and Community Services

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

5 **File No:** I2021/29

**Summary:**

This report includes a list of investments and identifies Council's overall cash position for the period 1 December 2020 to 31 December 2020 for information.

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

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**RECOMMENDATION:**

**That Council notes the report listing Council's investments and overall cash position as at 31 December 2020.**

# BYRON SHIRE COUNCIL

## STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

13.7

### Report

5 Council has continued to maintain a diversified portfolio of investments. At 31 December 2020, the average 90 day bank bill rate (BBSW) for the month of December 2020 was 0.016%. Council's performance to 31 December 2020 was 0.79%. 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 investment return may continue to decrease due to the lower rates available in the current market.

The table below identifies the investments held by Council as at 31 December 2020

#### 10 Schedule of Investments held as at 30 December 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%	1,164,520.00
20/11/18	1,018,290	QLD Treasury Corp (Green Bond)	N	AA+	22/03/24	Y	B	3.00%	1,090,260.00
28/03/19	1,000,000	National Housing Finance & Investment Corporation	Y	AAA	28/03/31	Y	B	2.38%	1,113,250.00
21/11/19	1,000,250	NSW Treasury Corp (Sustainability Bond)	N	AAA	20/03/25	Y	B	1.25%	1,038,420.00
27/11/19	500,000	National Housing Finance & Investment Social Bond	Y	AAA	27/05/30	Y	B	1.57%	560,612.50
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	1.12%	755,557.50
30/08/18	500,000	Bank Australia Ltd (Sustainability Bond)	Y	BBB+	30/08/21	Y	FRN	1.39%	502,540.00
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

# BYRON SHIRE COUNCIL

## STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

13.7

Purch Date	Principal (\$)	Description	CP*	Rating	Maturity Date	No Fossil Fuel	Type	Interest Rate Per Annum	Current Value
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	Y	BBB	29/01/21	Y	TD	0.63%	1,000,000.00
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+	01/02/21	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	Y	BBB	26/08/21	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
06/10/20	1,000,000	Police Credit Union Ltd (SA)	Y	NR	06/01/21	N	TD	0.80%	1,000,000.00
07/10/20	2,000,000	MyState Bank Limited	Y	NR	07/10/21	Y	TD	0.70%	2,000,000.00
13/10/20	1,000,000	The Mutual Bank	Y	NR	13/04/21	N	TD	0.60%	1,000,000.00
27/10/20	1,000,000	The Capricornian	Y	NR	28/01/21	Y	TD	0.50%	1,000,000.00
28/10/20	1,000,000	The Mutual Bank	N	NR	27/01/21	N	TD	0.45%	1,000,000.00
04/11/20	1,000,001	AMP Bank	N	BBB	05/05/21	N	TD	0.55%	1,000,001.00
04/11/20	2,000,000	NAB	N	AA-	04/11/21	N	TD	0.55%	2,000,000.00
09/11/20	1,000,000	Community First Credit	Y	NR	09/11/21	Y	TD	0.65%	1,000,000.00

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Purch Date	Principal (\$)	Description	CP*	Rating	Maturity Date	No Fossil Fuel	Type	Interest Rate Per Annum	Current Value
		Union							
09/11/20	1,000,000	The Mutual Bank	N	NR	09/08/21	N	TD	0.65%	1,000,000.00
23/11/20	1,000,000	AMP Bank	N	BBB	23/11/21	N	TD	0.75%	1,000,000.00
24/11/20	1,000,000	Judo Bank	N	NR	24/11/21	Y	TD	0.84%	1,000,000.00
25/11/20	2,000,000	AMP Bank	N	BBB	26/05/21	Y	TD	0.70%	2,000,000.00
26/11/20	1,000,000	Community First Credit Union	N	NR	26/11/21	Y	TD	0.65%	1,000,000.00
26/11/20	1,000,000	Macquarie Bank	Y	A	22/10/21	N	TD	0.50%	1,000,000.00
01/12/20	1,000,000	AMP Bank	N	BBB	01/06/21	N	TD	0.70%	1,000,000.00
07/12/20	2,000,000	Credit Union Australia	Y	BBB	07/06/21	Y	TD	0.45%	2,000,000.00
17/12/20	2,000,000	NAB	N	AA-	17/12/21	N	TD	0.50%	2,000,000.00
N/A	8,565,500.13	CBA Business Saver	N	AA-	N/A	N	CALL	0.35%	8,565,500.13
N/A	4,280,875.94	CBA Business Saver – Tourism Infrastructure Grant	N	AA-	N/A	N	CALL	0.35%	4,280,875.94
N/A	6,112,416.26	NSW Treasury Corp	N	AAA	N/A	Y	CALL	0.05%	6,112,416.26
<b>Total</b>	<b>69,707,393.33</b>						<b>AVG</b>	<b>0.79%</b>	<b>70,241,083.33</b>

**Note 1.** CP = Capital protection on maturity

N = No Capital Protection

Y = Fully covered by Government Guarantee

P = Partial Government Guarantee of \$250,000 (Financial Claims Scheme)

**Note 2. No Fossil Fuel ADI**

Y = No investment in Fossil Fuels

N = Investment in Fossil Fuels

U = Unknown Status

**Note 3. Type Description**

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

Environmental and Socially Responsible Investing (ESRI)

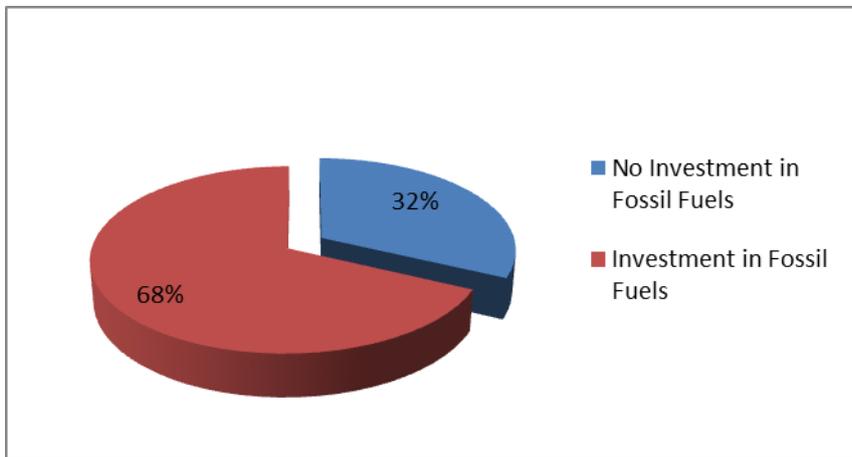
5 An additional column has been added to the schedule of Investments to identify if the financial institution holding the Council investment has been assessed as a 'No Fossil Fuel' investing institution. This information has been sourced through [www.marketforces.org.au](http://www.marketforces.org.au)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

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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](#).

5 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.
- 10 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.



15 Investment Policy Compliance

Investment policy compliance			ACTUAL	Variance
% per institution should not exceed the following				
AAA to AA	A1+	100%	61%	Meets policy
A+ to A-	A1	60%	1%	Meets policy
BBB to NR	A2,NR	40%	38%	Meets policy

20 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).

# BYRON SHIRE COUNCIL

## STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

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### Associated Risk

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

The investment portfolio is outlined in the table below by investment type for the period 1 December 2020 to 31 December 2020:

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

<b>Principal Value (\$)</b>	<b>Investment Linked to:</b>	<b>Current Market Value (\$)</b>	<b>Cumulative Unrealised Gain/(Loss) (\$)</b>
43,000,001.00	Term Deposits	43,000,001.00	0.00
2,250,000.00	Floating Rate Note	2,268,527.50	18,527.50
8,565,500.13	CBA Business Saver	8,565,500.13	0.00
4,280,875.94	CBA Business Saver – Tourism Infrastructure Grant	4,280,875.94	0.00
6,112,416.26	NSW Treasury Corp	6,112,416.26	0.00
5,498,600.00	Bonds	6,013,762.50	515,162.50
<b>69,707,393.33</b>		<b>70,241,083.33</b>	<b>533,690.00</b>

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

The table below provides a reconciliation of investment purchases and maturities for the period of 1 December 2020 to 31 December 2020 on a current market value basis.

# BYRON SHIRE COUNCIL

## Movement in Investment Portfolio – 31 December 2020

Item	Current Market Value (at end of month) \$
<b>Opening Balance at 1 December 20</b>	<b>76,382,206.85</b>
Add: New Investments Purchased	5,000,000.00
Add: Call Account Additions	4,000,000.00
Add: Tourism Call Account Additions	0.00
Add: Call Account Interest	6,488.97
Add: Tourism Call Account Interest	1,108.05
Add: T Corp Additions	0.00
Add: T Corp Interest	4,133.46
Less: Call Account Redemption	8,200,000.00
Less: Investments Matured	7,000,000.00
Less: Tourism Call Account Redemption	0.00
Less: T Corp Redemption	0.00
Plus: Fair Value Movement for period	47,146.00
<b>Closing Balance at 31 December 2020</b>	<b>70,241,083.33</b>

## Term Deposit Investments Maturities and Returns – 1 December to 31 December 2020

Principal Value (\$)	Description	Maturity Date	Number of Days Invested	Interest Rate Per Annum	Interest Paid on Maturity \$
2,000,000.00	Credit Union Australia	07/12/2020	731	3.02%	120,965.48
1,000,000.00	AMP Bank	02/12/2020	183	1.60%	7,978.08
1,000,000.00	Auswide Bank Ltd	02/12/2020	182	1.15%	5,734.25
1,000,000.00	ME Bank	01/12/2020	182	1.13%	5,634.52
2,000,000.00	NAB	17/12/2020	120	0.50%	3,287.67
<b>7,000,000.00</b>					<b>143,600.00</b>

# BYRON SHIRE COUNCIL

## STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

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

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

Item	Principal Value (\$)	Current Market Value (\$)	Cumulative Unrealised Gain/(Loss) (\$)
<b>Investments Portfolio</b>			
Term Deposits	43,000,001.00	43,000,001.00	0.00
Floating Rate Note	2,250,000.00	2,268,527.50	18,527.50
CBA Business Saver	8,565,500.13	8,565,500.13	0.00
CBA Business Saver – Tourism Infrastructure Grant	4,280,875.94	4,280,875.94	0.00
NSW Treasury Corp	6,112,416.26	6,112,416.26	0.00
Bonds	5,498,600.00	6,013,762.50	515,162.50
<b>Total Investment Portfolio</b>	<b>69,707,393.33</b>	<b>70,241,083.33</b>	<b>533,690.00</b>
<b>Cash at Bank</b>			
Consolidated Fund	1,259,173.14	1,259,173.14	
<b>Total Cash at Bank</b>	<b>1,259,173.14</b>	<b>1,259,173.14</b>	<b>0.00</b>
<b>Total Cash Position</b>	<b>70,966,566.47</b>	<b>71,500,256.47</b>	<b>533,690.00</b>

## Strategic Considerations

### Community Strategic Plan and Operational Plan

CSP Objective	L2	CSP Strategy	L3	DP Action	L4	OP Activity
<b>Community Objective 5: We have community led decision making which is open and inclusive</b>	5.5	Manage Council's finances sustainably	5.5.2	Ensure the financial integrity and sustainability of Council through effective planning and reporting systems (SP)	5.5.2.6	Identification of ethical investment opportunities with environmental and social inclusion outcomes

### Legal/Statutory/Policy Considerations

5 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*.

10 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.

15 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.

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

### Financial Considerations

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

**Report No. 13.8 Policy Review 2020-2021 - Part 2**

**Directorate:** Corporate and Community Services

**Report Author:** Mila Jones, Governance Coordinator

**File No:** I2021/42

5

**Summary:**

On 26 November 2020 Council received the first of a series of reports relating to the 2020/21 policy review as part of Council's compliance framework. This report now provides:

- 10
- Part 1 – outcome of the 26 November 2020 resolution **20-672**; and
  - Part 2 – further policies reviewed:

Updated policies

- Complaints Management Policy 2011
  - Internal Reporting Policy 2015
- 15
- Planning Agreements Policy 2009

Recommended for repeal

- Community Economic Development Policy 2010
- 

**RECOMMENDATION:**

1. That Council adopts the Draft Local Orders for the Keeping of Animals Policy 2020 at Attachment 2 (E2021/9267) amended as a result of submissions received during public exhibition.
2. That the following policies be placed on public exhibition for the reason stated alongside it for 28 days and to allow 42 days for submissions:
  - a) Draft Complaint Handling Policy 2021 – as updated and shown in track changes at Attachment 3 (E2021/15820)
  - b) Internal Reporting Policy 2021 – as updated and shown in track changes at Attachment 4 (E2021/9593)

# BYRON SHIRE COUNCIL

- c) **Planning Agreement Policy 2021 - as updated and shown at Attachment 5 (E2021/28488)**
- d) **Community Economic Development Policy 2010 – to be repealed**

**3. That:**

- a) **should there be no submissions received for a policy listed in 2 above, the update or repeal be endorsed for those policies; and**
- b) **should submissions be received on a policy listed in 2 above, those policies be reported back to Council noting the submissions and any amendments made as a result of the feedback received.**

**Attachments:**

- 1 Submissions and responses for Local Orders for the Keeping of Animals Policy, E2021/13657 
- 5 2 DRAFT Policy: Local Orders for the Keeping of Animals 2020 - including updates based on submissions, E2021/9267 
- 3 DRAFT Policy: Complaint Handling 2021, E2021/15820 
- 4 DRAFT Policy: Internal Reporting 2021, E2021/28488 
- 10 5 DRAFT Policy: Planning Agreements 2021, E2021/28478 

## Report

As previously discussed in the report to Council on 26 November 2020, an important element of public sector governance is establishing key policies and ensuring they are available, regularly updated and monitored for compliance.

- 5 An annual review of Council’s policies is conducted by the Governance Coordinator and coordinated with relevant document development officers.

10 A rolling four year policy review timetable assists the review process. There were approximately 60 policies listed for review in 2020-2021. Since 1 July 2020, approximately 85% of all Council policies are either current, have been submitted to Council, or a review has been initiated. This figure includes the policies that are the subject of this report.

### **Part 1 – Outcome of the 26 November 2020 policy review report**

#### **Draft Local Orders for the Keeping of Animals Policy 2020**

15 As resolved on 26 November 2020 (**Resolution 20-672**), nine policies were placed on public exhibition during December 2020 and January 2021. During the exhibition period we received five submissions on the Draft Local Orders for the Keeping of Animals Policy, all of which requested amendments to the exhibited draft.

Attachment 1 provides the public submissions received and also includes feedback from staff which starts on PDF page 21 onwards.

20 As a result of the submissions received, the Draft Policy (Attachment 2) has been amended to include a number of the requests made by the public. Please refer to the additional green track changes for these amendments.

#### **All other eight policies**

The remaining policies that were exhibited received no submissions and therefore were either adopted or repealed in accordance with resolution 20-672.

### **Part 2 – Further policies reviewed**

**Table 1: Policies with major amendments**

<b>Policy</b>	<b>Direct- orate</b>	<b>Action taken</b>
<b>Complaint Handling Policy</b> (previously titled Complaints Management Policy) (Attachment 3)	CCS	The Complaints Management Policy was last reviewed in 2011.  This Policy has been amended to reflect the latest Complaint Management Framework and Model Policy provided by the NSW Ombudsman.

# BYRON SHIRE COUNCIL

Policy	Direct- orate	Action taken
		<p>The amendments have not altered the basic process that Council undertakes, they mainly improve the readability of the document, remove redundant matters and make the document more contemporary based on the Ombudsman's framework:</p> <p>Main changes include:</p> <ul style="list-style-type: none"> <li>• Changing the title to Complaint Handling Policy 2021</li> <li>• Changing the structure of the Policy to reduce duplication and increase ease of reading.</li> <li>• Removing the categorisation of Level 1 and Level 2 Complaints, considering Level 2 Complaints are handled by the Internal Reporting Policy.</li> <li>• Removal of the Complaint Management Form as an Appendix as it's not required in a policy.</li> </ul> <p>Some of the track changes indicate information that has been carried over from the current Policy.</p>
<p><b>Internal Reporting Policy</b> (Attachment 4)</p>	<p>GM's office</p>	<p>Under section 6D of the Public Interest Disclosures Act 1994 (PID Act), public authorities are required to have a policy and procedures for receiving, assessing and dealing with public interest disclosures. The Ombudsman's guidelines state that Council's policy should be based on the NSW Ombudsman's model policy and guidelines.</p> <p>Council's Internal Reporting Policy was last reviewed in 2015.</p> <p>The Draft Policy has amended the 2015 version to reflect the latest Model Internal Reporting Policy provided by the NSW Ombudsman. The draft document contains basically the same information as the 2015 version, however the information is now provided more clearly and succinctly. References to other policies and Acts</p>

# BYRON SHIRE COUNCIL

Policy	Direct- orate	Action taken
		have also been updated.
<p><b>Planning Agreements Policy</b> (Attachment 5)</p> <p>Note: For simplicity of viewing, the heavily changed draft policy is shown at Attachment 5 without track changes, and the current policy is linked <a href="#">here</a>, for easier comparison. It also allows for the reader to view the original text colouring and to understand why many of the changes were required.</p>	SEE	<p>This Policy was last reviewed in 2009.</p> <p>Major amendments have been made as discussed below:</p> <ul style="list-style-type: none"> <li>• The current 2008 Policy was prepared and adopted with alternative clauses due to the Environmental Planning Assessment (Amendment) Act 2008 which had not been gazetted at the time of the development of the Policy. Blue text was used to denote the current legislation (as at July 2008) and red text was used to denote the provisions that would apply should the Amendment Act be gazetted. Black text showed non-contentious provisions.</li> </ul> <p>As the Amendments were never gazetted, the red text should have been removed. The blue and black text has required updating to reflect the change to the EP&amp;A Act numbering system.</p> <ul style="list-style-type: none"> <li>• Further amendments have been made to:               <ul style="list-style-type: none"> <li>- Ensure consistency with the Planning Agreements Practice Note – Draft April 2020 and current Council practises.</li> <li>- Reduce the amount of duplication that exists throughout the document with legislation and Practice Note clauses. This is helpful for the reader to identify where Council has made special provisions consistent with our Shire’s policy position, which is not documented in legislation, guidelines or other strategic documents.</li> <li>- The Affordable Housing section has been removed due to the following advice:                   <ul style="list-style-type: none"> <li>- Since the adoption of this policy, NSW state policy on affordable housing has progressed to enable a more consistent</li> </ul> </li> </ul> </li> </ul>

# BYRON SHIRE COUNCIL

Policy	Directorate	Action taken
		<p>and transparent means to attain an affordable housing either via SEPP 70 affordable rental housing and SEPP 70 affordable housing revised schemes.</p> <p>The recently adopted Byron Shire Affordable Housing Contribution Policy and associated procedure (13 August 2020 – <b>Res 20-365</b>) is framed to work with this more recent state policy. It was prepared in line with NSW EPA (Planning agreements) direction &amp; Practice Note 2016 and SEPP 70 and guidelines. It covers scope for both a voluntary planning agreement for affordable housing contribution or a SEPP 70 clause in the Byron Local Environmental Plan 2014. A planning proposal is currently being prepared to insert such a clause (as per 11 April 2019 <b>Res 2019-152</b> and 12 December 2019 <b>Res 19-636</b>). Importantly this clause seeks to retain <u>land for affordable housing (AH) in perpetuity.</u></p> <p>The old policy section 5 appears to deal with Planning Agreement to award floor space ratio density bonuses in return for AH. Under this arrangement the AH would only remain as long as the development remains on the site. It also relies on state and Council documents/maps that are either dated or were not even adopted. A SEPP 70 affordable housing revised scheme can now effectively achieve a similar outcome. Council, subject to the viability test, can be apply a scheme to areas were a change in planning control to increase floor space ratios enable greater residential density on site.</p> <ul style="list-style-type: none"> <li>- In summary it is recommended that Section 5 be deleted as it is superseded by more recent state and</li> </ul>

# BYRON SHIRE COUNCIL

Policy	Direct- orate	Action taken
		council policy.

**Table 2: Policies recommended for repeal**

Policy	Direct- orate	Reason for repeal
<a href="#"><u>Community Economic Development Policy 2010</u></a>	SEE	<p>This policy is proposed to be repealed.</p> <p>As the Policy was developed prior to the Enterprising Byron 2025 strategy and this Policy sits within several adopted Council strategies, we propose it is no longer required as a stand-alone policy.</p> <p>Note the Enterprising Byron 2025 strategy is being reviewed shortly with consultation from community and industry, COVID impacts on business, and the results of Council's Business Impacts, Resilience and Continuity Survey.</p>

## Strategic Considerations

### Community Strategic Plan and Operational Plan

CSP Objective	L2	CSP Strategy	L3	DP Action	L4	OP Activity
<b>Community Objective 5: We have community led decision making which is open and inclusive</b>	5.2	Create a culture of trust with the community by being open, genuine and transparent	5.2.3	Provide access to publicly available corporate registers	5.2.3.2	Review, update and publish Council policies online and report on the status of Council's policy register

## Related Resolutions

- 5 • 20-672 (26 November 2020 Report 13.4 Policy Review 2020-2021)
1. That the following policies be placed on public exhibition for the reason stated alongside it for 28 days to allow 42 days for submissions:

# BYRON SHIRE COUNCIL

## STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

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- a) Building Information Certificates Policy 2020 – as updated and shown in track changes at Attachment 1
  - b) Local Order for the Keeping of Animals Policy 2020 – as updated and shown in track changes at Attachment 2
  - 5 c) Construction of Garages and Outbuildings on Vacant Land Policy 1994 – to be repealed
  - d) Corporate Sustainability Policy 2012 – to be repealed
  - e) Development Policy 1994 – to be repealed
  - f) Lavertys Gap Weir Catchment Management Policy 2007 – to be repealed
  - 10 g) Public Consultation – Proposed Works Policy 1994 – to be repealed
  - h) Traffic Control at Worksites Policy 1998 – to be repealed
2. That:
- a) should there be no submissions received for a policy, the update or repeal be endorsed for those policies; and,
  - 15 b) should submissions be received on a policy, those policies be reported back to Council noting the submissions and any amendments made as a result of the feedback received.
3. That the Maximum Speed Limits on Rural Roads Policy 2011 be revised, updated and presented for exhibition.

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

Each policy is reviewed to ensure consistency with the relevant legislation, agency guidelines, rules or protocols.

#### **Corporate Documents Standard**

25 When reviewing our policies, Council's Corporate Documents Standard (internal policy) provides the following guidance to staff:

30 *A Policy sets out Byron Shire Council's position on a specific matter – a formal statement of intent and non-discretionary governing principles that apply to Byron Shire Council's practice. The principles are derived from and shaped by the law and regulations that apply, community expectations, and the values and mission contained in the adopted Community Strategic Plan. A Policy is a concise document that may facilitate, enable or constrain practice, standard, guidelines or delegated functions but does not prescribe in detail how to perform certain functions - instead it provides a framework for action with its*

*primary role being to guide the achievement of the adopted strategic goals and ensure legislative compliance.*

5 The most recent developments in legislative requirements, and the community's and Council's position on certain matters have been checked for each policy to determine whether a policy required updating, or whether a policy was still necessary. A policy may no longer be necessary, for instance, if legislation now wholly covers Council's policy position, or if a Policy reflects legislation that no longer exists.

### **Financial Considerations**

There are no financial considerations.

### 10 **Consultation and Engagement**

Part 1: Public exhibition was held for 28 days, allowing 42 days for submissions following the 26 November 2020 report to Council.

15 Part 2: Prior to this Ordinary Meeting, the Executive Team, Managers and relevant document development officers were engaged. Following this Ordinary Meeting the documents discussed in part 2 of this report will be placed on public exhibition in order to receive submissions.

**Report No. 13.9 National General Assembly of Local Government 2021**

**Directorate:** Corporate and Community Services

**Report Author:** Joelinda Bourke, Corporate Support Officer

5 **File No:** I2021/49

**Summary:**

10 The National General Assembly of Local Government will be held from 20 to 23 June 2021 in Canberra. The Call for Motions Discussion Paper requires that motions from Councillors are to be lodged by 26 March 2021.

This report is provided in accordance with Council's Policy Councillor Expenses and Facilities 2019, Clause 6.36 "A resolution of Council is required to authorise attendance of Councillors at...b) National General Assembly of Local Government as a voting delegate".

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**RECOMMENDATION:**

1. That Council authorises two Councillors being Councillors \_\_\_\_\_ and \_\_\_\_\_ to attend the 2021 National General Assembly of Local Government to be held at the National Convention Centre in Canberra from 20 to 23 June 2021 and nominates Cr \_\_\_\_\_ as the voting delegate.
2. That Council considers endorsement of any motions for submission to the National General Assembly, at its Ordinary meeting scheduled for Thursday, 25 March 2021, to meet the lodgement deadline with ALGA of Friday, 26 March 2021.

15

## Report

5 Council has received the program and registration details for the National General Assembly of Local Government (NGA) to be held in Canberra from 20 to 23 June 2021. The theme for the 2021 NGA is ‘*Working Together for our Communities*’, acknowledging the need to come together and with other partners, including Federal Government, to deliver for our communities.

Council’s Policy Councillor Expenses and Facilities 2019, Clause 6.36 states “*A resolution of Council is required to authorise attendance of Councillors at...b) National General Assembly of Local Government as a voting delegate*”.

10 Council is entitled to one voting delegate in the debating session.

## Conference Motions

The Councillor Expenses and Facilities 2019 Policy also states at clause 6.40 that “*Submission of motions to the ... National General Assembly for consideration by Council will be done by notice of motion, which can be considered during the year.*”

15 As motions to the NGA are to be received by the Australia Local Government Association (ALGA) no later than 11:59pm on 26 March 2021 and must first be endorsed by Council prior to submission. A memo was provided to Councillors on 13 January 2021 with this information.

Staff will submit any adopted motions to ALGA on behalf of a Council prior to the deadline.

## 20 Call for Motions

The NGA Call for Motions Discussion Paper outlines the challenges faced by Local Governments across Australia, recognising that 2020 was a year like no other. Key points discussed throughout the paper include:

- 25 • council resilience – in the face of financial constraints and rapidly evolving technologies
- community resilience – in the face of natural disasters, pandemics, recession, and inequality; and
- 30 • collaboration and partnerships – the need to work with other councils and organisations to enhance the capacity to address community expectations and overcome challenges

The full discussion paper is available from the following link: <https://cdn.alga.asn.au/wp-content/uploads/Discussion-Paper-2021-WEB.pdf>

## Conference Details

Where: National Convention Centre, Canberra, ACT

## BYRON SHIRE COUNCIL

### STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

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Dates: Sunday 20 June to Wednesday 23 June 2021

Costs: *(per delegate)*

	Registration Fee (early bird received by 7 May 2021)	\$ 989.00
	Accommodation ( <i>approx</i> ) (4 nights)	\$1,000.00
5	Travel ( <i>approx.</i> )	\$ 800.00
	Total:	\$2,789.00

### Next steps

To be eligible for inclusion in the NGA Business Papers, and subsequent debate on the floor of the NGA, Motions must meet the following criteria:

- 10 • be relevant to the work of local government nationally
- not be focused on a specific location or region – unless the project has national implications. You will be asked to justify why your motion has strategic national importance and should be discussed at a national conference
- be consistent with the themes of the NGA
- 15 • complement or build on the policy objectives of your state and territory local government association
- be submitted by a council which is a financial member of their state or territory local government association
- 20 • propose a clear action and outcome i.e. call on the Australian Government to do something;
- be a new motion that has not already been debated at an NGA in the preceding two years
- not be advanced on behalf of external third parties that may seek to use the NGA to apply pressure to Board members, or to gain national political exposure for positions that are not directly relevant to the work of, or in the national interests of, local government.
- 25

Motions should be lodged electronically using the online form available on the NGA website at: [www.alga.asn.au](http://www.alga.asn.au). All motions require, among other things, a contact officer, a clear national objective, a summary of the key arguments in support of the motion, and the endorsement of your council. Motions should be received no later than 11:59pm AEST on Friday 26 March 2021.

30

## Strategic Considerations

### Community Strategic Plan and Operational Plan

CSP Objective	L2	CSP Strategy	L3	DP Action	L4	OP Activity
<b>Community Objective 5: We have community led decision making which is open and inclusive</b>	5.2	Create a culture of trust with the community by being open, genuine and transparent	5.2.4	Support Councillors to carry out their civic duties	5.2.4.3	Provide support to Councillors – including councillor requests, briefing sessions, provision of facilities and payment of expenses, and record keeping

### Related Resolutions

N/A

### 5 Legal/Statutory/Policy Considerations

In accordance with Council’s Policy Councillor Expenses and Facilities 2019 “*A resolution of Council is required to authorise attendance of Councillors at ...b) Australian Local Government Association National General Assembly as a voting delegate.*”

### Financial Considerations

- 10 Council has an allocation for conferences of \$31,500 within the 2020/21 budget (2145.004). There is sufficient funding remaining to cover the cost of sending two delegates to the NGA.

### Consultation and Engagement

N/A

15

**Report No. 13.10 Council Resolutions Quarterly Review - Q2 -  
1 October to 31 December 2020**

**Directorate:** Corporate and Community Services

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

**File No:** I2021/137

**Summary:**

This report provides an update on the status of Council resolutions as at 31 December 2020.

10 174 resolutions were completed during the period 1 October to 31 December 2020.

As at 31 December 2020, there were 109 active resolutions. Resolutions could be active or overdue as a result of budget constraints, staff resourcing, extended negotiations with stakeholders, or other reasons.

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**RECOMMENDATION:**

1. That Council notes the information provided in this report on active Council Resolutions in Attachment 1 (#E2021/41).
- 20 2. That Council notes the completed Resolutions in Attachment 2 (#E2021/42).
3. That Council endorses the closure of the Resolutions identified in Table 1: Council resolutions that have been superseded by other resolutions; and which have been included in the completed Resolutions in Attachment 2 (#E2021/42).

25 **Attachments:**

- 1 Active Resolutions - 31 December, E2021/41 
- 2 Completed Resolutions - 1 October to 31 December 2020, E2021/42 

30

## Report

Each quarter, Council is provided with an update on the status of Council resolutions; identifying those resolutions completed within the reporting period, those proposed to be closed, and those resolutions that remain 'Active'.

### 5 Quarterly Report – 1 October to 31 December 2020

#### Active Resolutions

10 The *Active Resolutions Report* (#E2021/41) provides an update to Council on all active resolutions as at 31 December 2020; with relevant commentary regarding the status of each resolution as at this date. There are 109 active resolutions; including those resolutions from the December Council Meetings which may or may not have had any action taken at the time of preparing this report. 11 of the active resolutions were overdue by more than 60 days at the time the report was prepared.

#### Completed Resolutions

15 The *Completed Resolutions Report* (#E2021/42) provides details of those resolutions that were completed during the period 1 October to 31 December 2020. There were 174 resolutions completed between 1 October to 31 December 2020.

#### Resolutions for Closure

20 Council resolutions that are no longer relevant or have been superseded either by other resolutions, legislative change or other matters, are provided in Table 1 below. These resolutions are also reflected in the *Completed Resolutions Report*.

**Table 1: Council resolutions that have been superseded by other resolutions:**

Meeting Date	Res No.	Report Title	Staff Comments and Recommendation
19/03/2020	20-026	PLANNING - Design Excellence Panel	Superseded by Resolution 20-681

## Strategic Considerations

### Community Strategic Plan and Operational Plan

CSP Objective	L2	CSP Strategy	L3	DP Action	L4	OP Activity
<b>Community Objective 5: We have community led decision</b>	5.2	Create a culture of trust with the community by being open,	5.2.4	Support Councillors to carry out their civic	5.2.4.2	Deliver Council meeting secretariat – including agenda preparation,

# BYRON SHIRE COUNCIL

## STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

13.10

CSP Objective	L2	CSP Strategy	L3	DP Action	L4	OP Activity
making which is open and inclusive		genuine and transparent		duties		minutes and council resolutions monitoring

### Recent Resolutions

This report has been prepared in accordance with requirements prescribed by Council resolution **20-513**.

### Legal/Statutory/Policy Considerations

- 5 Implementation of Council Resolutions in accordance with the *Local Government Act 1993*.

### Financial Considerations

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

### Consultation and Engagement

- 10 Not applicable.

**Report No. 13.11 Council Investments - 1 January 2021 to 31 January 2021**

**Directorate:** Corporate and Community Services

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

5 **File No:** I2021/149

**Summary:**

This report includes a list of investments and identifies Council's overall cash position for the period 1 January 2021 to 31 January 2021 for information.

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

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**RECOMMENDATION:**

**That Council notes the report listing Council's investments and overall cash position as at 31 January 2021.**

# BYRON SHIRE COUNCIL

## Report

5 Council has continued to maintain a diversified portfolio of investments. At 31 January 2021, the average 90 day bank bill rate (BBSW) for the month of January 2021 was 0.016%. Council's performance to 31 January 2021 was 0.77%. 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 investment return may continue to decrease due to the lower rates available in the current market.

The table below identifies the investments held by Council as at 31 January 2021

### 10 Schedule of Investments held as at 31 January 2021

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%	1,164,520.00
20/11/18	1,018,290	QLD Treasury Corp (Green Bond)	N	AA+	22/03/24	Y	B	3.00%	1,090,260.00
28/03/19	1,000,000	National Housing Finance & Investment Corporation	Y	AAA	28/03/31	Y	B	2.38%	1,113,250.00
21/11/19	1,000,250	NSW Treasury Corp (Sustainability Bond)	N	AAA	20/03/25	Y	B	1.25%	1,038,420.00
27/11/19	500,000	National Housing Finance & Investment Social Bond	Y	AAA	27/05/30	Y	B	1.57%	560,612.50
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	1.12%	755,557.50
30/08/18	500,000	Bank Australia Ltd (Sustainability Bond)	Y	BBB+	30/08/21	Y	FRN	1.39%	502,540.00
24/07/20	2,000,000	Bank of Queensland	N	BBB+	19/07/21	N	TD	0.90%	2,000,000.00
30/07/20	1,000,000	Judo Bank	Y	NR	30/07/21	N	TD	1.25%	1,000,000.00

## BYRON SHIRE COUNCIL

### STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

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Purch Date	Principal (\$)	Description	CP*	Rating	Maturity Date	No Fossil Fuel	Type	Interest Rate Per Annum	Current Value
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+	01/02/21	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	Y	BBB	26/08/21	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
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
07/10/20	2,000,000	MyState Bank Limited	Y	NR	07/10/21	Y	TD	0.70%	2,000,000.00
13/10/20	1,000,000	The Mutual Bank	Y	NR	13/04/21	Y	TD	0.60%	1,000,000.00
04/11/20	1,000,001	AMP Bank	N	BBB	05/05/21	N	TD	0.55%	1,000,001.00
04/11/20	2,000,000	NAB	N	AA-	04/11/21	N	TD	0.55%	2,000,000.00
09/11/20	1,000,000	Community First Credit Union	Y	NR	09/11/21	Y	TD	0.65%	1,000,000.00
09/11/20	1,000,000	The Mutual Bank	N	NR	09/08/21	Y	TD	0.65%	1,000,000.00
23/11/20	1,000,000	AMP Bank	N	BBB	23/11/21	N	TD	0.75%	1,000,000.00
24/11/20	1,000,000	Judo Bank	Y	NR	24/11/21	Y	TD	0.84%	1,000,000.00
25/11/20	2,000,000	AMP Bank	N	BBB	26/05/21	Y	TD	0.70%	2,000,000.00
26/11/20	1,000,000	Community First Credit Union	N	NR	26/11/21	Y	TD	0.65%	1,000,000.00
26/11/20	1,000,000	Macquarie Bank	Y	A	22/10/21	N	TD	0.50%	1,000,000.00

# BYRON SHIRE COUNCIL

## STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

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Purch Date	Principal (\$)	Description	CP*	Rating	Maturity Date	No Fossil Fuel	Type	Interest Rate Per Annum	Current Value
01/12/20	1,000,000	AMP Bank	N	BBB	01/06/21	N	TD	0.70%	1,000,000.00
07/12/20	2,000,000	Credit Union Australia	Y	BBB	07/06/21	Y	TD	0.45%	2,000,000.00
17/12/20	2,000,000	NAB	N	AA-	17/12/21	N	TD	0.50%	2,000,000.00
05/01/2	2,000,000	NAB	N	AA-	05/01/22	N	TD	0.45%	2,000,000.00
05/01/21	1,000,000	Judo Bank	N	NR	06/07/21	Y	TD	0.55%	1,000,000.00
20/01/21	1,000,000	Westpac (Tailored)	Y	AA-	20/01/22	N	TD	0.38%	1,000,000.00
27/01/21	1,000,000	The Mutual Bank	N	NR	27/01/22	Y	TD	0.50%	1,000,000.00
29/01/21	1,000,000	ME Bank	Y	BBB	31/01/22	Y	TD	0.45%	1,000,000.00
N/A	9,567,888.05	CBA Business Saver	N	AA-	N/A	N	CALL	0.30%	9,567,888.05
N/A	4,283,055.20	CBA Business Saver – Tourism Infrastructure Grant	N	AA-	N/A	N	CALL	0.30%	4,283,055.20
N/A	6,112,865.77	NSW Treasury Corp	N	AAA	N/A	Y	CALL	0.01%	6,112,865.77
<b>Total</b>	<b>68,712,410.02</b>						<b>AVG</b>	<b>0.79%</b>	<b>69,246,100.02</b>

**Note 1.** CP = Capital protection on maturity

N = No Capital Protection

Y = Fully covered by Government Guarantee

P = Partial Government Guarantee of \$250,000 (Financial Claims Scheme)

# BYRON SHIRE COUNCIL

## Note 2. No Fossil Fuel ADI

Y = No investment in Fossil Fuels

N = Investment in Fossil Fuels

U = Unknown Status

## Note 3. Type Description

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

### Environmental and Socially Responsible Investing (ESRI)

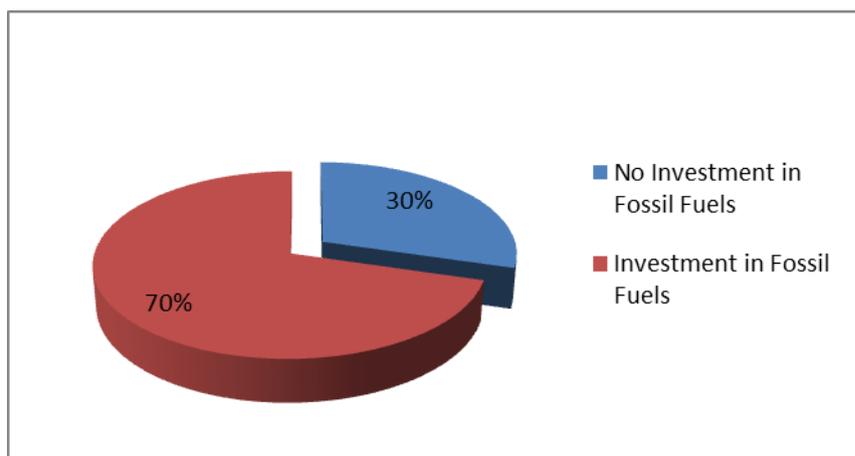
5 An additional column has been added to the schedule of Investments to identify if the financial institution holding the Council investment has been assessed as a 'No Fossil Fuel' investing institution. This information has been sourced through [www.marketforces.org.au](http://www.marketforces.org.au)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

10 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](#).

# BYRON SHIRE COUNCIL

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.:

- 5 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.



10

## Investment Policy Compliance

Investment policy compliance			ACTUAL	Variance
% per institution should not exceed the following				
AAA to AA	A1+	100%	63.25%	Meets policy
A+ to A-	A1	60%	1.46%	Meets policy
BBB to NR	A2,NR	40%	35.29%	Meets policy

15

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).

20

# BYRON SHIRE COUNCIL

## Associated Risk

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

The investment portfolio is outlined in the table below by investment type for the period 1 January 2021 to 31 January 2021:

### **Dissection of Council Investment Portfolio as at 31 January 2021**

<b>Principal Value (\$)</b>	<b>Investment Linked to:</b>	<b>Current Market Value (\$)</b>	<b>Cumulative Unrealised Gain/(Loss) (\$)</b>
41,000,001.00	Term Deposits	41,000,001.00	0.00
2,250,000.00	Floating Rate Note	2,268,527.50	18,527.50
9,567,888.05	CBA Business Saver	9,567,888.05	0.00
4,283,055.20	CBA Business Saver – Tourism Infrastructure Grant	4,283,055.20	0.00
6,112,865.77	NSW Treasury Corp	6,112,865.77	0.00
5,498,600.00	Bonds	6,013,762.50	515,162.50
<b>68,712,410.02</b>		<b>69,246,100.02</b>	<b>533,690.00</b>

10 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.

15 The table below provides a reconciliation of investment purchases and maturities for the period of 1 January 2021 to 31 January 2021 on a current market value basis.

# BYRON SHIRE COUNCIL

## Movement in Investment Portfolio – 31 January 2021

Item	Current Market Value (at end of month) \$
<b>Opening Balance at 1 January 2021</b>	<b>70,241,083.33</b>
Add: New Investments Purchased	6,000,000.00
Add: Call Account Additions	2,000,000.00
Add: Tourism Call Account Additions	0.00
Add: Call Account Interest	2,387.92
Add: Tourism Call Account Interest	2,179.26
Add: T Corp Additions	0.00
Add: T Corp Interest	449.51
Less: Call Account Redemption	1,000,000.00
Less: Investments Matured	8,000,000.00
Less: Tourism Call Account Redemption	0.00
Less: T Corp Redemption	0.00
Plus: Fair Value Movement for period	0.00
<b>Closing Balance at 31 January 2021</b>	<b>69,246,100.02</b>

## Term Deposit Investments Maturities and Returns – 1 January to 31 January 2021

Principal Value (\$)	Description	Maturity Date	Number of Days Invested	Interest Rate Per Annum	Interest Paid on Maturity \$
2,000,000.00	NAB	05/01/2021	120	0.70%	4,602.74
1,000,000.00	Westpac	19/01/2021	365	1.41%	14,100.00
1,000,000.00	ME Bank	29/01/2021	185	1.63%	3,193.15
1,000,000.00	Judo Bank	05/01/2021	365	2.10%	21,000.00
1,000,000.00	Police Credit Union	06/01/2021	92	0.80%	2,016.44
1,000,000.00	The Capricornian	28/01/2021	93	0.50%	1,273.97
1,000,000.00	The Mutual Bank	27/01/2021	91	0.45%	1,121.92
					<b>47,308.22</b>

# BYRON SHIRE COUNCIL

## STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

13.11

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 January 2021 the table below identifies Council's overall cash position as follows:

5 **Dissection of Council's Cash Position as at 31 January 2021**

Item	Principal Value (\$)	Current Market Value (\$)	Cumulative Unrealised Gain/(Loss) (\$)
<b>Investments Portfolio</b>			
Term Deposits	41,000,001.00	41,000,001.00	0.00
Floating Rate Note	2,250,000.00	2,268,527.50	18,527.50
CBA Business Saver	9,567,888.05	9,567,888.05	0.00
CBA Business Saver – Tourism Infrastructure Grant	4,283,055.20	4,283,055.20	0.00
NSW Treasury Corp	6,112,865.77	6,112,865.77	0.00
Bonds	5,498,600.00	6,013,762.50	515,162.50
<b>Total Investment Portfolio</b>	<b>68,712,410.02</b>	<b>69,246,100.02</b>	<b>533,690.00</b>
<b>Cash at Bank</b>			
Consolidated Fund	2,683,046.35	2,683,046.35	
<b>Total Cash at Bank</b>	<b>2,683,046.35</b>	<b>2,683,046.35</b>	<b>0.00</b>
<b>Total Cash Position</b>	<b>71,395,456.37</b>	<b>71,929,146.37</b>	<b>533,690.00</b>

## **STRATEGIC CONSIDERATIONS**

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

<b>CSP Objective</b>	<b>L2</b>	<b>CSP Strategy</b>	<b>L3</b>	<b>DP Action</b>	<b>L4</b>	<b>OP Activity</b>
<b>Community Objective 5: We have community led decision making which is open and inclusive</b>	5.5	Manage Council's finances sustainably	5.5.2	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**

5 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*.

10 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.

15 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.

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

### **Financial Considerations**

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

**Report No. 13.12 Budget Review - 1 October 2020 to 31 December 2020**

**Directorate:** Corporate and Community Services

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

5 **File No:** I2021/156

**Summary:**

This report is prepared to comply with Regulation 203 of the *Local Government (General) Regulation 2005* and to inform Council and the Community of Council's estimated financial position for the 2020/2021 financial year, reviewed as at 31 December 2020.

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

This report was also considered by the Finance Advisory Committee at its Meeting held on 18 February 2021.

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**RECOMMENDATION:**

20 1. **That Council authorises the itemised budget variations as shown in Attachment 2 (#E2021/30960) which include the following results in the 31 December 2020 Quarterly Review of the 2020/2021 Budget:**

a) **General Fund – No change to the Estimated Unrestricted Cash Result**

b) **General Fund - \$1,185,800 increase in reserves**

c) **Water Fund - \$29,200 decrease in reserves**

25 d) **Sewerage Fund - \$94,200 increase in reserves**

2. **That Council adopts the revised General Fund Estimated Unrestricted Cash Result of \$428,200 for the 2020/2021 financial year as at 31 December 2020.**

**Attachments:**

- 30 1 Budget Variations for General, Water and Sewerage Funds, E2021/30951 
- 2 Itemised Listing of Budget Variations for General, Water and Sewerage Funds, E2021/30960 
- 3 Integrated Planning and Reporting Framework (IP&R) required Quarterly Review Statements, E2021/30961 

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**BYRON SHIRE COUNCIL**

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

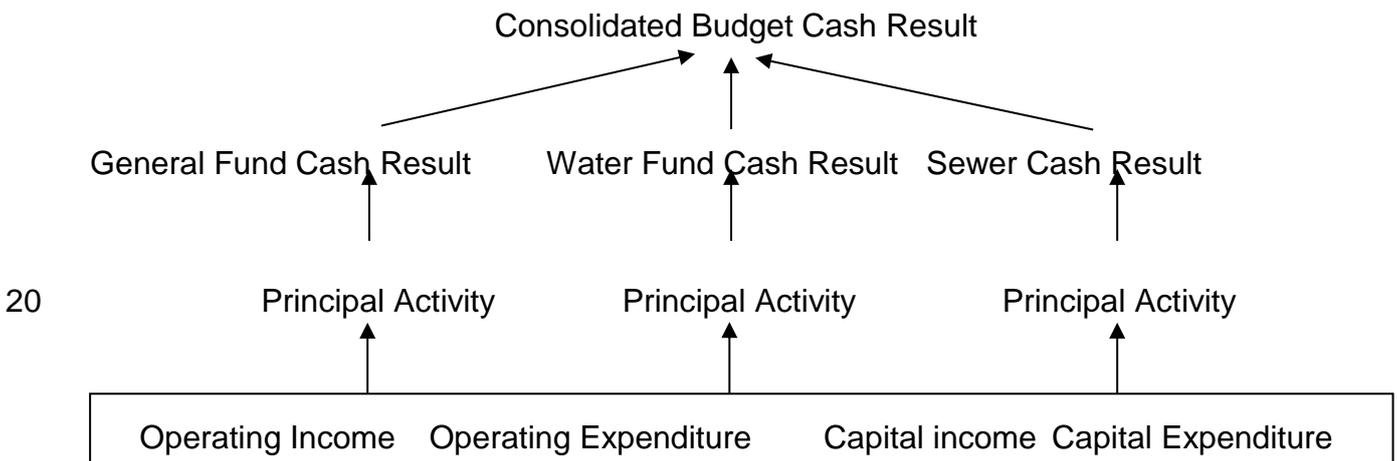
13.12

**Report**

5 Council adopted the 2020/2021 budget on 30 July 2020 via Resolution **20-357**. It also considered and adopted the budget carryovers from the 2019/2020 financial year, to be incorporated into the 2020/2021 budget, at its Ordinary Meeting held on 27 August 2020 via Resolution **20-384**. Since that date, Council has reviewed the budget taking into consideration the 2019/2020 Financial Statement results and progress through the first half of the 2020/2021 financial year. This report considers the December 2020 Quarter Budget Review.

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

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



25 The pages within Attachment 1 are presented (from left to right) by showing the original budget as adopted by Council on 30 July 2020 plus the adopted carryover budgets from 2019/2020 followed by the resolutions between July and September, the September review, resolutions between October and December and the revote (or adjustment for this review) and then the revised position projected for 30 June 2021 as at 31 December 2020.

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

There is also information detailing restricted assets (reserves) to show Council's estimated balances as at 30 June 2021 for all Council's reserves.

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

35

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

5 The Office of Local Government on 10 December 2010 issued the new Quarterly Budget Review Guidelines via Circular 10-32, with the reporting requirements to apply from 1 July 2011. This report includes a Quarterly Budget Review Statement (refer Attachment 3) prepared by Council in accordance with the guidelines.

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

10 Since the introduction of the new planning and reporting framework for NSW Local Government, it is now a requirement for Councils to provide the following components when submitting a Quarterly Budget Review Statement (QBRs):-

- A signed statement by the Responsible Accounting Officer on Council's financial position at the end of the year based on the information in the QBRs
- Budget review income and expenses statement in one of the following formats:
  - 15 ○ Consolidated
  - By fund (e.g. General, Water, Sewer)
  - By function, activity, program etc. to align with the management plan/operational plan
- Budget Review Capital Budget
- 20 • Budget Review Cash and Investments Position
- Budget Review Key performance indicators
- Budget Review Contracts and Other Expenses

The above components are included in Attachment 3:-

25 **Income and Expenditure Budget Review Statement by Type** – This shows Council's income and Expenditure by type. This has been split by Fund. Adjustments are shown, looking from left to right. These adjustments are commented on through the last 7 pages of Attachment 1.

30 **Capital Budget Review Statement** – This statement identifies in summary Council's capital works program on a consolidated basis and then split by Fund. It also identifies how the capital works program is funded. As this is the first quarterly review for the reporting period, the Statement may not necessarily indicate the total progress achieved on the delivery of the capital works program.

**Cash and Investments Budget Review Statement** – This statement reconciles Council's restricted funds (reserves) against available cash and investments. Council has attempted

## BYRON SHIRE COUNCIL

to indicate an actual position as at 31 December 2020 of each reserve to show a total cash position of reserves with any difference between that position and total cash and investments held as available cash and investments. It should be recognised that the figure is at a point in time and may vary greatly in future quarterly reviews pending on cash flow movements.

5

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

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

10

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

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

### CONSOLIDATED RESULT

20

The following table provides a summary of the overall Council budget on a consolidated basis inclusive of all Funds' budget movements for the 2020/2021 financial year projected to 30 June 2021 but revised as at 31 December 2020.

2020/2021 Budget Review Statement as at 31 December 2020	Original Estimate (Including Carryovers) 1/7/2020	Adjustments to 31 Dec 2020 including Resolutions*	Proposed 31 Dec 2020 Review Revotes	Revised Estimate 30/6/2021 at 31/12/2020
Operating Revenue	84,311,000	734,100	350,600	85,395,700
Operating Expenditure	91,880,000	1,413,700	550,600	93,844,300
<b>Operating Result – Surplus/Deficit</b>	<b>(7,569,000)</b>	<b>(679,600)</b>	<b>(200,000)</b>	<b>(8,448,600)</b>
Add: Capital Revenue	27,338,600	354,900	(760,200)	26,933,300
<b>Change in Net Assets</b>	<b>19,769,600</b>	<b>(324,700)</b>	<b>(960,200)</b>	<b>18,484,700</b>
Add: Non Cash Expenses	14,986,200	0	0	14,986,200
Add: Non-Operating Funds Employed	27,000,000	0	1,750,000	28,750,000

## BYRON SHIRE COUNCIL

### STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

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Subtract: Funds Deployed for Non-Operating Purposes	(96,029,000)	1,168,900	461,000	(94,399,100)
<b>Cash Surplus/(Deficit)</b>	<b>(34,273,200)</b>	<b>844,200</b>	<b>1,250,800</b>	<b>(32,178,200)</b>
Restricted Funds – Increase / (Decrease)	(33,916,400)	783,500	1,250,800	(31,882,100)
<b>Forecast Result for the Year – Surplus/(Deficit) – Unrestricted Cash Result</b>	<b>(356,800)</b>	<b>60,700</b>	<b>0</b>	<b>(296,100)</b>

The General Fund financial position overall has not changed as a result of this budget review, leaving the forecast cash result for the year at a deficit of \$296,100. The proposed budget changes are detailed in Attachment 1 and summarised further in this report below.

### Council Resolutions

- 5 At the meeting of 24 September 2020, Council resolved through Resolution **20-518** “*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.*”
- 10 At this point in time there has not been the capacity to identify sufficient funding for this resolution given the overall Council budget position is still projecting a deficit position although a reduced deficit. Further consideration of this resolution will be given when the 31 March 2021 Quarterly Budget Review is completed which will provide a better indication of 2020-2021 financial year outcomes.

- 15 This Budget Review though has been able to incorporate a proposed budget variation of \$50,000 to fund a feasibility study for all year round use of the Petria Thomas Swimming Pool in Mullumbimby as requested by Resolution **20-733** from the 21 December 2020 Ordinary Meeting.

Council has not passed any resolutions that impact the unrestricted cash result for the October 2020 to December 2020 quarter.

### Budget Adjustments

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

Budget Directorate	Revenue Increase/ (Decrease) \$	Expenditure Increase/ (Decrease) \$	Accumulated Surplus (Working Funds) Increase/ (Decrease) \$
General Manager	315,300	315,300	0
Corporate & Community	206,100	208,700	(2,600)

# BYRON SHIRE COUNCIL

## STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

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Services			
Infrastructure Services	(265,300)	(184,700)	(80,600)
Sustainable Environment & Economy	113,000	29,800	83,200
<b>Total Budget Movements</b>	<b>369,100</b>	<b>369,100</b>	<b>0</b>

### Budget Adjustment Comments

5 Included in these budget adjustments are revised costs for motor vehicles that are allocated to various budget programs. After a review of these vehicle costs, it has been realised that some of the charges for specific vehicle types were less, and some were more, than what the budget allowed for. Most budget programs within this review have an adjustment for motor vehicles. These adjustments have increased the operating expenditure by \$62,000 with a corresponding increase to Plant Fund cost recoveries and transfer to the Plant Fund reserve.

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

### General Managers Program

- 15
- In the General Manager's program, it is proposed to transfer \$200,000 from the legal services reserve to cover the actual legal costs Council has incurred to date. This is in addition to the original \$200,000 budget.
  - In the People & Culture program, it is proposed to transfer \$93,300 to the people and culture reserve as a performance rebate was received from StateCover, Council's workers' compensation provider. This can be used to fund future projects within this area. It is also proposed to add a budget of \$22,000 for Council to implement drug and alcohol testing that can be funded from the People and Culture reserve.
- 20

### Corporate and Community Services

- 25
- In the Financial Services program, it is proposed to increase the budget for Section 603 certificates as the actual income received is trending higher than the budget due to increased activity in the property market.
  - In the Corporate Services Program, it is proposed to increase operating expenditure by \$69,300 to allow 2 days per week for a Grants Support Officer and 3 days per week for a Corporate Support Officer.
- 30
- In the Community Development Program, it is proposed to increase operating income and expenditure by \$70,000 due to a contribution from Tweed Shire Council for the Disaster Resilience position that Byron Shire Council is managing. It is proposed to increase operating expenditure by a further \$46,600 due to additional funding required for Durrumbul Hall.

# BYRON SHIRE COUNCIL

## STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

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- In the Library Services program, it is proposed to increase operating income by \$33,200 as the actual per capita grant (\$5,500) and the Local Priorities grant (\$27,700) received are more than the current budget. It is proposed to increase operating expenditure by \$27,700 for the Local Priorities grant and \$1,500 for required maintenance and repairs

### 5 **Infrastructure Services**

- In the Emergency Services program, it is proposed to add \$30,000 to the budget for the maintenance and operation of the Disaster Dashboard / Flood Warning Network. These costs are a contractual obligation from the tender outcome and there is currently no budget allocated.

- 10
- In the Local Roads and Drainage program, there are a number of adjustments outlined under Note 16 in the Budget Variations explanations section of Attachment 1. Further disclosure is included in the second and third pages of Attachment 2 under the budget program heading Local Roads and Drainage.

15

The main adjustment within this program is to the Byron Bypass, proposing to increase the project budget by \$974,000. It is estimated an additional \$1,750,000 is required to complete the Bypass project, with this additional funding proposed to be secured via an external loan borrowing. Council has sought \$1,750,000 in additional grant funding from Transport for NSW but if that grant funding request is not approved, the loan borrowing will be required. There is also a \$44,200 contribution Council received that remains unexpended for the Bypass from Sydney Trains, not currently included in the Bypass budget but needs to be. It is proposed to reduce the current 2020-2021 budget for the Byron Bay Bypass by \$820,200 to reduce the overstated grant funding included in the current budget as final actual expenditures in the 2019/2020 financial year were more than anticipated due to timing of actual expenditures and Council adopting the original and carryover budgets for 2020/2021. The reduction of unavailable funding of \$820,200 is included in the suggested proposed loan or additional grant amount of \$1,750,000. It is expected a further report will be provided on the Byron Bay Bypass outcome at the 25 March 2021 Ordinary Council Meeting.

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- In the Roads and Maritime Services program (RMS) it is proposed to increase natural disaster expenditure by \$166,800. This is the amount that Council is required to contribute to receive the grant funding.
- 30

- In the Waste & Recycling program it is proposed to decrease the budget for the rehabilitation of the Myocum landfill by \$1.8 million as the project will not be completed this financial year.

- In the Facilities Management program, it is proposed to increase operating expenditure by \$50,000 to fund a feasibility study on making the Mullumbimby pool a year round facility. It is proposed to increase capital expenditure due to additional funds being required for the Mullumbimby War Widows Cottage project. The quote returned was greater than the available grant funding. This can be funded through reserves.
- 35

40

# BYRON SHIRE COUNCIL

## Sustainable Environment and Economy

- In the Development Certification program, it is proposed to increase operating income due to increased income from activities over road reserves.
- In the Environment & Compliance program, it is proposed to increase the budget for on-site sewerage installation and applications by \$38,300 to match actual income received.

## WATER FUND

After completion of the 2019/2020 Financial Statements the Water Fund as at 30 June 2020 has a capital works reserve of \$9,260,100 and held \$1,483,600 in section 64 developer contributions.

- 10 The estimated Water Fund reserve balances as at 30 June 2021, and forecast in this Quarter Budget Review, are derived as follows:

### Capital Works Reserve

<b>Opening Reserve Balance at 1 July 2020</b>	<b>\$9,260,100</b>
Plus original budget reserve movement	(1,406,900)
Resolutions July - September Quarter – increase / (decrease)	0
September Quarterly Review Adjustments – increase / (decrease)	(720,900)
Resolutions October - December Quarter – increase / (decrease)	0
December Quarterly Review Adjustments – increase / (decrease)	(29,200)
<b>Forecast Reserve Movement for 2020/2021 – Increase / (Decrease)</b>	<b>(2,157,000)</b>
<b>Estimated Reserve Balance at 30 June 2021</b>	<b>\$7,103,100</b>

### Section 64 Developer Contributions

15

<b>Opening Reserve Balance at 1 July 2020</b>	<b>\$1,483,600</b>
Plus original budget reserve movement	(620,500)
Resolutions July - September Quarter – increase / (decrease)	0
September Quarterly Review Adjustments – increase / (decrease)	(80,000)
Resolutions October - December Quarter – increase / (decrease)	0
December Quarterly Review Adjustments – increase / (decrease)	0
<b>Forecast Reserve Movement for 2020/2021 – Increase / (Decrease)</b>	<b>(700,500)</b>
<b>Estimated Reserve Balance at 30 June 2021</b>	<b>\$783,100</b>

Movements for Water Fund can be seen in Attachment 1 with a proposed estimated decrease to reserves (including S64 Contributions) overall of \$29,200 from the 31 December 2020 Quarter Budget Review.

## BYRON SHIRE COUNCIL

### SEWERAGE FUND

After completion of the 2019/2020 Financial Statements the Sewer Fund as at 30 June 2020 has a capital works reserve of \$6,884,700 and plant reserve of \$896,200. It also held \$8,117,300 in section 64 developer contributions.

5 Capital Works Reserve

<b>Opening Reserve Balance at 1 July 2010</b>	<b>\$6,884,700</b>
Plus original budget reserve movement	(2,958,400)
Resolutions July - September Quarter – increase / (decrease)	0
September Quarterly Review Adjustments – increase / (decrease)	(349,200)
Resolutions October - December Quarter – increase / (decrease)	0
December Quarterly Review Adjustments – increase / (decrease)	94,200
<b>Forecast Reserve Movement for 2010/2021 – Increase / (Decrease)</b>	<b>(3,213,400)</b>
<b>Estimated Reserve Balance at 30 June 2021</b>	<b>\$3,671,300</b>

Plant Reserve

<b>Opening Reserve Balance at 1 July 2020</b>	<b>\$896,200</b>
Plus original budget reserve movement	0
Resolutions July - September Quarter – increase / (decrease)	0
September Quarterly Review Adjustments – increase / (decrease)	0
Resolutions October - December Quarter – increase / (decrease)	0
December Quarterly Review Adjustments – increase / (decrease)	0
<b>Forecast Reserve Movement for 2020/2021 – Increase / (Decrease)</b>	<b>0</b>
<b>Estimated Reserve Balance at 30 June 2021</b>	<b>\$896,200</b>

10 Section 64 Developer Contributions

<b>Opening Reserve Balance at 1 July 2020</b>	<b>\$8,117,300</b>
Plus original budget reserve movement	(2,202,600)
Resolutions July - September Quarter – increase / (decrease)	(451,000)
September Quarterly Review Adjustments – increase / (decrease)	(82,000)
Resolutions October - December Quarter – increase / (decrease)	0
December Quarterly Review Adjustments – increase / (decrease)	0
<b>Forecast Reserve Movement for 2020/2021 – Increase / (Decrease)</b>	<b>(2,735,600)</b>
<b>Estimated Reserve Balance at 30 June 2021</b>	<b>\$5,381,700</b>

Movements for the Sewerage Fund can be seen in Attachment 1 with a proposed estimated overall increase to reserves (including S64 Contributions) of \$94,200 from the 31 December 2020 Quarter Budget Review.

# BYRON SHIRE COUNCIL

## Legal Expenses

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

- 5 The table that follows indicates the allocated budget and actual legal expenditure within Council on a fund basis as at 31 December 2020.

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

Program	2020/2021 Budget (\$)	Actual (\$)	Percentage To Revised Budget
<b>Income</b>			
Legal Expenses Recovered	0	0	0%
<b>Total Income</b>	<b>0</b>	<b>0</b>	<b>0%</b>
<b>Expenditure</b>			
General Legal Expenses	200,000	389,821	194.91%
<b>Total Expenditure General Fund</b>	<b>200,000</b>	<b>389,821</b>	<b>194.91%</b>

- 10 Note: It is proposed to transfer \$200,000 from the legal services reserve within this quarterly budget review to fund the increase in legal fees incurred. Legal costs need to be monitored closely within the next quarter, with the budget reviewed again at the end of March 2021.

## STRATEGIC CONSIDERATIONS

### Community Strategic Plan and Operational Plan

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

### Legal/Statutory/Policy Considerations

- 15 In accordance with Regulation 203 of the Local Government (General) Regulation 2005 the Responsible Accounting Officer of a Council must:

(1) *Not later than 2 months after the end of each quarter (except the June quarter), the*

## BYRON SHIRE COUNCIL

### STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

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5 *responsible accounting officer of a council must prepare and submit to the council a budget review statement that shows, by reference to the estimate of income and expenditure set out in the statement of the council's revenue policy included in the operational plan for the relevant year, a revised estimate of the income and expenditure for that year.*

(2) *A budget review statement must include or be accompanied by:*

(a) *a report as to whether or not the responsible accounting officer believes that the statement indicates that the financial position of the council is satisfactory, having regard to the original estimate of income and expenditure, and*

10 (b) *if that position is unsatisfactory, recommendations for remedial action.*

(3) *A budget review statement must also include any information required by the Code to be included in such a statement.*

### **Financial Considerations**

15 The 31 December 2020 Quarter Budget Review of the 2020/2021 Budget is not proposing to change the overall budget result. This leaves the movement against the unrestricted cash balance attributable to the General Fund remaining at deficit of \$296,100 for the year. This outcome will derive an estimated unrestricted cash balance attributable to the General Fund of \$428,100 at 30 June 2021. Going forward Council must be conscious of decisions that may affect the unrestricted cash balance when considering matters with financial implications especially where funding sources are not identified.

20 It is the view of the Responsible Accounting Officer that the short term financial position of the Council is still satisfactory for the 2020/2021 financial year, having consideration of the original estimate of income and expenditure at the 31 December 2020 Quarter Budget Review.

25 This opinion is based on the estimated General Fund Unrestricted Cash Result position and that the current indicative budget position for 2020/2021 outlined in this Budget Review continues to improve for the remainder of the 2020/2021 financial year. Council must remember it has a short term financial goal of maintaining \$1,000,000 in unrestricted cash and if it is of the view to recover this position by 30 June 2021, the budget position must continue to improve by \$571,900 to a surplus position of \$275,800.

30 It is suggested Council must reassess the budget financial position for the 2020/2021 financial year critically at the 31 March 2021 Quarterly Budget Review to be presented to Council at the Ordinary Meeting to be held on 27 May 2021.

**Report No. 13.13 Delivery Program 6-monthly Report and 2020/21 Operational Plan Report - Q2 - December 2020**

**Directorate:** Corporate and Community Services

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

**File No:** I2021/171

**Summary:**

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

15 This report represents the '6-monthly edition' of the Quarterly Report, providing an additional reporting layer regarding the Council's progress toward the higher level actions of the Delivery Program.

---

**RECOMMENDATION:**

- 20
1. That Council notes the Delivery Program 6-monthly Report and 2020/21 Operational Plan Quarter 2 Report for the period ending 31 December 2020 (Attachment 1 #E2021/4352).
  2. That Council adopts the proposed amendments to the Operational Plan 2020/21 outlined in Attachment 2 (#E2021/17779).

**Attachments:**

- 25
- 1 Operational Plan Report and 6-Monthly Delivery Program Report - December 2020, E2021/4352 
  - 2 Quarter 2 Report - Proposed Amendments to Operational Plan 2020/21, E2021/17779 

30

## Report

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

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

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

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

## Strategic Objectives

The report (#E2021/4352) is structured by the five 'Our Byron, Our Future' Community Strategic Plan 2028 objectives:

- 20
- Community Objective 1: We have infrastructure, transport and services which meet our expectations
  - Community Objective 2: We cultivate and celebrate our diverse cultures, lifestyle and sense of community
  - Community Objective 3: We protect and enhance our natural environment

25

  - Community Objective 4: We manage growth and change responsibly
  - Community Objective 5: We have community led decision making which is open and inclusive

## Report Details

30 The report details Council's progress towards achieving the activities in the 2020/21 Operational Plan. It includes a status update on progress and notes any highlights or exceptions where actions may be delayed or reprioritised.

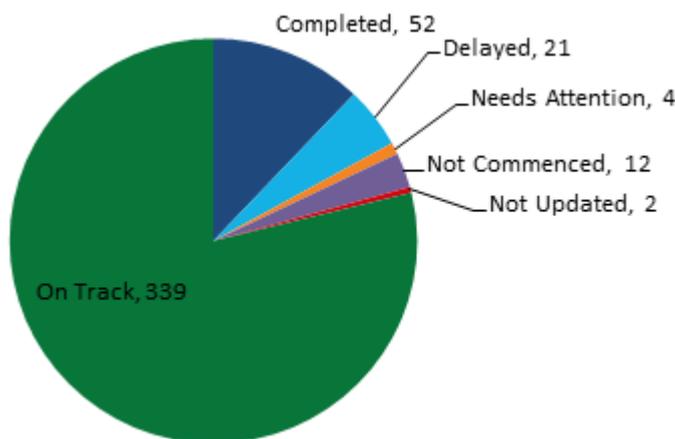
Each section notes the progress against the activities including:

- 35
- Activity
  - Responsible directorate
  - Measure
  - Timeframe
  - Comments
  - Status

- On track – indicates that an activity is currently on track, taking into account the timeframe, measures, and budget
- Delayed – indicates that an activity is progressing, but not currently on track with the timeframe, measures, or budget
- 5 ○ Needs attention – indicates that the scope of the activity may need to be reviewed in line with constraints such as timeframe/budget
- Not commenced – the activity is not due to have commenced or has not commenced
- 10 ○ Completed – the activity has been completed in accordance with the prescribed measures

**Summary of Activities**

The chart below provides a summary of the status of the Operational Plan activities as at 31 December 2020.



15 **Strategic Considerations**

**Community Strategic Plan and Operational Plan**

CSP Objective	L2	CSP Strategy	L3	DP Action	L4	OP Activity
<b>Community Objective 5: We have community led decision making which is open and inclusive</b>	5.2	Create a culture of trust with the community by being open, genuine and transparent	5.2.1	Provide timely, accessible and accurate information to the community	5.2.1.2	Continuous improvement of corporate planning and reporting process

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

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

### **Financial Considerations**

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

### **Consultation and Engagement**

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

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

STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

**Report No. 13.14 Compliance Priorities Program Report 2020**

**Directorate:** Sustainable Environment and Economy

**Report Author:** Sarah Nagel, Manager Public and Environmental Services

5 **File No:** I2021/8

**Summary:**

This report details activities undertaken to meet the adopted 2020 Compliance Priorities Program, and seeks adoption of a Compliance Priorities Program for 2021.

10 It is recommended that Council continues to focus on those priorities listed as Very High and High and, on priorities listed as Medium and Routine with the aim that all matters will ultimately be addressed in a timely manner, as resources permit.

---

**RECOMMENDATION:**

1. That Council notes the report on the Compliance Priorities Program 2020.
2. That Council adopts the proposed Compliance Priorities Program for 2021 as provided below:
  1. Very High Priorities:
    - 1.1 Developments, actions, works, activities or uses that places people's lives at immediate risk or that cause or are likely to cause a significant risk of environmental harm or pollution;
    - 1.2 Significant environmental and public health incidents;
    - 1.3 Dangerous and/or menacing dogs;
    - 1.4 Livestock on public roads;
    - 1.5 Traffic, parking and unapproved camping activity. Camping enforcement, with an emphasis on environmentally sensitive areas;
    - 1.6 Asbestos containing material ("ACM") being illegally dumped on public land (waste compliance).
  2. High Priorities
    - 2.1 Unauthorised events, wedding receptions, parties, 'doof and rave'

**parties where significant environmental harm or risk to people's lives;**

**2.2 Responses to complaints about recurring noise disturbance, public nuisance from premises, maintenance of alcohol free zones;**

**2.3 Uncontrolled dogs and/or cats including those kept on land where Policy or Development consent prohibits it.**

**3. Medium Priorities**

**3.1 Development or activities without consent, or non-compliance with consent, permit or licence conditions where these appear to pose no immediate threat to life, property, public health or the environment;**

**3.2 Non-compliant signage (07-550, 06-204).**

**4. Routine Priorities**

**4.1 Companion animals with a high emphasis on high visibility enforcement and public education (15-465);**

**4.2 Seasonal public health issues and community preparedness including issuing a minimum of two media releases;**

**4.3 Tourist and visitor accommodation swimming pool safety, including legislative requirements;**

**4.4 Onsite sewage management systems (including CERC project);**

**4.5 Food Safety Inspections;**

**4.6 Awareness of current public health requirements.**

## BYRON SHIRE COUNCIL

### Report

Compliance activities and statistics addressing the 2020 Compliance Priorities Program and the Byron Shire Council Operational Plan have been reported on in half yearly and annual reports to Council.

- 5 Between 1 January 2020 to 1 January 2021 (“the reporting period”), the Community/ Animal/ Parking Enforcement Team received **4,147** Customer Request Management (“CRM’s”) which are tabulated as follows:

	2019 RECEIVED	2020 RECEIVED	2019 COMPLETED	2020 COMPLETED
ILLEGAL WORKS	792	811	894	759
SHORT TERM HOLIDAY LET	113	35	125	40
ANIMALS	894	843	906	861
VEHICLE	1,122	1,247	1,072	1,304
NOISE	185	198	180	208
OVERGROWN	48	60	55	58
DDD (dead dying, dangerous tree requests)	82	55	82	52
FIRE	4	1	6	4
FOOTPATH (Busking footpath dining etc.)	29	5	31	6
POLLUTION (excluding noise)	102	132	125	133

## BYRON SHIRE COUNCIL

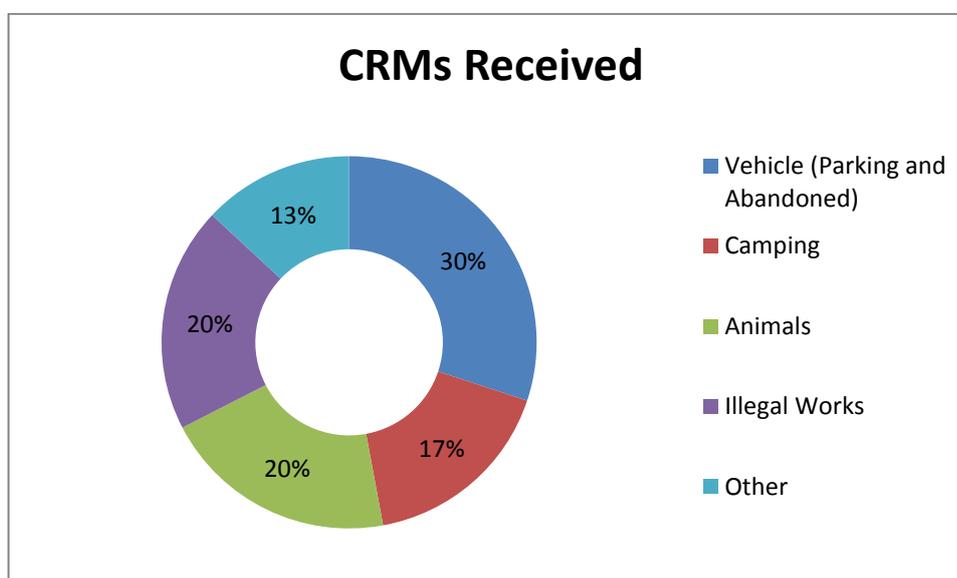
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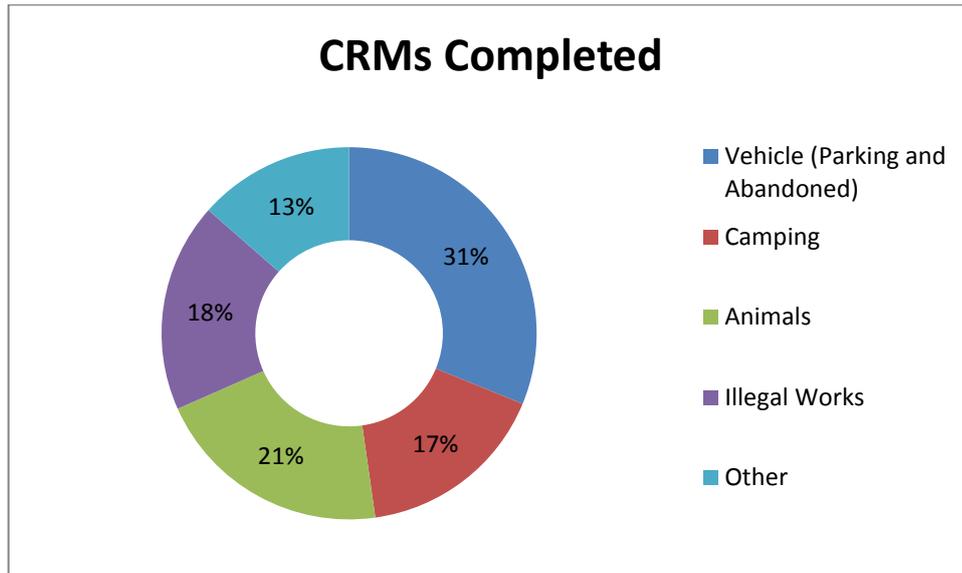
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SIGNS	34	10	42	10
TREES (illegal tree removal)	43	35	36	44
WASTE	4	9	2	9
CAMPING	944	706	948	693
<b>TOTAL</b>	<b>4,396</b>	<b>4,147</b>	<b>4,504</b>	<b>4,181</b>

**Note:** Some CRM's were carried over from the previous reporting period and completed in this period.

As can be seen in the following graphic the vast majority of enforcement work is dominated by vehicle, illegal works, animals and camping. Short-term-holiday-let figures have reduced and are now being received as noise, illegal works, rubbish and parking complaints.





By way of general comment for the period:

- it was an unprecedented year with the effects of a global pandemic impacting council services and communities alike;
- 5 • the team were required to adapt rapidly and frequently to changes in their environment due to various the Public Health Orders imposed and changes to border restrictions;
- staff changes took place including a restructure of the division, new officers coming on board and a new Manager commenced;
- 10 • the changed approach to fine strategy (commenced in 2019) continued in relation to illegal camping to ensure safety for officers, higher payment of fines and a more effective deterrent of illegal camping.

15 The enforcement team continues to make best endeavours to respond to all manner of compliance priority duties across the whole of the Shire. This is done having regard to a rotating roster. The start and finish times on the roster are varied to accommodate the need to patrol numerous places in towns, villages and the coast and due to time of year. The roster must also observe State Award and Work Place Health and Safety requirements for officers.

20 CRMs will otherwise continue to be responded to as per the adopted Compliance Priorities Program and/or as resources permit their re-prioritisation.

**Year end results**

The following information is provided on the implementation and specific actions taken in relation to the adopted 2020 Compliance Priorities Program.

**Very High Priorities:**

- 25 **1.1 Developments, actions, works, activities or uses that places people’s lives at immediate risk or that cause or are likely to cause a significant risk of environmental harm or pollution.**

# BYRON SHIRE COUNCIL

## STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

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In the reporting period Council received **811** CRMs relating to illegal works and has concluded **759** (including other previously received CRMs).

5 Not all of those CRMs fell into this priority although the percentage concluded is accurate for this priority. Developments, actions, works, activities or uses that places people's lives at immediate risk or that cause or are likely to cause a significant risk of environmental harm or pollution were generally actioned within 24 hours.

Under the terms of the Environmental Planning and Assessment Act, Council served **271** notices of entry to inspect premises in relation to unauthorised building works, activities and uses. This was an increase compared to **249** in the previous reporting period.

### 10 **1.2 Significant environmental and public health incidents.**

In the reporting period Council:

- issued **53** notices and orders under the Local Government Act, Environmental Planning and Assessment Act and Protection of the Environment Operations Act.
- issued **5** penalty infringement notices under the Environmental Planning and Assessment Act with a total value of \$13,500.00.
- issued **8** pollution and littering related penalty infringement notices under the Protection of the Environment Operations Act, with a total value of \$12,240.00.
- finalised **4** Environmental Planning and Assessment Act court elected penalty notices in the Local Court for development without consent. Two of these matters were withdrawn as they had been consumed into concurrent proceedings in the Land and Environment Court. In the remaining two matters fines were imposed totalling \$500.00.
- successfully finalised **6** Land and Environment Court matters.

### **1.3 Dangerous and/or menacing dogs.**

25 In the reporting period, there were approximately **675** customer requests made in relation to dogs. This was a reduction on the last reporting period and possibly a result of increased visible patrols of dog exercise areas. These include:

Customer Request Management Received	2020
Dogs Attacks	75
Dogs Barking	143
Dogs Found	157
Dogs Nuisance	296
Dogs Restricted	4
<b>TOTAL</b>	<b>675</b>

In the reporting period Council:

- served **16** Intentions to Declare a Menacing or Dangerous dog and issued **22** Orders relating to Menacing or Dangerous dogs under the Companion Animals Act,
- completed regular patrols and issued **32** Companion Animal related penalty infringement notices to the value of \$9,480.00.

# BYRON SHIRE COUNCIL

## STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

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- successfully finalised **9** Local Court prosecutions in relation to a dog. Fines and costs were awarded to Council totalling \$16,761.36.

### **1.4 Livestock on public roads**

In the reporting period Council:

- received **63** customer requests in relation to cattle on public roads.
- issued **1** order requiring a cattle owner to fence their property to ensure cattle do not escape onto public roads.

### **1.5 Traffic, parking and unapproved camping activity. Camping enforcement with an emphasis on environmentally sensitive areas.**

In the reporting period Council:

- issued **959** camping related penalty infringement notices with a total value of \$124,246.00. This was a significant increase compared to **187** in the previous reporting period. The previous reporting period did not include camping related penalty infringement notices for no parking offences between 1-5am and 1-6am.
- issued **9,247** penalty infringement notices in relation to parking with a total value of \$1,712,587.00.
- obtained **58** convictions from the Local Court in relation to traffic, parking and unauthorised camping offences. In total Council was awarded fines and costs of \$6,160.00.
- issued **52** penalty infringement notices in relation to abandoned vehicles with a total value of \$28,600.00.
- completed regular coordinated patrols and inter-agency working groups with Police, NPWS, Crown Lands and Reflections Holiday Parks on various coastal lands where camping and camps were known to be causing community and environmental impacts.

### **1.6 Asbestos containing material (ACM) being illegally dumped on public land.**

In the reporting period there were **10** reports of asbestos dumping on public land. No significant reports were received in the previous reporting period.

### **High Priorities:**

#### **2.1 Unauthorised events, including unapproved dwellings, wedding receptions, parties, 'doof and rave' parties.**

Officers have continued to attend to reports of unauthorised events in conjunction with local Police where necessary. This included a large 'doof' party during the initial stages of the Public Health Orders and COVID-19 restrictions.

#### **2.2 Responses to complaints about recurring noise disturbance, public nuisance from premises, maintenance of alcohol free zones**

In the reporting period, **198** noise complaints were received and responded to.

**2.3 Uncontrolled dogs and/or cats including those kept on land where Policy or Development Consent prohibits it.**

5 In the reporting period reports of uncontrolled dogs and or cats were actioned on a case by case basis and reported as CRMs. During the period the team also reviewed the Shire's three Wildlife Protection Areas including its related policy, replacement of signage and letter box drops to all residents within those areas.

**2.4 Development without consent, or not in accordance with consent of the nature of Short Term Holiday Letting.**

10 Enforcement action in relation to short-term-holiday-let properties is considered by Council on a case-by-case basis and is investigated in accordance with policies and applicable legislation, specifically ensuring robust evidence is in place to support legal proceedings. Council must also take into account any planning legislation changes put in place by the State Government at the time. There were no legal proceedings commenced against holiday let properties in the reporting period.

15 **Medium Priorities:**

**3.1 Development or activities without consent, or non-compliance with consent, permit or licence conditions where these appear to pose no immediate threat to life, property, public health or the environment;**

20 In the reporting period, non-compliance with consent conditions were routinely responded to during the course of the abovementioned **271** formal inspections in relation to unauthorised building works, activities and uses.

**3.2 Non-compliant signage (07-550, 06-204).**

In the reporting period, Council impounded **10** unauthorised banners and signs.

**Routine Priorities:**

- 25 (a) Companion Animals with a high emphasis on high visibility enforcement and public education.
- (b) Seasonal public health issues and community preparedness including issuing a minimum of two media releases.
- 30 (c) Tourist and visitor accommodation swimming pool safety, including legislative requirements.
- (d) Onsite sewage management systems (including CERC project).
- (e) Food Safety Inspections.
- (f) Awareness of current public health requirements.

35 In the reporting period, Animal Enforcement Officers undertook a proactive and highly visible enforcement and education approach to dog exercise areas within the Shire. This was a significantly increased presence compared to previous reporting periods.

All other customer requests that did not fall within the very high priority category were dealt with via routine advisory correspondence or direct contact with the customer as time permitted.

## BYRON SHIRE COUNCIL

### STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

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During the reporting period **103** swimming pool inspections and **44** re-inspections were conducted. This included **76** dwellings with **24** in the category of holiday let, tourist and multiple dwelling.

5 In the reporting period, **511** inspections of fixed food premises (including COVID specific inspections during the lockdown period), **76** inspections of temporary food premises and **21** inspections of mobile food premises were conducted. It is noted that there were no festivals within the Shire since February 2020 due to COVID-19.

In the reporting period, **2** penalty infringement notices under the Food Act with a total value of \$1,320.00.

10 During the reporting period the Public Space Liaison Officers engaged with 572 people, made 230 referrals and assisted 32 people with temporary accommodation. They also undertook 7 joint patrols with Department of Communities and Justice, 11 homelessness interagency meetings and completed 72 VI-SPDAT surveys.

#### **Achievements 2020**

- 15
- The team took a leading role during the implementation of COVID-19 restrictions - educating the community, responding to community concerns and quickly adapting to changes.
- 20
- Officers exercised a high level degree of discretion dealing with the effects of COVID-19, managing their workloads and altering their responses to members of the public who were unable to meet Council requirements.
- 25
- Officers provided assistance to the NSW government in controlling the spread of COVID-19 by helping businesses get up to speed with requirements, with a particular focus on food premises and community engagement with market coordinators.
  - Officers fast tracked approvals for a large number of water carters to assist during drought conditions and to avoid illegal syphoning of town water.
- 30
- There was a continued focus in carrying out well planned targeted operations in relation to unauthorised camping, littering, alcohol free zones, parking enforcement, unauthorised activities and development. This included inter-agency working groups in relation to Seven Mile Beach and Brunswick Heads; as well as joint-division projects in relation to illegal dumping and alcohol free zones. The officers also undertook joint inspections with Local Land Services.
- A second Public Space Liaison Officer commenced work in the team.
  - Community Enforcement Officers undertook supervisory roles during Connections Week.
- 35
- Completion of the EOI and Tender process for the Parking Management System, as well as roll out and installation of an integrated system wide solution to the parking management processes within the Shire.

## BYRON SHIRE COUNCIL

### STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

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- Ongoing roll out and management of a signage and regulatory infrastructure process between Infrastructure Services and the Enforcement Team.
- 5 • In conjunction with Infrastructure Services, rolled out the 'Local Government Road Safety Program' with emphasis on Byron Bay Public School, Bangalow Public School and Ocean Shores Public School.
- Completion of a number of companion animal signage projects in environmentally sensitive coastal areas.
- Ongoing engagement between the Parking Enforcement Team and Council's Events Coordinator to ensure that the highest and best use of Parking Enforcement 10 resources during the course of events.
- The team continued educating the community and improving parking compliance.
- The team continued to progress a 'Dogs in Public Spaces Strategy' in response to feedback gathered through our Community Strategic Plan engagement consultation about dogs on public land.
- 15 • Media releases issued encouraging responsible pet ownership within the Shire.
- Staff attendance at various planning and environment training sessions (where able in the current climate) to develop greater collaboration within our area and develop skills and competencies within the team. This included a Dangerous Dog Course with a trained attack dog.
- 20 • Draft Unauthorised Dwellings Policy developed, investigations of unapproved dwellings taking place and staff actively engaging with the community to ensure that unauthorised dwellings brought into compliance to address planning and environmental legislation; as well as ensuring the safety of occupants.
- 25 • Commenced reviews of Local Order Policy for Keeping of Animals, Motor Vehicles on Beaches Policy, Management of Contaminated Land Policy, On-site Sewage Management Systems in Reticulated Areas Policy, Burning of Garden Waste Matter in Urban and Village Areas Policy, Busking Policy, Commercial Use of Road Reserve Policy, Road Air Space Policy, Footpath Dining Policy and Fundraising Community Organisations Policy.
- 30 • Ongoing review of short-term-rental-accommodation legislation and responses.
- Assisted in developing the COVID Safe Summer and Communications Plan.
- Increased proactive companion animal patrols within dog exercise areas, dog prohibited areas and dog on lead compliance within public spaces.
- 35 • Audit and completion of compliance inspections of all menacing/dangerous dogs within the Shire.
- Environmental Health Officers, in partnership with other departments, avoided two significant pollution events and recovered costs associated with clean ups.
- Commenced the Beach Watch program in partnership with the Department of Planning Industry and Environment to check on the water quality of recreational 40 waters in the Shire.
- Resumed participation in the Arbovirus Surveillance Program with NSW Health.
- Commenced mosquito behaviour change project 'Tackling Mosquitos Together' with other Northern Rivers Councils.
- 45 • Conducted food safety workshops with volunteer and charity organisations involved with supporting the vulnerable populations of the Shire.

## BYRON SHIRE COUNCIL

### STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

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- Established an office laboratory to undertake environmental and microbiological testing of recreational marine/estuarine waters, swimming pools/spas and private drinking water supplies.
- Advanced Council's progression on State sponsored regional contaminated land program with Northern River Councils.
- Successfully transitioned from State to Council, the responsibility for Underground Petroleum Storage Systems management.

#### **Other key observations**

- During the reporting period, **35** complaints were lodged relating to short term holiday let premises. This was a significant reduction from the previous reporting period (**113**). An additional **198** noise complaints made, many emanating from holiday letting situations. These figures support the continued concern of our community about the amenity impacts of holiday lets in local neighbourhoods but also their acknowledgement of the legislative changes taking place which impact Council's enforcement action in relation to short term holiday let premises.
- Officers and administrative staff have identified several recurrent complainants who provide unsubstantiated and repeated complaints on a variety of lower priority matters, or issues outside of Byron Shire Council's control, which greatly impacted resources. A procedural approach to manage this has been developed, including the implementation of the Unreasonable Customer Conduct policy. This was successfully utilised during the reporting period.
- A decrease in complaints relating to illegal camping activity occurred following the COVID-19 restrictions. However, this steadily increased as the COVID-19 restrictions began to be lifted. The team worked closely with the Public Space Liaison Officers, local police, NPWS, Crown Lands and Reflections Holiday Parks to manage these activities via a cross-agency response. The agencies also worked at introducing changes to infrastructure and signage to assist in proactively managing hot spots.
- The RSPCA's Mobile Education Unit (EMU) Bus at the Byron Bay Public School; promoting responsible pet ownership and teaching students about threats to wildlife and animal welfare; retired. Council were thanked for their ongoing support and assistance with this project.
- Due to the restrictions of the Public Health Orders the inaugural Bow Wow! Look at me now! Event; which includes interactive dog training sessions, vet checks, nail clipping, micro-chipping, dog washing, riverside nature walk, sausage sizzle and doggie gift bags; was postponed. Officers are seeking to progress this in the next reporting period.
- The free RSPCA microchip day was also postponed. Again, officers are seeking to progress this as soon as restrictions allow.

**Draft 2021 Compliance Priorities Program**

The following is proposed as the 2021 Compliance Priorities Program.

**1. Very High Priorities:**

- 5 1.1 Developments, actions, works, activities or uses that places people's lives at immediate risk or that cause or are likely to cause a significant risk of environmental harm or pollution;
- 1.2 Significant environmental and public health incidents;
- 1.3 Dangerous and/or menacing dogs;
- 1.4 Livestock on public roads;
- 10 1.5 Traffic, parking and unapproved camping activity. Camping enforcement, with an emphasis on environmentally sensitive areas;
- 1.6 Asbestos containing material ("ACM") being illegally dumped on public land (waste compliance).

**2. High Priorities**

- 15 2.1 Unauthorised events, wedding receptions, parties, 'doof and rave' parties where significant environmental harm or risk to people's lives;
- 2.2 Responses to complaints about recurring noise disturbance, public nuisance from premises, maintenance of alcohol free zones;
- 20 2.3 Uncontrolled dogs and/or cats including those kept on land where Policy or Development consent prohibits it.

**3. Medium Priorities**

- 3.1 Development or activities without consent, or non-compliance with consent, permit or licence conditions where these appear to pose no immediate threat to life, property, public health or the environment;
- 25 3.2 Non-compliant signage (07-550, 06-204).

**4. Routine Priorities**

- 4.1 Companion animals with a high emphasis on high visibility enforcement and public education (15-465);
- 30 4.2 Seasonal public health issues and community preparedness including issuing a minimum of two media releases;
- 4.3 Tourist and visitor accommodation swimming pool safety, including legislative requirements;

- 4.4 Onsite sewage management systems (including CERC project);
- 4.5 Food Safety Inspections;
- 4.6 Awareness of current public health requirements.

## **Strategic Considerations**

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

**CSP Objective - Community Objective 2:** We cultivate and celebrate our diverse cultures, lifestyle and sense of community

**L2 CSP Strategy - 2.4 -** Enhance community safety and amenity while respecting our shared values

**L3 DP Action - 2.4.3 -** Enhance public safety, health and liveability through the use of council's regulatory controls and services

#### **L4 Activity**

<b>2.4.3.1</b>	Monitor, investigate and respond to unauthorised land use, development and environment complaints
<b>2.4.3.2</b>	Undertake proactive camping patrols of streets and public places throughout the Shire
<b>2.4.3.3</b>	Respond to people experiencing homelessness and rough sleepers through engagement and referrals to appropriate support and housing services
<b>2.4.3.4</b>	Undertake proactive patrols of community parks and open spaces to monitor safe use by dogs and their owners
<b>2.4.3.5</b>	Provide companion animal management services
<b>2.4.3.6</b>	Facilitate companion animals education

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<b>2.4.3.7</b>	Undertake regular and frequent parking patrols to increase availability and turnover in the Town and Village centres
<b>2.4.3.8</b>	Monitor, investigate and respond to public and environmental health matters through proactive inspections and surveillance programs
<b>2.4.3.9</b>	Deliver the Food Premises inspection program
<b>2.4.3.10</b>	Deliver the Onsite Sewage Management System inspection program
<b>2.4.3.11</b>	Review the Onsite Sewage Management Policy and Procedure Manual
<b>2.4.3.12</b>	Deliver environmental and public health education programs to the community
<b>CSP Objective - Community Objective 4: We manage growth and change responsibly</b>	
<b>L2 CSP Strategy - 4.1</b> Support the visions and aspirations of local communities through place-based planning and management	
<b>L3 DP Action - 4.1.3</b> Manage development through a transparent and efficient assessment process	
<b>L4 Activity</b>	
<b>4.1.3.5</b>	Respond to and investigate complaints against building standards
<b>4.1.3.6</b>	Conduct the Swimming Pool and Fire Safety inspection program

### Legal/Statutory/Policy Considerations

There a number of Acts which give local government regulatory powers. They include the:

- Local Government Act 1993
- Environmental Planning & Assessment Act 1979
- Protection of the Environment Operations Act 1997

- Companion Animals Act 1998
- Roads Act 1993
- Road Rules 2014
- Road Transport Act 2013
- 5 • Impounding Act 1993
- Food Act 2003
- Public Health Act 2010
- Swimming Pools Act 1992

10 Compliance action is considered and determined through Council's adopted Enforcement Policy 2020 and the NSW Ombudsman Enforcement Guidelines for councils.

### **Financial Considerations**

The 2021 Compliance Priorities Program is managed within the existing operational budget allocation.

### **Consultation and Engagement**

15 No consultation process is required in relation to this report.

**Report No. 13.15 PLANNING - DA 10.2020.230.1 Use of existing Nursery Structure ancillary to Community Facility (Mullumbimby Community Garden) at 156 Stuart Street Mullumbimby**

5

**Directorate:** Sustainable Environment and Economy  
**Report Author:** Dylan Johnstone, Development Investigations Lead  
**File No:** I2021/72

**Proposal:**

**Proposal description:** Use of existing Nursery Structure ancillary to Community Facility (Mullumbimby Community Garden)  
**Property description:** LOT: 22 DP: 1073165  
 156 Stuart Street MULLUMBIMBY  
**Parcel No/s:** 239417  
**Applicant:** Ms S Y Mainsbridge  
**Owner:** Byron Shire Council  
**Zoning:** RE1 Public Recreation / PART DM Deferred Matter Byron LEP 1988  
**Date received:** 16 May 2020  
**Integrated / Designated Development:**  Integrated  Designated  Not applicable  
**Concurrence required:** No  
**Public notification or exhibition:**

- Level 2 advertising under DCP 2014 Part A14 – Public Notification and Exhibition of Development Applications
- Exhibition period: 28/5/20 to 17/6/20
- Submissions received: Two (2)

**Delegation to determine:** Council  
**Issues:**

- Conflicts with the Mullumbimby Community Garden Plan of Management
- Flood prone land
- Unauthorised works

**Summary:**

This development application seeks (retrospective) approval to use an existing nursery structure at the Mullumbimby Community Garden that was installed without development consent.

- 5 The structure which is best described as a greenhouse has a maximum height of 4m and measures 10m x 20m and is proposed to be used by ReForest Now.

ReForest Now using the nursery structure, is operating as a not-for-profit organisation, fundraising for, and facilitating local tree plantings, with a particular focus on volunteer engagement at the nursery site.

- 10 The nursery structure is located outside of the nominated community garden area under the Plan of Management (POM) for this Reserve, and falls within land identified for sports fields. However the nursery structure is located within the licensed area defined by the temporary licence held by Mullumbimby SEED Inc. granted in accordance with Council resolution **19-287**. This inconsistency was discussed at the Ordinary (Planning) Meeting  
15 on 17 September 2020. Resolution **20-475** was made at this meeting to defer the determination of this application until after a Strategic Planning Workshop Meeting is held to discuss the existing nursery shed, community garden and their relationship to the whole of Lot 22.

- 20 The matter was discussed at the SPW meeting held on 3 December 2020 and it was determined that this development application should be reported back to the 25 February 2021 Council meeting.

- 25 To ensure there is no long term conflict caused by the above inconsistency, a time limited consent for two years is proposed, whereby the structure will need to be removed/relocated on the land at the end of this period. The nursery structure is lightweight in nature and will be able to be removed or relocated with relative ease.

At present the remainder of the reserve resembles farmland and is not currently used as sports fields.

The POM is currently the subject of review, as is the zoning of the land (Lot 22).

- 30 The application as assessed appropriately addresses the relevant planning controls and constraints applying to the land, and is recommended for approval subject to conditions of consent.

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**RECOMMENDATION:**

- 35 **That pursuant to Section 4.16 of the Environmental Planning & Assessment Act 1979, development application 10.2020.230.1 Use of existing Nursery Structure ancillary to Community Facility (Mullumbimby Community Garden), be granted**

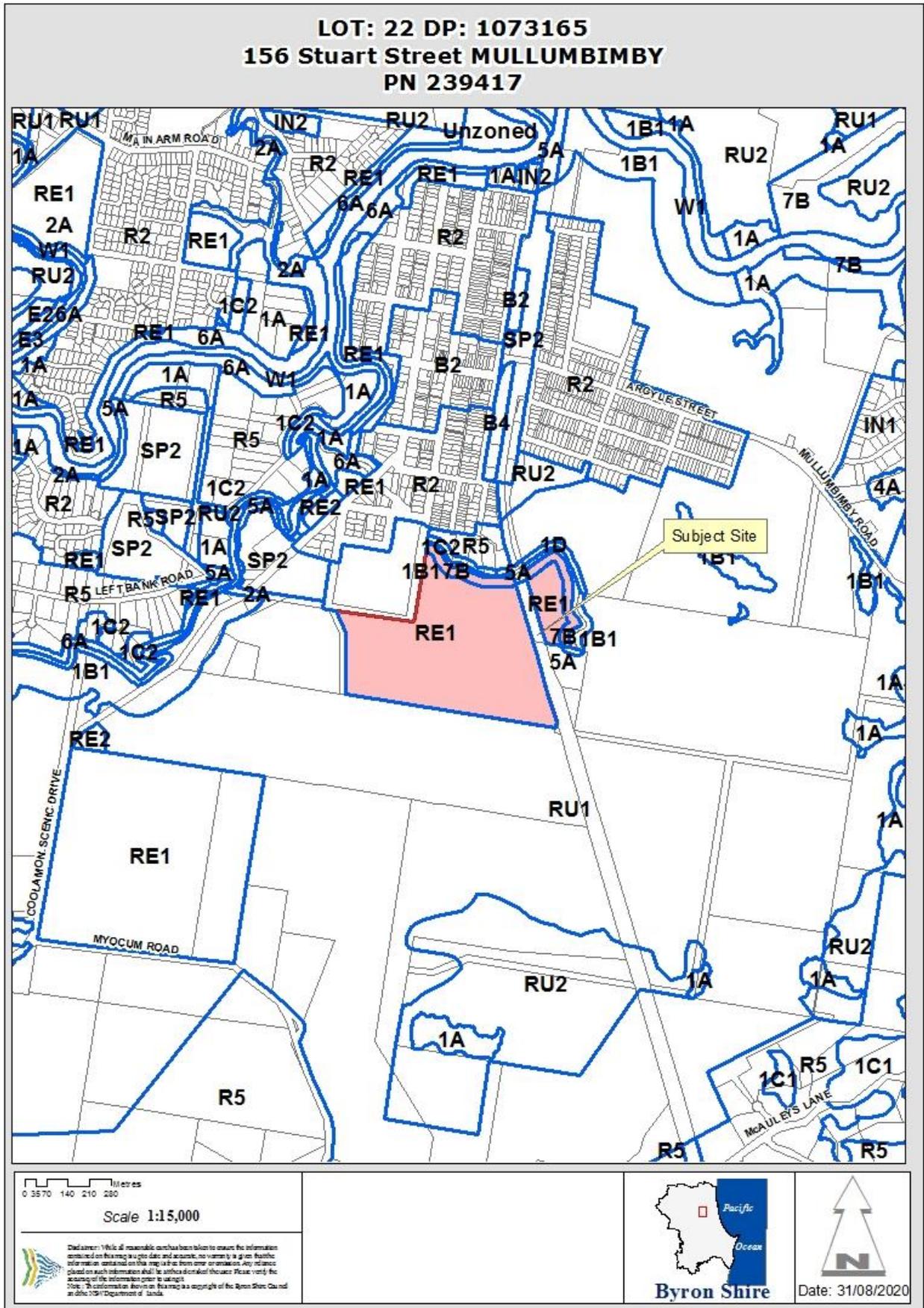
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**consent subject to conditions (Attachment 2 E2020/69246).**

**Attachments:**

- 5
- 1 Attachment 1 proposed plans 10.2020.230.1 156 Stuart Street Mullumbimby (Community Garden), E2020/69439 
  - 2 Attachment 2 draft conditions Council meeting 25 February 2021 10.2020.230.1 at 156 Stuart Street Mullumbimby (Community Garden), E2020/69246 
  - 3 Attachment 3 submissions received - Report to Council meeting 25 February 2021 DA 10.2020.230.1 156 Stuart Street Mullumbimby (Community Garden), E2020/69265 
- 10

# BYRON SHIRE COUNCIL



**Report:**

**1. INTRODUCTION**

5 **1.1. History/Background**

10.2010.133.1 – Nursery Shed and associated drainage – approved 15/09/10

10.2015.159.1 – Replacement of site office and first aid room within Community Garden – approved 04/06/15

10 10.2018.296.1 – Men’s Shed Complex including construction of 3 sheds and use of 1 existing shed – approved 22/11/18

10.2020.222.1 – Greenhouse structure in Mullumbimby Community Gardens – approved 14/05/20

**1.2. Description of the proposed development**

15 This application seeks (retrospective) approval for use of a nursery structure ancillary to community facility at the Mullumbimby Community Garden. The structure was installed without development consent.

The nursery structure has a maximum height of 4m and measures 10m x 20m and is proposed to be used by ReForest Now.

20 ReForest Now is using the nursery structure, operating as a not-for-profit organisation, and is fundraising for, and facilitating local tree plantings, with a particular focus on volunteer engagement at the nursery site.

The organisation currently has 7 core staff, with 2 staff members managing the nursery 2 days a week at a minimum (currently Tuesday and Sunday).

Up to 50,000 plants can potentially be on site, with 5,000 of those being ready to plant.

25 **1.3. Description of the site**

A site inspection was carried out on 16 April 2020 and 3 August 2020.

The subject nursery structure was inspected on 16 April 2020.

30 A further inspection of the site on 3 August 2020, revealed an additional shade structure had been constructed in front of the nursery structure. The area of this shade structure exceeds the maximum area permitted by State Environmental Planning Policy (Exempt and Complying Development Codes) 2008. This structure required development consent prior to installation. This structure is recommended for removal/demolition, conditions apply.

## BYRON SHIRE COUNCIL

### STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

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Land is legally described	LOT: 22 DP: 1073165	
Property address	156 Stuart Street MULLUMBIMBY	
Land is zoned:	RE1 Public Recreation / PART DM Deferred Matter Byron LEP 1988	
Land area is:	29.18 ha	
Property is constrained by:	Flood Liable Land Acid Sulfate Soils Class 3 High Conservation Value High Environmental Value Cattle Dip Buffer	
	Is a BDAR required due to the location of the proposed development?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
	Are there any easements in favour of Council affecting the site?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
	Is there a Vegetation Management Plan which might affect the proposal?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
	Is there a Voluntary Planning Agreement which might affect the proposal?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No



Existing nursery structure looking South (photo taken 16 April 2020)



Existing nursery structure and shade structure looking Southwest (photo taken 3 August 2020)

5

# BYRON SHIRE COUNCIL

## 2. SUMMARY OF REFERRALS

Referral	Issue
Development Engineer	No objections subject to conditions.
Building Surveyor	No objections subject to condition.

## 3. SECTION 4.14 – BUSH FIRE PRONE LAND

5 Under section 4.14 of the Act, Council must be satisfied prior to making a determination for development on bush fire prone land, that the development complies with the document 'Planning for Bush Fire Protection 2006'. The site is not bush fire prone land.

### EFFECT OF 10/50 RULE ON SIGNIFICANT VEGETATION

The land is located in a designated 10/50 clearing entitlement area however this rule does not apply to a Class 10a structure.

## 4. SECTION 4.15C – MATTERS FOR CONSIDERATION – DISCUSSION OF ISSUES

10

Having regard to the matters for consideration detailed in Section 4.15(1) of the Environmental Planning & Assessment Act 1979 (EP&A Act), the following is a summary of the evaluation of the issues.

### 4.1 State Environmental Planning Instruments

	Satisfactory	Unsatisfactory
State Environmental Planning Policy (Koala Habitat Protection) 2019	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Consideration:  The subject lot is partially mapped as being subject to the Koala Development Application Map in accordance with the SEPP.  The proposal does not require any vegetation removal and, in accordance with Clause 10(b), Council is satisfied that the development site is not core koala habitat.		

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	Satisfactory	Unsatisfactory
<p>State Environmental Planning Policy No 55— Remediation of Land</p>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<p>Consideration:</p> <p>Contaminated Land Assessment Report No. A1136 prepared by EAL dated December 2008, and lodged with DA 10.2010.133.1, demonstrates that the site is suitable for the intended use.</p>		
<p><a href="#">State Environmental Planning Policy (Coastal Management) 2018</a></p>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<p>Consideration:</p> <p><u>Clause 13 – Development on land within the coastal environment area</u></p> <p>(1) Development consent must not be granted to development on land that is within the coastal environment area unless the consent authority has considered whether the proposed development is likely to cause an adverse impact on the following:</p> <p>(a) the integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment,</p> <p>(b) coastal environmental values and natural coastal processes,</p> <p>(c) the water quality of the marine estate (within the meaning of the Marine Estate Management Act 2014), in particular, the cumulative impacts of the proposed development on any of the sensitive coastal lakes identified in Schedule 1,</p> <p>(d) marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms,</p> <p>(e) existing public open space and safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,</p> <p>(f) Aboriginal cultural heritage, practices and places,</p> <p>(g) the use of the surf zone.</p> <p>(2) Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that:</p> <p>(a) the development is designed, sited and will be managed to avoid an adverse impact</p>		

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	Satisfactory	Unsatisfactory
<p>referred to in subclause (1), or</p> <p>(b) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or</p> <p>(c) if that impact cannot be minimised—the development will be managed to mitigate that impact.</p> <p>(3) This clause does not apply to land within the Foreshores and Waterways Area within the meaning of Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005.</p> <p>The application does not propose any vegetation removal or impacts on the coastal environment and coastal processes. The proposal does not impact on foreshore access or any known item or place of aboriginal cultural heritage. The proposal is consistent with the provisions of Clause 13 of the Coastal Management SEPP.</p>		

## 4.2 Byron Local Environmental Plan 2014 (LEP 2014)

LEP 2014 is an applicable matter for consideration in the assessment of the subject development application in accordance with subsection 4.15(1) of the EP&A Act because it applies to the subject land and the proposed development.

- 5 In accordance with LEP 2014 clauses 1.4 and 2.1 – 2.3:
  - (a) The proposed development is defined in the LEP 2014 Dictionary as Community Facility (development ancillary to). The use could also be described as horticulture which is also a permissible land use in the RE1 Zone.
  - (b) The land is within the RE1 Public Recreation / PART DM Deferred Matter according to the Land Zoning Map (the proposal is located entirely on land zoned RE1).
  - (c) The proposed development is permitted with consent.
  - (d) Regard has been given to the Zone Objectives as follows:

Zone Objective	Consideration
To enable land to be used for public open space or recreational purposes.	The proposal does not impact on the ability of the land to continue to be used for the purpose of a community garden or the larger areas to the south as sports fields.

<p>To provide a range of recreational settings and activities and compatible land uses.</p>	<p>The structure facilitates the activities of ReForest Now which are compatible with the existing use of the site for a community garden.</p>
<p>To protect and enhance the natural environment for recreational purposes.</p>	<p>The proposal will not have a significant impact on the natural environment for recreational purposes.</p>

6.1 Acid Sulfate Soils

The land is mapped as potential Acid Sulfate Soils Class 4. Works do not extend more than 2m below the natural ground surface therefore no further assessment is required.

6.3 Flood Planning

- 5 The land is subject to both the 10 year and 100 year flood events however, given the use of the structure as ancillary to a community garden, this does not present any significant safety risk.

6.6 Essential Services

- 10 The land contains an existing onsite sewage management system approved in accordance with 70.2016.1073.1 and associated with existing toilet facilities. There is no nexus to require any further provisions for onsite sewage management under this application.

The site has suitable vehicular access via the existing access arrangement through the community garden.

Recommended conditions will ensure that the site provides suitable stormwater drainage.

- 15 The proposed development complies with all clauses of LEP 2014 (in some cases subject to conditions and/or to the satisfaction of other assessing officers).

**4.3 Any proposed Instrument that has been the subject of public consultation and has been notified to the consent authority**

Not applicable.

**4.4 Byron Shire Development Control Plan 2014 (DCP 2014)**

DCP 2014 is an applicable matter for consideration in the assessment of the subject development application in accordance with subsection 4.15(1) of the EP& A Act because it applies to the land to which LEP 2014 applies.

- 25 The proposed development is demonstrated to meet the relevant Objectives of all relevant Parts/Chapters (in some cases subject to conditions and/or to the satisfaction of other assessing officers).

## BYRON SHIRE COUNCIL

### 4.5 Environmental Planning & Assessment Regulation 2000 Considerations

Clause	<i>This control is applicable to the proposal:</i>	<i>I have considered this control as it relates to the proposal:</i>	<i>If this control is applicable, does the proposal comply?</i>
<b>92</b>	No	N/A	N/A
<b>93</b>	No	N/A	N/A
<b>94</b>	No	N/A	N/A
<b>94A</b>	No	N/A	N/A

*\* Non-compliances and any other significant issues discussed below*

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

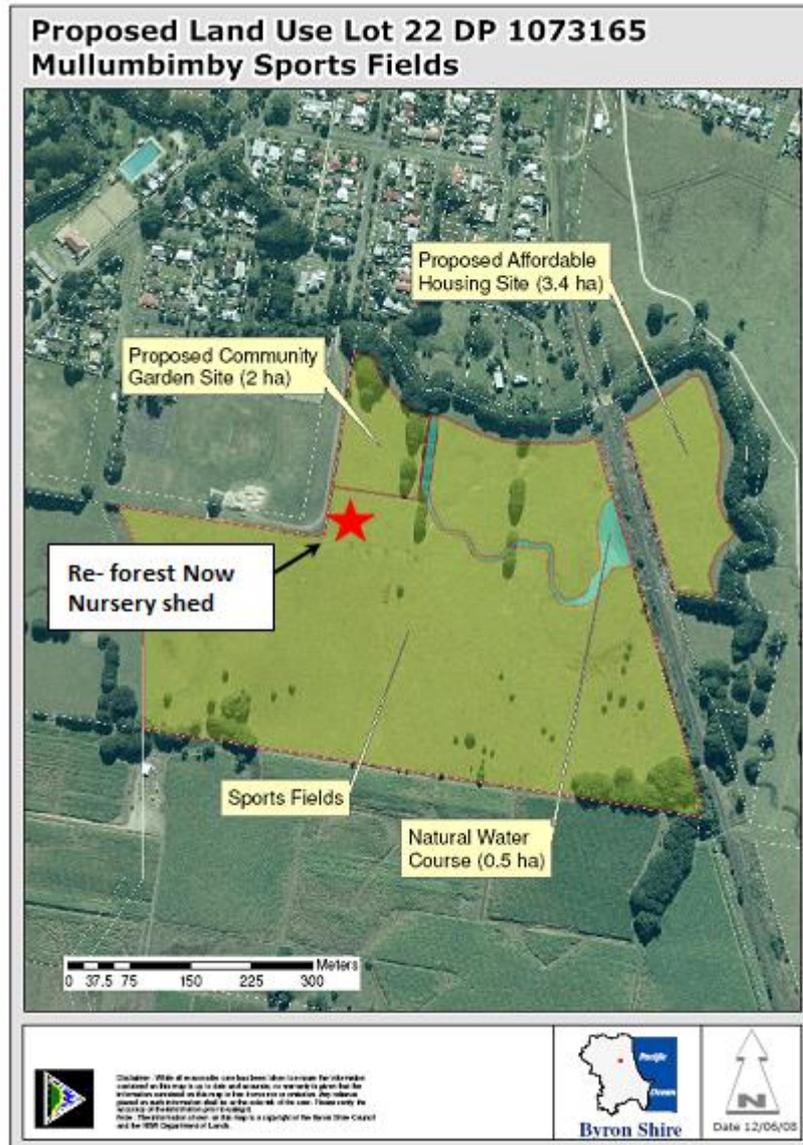
5

Impact on:	Likely significant impact/s?
<b>Natural environment</b>	No. The proposal will not have a significantly adverse impact on the natural environment of the locality.
<b>Built environment</b>	No. The proposal will not have a significantly adverse impact on the built environment of the locality.
<b>Social Environment</b>	No. The proposal will not have a significant social impact on the locality.
<b>Economic impact</b>	No. The proposal will not have a significant economic impact on the locality.

Are there any Council Policies that are applicable to the proposed development?

Community Gardens Policy 2020

This Policy requires that community land be considered with respect to the relevant plan of management. The Plan of Management (POM) for the land adopted on 26 June 2008 identifies the location of the existing nursery structure as being used for Sports Fields.



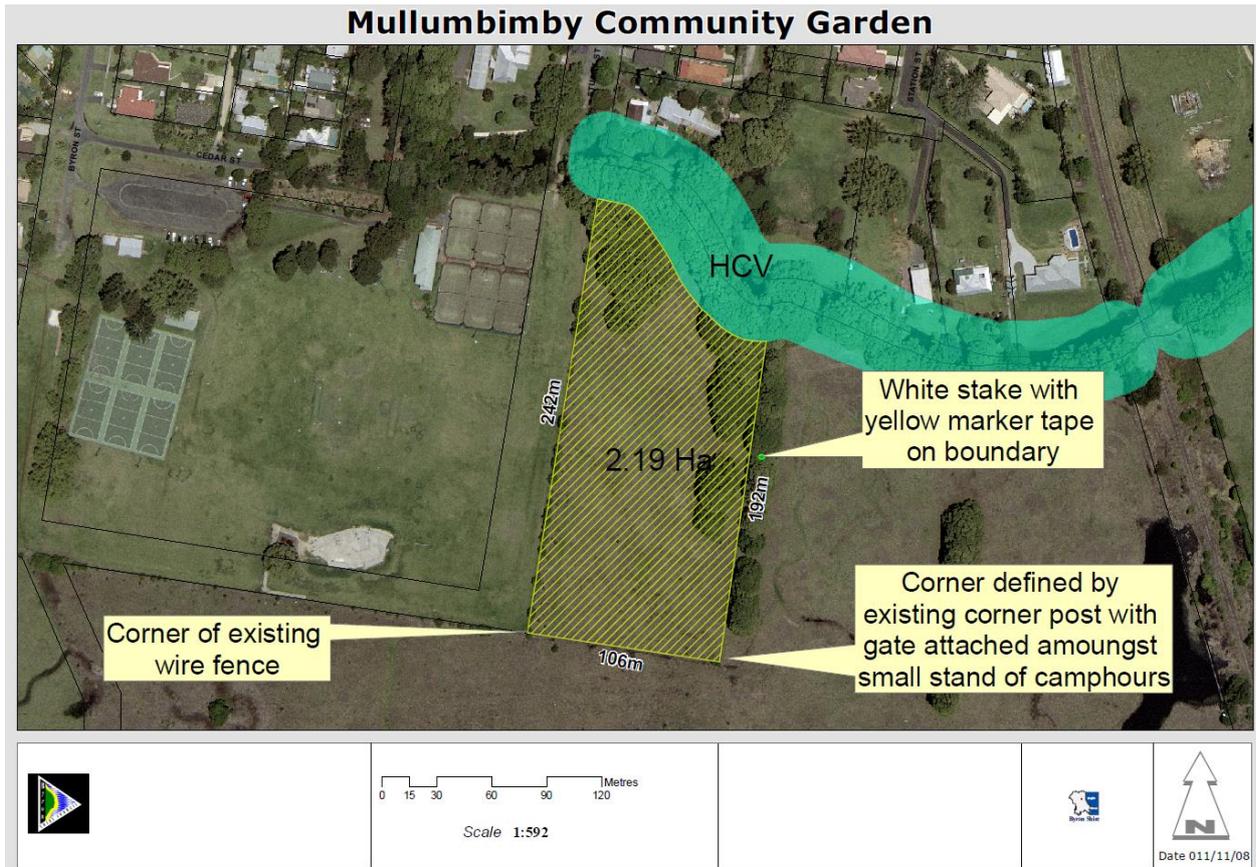
5

This POM is also currently the subject of review, as is the zoning of land (Lot 22).

Temporary Licence area held by Mullumbimby SEED Inc.

The nursery structure is located within the licensed area defined by the temporary licence (shown below) held by Mullumbimby SEED Inc. granted in accordance with Council resolution 19-287.

10



To ensure there is no long term conflict with the various uses of Lot 22, a time limited consent for two years is proposed, whereby the structure will need to be removed/relocated on the land at the end of this period. The nursery structure is  
 5 lightweight in nature and will be able to be removed or relocated with relative ease.

It is also noted that a number of other green houses and shelters have been erected without consent adjacent to the subject greenhouse. Conditions to apply for these to be removed unless separate approval is sought for their regularisation/retention within 60 days of the date of this consent (if granted). In the event no further approval is issued  
 10 these other structures will need to be removed.

**4.7 The suitability of the site for the development**

The site is a serviced, unconstrained property and is suitable for the proposed development.

**4.8 Submissions made in accordance with this Act or the regulations**

15 The development application was publicly exhibited

There were **2** submissions made on the development application:

# BYRON SHIRE COUNCIL

Issue - Objections	Comment
Description of the land when advertising should have been Mullumbimby Sportsfields or rear of Mullumbimby Community Garden	It is considered that the site was sufficiently identified when placed on public exhibition as the street address and Lot and DP were specified.
The land where the nursery structure is located should only be used for sports fields in accordance with the Plan of Management	The Plan of Management adopted on 26 June 2008 identifies the location of the existing nursery structure as being used for Sports Fields. Therefore a 2 year time limited consent is recommended so that the nursery structure and its use do not conflict with the proposed future use of the site.
The nursery structure does not meet the definition of a community garden	<p>The LEP2014 land use definition that is applicable to the community garden is a community facility:</p> <p><b><i>community facility</i></b> means a building or place—</p> <p>(a) <i>owned or controlled by a public authority or non-profit community organisation, and</i></p> <p>(b) <i>used for the physical, social, cultural or intellectual development or welfare of the community,</i></p> <p><i>but does not include an educational establishment, hospital, retail premises, place of public worship or residential accommodation.</i></p> <p>ReForest Now is operating as a not-for-profit organisation, fundraising for, and facilitating local tree plantings, with a particular focus on volunteer engagement at the nursery site.</p> <p>Therefore the use of the nursery is consistent with the land use definition of a community facility.</p>

## BYRON SHIRE COUNCIL

Issue - Objections	Comment
Why was the applicant able to lodge a DA without having a lease for this section of community land nor the adjoining community garden land which is leased to Mullum Seed	Clause 49(1) of the <i>Environmental Planning and Assessment Regulation 2000</i> provides that a development application may be made by any person.
Why was the application accepted without landowners consent from Council?	In accordance with <i>Harris Farm Markets Pty Limited v Ashfield Fresh Pty Limited and Anor. [2002] NSWLEC 106</i> (28 June 2002) landowners consent is not strictly required at the time of lodgement of a Development Application as long as it is obtained prior to determination of the application. On 1 July 2020 landowners consent was granted by Council subject to the development proposal being time limited and a temporary license for construction and occupation.
Access to the site is to be through the Barry Lomath oval adjacent to the community garden fenceline. This is not acceptable	Recommended condition will require that vehicular access must only be via the existing access through the community garden
The DA applicant has indicated they do not know any Councillors, a quick search of Facebook and the internet reveals the applicant is friends with the Mayor and 3 Councillors; it is an offence to provide false information.	Noted  Councillors will need to determine for themselves whether they have a conflict of interest in this matter when it is presented for determination.
How can council make an informed decision on this DA when it does not include any engineering plans or certification for the structure?	A condition is recommended requiring an engineering certification for the structure prior to be provided.
The RE1 zoning permits Horticulture, does this also	The use of the nursery is consistent with the land use definition of a community facility which is permitted with

## BYRON SHIRE COUNCIL

Issue - Objections	Comment
include Nurseries/Greenhouses of this scale?	consent in the RE1 zone.
Site Suitability and flooding	The application does not propose habitable structures therefore no further assessment is required.
The site has been illegally filled with approximately 8m <sup>3</sup> of metal dust.	This is a compliance matter and is separate from this DA.
The Chemical Free Landcare group has been ring barking the Camphor trees in the area against council permission. If all these trees are removed, will there be adequate visual privacy to neighbours?	This is a compliance matter and is separate from this DA.
How do the staff and volunteers not create Sewage? There is an illegal toilet in the South East corner of the Community Gardens site. This issue needs to be addressed.	<p>The land contains an existing onsite sewage management system approved in accordance with 70.2016.1073.1 and associated with existing toilet facilities.</p> <p>Conditions to apply requiring any unauthorised toilets or onsite sewage management systems to be removed within 6 months of the date of this consent.</p>
The existing Reforest Now nurseries on the site results in large areas being left boggy, there needs to be formal drainage of the site and better excess water management.	A condition is recommended requiring appropriate stormwater drainage to be provided.
There have been large concrete blocks dumped on the sports fields near the rear entrance, these need to be	This is a compliance matter and is separate from this DA.

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Issue - Objections	Comment
disposed of.	

## 4.9 Public interest

The public interest is not adversely impacted or undesirable precedent set given the time limit to be imposed on the use/development as a condition on the consent.

## 5. DEVELOPER CONTRIBUTIONS

- 5 There is no nexus to levy contributions for this development.

## 6. DISCLOSURE OF POLITICAL DONATIONS AND GIFTS

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

Provide Disclosure Statement register details here: Not applicable

## 7. REASONS FOR DECISION, HOW COMMUNITY VIEWS WERE ADDRESSED

- 10 *Note: From July 1 2018, Council's are required to give and publicly notify reasons for a range of planning decisions where they are deciding if development should proceed to help community members to see how their views have been taken into account and improve accountability to stakeholders. A statement of reasons for the determination of this application is provided below.*

### Statement of Reasons

The proposed development complies with the provisions of Byron Local Environmental Plan 2014.
The proposed development complies with relevant State Environmental Planning Policies
The proposed development complies with relevant provisions of Development Control Plan

# BYRON SHIRE COUNCIL

2014

The proposed development complies with Environmental Planning & Assessment Regulation 2000 considerations.

The proposed development will not have a significant adverse impact on the natural, built or social environment or economic impacts on the locality.

The proposed development is considered suitable for the proposed site.

## How community views were addressed

The DA was advertised in accordance with Byron Shire Council Community Participation Plan (CPP). The submissions received were considered on merit and addressed during assessment of the application.

To view the considerations, please contact Council to view a copy of the assessment report relating to this DA.

## 8. CONCLUSION

The application as assessed has addressed the relevant constraints applying to the site, and is recommended for approval subject to conditions.

**Report No. 13.16 Proposed Activity - Byron Music Festival 2021 on Reserve 82000 Dening Park, Byron Bay**

**Directorate:** Sustainable Environment and Economy

5 **Report Author:** Jess Gilmore, Events & Economy Team Leader

**File No:** I2021/160

**Summary:**

10 This report recommends the granting a temporary licence for proposed activities in Dening Park Byron Bay as part of the wider Byron Music Festival ('BMF') that is to be held in the Byron Bay Township during the weekend of 19-20 June 2021.

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**RECOMMENDATION:**

- 15 1. That Council grants a temporary licence in accordance with section 2.20 of the Crown Land Management Act for the purpose Entertainment, Exhibition and Markets to the Byron Music Festival between Friday 18 June 2021 and Monday 21 June 2021 for occupation of Dening Park.
- 20 2. That the granting of the temporary licence be subject to receipt and favourable assessment of a full Event Application.

## Report

5 This report recommends that Council grant a temporary licence for proposed activities in Dening Park Byron Bay as part of the wider Byron Music Festival ('BMF'). The BMF is proposed to take place in the Byron Bay Township during the weekend of 19-20 June 2021.

The following information details the proposed activities to occur as part of the Byron Music Festival in Dening Park. Attachment 1 provides an overview of the broader BMF activities throughout the township to provide context.

10 Figure 1 shows the area in Dening Park proposed to be used by the BMF. Figure 2 shows proposed site layout plan.



Figure 1. Proposed area to be used by BMF



Figure 2. Proposed site map for BMF.

**Event Overview**

5 The Byron Music Festival is a new multi-day event proposed as a weekend community event featuring live music, keynote speakers, market stalls, and busking activities throughout the Byron CBD, and in Denning Park.

10 Byron Music Festival has been described as “the love child of a street festival and a music industry conference.” The event is positioned as a weekend long, all-ages community jamboree that encompasses the whole township of Byron Bay in a music and creative arts street festival, with a focus on promoting local talent (exclusively), and the town itself as a premier destination for cultural collaboration and business, as well as tourism.

The event also aims to showcase the region as the poster child for environmental and social responsibility, and ‘green festivals’, demonstrating sustainability and encompassing a strong social justice facet through partnership with local charities and community groups.

15 The goal of the Byron Music Festival is to be the region's premier event that embodies the arts and cultural values of Byron Bay. Held during tourist low season, it aims to invite visitors and locals alike to boost the local economy and support local businesses at a time in the year it is needed the most.

20 This event aims to truly recognise the area’s local musicians and artists at an international level whilst forming a collaborative partnership network that ensures a sustainable future and provides a positive outcome for the entire community.

25 The objective of the BMF is designed to celebrate local talent and provide a platform for local musicians and industry professional’s post-COVID. It intends to celebrate local music and culture, drawing from rich local and national heritage while reflecting the values, creative energy and culture of the Byron region and community. Event aims:

## BYRON SHIRE COUNCIL

### STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

13.16

- To bring an event that supports a local community, in particular the creative arts community,
- Provide free access to culture for an entire community,
- Provide economic injection to regional NSW post-pandemic,
- 5 - Represent environmental and social responsibility,
- Create exposure and paid opportunities for artists based in regional NSW, and
- To showcase Byron Bay as not only a holiday destination but a sophisticated business and creative industry hub.

10 Organisers are anticipating around 2,000 attendees (subject to COVID-19 public health orders).

BMF will partner with local charities and will be promoting its sustainability initiatives by promoting and supporting environmental education, conscious consumption of sustainable brands, as well as personal, group and community health.

#### **Dening Park Activities**

15 The specific activities proposed in Dening Park are open to the public at no charge (ie no entry fee) and may include busking / live music, artisan stalls, educational presentations, workshops, food stalls, art and photography exhibition, outdoor film screening, and beach clean-up.

20 The event application also identifies that the event will require Council approvals for Traffic Management Plan, Waste Management Plan, Noise Management Plan, and Risk Management Plan.

The event will also be required to submit COVID-19 Safe plan/s as required under current public health requirements.

#### **Temporary Licence**

25 A temporary licence is required for the BMF activities proposed in Dening Park accordance with Councils Policy 5.52 Commercial Activities on Coastal & Riparian Crown Reserves ('the Policy').

30 In accordance with the Policy, a resolution of Council is required to grant a temporary short-term licence under section 2.20 of Crown Land Management Act for the purpose of exhibition, entertainment and markets. Clause 70 of the Crown Land Management Regulations provides an exception to Council to grant a licence for use of Dening Park prior to adopting a Plan of Management for the community land.

## Strategic Considerations

### Community Strategic Plan and Operational Plan

<b>CSP Objective</b>	<b>L2</b>	<b>CSP Strategy</b>	<b>L3</b>	<b>DP Action</b>	<b>L4</b>	<b>OP Activity</b>
<b>Community Objective 2: We cultivate and celebrate our diverse cultures, lifestyle and sense of community</b>	2.1	Support and encourage our vibrant culture and creativity	2.1.1	Support a range of inclusive events that encourage broad community participation and promote social inclusion	2.1.1.1	Support innovative and flexible delivery of community events and initiatives
<b>Community Objective 2: We cultivate and celebrate our diverse cultures, lifestyle and sense of community</b>	2.1	Support and encourage our vibrant culture and creativity	2.1.2	Provide meaningful and inclusive opportunities for volunteering	2.1.2.1	Partner with community organisations to develop coordinated spontaneous volunteering processes
<b>Community Objective 2: We cultivate and celebrate our diverse cultures, lifestyle and sense of community</b>	2.1	Support and encourage our vibrant culture and creativity	2.1.7	Support range of existing, emerging and major events	2.1.7.1	Continue to support event organisers in the delivery of a range of events

<p><b>Community Objective 2: We cultivate and celebrate our diverse cultures, lifestyle and sense of community</b></p>	<p>2.1</p>	<p>Support and encourage our vibrant culture and creativity</p>	<p>2.1.7</p>	<p>Support range of existing, emerging and major events</p>	<p>2.1.7.3</p>	<p>Administer licences for weddings, events, activities and filming on council and crown land</p>
<p><b>Community Objective 4: We manage growth and change responsibly</b></p>	<p>4.4</p>	<p>Support tourism and events that reflect our culture and lifestyle</p>	<p>4.4.1</p>	<p>Build a tourism industry that delivers local and regional benefits in line with the community's values</p>	<p>4.4.1.2</p>	<p>Continue to lead, build and strengthen strategic tourism partnerships</p>

**Legal/Statutory/Policy Considerations**

Crown Land Management Regulation 2018 (NSW) clause 31

*(1) Each of the following purposes is prescribed as a purpose for which a short-term licence may be granted under section 2.20 of the Act:*

- 5            (a) access through a reserve,
- (b) advertising,
- (c) camping using a tent, caravan or otherwise,
- (d) catering,
- (e) emergency occupation,
- 10           (f) entertainments,
- (g) equestrian events,
- (h) exhibitions,
- (i) filming (within the meaning of the Local Government Act 1993),
- (j) functions,
- 15           (k) hiring of equipment,
- (l) holiday accommodation,
- (m) markets,
- (n) meetings,
- (o) military exercises,
- 20           (p) mooring of boats to wharves or other structures,
- (q) sales,
- (r) shows,
- (s) sporting and organised recreational activities,
- (t) stabling of horses,
- 25           (u) storage.

## BYRON SHIRE COUNCIL

(2) *In addition to any other condition to which a short-term licence granted under section 2.20 of the Act is subject, the condition that the relationship of landlord and tenant is not created between the parties is also prescribed.*

5 (3) *The period of one year is prescribed as the maximum term for which a short-term licence may be granted under section 2.20 of the Act (including any further term available under an option or holding over provision).*

Byron Shire Council Policy 5.52 *Commercial Activities on Coastal and Riparian Crown Reserves*

10 Section 4 of Council's Policy 5.52 Commercial Activities on Coastal and Riparian Crown Reserves defines what activities Council has determined may be carried out on a coastal Crown reserve without requiring the issue of a temporary licence. These activities are:

- Emergency Services performed by recognised Emergency Service Organisations;
- Social Gatherings;
- Spreading of Ashes; and
- 15 • Volunteer Rescue Organisations – Training Days.

Section 5 of this same Policy outlines what activities Council may issue a temporary licence over this area for. These activities are:

- Sporting Events – Organised
- Educationally based community activities
- 20 • Fundraising activities by Registered Charities
- Political Functions
- Religious Functions
- Weddings

Native Title

25 The proposed short-term licence will not affect native title. Native Title has been extinguished over the whole of Lot 10 DP 1049827 pursuant to sections 24EA(1) and 24EB(1)(d) of the Native Title Act 1993 (Cth) being surrendered land in accordance with Schedule G of the Indigenous Land Use Agreement ('ILUA') between the Minister for  
30 Lands and the Bundjalung People of Byron Bay native title claimants dated 20 December 2006. Surrender of Native Title under the ILUA binds all native title holders and has the effect of extinguishing any native title that may have existed over the land.

### Financial Considerations

No cost to Council.

35 Byron Music Festival would be charged the adopted fee for a Commercial Temporary Activity, which is currently \$244 for the application fee and \$341 per day (for 1 to 7 days) for the licence fee.

40 Additionally, event organisers will be charged fees in accordance with Council's adopted Fees and Charges for their Traffic Control Plan assessment (if required), waste management, Occupation Certificate (if required), site inspection/s (if required), and any relevant building or health inspections.

In the assessment of the event application a bond for any clean up and/or remediation of Dening Park will be considered and negotiated with the event organisers..

**Consultation and Engagement**

Discussions with the following staff to establish land use suitability and constraints:

- 5 Michael Matthews, Manager, Open Spaces & Resource Recovery  
Paula Telford, Leasing Coordinator

STAFF REPORTS - INFRASTRUCTURE SERVICES

**Report No. 13.17 Former Mullumbimby Sewage Treatment Plant Land Use Options Report**

**Directorate:** Infrastructure Services

5 **Report Author:** Nikki Bourke, Project Officer

**File No:** I2021/20

**Summary:**

10 This report presents the Mullumbimby Sewage Treatment Plant (STP) Land Use Options Update Report. The report also comments on future plans of the Main Arm Recycled Water Scheme which is also hosted at the site.

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**RECOMMENDATION:**

**That Council further investigates the recommended future use in the Mullumbimby Sewage Treatment Plant Land Use Options Update Report involving ongoing recycled water facilities, potential solar farm and habitat restoration.**

**.Attachments:**

15 1 24.2016.43.1 Mullumbimby STP Remediation - Mullumbimby STP Land Use Options Update 22.01.2021 January 2021 Mike Svikis PLanning, E2021/26774 

## Report

Council resolved in October 2020 that they receive a report on future options for the former Mullumbimby STP site including reuse options.

5 The removal of the former STP structures and remediation of the site is well underway and will be completed in the first half of 2021.

## Key issues

A Mullumbimby STP Land Use Options Update Report (LUOUR) was prepared in 2017 by Mike Sivikis Planning to guide the level to which the site is remediated. The LUOUR has been recently updated (2021) to reflect finalised land use strategic plans.

## 10 Options

### Future options for the former Mullumbimby STP site

The LUOUR recommendations for future uses of the STP lots are:

Short and Long Term = Recycled water pond and dosing pump station + habitat (E zone, etc) + large solar farm + floating solar farm option



Figure 1: Potential short and long term use of the site (Mike Sivikis Planning, 2021)

**Future options for the Main Arm Recycled Water Scheme (MARWS)**

5 The treatment pond at the former Mullumbimby STP site will be retained to provide the required detention times for pathogen removal for reuse at the two Main Arm farms participating in the MARWS. Expanding the scheme remains an option to supply recycled water to additional farms (should participants be willing) and for irrigation of public open spaces along the MARWS rising main alignment.

**Next steps**

10 Next steps for the Mullumbimby STP site remediation project includes:

- Complete site remediation works,
- Complete site validation and reporting
- Prepare and resolve on the remediated site Long Term Environment Management Plan, and

- Attain EPA accredited contaminated site auditor sign-off.

Following this future use of the site can occur.

The next steps for the possible expansion of the Main Arm Recycled Water Scheme are to investigate potential additional users and to complete a demand analysis and water balance assessment to ensure contractual continuity of supply.

5

## Strategic Considerations

### Community Strategic Plan and Operational Plan

CSP Objective	L2	CSP Strategy	L3	DP Action	L4	OP Activity
<b>Community Objective 1: We have infrastructure, transport and services which meet our expectations</b>	1.5	Provide continuous urban water and sewerage services within the Shire	1.5.2	Ensure Wastewater Treatment Plants are maintained in accordance with operating licences	1.5.2.10	Mullumbimby STP Site Remediation
<b>Community Objective 1: We have infrastructure, transport and services which meet our expectations</b>	1.5	Provide continuous urban water and sewerage services within the Shire	1.5.2	Ensure Wastewater Treatment Plants are maintained in accordance with operating licences	1.5.2.7	Develop capital works plan in line with main arm

### Related Resolutions

Council resolved at its October 2020 meeting:

**20-521**

3. That Council receives a report on future options for the former Mullumbimby STP site including reuse options.

**Consultation and Engagement**

5 Key stakeholders and neighbours of the site have been consulted with respect to the remediation project. No community consultation has been undertaken specifically regarding the LUOUR although its recommendations were developed using Council's land use planning instruments and strategic plans, all of which have had extensive consultation.

**Report No. 13.18 Tender 2020-0063 - Railway Corridor Park**

**Directorate:** Infrastructure Services

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

**File No:** I2021/40

5 **Summary:**

On 31 August 2020, Council resolved 20-425 to approve the use of the open tender method to call for tenders for Contract 2020-0063 – Railway Corridor Park.

The Request for Tender was advertised from 05 November 2020 to 11 January 2021. Despite early interest in the project, only one Tender was received.

- 10 The Tender has been assessed in accordance with the provisions of the Local Government (General) Regulations 2005. This report summarises the background and assessment of the tender and provides a recommendation regarding Contract 2020-0063.

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**RECOMMENDATION:**

1. **That Council awards Tender 2020-0063 to the tenderer recommended in the Tender Evaluation Report (Confidential Attachment 1).**
2. **That Council makes public its decision, including the name and amount of the successful tenderer, in accordance with Clause 179(b) of the Local Government (General) Regulation 2005.**

**Attachments:**

- 15 1 Confidential - 24.2020.52.1 - 2020-0063 - Rail Corridor Park Construction Works - Evaluation Report, E2021/27146

## Report

On 31 August 2020, Council resolved **20-425** to approve the use of the open tender method to call for tenders for Contract 2020-0063 – Railway Corridor Park.

5 A contract to upgrade the open space area is required due to the need to fast track construction of the works, limited ability for the specialist boardwalk and heritage restoration components in-house, and the ability to obtain a firm price to undertake the works.

10 The Request for Tender sought responses from proponents to provide construction services for the upgrade of the park including demolition and relocation works, earthworks, soft and hard landscaping, park furniture, an elevated timber boardwalk, heritage restoration, lighting and services.

The Contract is expected to commence in March 2021 for a period of approximately four to six months.

The Contract will be managed by Client Representative – Byron Bay Bypass.

15 Tenders were advertised as follows:

Vendorpanel: 05 November 2020 to 11 January 2021

Council website: 05 November 2020 to 11 January 2021

A non-mandatory site briefing was held on 1 December 2020, where five companies attended the briefing indicating an interest in tendering the project.

20 An Evaluation Panel was established prior to tendering comprising of three members, although with only one tender being received, the evaluation report was dealt with in the sense of assessing value for money based on Council's real experience with this Contractor, as they could not be compared to others.

Tenders closed on 11 January 2021. One tender was received.

25 In the absence of multiple tenders to make a competitive assessment, the focus of assessment was on compliance with the mandatory criteria and evaluation/ validation of 'value for money'.

The tender was assessed as complying with the following mandatory criteria:

- a) Tender lodged on time, in accordance with the Conditions of Tender.
- 30 b) Respondent has a valid Australian Business Number.
- c) Respondent substantially complies with the Statement of Requirements.
- d) Respondent substantially complies with the Conditions of Contract.

- e) Workers Compensation Insurance for all employees
- f) Holds, or is able to obtain, the insurances as specified in the Statement of Requirements
- g) Respondent has satisfactory work health and safety and environmental compliance.
- 5 h) Financial capacity to undertake the contract.
- i) Commitment to ethical business practices.
- j) Tenderer confirmed no ties to Adani.

10 The Qualitative criteria, whilst not able to be assessed competitively, has been otherwise assessed in the best way possible with a single tender to demonstrate that accepting the tender is achieving 'value for money' for Council. The Qualitative criteria assessed were as follows;

*Profile and Relevant Experience*

Comparisons were made to prior experience with Council on key projects in Byron Bay town centre, as detailed in the attached report.

15 *Quality and Availability of Resources*

Key staff were compared against recent projects and the performance and management of those key staff on those projects, as detailed in the attached report.

*Delivery Plan*

20 The delivery plan was assessed and discussed and how it would meet Council's objectives for this project, as detailed in the attached report.

*Price*

Price, being the most difficult to assess, had the benefit of a recent project undertaken for Council and comparisons to those rates are detailed in the attached report.

**Key Issue and Options**

25 The key issue with this tender is in demonstrating that Council has achieved 'value for money' when awarding the tender, when only one tender was received. This has been presented in the attached confidential evaluation report.

30 The options to move forward with this project consist of either accepting the recommendation of this report that the single tender represents 'value for money' and can be awarded, or the project can be re-tendered in the hope that more interest is shown the second time. The second option would delay award of the tender until at least the May or June meeting of Council.

## Financial Considerations

The price basis for the contract is a lump sum.

Council has budgeted \$1.42M for this project.

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

## 5 Statutory and Policy Compliance Considerations

The tendering process has been undertaken in accordance with Council's Purchasing and Procurement Policy, and the provisions of the Local Government (General) Regulation 2005.

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

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

#### Acceptance of tenders

#### 178 Acceptance of tenders

- 15 (1) *After considering the tenders submitted for a proposed contract, the council must either:*
- (a) *accept the tender that, having regard to all the circumstances, appears to it to be the most advantageous, or*
  - (b) *decline to accept any of the tenders.*
- 20 (2) *A council must ensure that every contract it enters into as a result of a tender accepted by the council is with the successful tenderer and in accordance with the tender (modified by any variation under clause 176). However, if the successful tender was made by the council (as provided for in [section 55](#) (2A) of [the Act](#)), the council is not required to enter into any contract in order to carry out the requirements of the proposed contract.*
- 25 (3) *A council that decides not to accept any of the tenders for a proposed contract or receives no tenders for the proposed contract must, by resolution, do one of the following:*
- (a) *postpone or cancel the proposal for the contract,*
  - 30 (b) *invite, in accordance with clause 167, 168 or 169, fresh tenders based on the same or different details,*
  - (c) *invite, in accordance with clause 168, fresh applications from persons interested in tendering for the proposed contract,*

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- 5
- (d) *invite, in accordance with clause 169, fresh applications from persons interested in tendering for contracts of the same kind as the proposed contract,*
  - (e) *enter into negotiations with any person (whether or not the person was a tenderer) with a view to entering into a contract in relation to the subject matter of the tender,*
  - (f) *carry out the requirements of the proposed contract itself.*
- (4) *If a council resolves to enter into negotiations as referred to in subclause (3) (e), the resolution must state the following:*
- 10
- (a) *the council's reasons for declining to invite fresh tenders or applications as referred to in subclause (3) (b)–(d),*
  - (b) *the council's reasons for determining to enter into negotiations with the person or persons referred to in subclause (3) (e).*

Council's endorsement of the recommendation to award the tender is sought.

**Report No. 13.19 Byron Shire Rail with Trail (Update)**

**Directorate:** Infrastructure Services

**Report Author:** Therese Black, Business Analyst

**File No:** I2021/46

5 **Summary:**

The purpose of this report is to provide a quarterly update on the progress of the Byron Bay to Mullumbimby “Rail with Trail” in accordance with Council Resolutions **19-616** and **20-127**.

10 Key points of progress include a workshop with key representatives from TfNSW and the newly formed Department of Regional NSW on 6 November 2020 focussing on options for the combined road and rail corridors to support the future growth of the Byron region through considered infrastructure planning.

A second workshop has been scheduled for 5 March 2021.

---

**RECOMMENDATION:**

1. **That Council closes Resolution 19-616, with the remaining actions being addressed within Resolution 20-127.**
2. **That Council considers a budget allocation at the March 2021 quarterly review to undertake further work on the Rail with Trail project.**

15

## Report

The purpose of this report is to provide a quarterly update on the progress of the Byron Bay to Mullumbimby “Rail with Trail” in accordance with Council Resolutions **19-616**, and **20-127** and **20-572**.

- 5 The actions associated with resolution 19-616 are addressed within the later resolution 20-127. As such the recommendation of this report is that council resolves to close resolution 19-616.

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

- 10 1. Commence planning for a rail link connecting Mullumbimby and Byron Bay as part of a multi-use activation of the rail corridor.

***(Planning has been undertaken and a workshop was held in Nov 2020 with representatives from TfNSW along with other important NSW Government departments.)***

- 15 2. Incorporate the project as a key element of the draft Integrated Transport Strategy, which is supported by Park and Ride and other measures to promote active and public transport development within the Strategy.

***(Completed - Council has incorporated the activation of the Rail Corridor into the draft Integrated Transport Strategy as a key element.)***

- 20 3. Prepare an economic and social business plan including development of a governance framework to support the project.

25 ***(Work in Progress – staff has commenced the development of a governance framework. However, there are many factors that will influence the final governance model including; tenure of the rail corridor and the operations model for the ongoing commercial enterprise/s within it. Funding is required for the engagement of a specialist consultant)***

4. Provide notice of the intention to establish a rail link to Infrastructure Australia, Infrastructure NSW, TfNSW and other relevant agencies to seek advice on funding criteria and project development.

30 ***(Completed – Letters to the above were sent on 19 June 2020. A single response has been received from Chris Hanger, noting the government will require the following; evidence of a viable and sustainable business model; have undertaken effective community consultation and engagement with adjacent landholders that demonstrates overwhelming community support; and have addressed issues relating to potential biosecurity concerns.)***

35

5. Investigate Federal, NSW and other funding bodies to identify funding sources including, but not limited to tourism, infrastructure, transport and climate change

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mitigation/adaption grants with a priority focus on funding vegetation removal within the rail corridor.

***(Ongoing - currently no funding opportunities have been identified.)***

- 5 6. Actively seek expressions of interest from potential operators interested in providing commuter shuttle and visitor oriented services.

***(To be commenced concurrently or after the detailed engineering assessment has been completed.)***

7. Seek support including funding through Federal and NSW Ministers for Transport, Hon. Tamara Smith MP, Hon. Ben Franklin MLC and Hon. Justine Elliot MP.

- 10 ***(Work in Progress - Letters have been drafted.)***

8. Receive six monthly reports on progress.

***(Ongoing - This report is the second six monthly progress reports to be issued. The cycle is actually every quarter due to the requirement of the Operations Plan)***

- 15 9. The business plan be included in the 20/21 Operational Plan, forward Delivery Plans and draft budget.

***(Completed - included in the 20/21 Operational Plan)***

10. Item 2 above be funded from the existing Integrated Transport Strategy budget.

- 20 ***(Completed - Incorporating the activation of the rail corridor into the Integrated Transport Strategy, together with recommended projects and actions, has been and will continue to be funded from the existing Integrated Transport Strategy.)***

11. Implement Actions 4, 5, 7 and 8 immediately and include as part of a rail link project in the 20/21 Operational Plan and forward Delivery Plans that includes item 6 above as an action as well as consideration of a budget for project management.

- 25 ***(Items 4,5,7 and 8 are variously completed or in progress. Item 6 - a budget allocation was considered at the Dec 2020 quarterly review, with no budget currently applied to this project.)***

#### ***Strategic Meeting with TfNSW***

- 30 On Friday 6 November 2020, Councillors and staff attended a Movement & Place Workshop organised by TfNSW. The workshop was facilitated by Vicky Sisson (A/Director Northern Region). In attendance were key representatives from TfNSW and the newly formed Department of Regional NSW.

#### **Transport for NSW attendees:**

1. Vicky Sisson | A/Director Northern Region
2. Dan Champness | Project Manager Strategic Projects

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3. Anthony (Tony) Donohoe | Senior Manager Regional Planning
4. Penny Sutton | Manager Road User Safety
5. Mark Hannan | TfNSW
6. Amy Stacey | TfNSW
- 5 7. Blake Hughes | TfNSW
8. Brad Crispin | TfNSW

#### **Other NSW Government attendees:**

9. Lenna Klintworth | Business Development Manager, North Coast Regional Development | Department of Regional NSW
- 10 10. Lisa Hingerty | DPC
11. Elisa Kuosmanen | DPC

#### **Byron Shire Council attendees:**

12. Cr Richardson
13. Cr Cameron
- 15 14. Cr Martin
15. Cr Lyon
16. Cr Hunter
17. Cr Spooner (online)
18. Cr Coorey – maybe
- 20 19. Phillip Holloway – Director Infrastructure Services
20. Shannon Burt – Director Sustainable Environment & Economy
21. Phil Warner – Manager Assets and Major Projects
22. Christopher Soulsby – Development Planning Officer
23. Therese Black – Business Analyst
- 25 24. Claire McGarry – Place Manager
25. Evan Elford – Manager Works
26. Andrew Pearce – Traffic Engineer

A follow up workshop has been scheduled for the above participants on Friday 5 March 2021 at the Cavanbah Centre and online.

- 30 Provided below is an update on the key activities undertaken in response to Res **20-572**:

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

#### ***(Further prioritization beyond Part 1 of Res 20-127)***

- 35 2. That Council seeks community and local Land Care support to carry out environmental works on the rail corridor between Bayshore Drive and Tyagarah for removal of unwanted vegetation

#### ***(Advice sort from Dan Champness TfNSW)***

3. That Council seeks funding for the clearing of the vegetation on the line

**(As per Part 5 Res 20-127)**

4. That Council, when funding is available, commissions a structural assessment and cost estimate of a sample of the timber bridges suitable for facilitating movement up to a weight that can support light rail and very light rail options outlined in the MURC.

5 (Richardson/Ndiaye)

**(As per Part 11 Res 20-127, no funding has been allocated for engineering assessment)**

## Key issues

10 A detailed Engineering Assessment is required to fully understand the state of the rail infrastructure on the line between Byron Bay and Mullumbimby.

Vegetation clearing on the length of the rail corridor, is required before an Engineering Assessment can be carried out. The NSW government has clearly stated that they have no current budget to fund this work.

15 Chris Hanger (Deputy Secretary Department of Regional NSW) has advised that all projects within the rail corridor require an amendment to the Transport Administration Act 1988 to close the rail line.

20 *Note: An amendment to the Transport Administration Act 1988 to close two sections of the Casino to Murwillumbah railway line between Murwillumbah to Crabbes Creek (Stage 1 – Tweed Shire Council), and Casino to Bentley (Stage 2 – Richmond Valley Council) passed Parliament on 15 October and was assented on 19 October 2020. The land will be retained in public ownership. This ensures the land can be returned to transport purposes if this is ever necessary.*

## Next steps

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

- Continued liaison with TfNSW and the Department of Regional NSW to discuss potential funding sources and options.
- 30 - Closure of Res 19-616; with the remaining actions being addressed within Res 20-127.
- Consideration of a budget allocation at the March quarterly review to undertake further work on the Rail with Trail on the corridor between Mullumbimby and Byron Bay.

## Strategic Considerations

### Community Strategic Plan and Operational Plan

CSP Objective	L2	CSP Strategy	L3	DP Action	L4	OP Activity
<b>Community Objective 1: We have infrastructure, transport and services which meet our expectations</b>	1.3	Support, through partnership, a network of integrated sustainable transport options	1.3.1	Ensure an integrated and accessible transport network (SP)	1.3.1.5	Provide a quarterly update report on the outcome of discussions with State government and agencies about the multi-use of the rail corridor, including any policy developments and funding opportunities identified
	1.3	Support, through partnership, a network of integrated sustainable transport options	1.3.1	Ensure an integrated and accessible transport network (SP)	1.3.1.6	Develop a governance model to support rail corridor activation

### Related Resolutions

- 19-335 – Closed
- 5 • 19-616 – Recommended in this report to be closed as actions addressed in 20-127
- 20-127 – The key working resolution for this project (the subject of this report)
- 20-518 – Closed
- 20-572 – Action addressed in this report

**Financial Considerations**

Council will have the opportunity to consider a budget allocation to progress this project at the next quarterly review.

**Consultation and Engagement**

**5 Key Stakeholders:**

Government: TfNSW, NSW State and Federal Government representatives.

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

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

**Report No. 13.20 Design and Construction of the Byron STP Additional Flow Path**

**Directorate:** Infrastructure Services

**Report Author:** Cameron Clark, Manager Utilities

5 **File No:** I2021/152

**Summary:**

10 Council at its Ordinary Meeting of 25 June 2020, following consideration Report No 13.22 – Byron Sewerage Treatment Plant – Additional Flow Path Project, resolved via resolution number: **20-338** to proceed to an Open Tender for the Construction of the Additional Flow Path Project.

Open tender process for Contract RFT2020-0048, Design and Construction of the Byron STP Additional Flow Path was undertaken as per resolution.

The Request for Tender was advertised from 6 November 2020 to 3 December 2020. Tenders were received from the following organisations:

- 15
- Demacs Constructions
  - Eire Constructions
  - FB Contracting
  - Ledonne Constructions

20 Tenders have been assessed in accordance with the provisions of the Local Government (General) Regulations 2005. This report summarises the background and assessment of the tenders and provides a recommendation to award the tender for Contract RFT2020-0048.

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25 **RECOMMENDATION:**

1. **That Council awards Tender Design and Construction of the Byron STP Additional Flow Path to the preferred contractor specialised in the Tender Evaluation report (*attachment E2021/25906*)**
  2. **That Council makes public its decision, including the name and amount of the successful tenderer, in accordance with Clause 179(b) of the Local Government (General) Regulation 2005.**
- 30

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### **Attachments:**

- 1 Confidential - Tender Evaluation Report Byron STP Additional Flow Path, E2021/25906

5

## Report

5 Council at its Ordinary Meeting of 25 June 2020, following consideration Report No 13.22 – Byron Sewerage Treatment Plant – Additional Flow Path Project, resolved via resolution number: **20-338** to proceed to an Open Tender for the Construction of the Additional Flow Path Project.

This contract is for the for the design and construction of the works that are necessary to direct the treated effluent (recycled water) flow through an additional flow path and away from sensitive areas.

The Request for Tender sought responses from proponents to provide:

- 10
- Design and construction of new assets and modification of existing assets at the STP Recycled Water existing secondary distribution pit (Distribution Pit) Area
  - Construction of 650m of DN 300 PVC recycled water pipe
  - Construction 704m of 2.5m wide shared concrete path along an existing drainage channel
- 15
- Design and construction of a pedestrian bridge, and
  - Construction works to clear obstructions at various locations along an existing drainage line located on the south side of the Ewingsdale Road, Byron Bay.

The Contract is expected to commence in March 2021 for a period of seven months.

The Contract will be managed by Cameron Clark Manager Utilities.

20 Tenders were advertised as follows:

Council website: 6 November 2020 to 3 December 2020 (linked to the Vendor Panel website)

Vendor Panel Website: 6 November 2020 to 3 December 2020.

25 An Evaluation Panel comprising of two Council staff members was formed. Two more people, both from Planit Consulting, formed part of the panel too.

Tenders closed on 3 December 2020 and tenders were received from the following proponents:

- Demacs Constructions
  - Eire Constructions
- 30
- FB Contracting
  - Ledonne Constructions

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

*Mandatory criteria:*

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

*Qualitative Criteria;*

Criteria	Elements
Relevant project experience & capability	Demonstrated experience on similar projects with respect to technical aspects and project costs; references from previously completed projects; Disclosure of prior commitments during the contract period - work at hand
Experience and capability of staff	Nominated project team including the organisational structure, qualification and relevant experience of key personnel and subcontractors.
Project Execution	Demonstrated understanding of the project and ability to carry out the work and manage the contract.
Price criteria (not qualitative)	Tendered lump sum price and rates for additional work (the value of any qualification or departure in the tender will be assessed and added to the Tendered price).

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

## Financial Considerations

The price basis for the contract is a lump sum.

Council has budgeted \$1.5M for this project.

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

## 5 Statutory and Policy Compliance Considerations

The tendering process has been undertaken in accordance with Council's Purchasing and Procurement Policy, and the provisions of the Local Government (General) Regulation 2005.

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

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

#### Acceptance of tenders

#### 178 Acceptance of tenders

- 15 (1) *After considering the tenders submitted for a proposed contract, the council must either:*
- (a) *accept the tender that, having regard to all the circumstances, appears to it to be the most advantageous, or*
  - (b) *decline to accept any of the tenders.*
- 20 (2) *A council must ensure that every contract it enters into as a result of a tender accepted by the council is with the successful tenderer and in accordance with the tender (modified by any variation under clause 176). However, if the successful tender was made by the council (as provided for in [section 55 \(2A\) of the Act](#)), the council is not required to enter into any contract in order to carry out the requirements of the proposed contract.*
- 25 (3) *A council that decides not to accept any of the tenders for a proposed contract or receives no tenders for the proposed contract must, by resolution, do one of the following:*
- (a) *postpone or cancel the proposal for the contract,*
  - 30 (b) *invite, in accordance with clause 167, 168 or 169, fresh tenders based on the same or different details,*
  - (c) *invite, in accordance with clause 168, fresh applications from persons interested in tendering for the proposed contract,*

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- 5
- (d) *invite, in accordance with clause 169, fresh applications from persons interested in tendering for contracts of the same kind as the proposed contract,*
  - (e) *enter into negotiations with any person (whether or not the person was a tenderer) with a view to entering into a contract in relation to the subject matter of the tender,*
  - (f) *carry out the requirements of the proposed contract itself.*
- (4) *If a council resolves to enter into negotiations as referred to in subclause (3) (e), the resolution must state the following:*
- 10
- (a) *the council's reasons for declining to invite fresh tenders or applications as referred to in subclause (3) (b)–(d),*
  - (b) *the council's reasons for determining to enter into negotiations with the person or persons referred to in subclause (3) (e).*

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

REPORTS OF COMMITTEES - INFRASTRUCTURE SERVICES

**Report No. 14.1 Report of the Local Traffic Committee Meeting held on 27 January 2021**

**Directorate:** Infrastructure Services

5 **Report Author:** Andrew Pearce, Traffic Engineer

**File No:** I2021/135

**Summary:**

This report contains the recommendations of the Local Traffic Committee (LTC) meeting held on 27 January 2021.

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**RECOMMENDATION:**

1. That Council notes the minutes of the Local Traffic Committee Meeting held on 27 January 2021.

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

**Report No. 6.1 Yellow Line - Lighthouse Rd, Wategos**  
File No: I2021/65

**Committee Recommendation 6.1.1**

That Council endorse the installation of yellow lines along Lighthouse Road from the Brooke Drive intersection extending through to the start of Palm Valley Drive.

15

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

**Report No. 6.2 Tincogan Street Intersection Priorities**  
File No: I2021/66

**Committee Recommendation 6.2.1**

That Council implement the priority changes to give way signs on Tincogan Street at the intersections of the Dalley Street and Stuart Street, Mullumbimby in order to provide priority to east-west traffic movements in Tincogan Street

as amended by Committee comments.

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

**Report No. 6.3 Burringbar St - Talking Street**

File No: I2021/67

**Committee Recommendation 6.3.1**

That Council endorse the regulatory signs, lines and devices associated with the 10km/h and 30km/h speed zone changes associated with the Burringbar Talking Streets project.

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

**Report No. 6.4 On-Road Cycleway Connection - Bangalow/Browning/Tennyson Roundabout**

File No: I2021/68

**Committee Recommendation 6.4.1**

That Council endorse the attached plans for the On-Road Cycleway Connection at Bangalow/Browning/Tennyson Roundabout pavement marking and signage to be installed (#E2020/97761).

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

**Report No. 7.1 Mixed Use Development - Jonson St / Browning St**

File No: I2021/69

**Committee Recommendation 7.1.1**

That Council approve the regulatory signage shown in Attachment 1 (E2020/95011) which is associated with development application 10.2019.616.1 and Roads Act application 51.2019.616.2.

**Attachments:**

5

1 LTC\_27012021\_MIN\_1363\_EXTRA, E2021/28050 

## Report

The attachment to this report provides the minutes of the Local Traffic Committee Meeting of 27 January 2021 for determination by Council. The agenda for this meeting can be located on Council's website at:

- 5 [https://byron.infocouncil.biz/Open/2021/01/LTC\\_27012021\\_AGN\\_1363\\_AT\\_EXTRA\\_EMB\\_EDDED.PDF](https://byron.infocouncil.biz/Open/2021/01/LTC_27012021_AGN_1363_AT_EXTRA_EMB_EDDED.PDF)

Council's action on the LTC advice will be:

- 10 a) If Council is in agreement with the LTC unanimous support then the proposal may be approved. In these cases there is no conflict between Council and the advice of the LTC, consequently there is no need for Council to inform the RMS or the NSW Police representatives of the decision.
- b) If Council is in agreement with the LTC unanimous support, but no longer wants to proceed, the proposal may still be rejected.
- 15 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.
- 20 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).
- 25 e) If Council decides to proceed with a proposal where the advice of the LTC is a unanimous decline, then the Council must first advise the RMS and NSW Police representatives in writing of their intention to approve the proposal. The RMS or the NSW Police may then lodge an appeal to the RTC.

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

## Financial Implications

- 30 As per the Reports listed within the Local Traffic Committee Meeting of 27 January 2021.

## Statutory and Policy Compliance Implications

As per the Reports listed within the Local Traffic Committee Meeting of 27 January 2021.

**Report No. 14.2 Report of the Transport and Infrastructure Advisory Committee Meeting held on 28 January 2021**

**Directorate:** Infrastructure Services

5 **Report Author:** Dominika Tomanek, Executive Assistant Infrastructure Services

**File No:** I2021/188

**Summary:**

The attachment to this report provides the minutes of the Transport and Infrastructure Advisory Committee Meeting of 28 January 2021 for determination by Council.

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**RECOMMENDATION:**

1. That Council notes the minutes of the Transport and Infrastructure Advisory Committee Meeting held on 28 January 2021.

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

**Report No. 3.1 Adoption of Minutes from Previous Meeting**

File No: I2021/37

**Committee Recommendation 3.1.1**

That the minutes of the Transport and Infrastructure Advisory Committee Meeting held on 8 October 2020 be confirmed.

15

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

**Report No. 4.1 Byron to Suffolk Cycleway - Browning St Roundabout Bypass Connection**

File No: I2021/18

**Committee Recommendation 4.1.1**

That Council endorses the attached plan (Attachment 1 - E2020/97761) for the On-Road Cycleway Connection at Bangalow/Browning/Tennyson Roundabout pavement marking and signage to be installed.

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

**Report No. 4.2 Signage Policy Update**  
File No: I2021/81

**Committee Recommendation 4.2.1**

1. That Council notes the progress undertaken to update Council's Tourist, Street Name, Community Facility and Service Signs (Policy 07/102) in accordance with resolution 18-465 and developing a wildlife signage strategy.
2. That the Transport and Infrastructure Advisory Committee is provided with scoping documentation outlining the signage policy review as soon as possible prior to a workshop to be held in March 2021.

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

Regular Item on the TIAC Agenda

**Committee Recommendation 4.3.1**

That the Transport and Infrastructure Advisory Committee receives an update on roads, reseals, reconstructions, maintenance requirements, and budgetary situation as a regular item on future Agendas.

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

Kolora Way Update

**Committee Recommendation 4.4.1**

That the Transport and Infrastructure Advisory Committee receives a further report on bikeway options at the next meeting.

**Attachments:**

- 1 24.2017.86.1 - 2801-SK45 - Byron to Suffolk Cycleway - Browning St Roundabout Bypass Connection, E2020/97761 
- 2 Minutes 28/01/2021 Transport and Infrastructure Advisory Committee, I2021/116 

## **Report**

The attachment to this report provides the minutes of the Transport and Infrastructure Advisory Committee Meeting of 28 January 2021 for determination by Council. The agenda for this meeting can be located on Council's website at:

- 5 [https://byron.infocouncil.biz/Open/2021/01/TIAC\\_28012021\\_AGN\\_1318\\_AT\\_EMBEDDED.PDF](https://byron.infocouncil.biz/Open/2021/01/TIAC_28012021_AGN_1318_AT_EMBEDDED.PDF)

## **Committee Recommendation**

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

## 10 **Financial Implications**

As per the Reports listed within the Transport and Infrastructure Advisory Committee Meeting of 28 January 2021.

## **Statutory and Policy Compliance Implications**

- 15 As per the Reports listed within the Transport and Infrastructure Advisory Committee Meeting of 28 January 2021.

**Report No. 14.3 Report of the Byron Shire Floodplain Risk Management Committee Meeting held on 28 January 2021**

**Directorate:** Infrastructure Services

5 **Report Author:** Shelley Flower, Infrastructure Planning Support Officer, IS - Works

**File No:** I2021/191

**Summary:**

10 This report provides the minutes of the Byron Shire Floodplain Risk Management Committee Meeting of 28 January 2021 for determination by Council.

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**RECOMMENDATION:**

15 1. **That Council notes the minutes of the Byron Shire Floodplain Risk Management Committee Meeting held on 28 January 2021.**

2. **That Council adopts the following Committee Recommendation:**

**Report No. 3.1 Adoption of Minutes from Previous Byron Shire Floodplain Risk Management Committee Meeting**

File No: I2021/35

**Committee Recommendation 3.1.1**

**That the minutes of the Byron Shire Floodplain Risk Management Committee Meeting held on 29 October 2020 be confirmed.**

3. **That Council adopts the following Committee Recommendation:**

**Report No. 4.1 Incident Management System Trial Event - East Coast Low - 11 December 2020**

File No: I2021/6

**Committee Recommendation 4.1.1**

**That Council recognise the value of testing the new Incident Management System-(IMS) in its first month of operation (East Coast Low starting on 11**

# BYRON SHIRE COUNCIL

## REPORTS OF COMMITTEES - INFRASTRUCTURE SERVICES

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**December 2020) and recognise system improvements made during the event, as presented in document E2021/4075.**

5

## **Report**

The attachment to this report provides the minutes of the Byron Shire Floodplain Risk Management Committee Meeting of 28 January 2021 for determination by Council. The agenda for this meeting can be located on Council's website at:

- 5 [https://byron.infocouncil.biz/Open/2021/01/BSFRM\\_28012021\\_AGN\\_1306\\_AT\\_EMBEDDED.PDF](https://byron.infocouncil.biz/Open/2021/01/BSFRM_28012021_AGN_1306_AT_EMBEDDED.PDF)

The minutes for this meeting can be located on Council's website at:

[https://byron.infocouncil.biz/Open/2021/01/BSFRM\\_28012021\\_MIN\\_1306.PDF](https://byron.infocouncil.biz/Open/2021/01/BSFRM_28012021_MIN_1306.PDF)

## **Financial Implications**

- 10 As per the Reports listed within the Byron Shire Floodplain Risk Management Committee Meeting of 28 January 2021.

## **Statutory and Policy Compliance Implications**

As per the Reports listed within the Byron Shire Floodplain Risk Management Committee Meeting of 28 January 2021.

**QUESTIONS WITH NOTICE**

**Question with Notice No. 15.1**

**Agglomerated data on dwelling supply in Byron Shire**

5 **File No:** I2021/209

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Cr Cate Coorey asks the following question:

10 In view of the recently adopted Residential Strategy and to assist in considering future planning decisions, can Councillors and the community be advised of changes in residential approvals since the operation of the Byron LEP 2014.

Can staff please provide figures for the number of new dwellings, rural tourist accommodation rooms and new lots approved as complying development, council approved development and NRPP approved development. Can these figures be divided into:

15 In rural areas all approvals, including:

- primary dwellings
- dual occupancies
- secondary dwellings
- workers dwellings

20 • studios

- Rural tourist cabins, farmstay accommodation or eco-tourism accommodation

In urban areas all approvals including:

- detached dwellings
- secondary dwellings

25 • dual occupancies approved as strata title or freehold developments

- multi dwelling housing approved as strata title or freehold developments

• studios

- shop top housing dwellings

and

# BYRON SHIRE COUNCIL

## QUESTIONS WITH NOTICE

15.1

- Ancillary caretaker dwellings/Ancillary managers and staff dwellings.
  - Ancillary dwellings in industrial and business zones
  - New lots under 800m2 with dwelling entitlements
  - New lots under 1000m2 with dwelling entitlements
- 5 • New lots over 10002 with dwelling entitlements

NB please count total dwellings, total rooms and total lots, not total approvals as often multiple dwellings are included in a single approval such as multi dwelling housing, dual occupancies or a new house and secondary dwelling.

Rural includes RU1, RU2, RU5, R5 and environmental zones.

- 10 Urban includes all Residential, Business and Industrial Zones.

### **Response Director Sustainable Environment and Economy:**

Councillor Coorey asked the same question of staff for the period 2014-2017 at the 22 March 2018 ordinary council meeting.

The following response was published 19 April 2018 on the ordinary meeting agenda.

15 **Question with Notice No. 15.5 Agglomerated Data on Dwelling Supply in Byron Shire**

The tables below break down the Development (DA) and Complying Development (CDC) applications approved during the calendar years from 2012 to 2017.

- 20 It is not possible to provide the level of detail requested in the question above as information collected and collated by Council does not necessary correlate. As such the breakdown in the response provided below is based on that information that is readily able to be accessed and presented by staff from Council records or other sources.

### Dwellings

- 25 The figures show number of dwelling (or studios) approved during these periods, not the number of applications. It should be noted that bedroom numbers are not recorded on Council's electronic register and therefore have not been included in the data. To capture this information each application would need to be individually reviewed by a staff
- 30 member, a task that is not resourced to be done.

The Census includes a question on the number of bedrooms per household which may be of use in this regard. A link to the Byron Community profile web follows:

<https://profile.id.com.au/byron>

35

2017	No. of Dwellings
Rural	128

# BYRON SHIRE COUNCIL

## QUESTIONS WITH NOTICE

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Dual Occupancy	26
Dwelling	47
Secondary Dwelling	37
Studio	4
Tourist Facility	14
<b>Urban</b>	<b>276</b>
Dual Occupancy	23
Dwelling	65
Medium density development	70
Residential Units	3
Secondary Dwelling	113
Studio	2
<b>Grand Total</b>	<b>404</b>
<b>2016</b>	<b>No. of Dwellings</b>
<b>Rural</b>	<b>150</b>
Cabin - Rural Tourist	3
Dual Occupancy	22
Dwelling	56
Secondary Dwelling	46
Studio	10
Tourist Facility	19
<b>Urban</b>	<b>282</b>
Dual Occupancy	22
Dwelling	103
Medium density development	15
Residential Units	17
Secondary Dwelling	115
Studio	4
Tourist Facility	6
<b>Grand Total</b>	<b>432</b>

<b>2015</b>	<b>No. of Dwellings</b>
<b>Rural</b>	<b>119</b>
Aged Care Units	4
Cabin - Rural Tourist	2
Dual Occupancy	14
Dwelling	52
Secondary Dwelling	27
Studio	13
Tourist Facility	7
<b>Urban</b>	<b>287</b>
Dual Occupancy	39
Dwelling	99

## BYRON SHIRE COUNCIL

### QUESTIONS WITH NOTICE

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Medium density development	18
Residential Units	19
Secondary Dwelling	102
Studio	3
Tourist Facility	7
<b>Grand Total</b>	<b>406</b>
<b>2014</b>	<b>No. of Dwellings</b>
<b>Rural</b>	<b>106</b>
Dual Occupancy Dwelling	11
Secondary Dwelling	57
Studio	22
Tourist Facility	13
	3
<b>Urban</b>	<b>235</b>
Dual Occupancy Dwelling	34
Residential Units	99
Secondary Dwelling	17
Studio	79
	6
<b>Grand Total</b>	<b>341</b>
<b>2013</b>	<b>No. of Dwellings</b>
<b>Rural</b>	<b>74</b>
Dwelling	44
Dual Occupancy	6
Studio	6
Tourist Facility	7
Secondary Dwelling	11
<b>Urban</b>	<b>155</b>
Dwelling	58
Dual Occupancy	32
Studio	1
Medium Density Development	5
Secondary Dwelling	59
<b>Grand Total</b>	<b>229</b>

# BYRON SHIRE COUNCIL

## QUESTIONS WITH NOTICE

15.1

<b>2012</b>	<b>No. of Dwellings</b>
<b>Rural</b>	<b>76</b>
Dwelling	46
Dual Occupancy	3
Studio	8
Secondary Dwelling	7
Tourist Facility	12
<b>Urban</b>	<b>240</b>
Dwelling	67
Dual Occupancy	26
Residential Unit	15
Studio	4
Medium Density Development	72
Secondary Dwelling	56
<b>Grand Total</b>	<b>316</b>

### Subdivisions

- 5 It should be noted that lot sizes are not recorded on Council's electronic register and therefore have not been included in the data in Table 1. To capture this information each application would need to be individually reviewed by a staff member, a task that is not resourced to be done.

Table 1 below shows the number of lots approved between 2012-2017.

<b>Table 1</b>	<b>Rural</b>	<b>Urban</b>	<b>Total</b>
<b>2017</b>	32	38	<b>70</b>
<b>2016</b>	53	50	<b>103</b>
<b>2015</b>	36	17	<b>53</b>
<b>2014</b>	55	42	<b>97</b>
<b>2013</b>	20	394 *	<b>414</b>
<b>2012</b>	122	140	<b>262</b>

Source: Authority

- 10 Notes:

*Does not include strata subdivision*

*Does not distinguish between properties created with or without dwelling entitlements*

*\* State Government approvals and concept approval for Bayside Brunswick Heads*

- 15 Table 2 shows the breakdown of lots registered (i.e. constructed) between 2012 and 2017 including lot sizes (derived from Council's GIS software). These lots do not indicate if there is a dwelling entitlement as that data is not available on Council's GIS software.

<b>Table 2</b>	<b>&lt;800</b>	<b>&gt;800 and &lt;1000</b>	<b>&gt;1000</b>	<b>Total</b>
<b>2017</b>	39	14	110	<b>163</b>
<b>2016</b>	34	20	110	<b>164</b>
<b>2015</b>	87	25	105	<b>217</b>
<b>2014</b>	32	12	90	<b>134</b>

# BYRON SHIRE COUNCIL

## QUESTIONS WITH NOTICE

15.1

<b>2013</b>	49	22	59	<b>130</b>
<b>2012</b>	31	9	66	<b>106</b>

*Source: Geocortex*

*Notes:*

*Does not include strata subdivision*

*Does not distinguish between properties created with or without dwelling entitlements*

- 5 *Does not does not break down if the subdivision was a boundary adjustment or torrens (i.e. additional lot/s)*

A further response to update the data to include the period 2017 -2020 will be provided in the next available Council meeting agenda.

10

CONFIDENTIAL REPORTS - GENERAL MANAGER

**Report No. 16.1      CONFIDENTIAL - Lease to AFL Queensland Limited**

**Directorate:** General Manager

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

**File No:** I2021/79

**Summary:**

AFL Queensland Limited ('AFL') occupies office and storage space at the Cavanbah Centre under holding over provisions of a lease that expired in August 2018.

10 Council resolved **(19-139)** to enter into a new five year lease with AFL. A lease was offered to AFL in May 2019 which has yet to be signed by AFL. AFL now requests a number of amendments to the 2019 offered lease before it will consider signing the lease.

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**RECOMMENDATION:**

- 15 1. That pursuant to Section 10A(2)(c) of the Local Government Act, 1993, Council resolve to move into Confidential Session to discuss the report Lease to AFL Queensland Limited.
2. That the reasons for closing the meeting to the public to consider this item be that the report contains:
- 20 a) information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business
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:
- 25 Disclosure could prejudice Councils position in negotiations to lease

**Attachments:**

- 1 Draft Lease to AFL Queensland Ltd (Attachment 1), E2021/10096